

110th Congress }  
2d Session }

JOINT COMMITTEE PRINT

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# COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2006

## VOLUME I

### R E P O R T

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS  
US SENATE

AND THE

COMMITTEE ON FOREIGN AFFAIRS  
US HOUSE OF REPRESENTATIVES

BY THE

DEPARTMENT OF STATE

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



APRIL 2008

Printed for the use of the Committees on Foreign Relations of the U.S.  
Senate and Foreign Affairs of the U.S. House of Representatives respec-  
tively



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## FOREWORD

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The country reports on human rights practices contained herein were prepared by the Department of State in accordance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended. They also fulfill the legislative requirements of section 505(c) of the Trade Act of 1974, as amended.

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

JOSEPH R. BIDEN, JR.,  
*Chairman, Committee on Foreign Relations.*

HOWARD L. BERMAN,  
*Chairman, Committee on Foreign Affairs.*



## LETTER OF TRANSMITTAL

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DEPARTMENT OF STATE,  
*Washington, DC, March 6, 2006.*

Hon. JOSEPH R. BIDEN, JR.,  
*Chairman, Committee on Foreign Relations.*

DEAR MR. CHAIRMAN: On behalf of the Secretary of State, I am transmitting to you the *Country Reports on Human Rights Practices for 2006*, prepared in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and section 505(c) of the Trade Act of 1974, as amended.

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

Sincerely,

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

Enclosure.



## PREFACE

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### Human Rights Reports

---

Across the globe, men and women are pushing for greater personal and political freedom and for the adoption of democratic institutions. They are striving to secure what President Bush calls “the non-negotiable demands of human dignity.”

Despite personal risk and against great odds, courageous individuals and nongovernmental groups expose human rights abuses. They seek to protect the rights of ethnic and religious minorities, workers, and women, and to stop the trafficking in human beings. They work to build vibrant civil societies, ensure free and fair elections, and establish accountable, law-based democracies.

These impatient patriots are redefining the limitations of what was previously thought to be possible. Indeed, in the span of a few generations freedom has spread across the developing world, communist dictatorships have collapsed, and new democracies have risen. The rights enshrined in the Universal Declaration of Human Rights are protected more fully and by more countries than ever before.

This noble work continues—but it is not yet complete and it faces determined opponents. Not surprisingly, those who feel threatened by democratic change resist those who advocate and act for reform. Over the past year, we have seen attempts to harass and intimidate human rights defenders and civil society organizations and to restrict or shut down their activities. Unjust laws have been wielded as political weapons against those with independent views. There also have been attempts to silence dissenting voices by extra-legal means.

Whenever non-governmental organizations and other human rights defenders are under siege, freedom and democracy are undermined. The world’s democracies must defend the defenders. That is one of the primary missions of our diplomacy today, and we hope that the Department of State’s Country Reports on Human Rights Practices for 2006 will help to further this effort. With these thoughts, I hereby submit these reports to the United States Congress.

CONDOLEEZZA RICE,  
*Secretary of State.*





## OVERVIEW AND ACKNOWLEDGMENTS

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### Human Rights Reports

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#### WHY THE REPORTS ARE PREPARED

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

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

#### HOW THE REPORTS ARE PREPARED

In 1993, the Secretary of State strengthened further the human rights efforts of our embassies. All sections in each embassy were asked to contribute information and to corroborate reports of human rights violations, and new efforts were made to link mission programming to the advancement of human rights and democracy. In 1994 the Bureau of Human Rights and Humanitarian Affairs was reorganized and renamed as the Bureau of Democracy, Human Rights and Labor, reflecting both a broader sweep and a more focused approach to the interlocking issues of human rights, worker rights and democracy. The 2006 Country Reports on Human Rights

Practices reflect a year of dedicated effort by hundreds of State Department, Foreign Service, and other U.S. Government employees.

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

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

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

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

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

Within the Bureau of Democracy, Human Rights and Labor, the editorial staff of the Country Reports Team consists of: Editor-in-Chief—Stephen Eisenbraun; Office Directors—Bruce Connuck,

Nadia Tongour, and Francisco Palmieri; Senior Editors—Jonathan Bemis, Daniel Dolan, Stephen Eisenbraun, Jerome L. Hoganson, Sandra Murphy, Elizabeth Ramborger, and Julie Turner; Editors—Kulsum Ali, Joseph S. Barghout, Kate Berglund, Sarah Buckley, Laura Carey, Elise Carlson, Ryan J. Casteel, Cheryl Clayton, Sharon C. Cooke, Susan Corke, Stuart Crampton, Tamara Crouse, Frank B. Crump, Mollie Davis, Douglas B. Dearborn, Cortney Dell, Lauren DiSilvio, Joan Garner, Saba Ghor, Karen Gilbride, Elliott Gillerman, Lisa Heller, Victor Huser, Stan Ifshin, David T. Jones, Simone Joseph, Salman Khan, Anne Knight, Catherine Kuchta-Holbling, Lawrence Lesser, Jessica Lieberman, Gregory Maggio, Michael Michener, Jennie Munoz, Daniel L. Nadel, Catherine Newling, Emily Oswell, Peter Sawchyn, Amy Schmisser, Patricia Meeks Schnell, Sonam Shah, Wendy Silverman, Melissa Sims, James Todd, Terry Tracy, Nicole Willett, Whitney Wilson, Suzanne Yountchi, and Robert Zuehlke; Contributing Editor—Lynne Davidson; Editorial Assistants—Elyse Bauer, Adrienne Bory, Karen Chen, Carol Finerty, Maureen Gaffney, Sylvia Hammond, Noel Hartley, Laura Jordan, David Perez, Lindsay Robinson, Nicole Bibbins Sedaca, Julie Short, Nora Vacariu, Emily Weaver, Eva Weigold, and Melike Yetken; Technical Support—Linda C. Hayes, Paul Skoczylas, and Tanika N. Willis.



## **INTRODUCTION TO THE COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR THE YEAR 2006**

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These reports describe the performance of governments in putting into practice their international commitments on human rights. These fundamental rights, reflected in the United Nations Universal Declaration of Human Rights, constitute what President Bush calls the “non-negotiable demands of human dignity.” As Secretary Rice has said, the full promise of the UN Universal Declaration cannot be realized overnight, but it is urgent work that cannot be delayed.

The Universal Declaration calls upon “every individual and every organ of society . . . to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance.”

The United States takes its human rights commitments seriously. We recognize that we are writing this report at a time when our own record, and actions we have taken to respond to the terrorist attacks against us, have been questioned. The United States will continue to respond forthrightly to the good faith concerns of others, including by means of the reports we submit periodically in accordance with our obligations under various human rights treaties to which we are a party. We are also committed to continual improvement. U.S. laws, policies, and practices governing the detention, treatment, and trial of terrorist suspects have evolved considerably over the last five years. Our democratic system of government is not infallible, but it is accountable—our robust civil society, our vibrant free media, our independent branches of government, and a well established rule of law work as correctives.

The congressionally mandated country reports on human rights practices that follow are an essential element of the United States’ effort to promote respect for human rights worldwide. For three decades, these annual reports have been used widely here and abroad as a reference document for assessing the progress made and the challenges that remain. They also have served as a foundation for cooperative action among governments, organizations, and individuals seeking to end abuses and strengthen the capacity of countries to protect the fundamental rights of all.

The reports review each country’s performance in 2006. Each report speaks for itself. Yet, broad patterns are discernible and are described below, supported by country-specific examples. The examples we cite are illustrative, not exhaustive.

## HOPEFUL TRENDS, YET SOBERING REALITIES

As a review of these reports shows, across the globe in 2006, men and women continued to press for their rights to be respected and their governments to be responsive, for their voices to be heard and their votes to count, for just laws and justice for all. There also was a growing recognition that democracy is the form of government that can best meet the demands of citizens for dignity, liberty, and equality. These are hopeful trends indeed, yet the reports also reflect sobering realities:

First, the advances made in human rights and democracy were hard won and challenging to sustain. While some countries made significant progress, some lagged and others regressed.

As the range of examples below demonstrates, the performance of countries varied greatly, depending on factors such as the degree of governmental commitment, institutional capacity, the extent of corruption, and the strength of civil society.

In January 2006 Liberia's democratically elected Unity Party Government, led by Ellen Johnson-Sirleaf, the first female head of state in Africa, replaced the National Transitional Government of Liberia, which had served as the interim government since the end of a ruinous 14-year civil war in 2003. The Government took significant steps to correct past human rights deficiencies, including working with international partners to rehabilitate the country's justice sector and establishing a public defender's office in the capital. The president dismissed or suspended a number of corrupt government officials. The Truth and Reconciliation Commission, established in 2005 to investigate human rights violations and war crimes committed during the civil war, began taking statements from witnesses. Despite this progress, Liberia continued to face serious human rights challenges, including a still weak judiciary, official corruption and impunity, gender-based violence, and extreme poverty that led to child labor.

Substantial reductions in killings by the armed forces and the police in politically sensitive areas of Indonesia continued during the year. Fifty-four generally free and fair elections were held at the provincial, regency, district, and municipal levels, most notably in December in Aceh, where a former rebel field commander won the governorship. Although inter-communal religious violence generally abated, it nonetheless persisted in some areas. The Government and the courts were unable to confront past human rights abuses and atrocities both in Indonesia and in East Timor.

Morocco's human rights record showed notable progress, although problems remained. The Government began to address past human rights abuses by providing compensation through the Consultative Council on Human Rights for specific cases of arrest, disappearance, and abuse during the period between 1956 and 1999. In March the Government enacted an antitorture law, although reports of torture by various branches of the security forces persisted. There was extensive and largely open debate in public and in the press, despite continuing restrictions on freedom of the press and speech. During the year the Government punished some journalists who violated limitations on free speech, and many journalists practiced self-censorship. Trafficking in persons, particularly for sexual

exploitation, and child labor remained issues of concern; however, both the Government and civil society were increasingly active in addressing them.

The Democratic Republic of the Congo held its first democratic presidential and legislative elections in more than 45 years, putting an end to a three-year post-civil war transitional period. A new constitution went into force. Yet, the human rights record remained poor. In addition to simmering conflict in the east, where government control remained weak and armed groups continued to commit serious abuses, government security forces across the country also committed serious abuses with impunity.

In Haiti, citizens demonstrated their commitment to democracy by going to the polls three times in 2006. More than 3.5 million citizens registered to vote, and an impressive turnout estimated at more than 70 percent of registered voters participated in the first round of presidential and parliamentary elections in February. After a relatively stable and violence-free election process, voters selected President Rene Preval and filled 129 parliamentary seats. In December, Haiti held its first municipal elections in more than a decade. Yet much remains to be done to restore fully the rule of law, including an overhaul of Haiti's dysfunctional judicial system and the continued retraining and vetting of the Haitian National Police.

In Ukraine, notable post-Orange Revolution progress in human rights performance continued to be made. The March 2006 parliamentary elections were the freest in 15 years of independence. The country continued to make improvements in press freedom, freedom of association, and the development of civil society. Despite these gains, a number of serious problems remained, including corruption in all branches of government.

Although Kyrgyzstan's human rights record had improved considerably following the change to democratically elected leadership in 2005, during 2006 a week of mass yet peaceful protests culminated in the hasty adoption of an amended constitution that offered the possibility for genuine checks and balances. At the end of December, however, parliament passed another constitution negating many key checks and balances. The Government also harassed foreign-funded nongovernmental organizations (NGOs).

Despite President Musharraf's stated commitment to democratic transition and "enlightened moderation," Pakistan's human rights record continued to be poor. Restrictions remained on freedom of movement, expression, association, and religion. Disappearances of provincial activists and political opponents continued, especially in provinces experiencing internal turmoil and insurgencies. The security forces continued to commit extrajudicial killings. Arbitrary arrest and torture remained common. Corruption was pervasive throughout the Government and police forces. On a positive note, in December the National Assembly passed and President Musharraf signed the Women's Protection Bill—marking the first time in three decades that a Pakistan Government successfully rolled back laws detrimental to women's rights. The law amends the 1979 rape and adultery provision of the Hudood Ordinance by transferring the offense of rape from Pakistan Sharia law to the

Pakistan Penal Code. The law also eliminates the requirement for rape victims to present four male witnesses to press charges.

Though Egypt held a first-ever, multi-party presidential election in 2005, in 2006 public calls for greater democratization and accountability sometimes met with strong government reaction. The continued imprisonment of former presidential candidate Ayman Nour raised serious concerns about the path of political reform and democracy in the country. Continuing a trend begun in 2005, the Government arrested and detained hundreds of activists affiliated with the banned-but-tolerated Muslim Brotherhood, generally for periods lasting several weeks. Two senior judges were brought in for questioning in February for publicly calling for an independent judiciary. Egyptian police arrested and detained over 500 activists for participating in demonstrations in support of judicial independence. In addition, severe cases of torture by authorities were documented. The Government also arrested, detained, and abused several Internet bloggers.

In Kazakhstan, the Government restricted the functioning of the political opposition by enforcing onerous registration requirements and hindering or denying political party registration. The merging of progovernment parties consolidated the firm leadership of President Nazarbayev's Otan Party and left less political space to express alternative views and advocate for reform. The Government harassed the political opposition via politically motivated charges and restrictions on freedom of assembly, passed laws restricting press freedom, and harassed NGOs.

Russia experienced continuing centralization of power in the executive branch, including amendments to election laws and new legislation for political parties that grants the Government broad powers to regulate, investigate, limit, and even close down parties. Taken together with a compliant State Duma, corruption and selectivity in law enforcement, political pressure on the judiciary, and restrictions on the NGOs and the media, these trends resulted in the further erosion of government accountability. In Chechnya and other areas of the North Caucasus, serious human rights violations continued, including unlawful killings and abuses of civilians by both federal and Chechen Republic security forces. Rebel fighters committed terrorist bombings and politically motivated disappearances in the region. In a growing number of cases, the European Court of Human Rights held Russia responsible for these abuses.

In Venezuela, the Chavez Government continued to consolidate power in the executive branch. The Government continued to harass the opposition and NGOs and to weaken judicial independence. International observers judged generally free and fair the December presidential elections, in which President Chavez won re-election with 63 percent of the vote. In his inaugural address, President Chavez asked the National Assembly, in which his parties control 100 percent of the seats, to grant him power to rule by executive decree.

In Fiji and Thailand, militaries overthrew democratically elected governments.

A second sobering reality is that insecurity due to internal and/or cross-border conflict can threaten or thwart advancements in human rights and democratic government.



Despite the Iraqi Government's continuing commitment to foster national reconciliation and reconstruction, keep to an electoral course, and establish the rule of law, both deepening sectarian violence and acts of terrorism seriously undercut human rights and democratic progress during 2006. Although the Iraqi constitution and law provide a strong framework for the protection of human rights, armed groups attacked human rights from two different directions: those proclaiming their hostility to the Government—Al-Qa'ida terrorists, irreconcilable remnants of the Ba'athist regime, and insurgents waging guerrilla warfare; and members of Shi'a militias and individual ministries' security forces—nominally allied with the Government—who committed torture and other abuses.

Although Afghanistan made important human rights progress since the fall of the Taliban in 2001, its human rights record remained poor. This was mainly due to weak central institutions and a deadly insurgency: the Taliban, Al-Qa'ida, and other extremist groups stepped up attacks against government officials, security forces, NGOs and other aid personnel, and unarmed civilians; and the number of suicide bombings rose dramatically during the year, as did attacks on schools and teachers. There were continued reports of cases of arbitrary arrests and detention, extrajudicial killings, torture, and poor prison conditions. In December President Karzai launched a Transitional Justice Action Plan designed to address past violations of human rights and improve the institutional capacity of the justice system.

Lebanon's significant steps toward reform following the 2005 assassination of former Prime Minister Rafiq Hariri and the subsequent withdrawal of Syrian troops after nearly three decades of occupation have been hampered since the July-August 2006 conflict between Hizballah and Israel. Before the conflict, the Lebanese Government had started to remove many of the obstacles that barred political associations and parties. After Hizballah entered Israel from Lebanese territory and kidnapped and killed several Israeli soldiers, Israeli military forces responded by entering Lebanese territory. The conflict ended with an UN-sponsored cessation of hostilities. Despite the cessation of hostilities and the deployment of the Lebanon Armed Forces and UN Interim Forces in the south, Lebanese militias and Hizballah retained significant influence over parts of the country.

In East Timor, a series of deadly clashes between the national defense force and a variety of dissident military, police, and civilian forces led to widespread mob and gang violence in the capital. At the request of the Government, forces from Australia, New Zealand, Malaysia, and Portugal assumed responsibility for security in the capital. On August 25, the UN Integrated Mission for East Timor took over policing responsibilities. This internal conflict resulted in the displacement of approximately 150,000 people, more than 15 percent of the country's population.

Third, despite gains for human rights and democratic principles in every region of the world, much of humanity still lives in fear yet dreams of freedom.

Countries in which power remained concentrated in the hands of unaccountable rulers—whether totalitarian or authoritarian—continued to be the world's most systematic human rights violators.

In 2006 North Korea remained one of the world's most isolated and repressive regimes. The regime controls almost all aspects of citizens' lives, denying freedom of speech, press, assembly, and association, and restricts freedom of movement and worker rights. The constitution provides for "freedom of religious belief," but genuine religious freedom does not exist. An estimated 150,000 to 200,000 people, including political prisoners, were held in detention camps, and many prisoners died from torture, starvation, disease, and exposure.

The military Government in Burma extensively used executions, rape, torture, arbitrary detention, and forced relocation of entire villages, particularly of ethnic minorities, to maintain its grip on power. Prisoners and detainees were subjected to abuse and held in harsh, life-threatening conditions. Surveillance, harassment, and imprisonment of political activists continued; Nobel Laureate and opposition leader Aung San Suu Kyi remained incommunicado under house arrest, and over 1,100 political prisoners languished in prison. The use of forced labor, trafficking in persons, conscription of child soldiers, and religious discrimination remained widespread. The Government reconvened the sham National Convention, handpicking delegates and prohibiting free debate. Touted as part of a "democracy road map," the convention was designed to nullify the results of the 1990 election and adopt a new, regime-friendly constitution. The regime's cruel and destructive misrule also resulted in refugee outflows, the spread of infectious diseases, and the trafficking of drugs and human beings into neighboring countries.

The Iranian Government flagrantly violated freedom of speech and assembly, intensifying its crackdown against dissidents, journalists, and reformers—a crackdown characterized by arbitrary arrests and detentions, torture, disappearances, the use of excessive force, and the widespread denial of fair public trials. The Government continued to detain and abuse Baha'is and other religious minorities and hosted a widely condemned conference denying the existence of the Holocaust. In the lead-up to the December 15 Assembly of Experts elections in Iran, more than two-thirds of those who had applied to run—including all female candidates—were disqualified, leaving many seats uncontested. Hundreds of candidates in nationwide municipal elections also were disqualified. The Government continued to flout domestic and international calls for responsible government in 2006 by supporting terrorist movements in Syria and Lebanon as well as calling for the destruction of a UN member state.

In Zimbabwe, the Mugabe Government continued across-the-board violations of human rights. Official corruption and impunity were widespread. The 2002 Official Secrets Act and Public Order and Security Act remained in effect, severely restricting civil liberties. In the 2006 parliamentary by-elections and rural district council elections, the Government's manipulation of the electoral process disenfranchised voters and skewed elections in favor of ruling party candidates. The ruling party's dominance permitted constitutional changes without wide consultation. Security forces harassed, beat, and arbitrarily arrested critics and opposition supporters. Disruptions at farms and seizures of property continued

and were sometimes violent. The campaign of forced evictions, which left 700,000 people homeless during Operation Restore Order in 2005, continued on a lesser scale. The Government interfered with humanitarian organizations' efforts to provide assistance. In December Mugabe and his loyalists proposed extending his term for two years by deferring presidential elections to 2010.

In Cuba, the Government, temporarily headed by Raul Castro due to Fidel Castro's illness, continued to violate virtually all the rights of its citizens, including the fundamental right to change their Government peacefully or criticize the revolution or its leaders. In 2006 the Government increased its harassment of dissidents and other citizens viewed as threats to the Government, often through mob actions called "acts of repudiation" involving verbal abuse and physical attacks. Beatings and abuse of detainees and prisoners also were carried out with impunity. Although token releases of prisoners occurred during the year, at least 283 political prisoners and detainees were held at year's end, including 59 of 75 prodemocracy and human rights activists imprisoned in a March 2003 crackdown.

The Chinese Government's human rights record deteriorated in some areas in 2006. There was an increased number of high-profile cases involving the monitoring, harassment, detention, and imprisonment of political and religious activists, journalists, and writers as well as defense lawyers seeking to exercise their rights under the law. Some of their family members also were harassed and detained. Large numbers of mass demonstrations and protests calling for redress of grievances continued and in some cases were violently suppressed. New government controls were imposed on: NGOs; the media, including the Internet; and courts and judges. Repression of unregistered religious groups and of minority groups, in particular Uighurs and Tibetans, remained a serious concern.

In Belarus, the Lukashenko Government continued and intensified its repressive policies. The March presidential election was severely flawed. Up to 1,000 people were arrested in an ensuing crackdown on public protests against the results and many were sentenced to short jail terms. More activists and opposition members, including Aleksander Kozulin, who ran against Lukashenko in the presidential race, were sentenced to jail terms ranging from 2 to 5 ° years.

The Eritrean Government continued to be one of the most repressive in Sub-Saharan Africa, and its human rights record worsened in 2006. Government security forces committed extrajudicial killings; there were credible reports that security forces shot on sight individuals trying to cross the border into Ethiopia. The Government escalated its campaign of arresting national service evaders as well as their relatives, and there also were credible reports indicating that some of those arrested were tortured. As it did in 2005, the Government ordered several international humanitarian NGOs to leave the country, despite a severe drought in the Horn of Africa. There were continued severe restrictions on religious freedom.

The fourth sobering reality is that as the worldwide push for greater personal and political freedom grows stronger, it is being

met with increasing resistance from those who feel threatened by political and societal change.

Human rights defenders and nongovernmental organizations are essential to a nation's success. In today's world, the problems confronting states are too complex even for the most powerful to tackle alone. The contributions of civil society and the free flow of ideas and information are crucial in addressing a host of domestic and international challenges. Restricting the political space of NGOs and public debate only limits a society's own growth.

In every region of the globe in 2006, there were governments that responded to the growing demands for personal and political freedom not by accepting their obligations to their people but by oppressing those who advocated for human rights and who exposed abuses, such as nongovernmental organizations and independent media, including the Internet. A disturbing number of countries passed or selectively applied laws and regulations against NGOs and journalists. NGOs and journalists also were subjected to extra-legal measures, often by unknown assailants. For example:

In Russia in 2006, a new NGO law entered into force in April imposing more stringent registration requirements for NGOs, strict monitoring of organizations, extensive and onerous reporting requirements on programming and activities, and empowering the Federal Registration Service to deny registration or to shut down an organization based on vague and subjective criteria. Freedom of expression and media independence declined due to government pressure and restrictions. In October unknown persons murdered human rights defender Anna Politkovskaya, a prominent journalist known for her critical writing on human rights abuses in Chechnya. The Government used its controlling ownership of all national television and radio stations, as well as of the majority of influential regional ones, to restrict access to information deemed sensitive.

In Belarus, onerous tax inspections and NGO registration requirements made it difficult for civil society organizations to operate, and attacks against members of the independent media continued. In November prodemocracy activist Dmitriy Dashkevich was sentenced to 18 months in prison for operating an unregistered NGO.

The Government of Kazakhstan registered the opposition True Ak Zhol party after one of its co-chairmen, Sarsenbaiuly, was killed and restrictively interpreted Article 5 of the constitution to suspend foreign-funded, nonpartisan political party training activities, asserting that providing information is tantamount to financing political parties. In July President Nazarbayev signed into law restrictive media amendments deemed a step backward by the Organization for Security and Cooperation in Europe's Freedom of Media Representative. The Government continued to use restrictive libel laws to fine, convict, and suspend media outlets, journalists, and critics. In April a member of a suspended media outlet was brutally beaten.

Freedom of expression, association and assembly are tightly restricted in Turkmenistan, and the Government sought to control all NGO activity. Foreign-origin satellite television is accessible throughout the country, but the Government controlled all domes-

tic media, and local journalists were prohibited from all contact with foreigners unless specifically permitted. Very limited Internet access was provided through government-owned Turkmen Telecom; no new accounts were allowed in the capital since September 2002. In August the Government arrested journalists Ogulspapar Myradova, Annakurban Amanklichev, and Sapardurdy Hajiyeve and sentenced them to six to seven years of imprisonment for weapons possession in a closed, summary trial. In September Myradova, a Radio Free Europe/Radio Liberty correspondent, died in prison under suspicious circumstances. NGOs have reported that she and her two colleagues were tortured during detention in the summer to extract confessions of weapons possession. On December 21, President Saparmurat Niyazov died.

The Government of Uzbekistan sought to control most NGO activity and closed down over 200 civil society organizations, including international NGOs operating in the country, citing alleged violations of the law. Independent journalists and human rights activists continued to be persecuted.

The Syrian Government strictly controlled the dissemination of information and prohibited criticism of the Government and discussion of sectarian issues, including religious and minority rights. There were detentions and beatings for individual expressions of opinion that violated these restrictions, for example the February arrest of journalist Adel Mahfouz after he called for interfaith dialogue following the controversy surrounding the depiction of the Prophet Muhammed in cartoons. The Government relied on its press and publication laws, the penal code, and the Emergency Law to censor access to the Internet, and it restricted electronic media. Harassment of domestic human rights activists also occurred, including regular close surveillance and the imposition of travel bans when they sought to attend workshops and conferences outside the country.

Press freedom was at an all-time low in Iran, as the Government closed independent newspapers *Shargh* and *Iran*, blocked access to Internet news sites—including the *New York Times* and *BBC Farsi*—and jailed journalists and bloggers. The authorities used bans against leaving the country as a weapon against journalists.

In Burundi, there was an increase in the arrest, detention, and intimidation of journalists and human rights activists by the Government; among many other individuals, police arrested and detained for several months the president of the country's leading anticorruption NGO. A governor of one province reportedly called the country's leading human rights NGO, *League Iteka*, an enemy of peace, and in November a government official announced that 32 registered international NGOs in the country could face expulsion for failure to submit mandatory annual reports to the Government.

In Rwanda, there was a restrictive atmosphere for the functioning of civil society. Domestic and international NGOs are required by law to register each year and to provide reports to the Government on their activities. Authorities reportedly required some NGOs to obtain government authorization for some projects before being allowed to access international donor funds. In addition, all NGOs were expected to join a collective intended to manage their activities.

The Venezuelan Government continued to harass and intimidate civil society groups, most notably the leaders of the electoral watchdog NGO Sumate, whose trial for conspiracy and treason for accepting a foreign grant was indefinitely postponed but continues to hang over their heads. At year's end a draft law was under consideration in the National Assembly which, if implemented, would increase government control over NGOs' financing and restrict NGOs from working in the areas of human rights or democracy promotion. Amendments to the penal code that impose prison sentences for insulting public officials and violent attacks on journalists contributed to a climate of self-censorship. The Government stepped up its harassment of independent and opposition news outlets. In December President Chavez announced that the Government would not renew the broadcast license of Radio Caracas Television, the country's oldest commercial television network. The Government accused the network owners of being "coup-mongers" and of violating the public trust.

In China, NGOs, both domestic and international, continued to face increased scrutiny and restrictions. By the end of 2006, Reporters without Borders reported that 31 journalists and 52 Internet writers were in jail. While the Government encouraged use of the Internet, it also took steps to monitor its use, control content, restrict information, and punish those who violated regulations. The Government imposed stricter website registration requirements, enhanced official control of online content, and expanded the definition of illegal online content. The Government consistently blocked access to sites it deemed controversial, and the authorities reportedly began to employ more sophisticated technology enabling the selective blocking of specific content rather than entire websites.

Vietnam continued to monitor and restrict the Internet, blocking international human rights and news websites. Laws allow citizens to complain openly about inefficient government and corruption, but the Government continued to prohibit the press from drafting articles that questioned the role of the Communist Party, promoted pluralism or multiparty democracy, or questioned human rights policy. The Government forbids direct access to the Internet through Independent Service Providers and requires cybercafe owners to register the personal information of their customers and the sites visited. The Government released several high-profile political and religious dissidents, including Dr. Pham Hong Son, who was imprisoned for translating articles on democracy and disseminating them over the Internet.

Genocide was the most sobering reality of all.

Almost 60 years after the adoption of the UN Universal Declaration of Human Rights—an expression of the outraged conscience of mankind to the enormity of the Holocaust and the cataclysm of the Second World War—genocide continued to ravage the Darfur region of Sudan.

Despite the January 2005 Comprehensive Peace Agreement ending the 22-year civil war between the north and south, and the establishment of a unity government that year, ethnic conflict continued in Sudan, most catastrophically in Darfur. The Sudanese Government and government-backed Janjaweed militia bear responsi-

bility for the genocide in Darfur, and all parties to the conflagration committed serious abuses, including the widespread killing of civilians, rape as a tool of war, systematic torture, robbery, and recruitment of child soldiers. By the end of 2006, the Darfur conflict had resulted in at least 200,000 civilian deaths and two million displaced by the fighting. Over 234,000 refugees had fled to neighboring Chad, and both Chad and the Central African Republic experienced violent ethnic conflict along their borders with Sudan.

In spite of indicating its support for the Addis Ababa framework, the Sudanese Government publicly rejected international forces for Darfur and renewed its military offensive during the latter half of 2006. The deteriorating security conditions forced some international NGOs and humanitarian organizations to scale back or suspend operations.

#### DEFEND THE DEFENDERS

If the great promise of the UN Universal Declaration of Human Rights is to be fulfilled, the international community—and especially the world's democracies—cannot accept that today's sobering realities are impervious to change. Indeed, they compel us to align ourselves with those who work for human dignity and political reform.

In 2006 the courageous efforts of human rights defenders were highlighted by democratic governments:

Country resolutions passed by the United Nations General Assembly in 2006 emphasized the need to protect human rights defenders in Iran, Belarus, North Korea, and Burma.

The UN Democracy Fund, growing out of an idea presented to the General Assembly by President Bush in 2004 and established in 2005, completed its first year successfully. Its board agreed to fund 125 projects out of more than 1,300 proposals submitted by over 100 countries—a disbursement of more than \$35 million in grants mostly to prodemocracy civil society organizations.

At the regional level, in June 2006 the General Assembly of the Organization of American States (OAS) adopted the Declaration of Santo Domingo, a groundbreaking multilateral commitment by the countries of the region to “guarantee the liberty of every person to enjoy freedom of expression, including access to uncensored political debate and the free exchange of ideas through all forms of mass media, including the Internet.” The Foreign Ministers also declared their resolve to develop and encourage strategies and best practices to that effect.

The OAS Inter-American Commission on Human Rights' Unit for Human Rights Defenders issued a report on the serious problems they face in some countries, emphasizing the need for governments to support their work.

In advance of the July African Union Assembly of the Heads of State, civil society organizations from 19 African countries met in Banjul, The Gambia, to develop recommendations for summit leaders regarding civil society's role in the African Peer Review Mechanism on countries' compliance with treaty obligations, ways to improve access to information by civil society, and citizenship laws that entrench discrimination. These recommendations were adopted at the summit.

In the Broader Middle East and North Africa region the Forum for the Future brought together government officials and civil society representatives from the region, along with G-8 partners, at the Dead Sea in Jordan. Nearly 50 civil society leaders representing hundreds of organizations from 16 countries of the region participated in discussions on the rule of law, transparency, women's and youth empowerment, and the legal environment for civil society organizations. They also discussed how to strengthen reform by establishing mechanisms to follow up on recommendations. Though the hardest part lies ahead—adoption and implementation of recommendations put forward by civil society—the Forum helped to open political space that did not before exist for civil society organizations to form and interact with governments in the region.

Marking International Human Rights Day in December 2006, Secretary Rice launched two important U.S. initiatives in support of human rights and democracy defenders:

She announced the creation of a Human Rights Defenders Fund to be administered by the State Department that will quickly disburse small grants to help human rights defenders facing extraordinary needs as a result of government repression. This funding could go to cover legal defense, medical costs, or the pressing needs of activists' families.

Secretary Rice also issued ten guiding NGO principles (<http://www.state.gov/g/drl/rls/77771.htm>) regarding the treatment by governments of nongovernmental organizations. These core principles will guide U.S. treatment of NGOs, and we also will use them to assess the actions of other governments. The principles are meant to complement lengthier, more detailed United Nations and other international documents addressing human rights defenders and can help to rally worldwide support for embattled NGOs by serving as a handy resource for governments, international organizations, civil society groups, and journalists.

When democracies support the work of human rights advocates and civil society organizations, we are helping men and women in countries across the globe shape their own destinies in freedom. And by so doing, we are helping to build a safer, better world for all.

We must defend the defenders, for they are the agents of peaceful, democratic change.



## AFRICA

### ANGOLA

Angola is a constitutional republic in transition since its 27-year civil war ended in 2002. Legislation provides for decentralization; however, the Government remained highly centralized and dominated by the presidency. UN observers considered the 1992 Presidential and legislative elections to have been generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The Government's human rights record remained poor and serious problems remained, although there were improvements in a few areas. Human rights abuses included: the abridgement of citizens' right to elect officials at all levels; unlawful killings by police, military, and private security forces; torture, beatings, and harsh and life-threatening prison conditions; corruption and impunity; arbitrary arrest and detention; an inefficient and overburdened judicial system; lengthy pretrial detention; lack of due process; restrictions on freedom of speech, the press, including self-censorship, and assembly; forced evictions without compensation; and discrimination and domestic violence and abuse against women and children.

The Government increased investigation and prosecution of human rights violations, training, and partnerships with human rights nongovernmental organizations (NGOs) in an effort to curb abuses by the National Police and Armed Forces of Angola (FAA).

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit politically motivated killings during the year. Government security forces killed an unknown number of persons, although reports of such killings decreased significantly from past years. Impunity remained a problem, but the Government was increasingly willing to prosecute human rights violators.

Domestic media and local human rights activists reported cases of police resorting to excessive force, including unlawful killings. In February the independent press reported that a youth suspected of gang activity was killed in a Luanda precinct. Police largely viewed extrajudicial killings as an alternative to relying on the country's ineffective judicial system. In May citizens reported that the body of a pregnant woman was discovered after her arrest by national police in Luanda Norte. These cases were reportedly still under investigation at year's end; however, national authorities were generally reluctant to disclose investigation results. In June human rights activists reported that police "accidentally killed" a disabled man during an abusive interrogation; the responsible officers were dismissed from the national police the same month.

A Memorandum of Understanding for Peace and Reconciliation for Cabinda province, signed on August 1, largely brought an end to the insurgency in the province. As a result of this and an FAA policy of cooperation rather than repression, there was only one report during the year, in November, of an unlawful killing in Cabinda that may be linked to FAA soldiers. The case remained under investigation by both military and civil authorities. There were also confirmed reports of 12 small clashes in the enclave between the FAA and the Front for the Liberation of the Enclave of Cabinda (FLEC) in the period immediately surrounding the signing of the memorandum. Four civilians were reportedly killed in these clashes between FLEC soldiers and FAA forces. Since early September there were no confirmed reports of armed conflict.

A human rights activist reported that private security companies hired to protect diamond concessions in the Cuango municipality of Lunda Norte province killed 10 persons between January and June. Other activists in the province also reported

killings by private security companies outside of Cuango municipality; however, no arrests or investigations were reported.

On August 8, at the end of a five-month trial, a member of the National Police, Olivio Bernardino Ismael Fraga, was sentenced to 17 years' imprisonment and ordered to pay \$6,250 (480,000 kwanza) to the victim's family for the January 2005 killing of Antoninho Tchiswungo, also known as "Toi." There were no further developments in the numerous alleged 2005 or 2004 unlawful killings by police.

Early in the year six men were arrested and charged in the 2004 death of Mfulumpinga Landu Victor, leader of the Democratic Party for Congress. Five of the men were later killed while allegedly trying to escape police custody; the last man, Paulino Antonio "Tchiriri," received a 40-year prison sentence.

There were anecdotal and unconfirmed reports of vigilante violence.

Landmines placed during the long civil war were a continuing threat. Eight provinces, encompassing approximately 50 percent of the country, contained heavily mined areas. The UN Development Program estimated that there were two million unexploded munitions; however, international NGOs conducting landmine clearance operations in the country estimated the number of landmines at 500,000 to one million. During the year the Government, working with international NGOs, increased its capacity to clear landmines. An estimated 80,000 landmine victims with injury-related disabilities were living in the country.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Unlike in previous years, there were no reports that persons taken into police or military custody disappeared.

There were no developments in the May 2005 case in which police reportedly arrested eight young persons in the Vila Alice neighborhood of Luanda who subsequently disappeared.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, government security forces tortured, beat, and otherwise abused persons. Abuses in police stations during interrogations were common. Police and other security forces were rarely held accountable, although the Government punished some violators administratively or by public prosecution.

Abuses by the army continued, but decreased in comparison with previous years. The human rights situation in Cabinda continued to improve; however, there were isolated reports of violence by FAA troops, including beatings and other forms of intimidation, against the civilian population. The International Committee of the Red Cross (ICRC) noted that the attention of Cabindan military commanders and FAA officials to human rights issues had substantially improved since high-level command changes were effected in 2004. The ICRC stated that internal investigative and judicial bodies were functioning and that a large number of FAA officials were held accountable for their actions. Soldiers accused of unlawful behavior faced prosecution in civilian criminal courts. Three soldiers were convicted in the 2005 killing of a village administrator and sentenced to 16-year prison terms.

While abuses by public security forces declined, reports of abuses by private security forces increased, particularly in the diamond-rich provinces of Lunda Norte and Lunda Sul. In the past national police and immigration officers were responsible for most of the human rights abuses perpetrated against Congolese and West African migrant miners, but the large scale deportations and violence associated with Operacao Brilhante, a government operation to stem illegal migration, declined after the operation ended in February 2005. The detention and expulsion of illegal miners continued, but private security contractors hired by diamond companies to protect their concessions from illegal exploitation were responsible for most of the violence. Operation Kissonde: The Diamonds of Humiliation and Misery, a report by local human rights activist Rafael Marques, documented 66 cases of abuse of civilians, most of whom were illegal miners, by private security companies in the Lunda Norte municipality of Cuango during the year.

Police continued to intimidate, rob, harass, and kill citizens (see Sections 1.a. and 1.f.). Opposition party members complained that police did not have the capacity to protect them or their facilities (see Section 3).

Police and immigration officials at provincial airports extorted money from travelers and harassed returnees and refugees (see Sections 2.d. and 4).

There were no developments in the 2005 and 2004 cases of police torture and other cruel, inhuman, or degrading treatment by security forces.

Unlike in previous years, there were no reports that police assaulted prostitutes (see Section 5).

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

*Prison and Detention Center Conditions.*—Prison conditions were harsh and life-threatening. Human rights activists reported that prison officials routinely beat and tortured detainees; however, the number of reports continued to decrease during the year. The national prison system continued to hold approximately five times the number of prisoners for which it was designed. With the exception of two new facilities, prisons were severely overcrowded, particularly outside of Luanda. In some provinces warehouses and other industrial buildings were used as prison facilities.

Many prisons did not supply prisoners with basic sanitary facilities, adequate food, and health care. Prisoners depended on families, friends, or international relief organizations for basic support. Prison officials, who were chronically underpaid, supported themselves by stealing from prisoners and extorting money from family members. For example, prison guards continued to demand that prisoners pay for weekend passes to which they were entitled. There were reports of prison officials operating an informal bail system, releasing prisoners until their trial dates for fees ranging from \$300 to \$1,500 (24,000 to 120,000 kwanza).

There were reports that prisoners died of disease, especially in provincial prisons. Many serious illnesses were improperly diagnosed, delaying proper treatment. Prison conditions varied widely between provinces and municipalities.

Females were generally detained separately from male inmates, even in provincial prisons. Unlike in previous years there were no reports that prison guards sexually abused female prisoners. In June a new prison opened in Viana; it included a female-only wing staffed by female guards.

Juveniles, often incarcerated for petty theft, were frequently housed with adults and subject to abuse by guards and inmates in provincial prisons, but were increasingly separated from the main population in larger urban prisons to reduce such abuses. Juvenile detention centers were present in Luanda but were severely overcrowded.

Pretrial detainees were a major cause of overcrowding. Pretrial detainees were frequently housed with sentenced inmates, and prisoners serving short-term sentences often were held with those serving long-term sentences for violent crimes, especially in provincial prisons. There were no developments in the 2005 incident in which a man died in pretrial custody.

The Government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons during the year.

Two new prisons, in Luanda and Benguela provinces, opened during the year. The Luanda prison offered professional training programs to male and female inmates in areas such as sewing, agricultural production, welding, carpentry, and auto repair, and psychological care was available from local churches.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, security forces did not always respect these prohibitions in practice. The national police were the primary perpetrators of abuses. It was reported that national police held family members of wanted individuals (see Section 1.f.).

*Role of the Police and Security Apparatus.*—The National Police are under the Ministry of the Interior (MOI) and are responsible for internal security and law enforcement. The internal intelligence service reports to the Office of the Presidency, and is mainly utilized to investigate sensitive state security matters. The FAA is responsible for external security but also has domestic responsibilities; the FAA reportedly conducted small-scale counterinsurgency operations against the FLEC in Cabinda prior to the August signing of the Memorandum of Understanding for Peace and Reconciliation in Cabinda.

Other than personnel assigned to elite units, police were poorly paid, and the practice of supplementing income through extortion of civilians was widespread. Corruption and impunity remained serious problems; however, some officials were charged with crimes stemming from abuse of power during 2005, and this trend continued during the reporting period. Most complaints were handled within the national police via internal disciplinary procedures which could lead to formal punishment, including dismissal.

In February the independent press reported that an ongoing internal investigation had targeted senior national police officials for drug and protection racketeering. On June 14, 10 national police officers were dismissed for their involvement in human rights abuses.

During the year various government ministries, the Association for Justice, Peace, and Democracy (AJPD), the UN Human Rights Office (UNHRO), and other NGOs expanded programs to provide human rights and professional training to the police and the military. The Joint Training Team, made up of the Central Police Command, NGO representatives, and the UNHRO, worked to expand police training on human rights from provincial capitals to the municipal level. The prosecutor's office

also collaborated with the UNHRO to deliver several workshops on human rights monitoring. As in 2005, police participated in professional training with foreign law enforcement officials from several countries in the region.

*Arrest and Detention.*—The law states that an arrest requires a judge or a provincial magistrate to issue an arrest warrant; however, a person caught committing a crime may be immediately arrested without a warrant. Arrest warrants also may be signed by members of the judicial police and confirmed within five days by a magistrate. However, security forces did not always procure an arrest warrant before detaining persons. The constitution provides for the right to prompt judicial determination of the legality of a detention, but authorities did not respect this right in practice. A person generally may not be held for more than 135 days without trial; however, he may be detained for up to 180 days if caught committing a crime punishable by a prison sentence. However, in practice these limits were commonly exceeded. There was a functioning bail system that was widely used for minor crimes. The law permits detainees access to legal counsel, and states that indigent detainees should be provided a lawyer by the state; however, these rights usually were not respected. The law also allows detainees prompt access to family members; however, this was sometimes ignored or made conditional upon payment of a bribe.

Although improper detention continued to be a problem, government and NGO attention increased, and NGOs were given increased access to information within the judicial system. Human rights organizations, such as the local NGO AJPD, continued efforts to secure the release of illegally detained persons. During the year AJPD worked on more than 400 cases of illegal detention and secured the release of approximately 30 persons. Unlike in previous years, public security forces did not routinely detain persons in Cabinda suspected of collaboration with FLEC, and in mining regions, expelled miners and their families were not unlawfully detained by the police or immigration services in transit centers. Detention of expelled miners by private security forces, however, increased during the year.

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

An inadequate number of judges and poor communication among authorities led to prolonged pretrial detention. Police often beat and then released detainees rather than prepare a formal court case. During the year government media frequently discussed pretrial detention. The Government reported it had released an estimated 2,000 pretrial detainees, who had been held beyond the legal time limit, during the first trimester of the year. In other cases, inmates commonly were held in the prison system for up to two years before their trials began.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the judiciary was inefficient, corrupt, and subject to executive influence. The judiciary functioned poorly at the provincial and municipal levels and did not ensure due process for criminal or civil cases. The court system lacked the financial means and political support to assure its independence. During the year the Government continued to rebuild courts and train new magistrates and prosecutors; on September 26, the Supreme Court appointed 34 new provincial court judges. However, staffing shortfalls remained a problem in provincial courts, and there was often only one judge to cover all cases in a province. Judicial corruption, especially at the administrative level, was a problem; however, recent changes, such as the implementation of a new court case filing system and the random assignment of judges, improved transparency and efficiency in the judicial system in Luanda and some other provinces.

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

There were long trial delays at the Supreme Court level. A case brought by the opposition party UNITA, challenging the constitutionality of the electoral law, was pending since the law's passage in August 2005. Trials for political and security crimes are handled exclusively by the Supreme Court; however, there were no such trials during the year. The criminal courts had a large backlog of cases that caused major delays in hearings.

A number of criminal laws and judicial system regulations underwent review during the year in an effort to update legislation dating back to the colonial era. The Ministry of Justice (MOJ) continued efforts to update case management systems, train law clerks, increase the number of municipal courts in 14 major population centers, and develop a mediation system.

Due to the lack of judicial infrastructure and the continuing authority of traditional leaders, informal or traditional courts remained the principal institutions through which citizens resolved conflicts in rural areas. Traditional leaders (sobas) heard and decided local cases. They did not provide citizens with the same rights to a fair trial as the formal legal system; instead each community in which they were located established local rules.

Both the National Police and the FAA have internal court systems that generally remained closed to outside scrutiny. While members of these organizations can be tried under their internal regulations, cases that include violations of criminal or civil laws, that is, in cases where there is a civilian victim or plaintiff, can also fall under the jurisdiction of provincial courts.

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

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

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—A relatively independent and impartial judiciary existed for civil matters in some areas. Civil courts functioned in Luanda and Benguela, and their efficiency improved due to training and consultative services provided by the Commercial Law Development Program (CLDP). The CLDP and the MOJ expanded the training of court clerks to improve administration in the provincial and municipal courts of Benguela, Lobito Huila, Cabinda, and Luanda. This training provided technical skills to ensure random assignment of judges and helped establish a system for tracking of cases and the continuous accountability of documents. During the year the MOJ worked with CLDP and other partners to provide the hardware, software, and training necessary to computerize the case management system in Luanda's Palacio D. Ana Joaquina criminal court building.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, the Government did not always respect citizens' privacy rights. The legal requirement for search warrants occasionally was disregarded, most often in police searches for illegal vendors and periodic sweeps of public markets.

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

The security situation in Cabinda improved markedly as the peace process progressed. Incidents were reported, but at a much reduced level. Unlike in previous years, there were no reports that government forces in Cabinda attacked women in their homes, while they were working in the fields, near military camps, or during searches of homes.

The Government continued to demolish informal squatter housing in Luanda and large provincial cities. In March government and private security personnel forcibly removed an estimated 600 families—mainly women, children, and the elderly—remaining in the Luandan neighborhoods of Cambamba I and II and Banga We, and destroyed their homes due to the continued expansion of the Nova Vida housing project; Nova Vida had reportedly been granted the land without prior consultation with residents or due legal process. Excessive force was used during the expulsions, including discharging of firearms into the air and ground to force the retreat of families and allow bulldozers to advance. One boy was wounded by a stray bullet. According to Amnesty International (AI), police and private security guards beat and kicked residents, including a pregnant woman and a woman carrying a baby on her back, and a youth was beaten by seven police officers and a private security guard. Police interrogated and threatened members of the international organization OXFAM who were present. The private security guard who wounded the boy was reportedly arrested.

The Government claimed that legitimate residents of the neighborhoods had been compensated and relocated long before, and that the individuals expelled had deliberately moved to that land in an attempt to unlawfully reap the benefits of government resettlement. Authorities stated that they had repeatedly warned of impending

ing evictions, but the final eviction notice was issued only two days before residents were evicted. However, AI stated that the evictions were apparently carried out without procedural protection, due process, or prior consultation, and evictees were given only one day's notice.

In April 104 families were removed from their apartment building near Kinaxixi circle in downtown Luanda. All families were assigned new homes in the Zango and Sapu neighborhoods, about six miles east of Luanda. In June in the Luandan municipality of Cacuaco 15 families were removed from their homes. In July and August an unknown number of families were moved from Boa Vista, a shantytown in Luanda, to new homes in Zango. Throughout the year, families living near the construction site for the new international airport outside of Viana, approximately six miles east of Luanda, were removed from their homes. Some of these families received new residences or land on which to build, but many were unwilling to move to the selected locations due to the distance from economic centers that provided employment opportunities and markets.

There were anecdotal reports that national police held family members of wanted individuals until the individuals reported to the police.

## *Section 2. Respect for Civil Liberties*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, government regulations and a lack of independent media outside of Luanda limited this right. Journalists practiced self-censorship.

On May 26, President Dos Santos promulgated a new press law. The law ended the state monopoly on television, partially opened the FM bandwidth to independent broadcasters, and rescinded travel restrictions on journalists. Groups such as the Media Institute of Southern Africa and the Catholic Bishops' Conference of Angola and Sao Tome publicly called for amendments to the new law, including removing statutes that make journalists liable to criminal charges and statutes which prevent independent radio from broadcasting nationwide.

Government and independent media paid increased attention to the electoral process, corruption, economic mismanagement, social conditions, and human rights issues such as domestic abuse and treatment of illegal miners. While the Government continued to give preferential treatment to state media organizations, during the year independent journalists received increased access in some provinces, including Luanda, Benguela, and Huila. Opposition parties, however, were at times denied broadcast time on Angola Public Television (TPA), the state television network, and in the Government daily newspaper, the *Jornal de Angola* (JA). UNITA claimed that it paid both TPA and JA for television and print advertising that was never aired or published.

Both independent radio and print media criticized the Government openly and at times harshly. The Government tolerated this criticism of its policies and actions in the independent media; however, local journalists practiced self-censorship, especially at the provincial level.

The government-owned and -operated *Jornal de Angola* was the only national daily newspaper. There were 12 private weekly publications, some of which were distributed in the provinces several days after publication in Luanda. There were also four smaller weeklies in the southern provinces. There were five provincially-based commercial radio stations that openly criticized government policies and highlighted poor socioeconomic conditions; however, the five stations were only allowed to broadcast within their respective provinces, including the Catholic Church's Radio Ecclesia and Radio Lac Luanda. Government-owned and -operated Angolan National Radio was the only radio station with the capacity to broadcast nationally other than over short wave. The only television stations were the Government's two TPA stations, which broadcast from Luanda and most provincial capitals. Satellite television was available, but beyond the financial means of most citizens.

The largest media outlets were state-operated and carried little criticism of government officials or positive coverage of opposition party political activities, beyond reports on statements in the national assembly or during meetings with government officials. Government-run media, however, often reported on government program deficiencies. The government-owned press often criticized independent journalists and opposition leaders, but independent journalists were free to respond to these criticisms.

As a result of the May 26 press law, foreign journalists no longer needed authorization from the Ministry of Interior to meet government officials or to travel within the country. Foreign journalists, however, must obtain work visas issued in their home country or in their country of residence to enter and report on the country. This process could be time-consuming.

There were no developments in the August 2005 case in which police reportedly confiscated and deleted images from a camera taken from a local independent photo-journalist who was photographing a Luanda neighborhood.

Depending on the issue, the minister of social communication, the spokesman of the presidency, the national director of information, and the directors of state-run media organizations had policy and censorship authority.

Defamation of the President or his representatives is a crime, punishable by imprisonment or fine. Factuality is not an acceptable defense against defamation charges; the only allowable defense is for the accused to show that he did not produce the actual material alleged to have caused harm. No persons have been charged under this law.

The law permits the Government to classify information.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Although access was limited to an estimated 1.3 percent of the population, availability was increasing, and the number of Internet cafes steadily expanded.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for the right of assembly; however, the Government at times restricted this right.

The law requires written notification to the local administrator three days before public or private assemblies are to be held; however, the Government prohibited events based on perceived security considerations. Participants were potentially liable for “offenses against the honor and consideration due to persons and to organs of sovereignty.” Applications for progovernment gatherings routinely were granted without delay; however, applications for protest or opposition party assemblies sometimes were denied, usually based on government claims that the timing or venue requested was problematic.

In January the Government denied a permit to Mpalabanda, a Cabindan civic association, to hold an event marking the 121st anniversary of the Treaty of Simulambuco. Portugal granted protectorate status to Cabinda under the treaty, and it symbolized Cabinda’s status as distinct from the then-colony of Angola. When some persons went ahead with the protest, police detained them roughly and held them for several hours before releasing them.

In September members of the Angolan Party for Democratic Support and Progress (PADEPA) were arrested for allegedly instigating disobedience and rebellion as they distributed pamphlets protesting the planned closure of Luanda’s Roque Santeiro market.

In November authorities denied PADEPA a permit to demonstrate in front of the French embassy to call for the return of what it considered to be public funds siphoned off for private interests and allegedly deposited in French banks or invested in France toward the end of the country’s civil war. On November 9, 26 members were arrested and sentenced to one month’s imprisonment for disturbing the peace as they approached the embassy with the intent to demonstrate without a permit. The sentences were converted into fines of approximately \$2,000 (160,000 kwanza). At year’s end the case was on appeal to the Supreme Court.

There were no developments in the 2005 or 2004 cases in which government authorities used excessive force to disperse demonstrations in Luanda.

*Freedom of Association.*—The constitution and law provide for the right of association, and the Government generally respected this right in practice. The Government may deny registration to private associations on security grounds. Although the Government approved most applications, including those for political parties, the MOJ continued to deny registration to the local human rights group AJPD (see Section 4). Even without such a certificate, the Government did not prevent AJPD and other NGOs from conducting activities, including programs in official buildings or financed by government entities.

Unlike in past years, the Government did not arbitrarily restrict associations that it considered subversive by refusing to grant permits for organized activities, or through official harassment. During the year opposition parties were permitted to organize and hold meetings; however, they reported occasional event-specific harassment by local officials.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

Religious groups must register with the MOJ and the Ministry of Culture. Colonial-era statutes ban non-Christian religious groups; however, during the year they were not enforced. In 2004 the legislature approved a law establishing stricter criteria for the registration of religious groups to curb the growth of “cults.”

A total of 17 religious groups remained banned in Cabinda on charges of practicing harmful exorcism rituals on adults and children accused of witchcraft, illegally holding religious services in residences, and not being registered.

In February three mosques were closed on grounds that they lacked authorization to open and were holding services that authorities claimed disrupted public order by impeding the flow of traffic. By year’s end the Islamic Community of Angola received authorization to reopen the mosques. Public attitudes toward Islam were generally negative, and such sentiments were evident in statements by government officials opposing Muslim proselytizing and in commentaries by citizens in the local media.

*Societal Abuses and Discrimination.*—There were no reports of anti-Semitic acts. The Jewish community was estimated at 300 persons.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights; however, the Government at times restricted them in practice. Extortion and harassment at government checkpoints in rural and border areas interfered with the right to travel. Police harassed returning refugees at border checkpoints. The Government had restricted access to areas of Cabinda that it deemed insecure; however, following the signing of the Cabindan peace accord in August, complete freedom of movement was allowed. The Government restricted access to areas designated as diamond concessions. Citizens in Lunda Norte and Lunda Sul provinces, both containing large diamond concessions, were regularly denied access to the concession areas for any purpose, including obtaining water.

Extortion by police was routine in Luanda, other cities, and towns and pervasive on major commercial routes. Reports that security forces harassed expelled miners and their families as they crossed the border into the Democratic Republic of the Congo declined significantly during the year (see Section 1.c.).

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

Unlike in previous years, foreign journalists did not require authorization from the MOI to travel within the country, but border checkpoints remained between provinces.

Immigration officials harassed and extorted money from travelers.

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

*Internally Displaced Persons (IDPs).*—Between 2002 and year’s end, an estimated 385,000 refugees had returned. A joint assessment by the Government, UN, and a foreign government estimated that 100,000 internally displaced persons (IDPs) remained unsettled. Some of those yet to return to their homes stated that a lack of physical infrastructure, the presence of landmines, and the absence of government services such as medical care were major deterrents to their return. Others have settled in third countries.

The Ministry of Assistance and Social Reinsertion (MINARS) has primary responsibility for returnees and remaining IDPs, as well as housing and resettlement programs; however, its efforts remained inadequate. Provincial governments have primary responsibility for ensuring safe, voluntary resettlement in areas cleared of mines and with access to water, arable land, markets, and adequate state administration. While areas of return were still given extra resources, conditions in these areas mirrored the difficult situation throughout the country. Unlike in previous years, there were no reports of forced relocation of IDPs (see Section 1.f.).

There were continuing reports that border officials harassed and charged refugees and returnees illegal taxes at border posts, but such reports continued to diminish and, unlike in 2005, there were no reports of sexual abuse by border officials. However, the UN Office of the High Commissioner for Refugees (UNHCR) reported mistreatment of old and new refugees in Lunda Norte province.

*Protection of Refugees.*—The constitution and law provide for the granting of refugee status and asylum to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established in principal the framework necessary to provide protection to refugees. However, in practice the Government has committed to fund only administrative costs for refugee protection. The Government provided some protection against



refoulement, the return of persons to a country where they feared persecution; it also granted refugee status or asylum.

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

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

The law provides citizens with the right to change their government peacefully; however, in practice citizens could not elect officials at any level of government.

*Elections and Political Participation.*—In 1992 the first multiparty Presidential and legislative elections were held. Popular Movement for the Liberation of Angola (MPLA) President Jose Eduardo dos Santos won a plurality of votes cast, and the MPLA also won a majority of seats in the parliament. Local and international observers declared the election to be generally free and fair, but civil war resumed when UNITA leader Jonas Savimbi rejected the results. In 2005 the parliament passed electoral law revisions. The first post-civil war elections were expected during the year, but the Government postponed them. The Government claimed that complications in the registration process and the need for extensive infrastructure development required the delay. Delayed legislative elections were planned for 2008 and Presidential elections for 2009; however, firm dates were not announced.

The Government established the National Electoral Commission (CNE) in June 2005 as the supervisory body to monitor elections. The 11 members of the CNE represent the political parties with seats in parliament (six members), the Office of the President, the Government, the Supreme Court, and civil society. The President appoints two members, and the other bodies each nominate their representative(s) to participate.

On November 15, the voter registration campaign commenced, and almost one million persons registered to vote in the first month. Opposition party leaders initially complained that delays in announcing the electoral registration timeline made it difficult to hire, train, and fund the opposition supervisors, or *fiscais*, that are required by electoral law to monitor the registration process for irregularities. By the end of the first phase of registration, however, opposition parties, NGOs, and government leaders called the registration efforts a success despite earlier problems. In response to civil society concerns, the Government also developed a system to accredit civil society observers for registration stations.

Political power is concentrated in the President and the Council of Ministers, through which the President exercises executive power. The council can enact laws, decrees, and resolutions; it can therefore assume most functions normally associated with the legislative branch.

The National Assembly comprises 220 deputies elected by proportional vote in the 1992 elections; however, it has little power relative to the President and Council of Ministers. This body has the authority to debate and pass all major legislation, including the national budget. While opposition deputies held 43 percent of parliamentary seats and substantive debates sometimes took place, including the frequent calling of government officials to question-and-answer sessions, few mechanisms existed to check the power of the MPLA majority or defeat legislation supported by the executive branch.

There were more than 120 registered opposition parties, and 11 of these received public subsidies based on their representation in the parliament. During the year all others received one-time public subsidies. The majority of opposition parties had limited national constituencies.

Political parties, including the MPLA, UNITA, the Social Renovation Party (PRS), and the Party of the Alliance of Youth, Workers and Farmers of Angola, complained that political activists and militants physically attacked competing party members.

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

The country has three dominant ethno-linguistic groups: the Ovimbundu, the Mbundu, and the Bakongo, who together comprised an estimated 77 percent of the population. However, other groups were also represented in government. There were six members of such smaller ethnic groups in the parliament and one minority member in the cabinet, who represented the Chokwe group. All political parties made concerted efforts to expand into all provinces and attract members of all ethnic groups.

*Government Corruption and Transparency.*—Government corruption was widespread and accountability was limited, although the Government took steps to increase transparency and reduce state expenditures not reflected in the official budget. Government efforts to increase accountability reduced discrepancies in reported and actually received oil revenues. To better monitor and control expenditures, the

Ministry of Finance (MOF) continued implementation of the Integrated Financial System (SIGFE), a monitoring system that was designed to record all central government expenditures. During the year SIGFE was extended to all central government ministries, and the detailed map of the Public Administrative Accounts it generated last year enabled the MOF to reduce discrepancies in fiscal accounts by 3 to 5 percent for the 2006 Fiscal Balance report. State-owned companies were required to conduct internal audits and submit the results to the Government for review. In February the parliament approved the UN and African Union anticorruption conventions; in June ratification of the UN convention was officially promulgated. The Government also published oil revenue data on the MOF's Web site and conducted some oil licensing rounds widely recognized for their transparency. It was the first time bids were publicly opened and signing bonuses announced. However, some smaller oil concessions were sold to local companies associated with high-level government officials in the petroleum sector without public disclosure of the bid process, if there was one.

Parastatals, most notably the state oil company SONANGOL, were required to report revenues to the central bank and the MOF, but did not consistently do so; inconsistent accounting practices also remained problematic. SONANGOL and ENDIAMA, the state diamond marketing company, were regularly audited by international accounting firms; however, the International Monetary Fund, which sent a consultation mission to the country, was denied access to SONANGOL audits. SONANGOL's dual role as governmental regulator and national oil company hindered transparency in the petroleum sector. ENDIAMA's audits were likewise not made public. Serious transparency problems remained in the diamond industry, particularly regarding allocation of exploration, production, and purchasing rights. However, the Government stepped up its participation in the Kimberly Process during the reporting period, including participating in peer reviews of other countries and chairing a subcommittee of a Kimberly Process Working Group.

Business practices continued to favor those connected to the Government; government ministers and other high-level officials commonly and openly owned interests in companies regulated by their respective ministries. Petty corruption among police, teachers, and other government employees was widespread. There was no update available on the December 2005 conviction of five high-level officials from the Ministry of External Relations, including the secretary general and the director of administration and budget management, for the embezzlement of more than \$9 million (720 million kwanza) from the ministry.

The law provides for public access to government information; however, the Government was selective in providing it. Access to these resources increased during the year; however, the Government's limited technical capabilities restricted its ability to provide information. The MOF published some oil revenue information online and released details of the national budget in the state newspaper.

In June the parliament rejected a bill, proposed by the opposition PRS party, which would have targeted crimes committed by high-level government officials. The parliament, however, passed a law that would revoke immunity from criminal investigation of Presidential appointees and allow their prosecution, but only if the President gave his assent.

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

Various domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were more cooperative and responsive to the views of those organizations than in past years.

There were more than 100 international NGOs operating in the country and approximately 350 domestic NGOs. An estimated 100 NGOs worked on human rights issues, although only a few were considered effective. Local NGOs actively promoted human rights during the year by documenting prison conditions, providing free legal counsel, lobbying government officials, and publishing investigative reports.

As outlined in previous years' reports, the local NGO AJPD continued its efforts to obtain a formal certificate of registration from the MOJ. AJPD had registered under a clause in the registration law that gives legal status if authorities do not reject a group's application within 80 days. At year's end AJPD's request to obtain a certificate remained with the Supreme Court. Despite the lack of certification, AJPD continued to provide human rights training to police through officially approved programs.

In June 2005 the parliament confirmed Paulo Tjipilica as the country's first human rights ombudsman, although NGOs had criticized the lack of civil society involvement in his selection. In February the Government published two laws that

provided the framework for the Office of the Ombudsman to commence operations and gave the ombudsman the status of a government minister. Under the laws, the human rights ombudsman is an independent public entity charged with defending the rights, liberties, and privileges of citizens, either individually or collectively, in relation to public administration, public institutions, or the public domain. However, the mandate of the ombudsman is limited; he cannot take matters directly to court, and can only address some issues with the President's approval. In addition the ombudsman is authorized to respond only to officially submitted complaints, except in cases of flagrant human rights violations, in which case no official complaint would be required. The ombudsman has the authority to make recommendations and suggest corrective measures, but he does not have the power to "annul, revoke or modify" the powers of any public entity. His reports are to be presented to the parliament. The parliament elected a Deputy Ombudsman, Maria de Conceicao de Almeida Sango, in December and approved a budget for 56 personnel. The ombudsman spent the year assembling his staff, educating the public in provincial meetings on the ombudsman's role, and began reviewing and investigating complaints.

The Government criticized and restricted some NGO activities during the year. On May 22, a high-level government official denounced the housing initiatives of local NGO SOS-Habitat for allegedly "fulfilling an agenda, with a view to tarnishing the image of the Government, by constantly and permanently creating difficulties to its performance." SOS-Habitat continued its activities and public advocacy despite this criticism.

On July 20, the Government rescinded the legal civil association status of Mpalabanda after it joined the Cabindan Forum for Dialogue, the group that worked to negotiate peace with the Government. The Government claimed that Mpalabanda was acting as a political entity, outside of its mandate as a civil society organization. Shortly thereafter, police surrounded the house of Mpalabanda President Agostinho Chicaia and requested him to accompany them to police headquarters. He declined and went the next day with an attorney, and was questioned and released. On October 2, police again arrested Chicaia and interrogated him for over 10 hours. The military also raided Mpalabanda headquarters. In September former Mpalabanda vice-President Raul Danda was arrested in a Cabindan airport for carrying what was described as subversive material with intent to distribute. He spent a month in jail but was never formally charged. Danda later continued to distribute press and policy statements through the Internet and to attend public forums.

There are laws that, if implemented, could restrict NGOs, since they allow the Government to determine where and what projects an NGO may implement and require NGOs to provide financial details. However, during the year the Government did not exercise this authority.

Several international human rights organizations had a permanent presence in the country, including the ICRC and UNHRO. The UNHRO continued joint efforts with the Government to strengthen the MOJ's provincial offices of human rights. In training sessions in the provinces, government officials, UN staff, human rights activists, and citizens met to address the need for human rights protections in their communities. The UNHRO conducted programs with the Office of the Human Rights Ombudsman and worked with the Ministry of External Relations to collect information to fulfill the Government's international treaty obligations.

In March the UN Special Rapporteur on Adequate Housing issued a public statement criticizing forced evictions and denial of the right to adequate housing in the country (see Section 1.c.); the Government contested the report's findings.

During the year UN humanitarian agencies maintained large-scale food security programs, repatriation and reintegration activities, and development projects. The Government provided the UN with some funding for these activities.

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

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

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

*Women.*—Violence against women was widespread. Such violence, including spousal abuse, is not specifically illegal; however, the Government occasionally prosecuted it under rape, assault, and battery laws. There were no prosecutions for violence against women under these laws during the year. Police were likely to view such abuse as a family matter, not a violation of law; however, increased training on the rights of women and several high-profile abuse cases, including the murder

of a close friend and staffer of the President's wife by a jealous husband, worked to change this view. A significant proportion of homicides were perpetrated against women, usually by spouses. The Ministry of Women and Family Affairs (MWFA) reported receiving an average of 20 domestic violence cases a month. However, many such cases likely were unreported. The Government continued its efforts to reduce violence against women and to raise their status. The MWFA operated a program with the Angolan Bar Association to give free legal assistance to abused women; the ministry also opened counseling centers to help families cope with domestic abuse. During September and October the Government undertook an information campaign on domestic abuse and hosted several high-profile roundtables on women's rights in coordination with Human Rights Day. This campaign included full-page articles in the *Jornal de Angola* and radio announcements on public radio.

Rape, including spousal rape, is illegal and punishable by up to eight years' imprisonment; however, limited investigative resources and an ineffective judicial system prevented prosecution of most cases. During the year there were no known prosecutions. Police were reluctant to prosecute such cases. They have a low level of forensic capabilities. The Organization of the Angolan Woman operated a shelter that offered special services for rape victims. The MOJ worked with the MOI to increase the number of women police officers and train police officers to improve police response to rape allegations.

Prostitution is illegal, but the prohibition was not consistently enforced. Due to poverty, many women engaged in prostitution. Unlike in the previous year, there were no reports that police sexually abused prostitutes after detaining them. The MWFA maintained a shelter that was open to former prostitutes.

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

Under the constitution and law women enjoy the same rights as men; however, societal discrimination against women remained a serious problem, particularly in rural areas. There were no effective mechanisms to enforce child support laws, and women, whether or not heads of household, bear the major responsibility for raising children. The MWFA has a National Office for the Rights of Women focused on ensuring that the country is in compliance with its international treaty obligations.

The law provides for equal pay for equal work; however, women generally held low-level positions in state-run industries and in the private sector. However, a few ministries, political parties, and businesses were led by women. As in 2005 the MWFA conducted skills training programs and workshops for women.

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

Education is free and compulsory until the sixth grade, but students often had significant additional expenses, including books and supplies. The Ministry of Education suffered from a lack of resources and during the war most of the educational infrastructure was damaged. There were not enough schools to provide universal primary education. The net enrollment rate at primary schools climbed from an estimated 55 percent in 2002 to 89 percent during the year. A total of 30 percent of all eligible children were enrolled at the secondary level. According to the UN Educational, Social, and Cultural Organization, there was a gender gap in enrollment rates favoring boys over girls.

The Government provided free medical care for children with identity documents at pediatric hospitals and health posts throughout the country; however, in many areas, health care was limited or nonexistent. Where medical care was available, boys and girls were provided equal access. Several vaccination campaigns inoculated more than four million children against measles and polio.

Child abuse was widespread. Physical abuse was commonplace within the family and was largely tolerated by local officials. In June an Interministerial Commission, with representatives from the ministries of interior; social assistance and reintegration; health; education; public administration, employment, and social security; justice; tourism; and family and the promotion of women, was formed with the mandate to create a national plan to combat and prevent violence against children, to include unlawful child labor, trafficking, and sexual exploitation.

The legal age for marriage, with parental consent, is 15. This law was not effectively enforced, and the traditional age of marriage in lower income groups coincided with the onset of puberty.

During the year human rights abuses, due to accusations of witchcraft especially against children, continued to be a major problem. In August INAC, MINARS, and the UN Children's Fund (UNICEF) released a report and held a workshop on this

problem. The report noted that most cases occurred in Luanda, Uíge, and Zaire provinces, and vulnerable children, such as orphans or those without access to health care or education, were more likely to be accused of witchcraft. Following an accusation, children were often turned over to religious leaders to be “cured.” “Treatment methods” included isolation, withholding of food and water, ritualistic cuttings, and the placing of various caustic oils or peppers on the eyes and ears of the children. Reportedly children were sometimes killed during these “exorcism” rituals. During the year the Government worked through INAC and international NGOs to assist child protection networks in Luanda, Uíge, and Zaire provinces to support children accused of witchcraft, and to report to authorities those religious organizations carrying out abusive treatments. Government and religious leaders called for an end to these practices, but were unable to reduce the influence of these traditional beliefs. There were no updates on the police investigations of such cases reported in the media in 2005.

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

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

Sexual relations with a child under 12 are considered rape. Sexual relations with a child between the ages of 12 and 15 may be considered sexual abuse, with convicted offenders liable for sentences of up to eight years in prison; however, limited investigative resources and an inadequate judicial system prevented prosecution of most cases.

The Government, assisted by the World Bank and UNICEF, continued to implement its post-conflict child soldier protection strategy. Under the strategy, those designated as child soldiers were given access to special resources, including skills training, assistance with civil registration, and access to special social assistance.

Child labor occurred, mostly in the informal sector (see Section 6.d.).

The INAC is responsible for child protection, but it lacked the technical capacity to work without the assistance of international NGOs and donors. The Government had registered 1,500 homeless children in Luanda, but other estimates of their number were much higher. An estimated 10,000 children worked in the streets of Luanda, but returned to some form of dwelling during the evening. Most of these children shined shoes, washed cars, carried water, or engaged in other informal labor, but some resorted to petty crime, begging, and prostitution.

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

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

Methods used by traffickers to obtain and transport victims were unknown. The small number of traffickers working in the country was not thought to be organized.

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

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

In August the National Police and the International Organization for Migration held a training session on trafficking. Approximately 80 participants attended, including high-level national police and immigration officials. In November a second roundtable took place.

The Government operated facilities throughout the country for abandoned and abducted children; however, in many cases the facilities were underfunded, understaffed, and overcrowded. A Catholic-affiliated center in Namacumbe, near the Namibian border, assisted victims of trafficking to find and reintegrate with their families.

The Government provided basic assistance to trafficking victims on an ad hoc basis, especially in the capital. Local social welfare agencies provided basic necessities. This type of program did not exist outside of Luanda, nor did the Government operate shelters specifically for trafficking victims.

The Government attempted to monitor its borders, but lacked resources to do so effectively. Efforts by UNICEF, supported by the Government, strengthened immigration controls at airports and border checkpoints. Immigration services at the international airport in Luanda were more effective than provincial border posts and required proper documentation for children seeking to fly internationally. In July the Government signed a joint Economic Community of West African States and Economic Community of Central African States counter-trafficking accord.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or other state services, but the Government did not effectively enforce these prohibitions. The number of persons with disabilities included more than 80,000 landmine victims. Albinos were commonly discriminated against, although church groups worked to eliminate the abuse. The NGO Handicap International estimated that persons with disabilities constituted 10 percent of the population. There is no legislation mandating accessibility for persons with disabilities to public or private facilities, and it was difficult for such persons to find employment or participate in the education system. The MINARS had an office to address problems facing persons with disabilities; however, given the large number of landmine victims, several government entities supported programs to assist individuals disabled by mine accidents. In June the Government created a high-level commission to oversee implementation of projects to assist the reintegration of veterans with disabilities.

*Indigenous People.*—An estimated 3,400 Khoisan people lived in small, dispersed communities in Huila, Cunene, and Kuando Kubango provinces. The Khoisan are traditional hunter-gatherers who are linguistically and ethnically distinct from their Bantu fellow citizens. Their very limited participation in political life has increased, and Ocadec, a local NGO advocate for the Khoisan, has worked with provincial governments to increase services to Khoisan communities and to improve communication between these communities and the Government. Adequate protection for the property rights of traditional pastoral communities was a concern; however, in August the Council of Ministers approved land reform regulations to allow groups to apply for land tenure. In October a group of Khoisan, near Quipungo, Huila Province, was granted a provisional land title.

*Other Societal Abuses and Discrimination.*—The law criminalizes sodomy. HIV/AIDS was openly discussed. In December 2005 President Dos Santos inaugurated a new building for the National Institute for HIV/AIDS and was supportive of HIV/AIDS awareness and prevention campaigns. However, discrimination against homosexuals and those with HIV/AIDS occurred. The Government promulgated a law that criminalizes discrimination against those with HIV/AIDS, but lack of enforcement allowed employers to discriminate against and treat unfairly those with the condition. There were no reports of violence against those with HIV/AIDS. Local NGOs had been established to combat stigmatization and discrimination against people living with HIV/AIDS. The FAA implemented educational programs to discourage discrimination against HIV-positive military personnel and prevent the spread of the disease.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution and law provide for the right of workers to form and join unions without previous government authorization or excessive requirements. These laws were enforced. Labor unions independent of the government-run unions worked to increase their influence, but the ruling MPLA still dominated the labor movement due to historical connections between the party and labor.

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

*b. The Right To Organize and Bargain Collectively.*—The constitution and law provide for the right of unions to conduct their activities without interference, but the Government did not always protect this right. The law provides for collective bargaining and the right to strike, and workers exercised these rights in practice. There were no export processing zones.

There are no restrictions on collective bargaining.

The constitution grants the right to engage in union activities, but the Government may intervene in labor disputes that affect national security, particularly strikes in the oil sector. The law prohibits lockouts and worker occupation of places of employment and provides protection for nonstriking workers. It prohibits strikes by armed forces personnel, police, prison workers, and fire fighters. The Ministry

of Labor has a hot line for workers who feel their rights are being violated. The law does not effectively prohibit employer retribution against strikers, and it also permits the Government to force workers back to work for “breaches of worker discipline” and participation in unauthorized strikes. Workers, including government-employed teachers and nurses, exercised their right to strike during the year. The number of strikes and industries affected continued to increase.

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

*d. Child Labor Practices and Minimum Age for Employment.*—Child labor in the formal sector was restricted under the law; however, child labor, especially in the informal sector, remained a problem. The legal minimum age for apprenticeship is 14 years, and 18 for full employment. Children between the ages of 14 and 18 may not work at night, in dangerous conditions, or in occupations requiring great physical effort, and children younger than 16 are prohibited from doing factory work; however, these provisions were rarely enforced. Most work done by children was in the informal sector. Children worked on family farms, as domestic servants, and as street vendors. Family-based child labor in subsistence agriculture was common.

The Inspector General of the Ministry of Public Administration, Employment, and Social Security (MAPESS) is ultimately responsible for enforcing all labor laws; however, the MFWA also plays a significant role in investigating complaints of child labor.

The Children’s Affairs Court under the MOJ had assumed jurisdiction over general child protection in Luanda and was expected to assume jurisdiction in the other provinces once provincial courts became operational. In the meantime child labor cases continued to be adjudicated by the provincial criminal courts for minors aged 16 to 18 or the MFWA’s Family Courts for children under age 16. Child labor violations are punishable by fines.

In practice neither the Labor Code nor the judicial system was capable of ensuring labor rights. The court system was overextended; few resources were available for family or children affairs courts or child labor investigations. Moreover, while mechanisms were in place to investigate and prosecute child labor violations in the formal sector, the Government lacked the capacity to oversee the much larger informal sector. There was no formal procedure for inspections and investigations of child labor abuses outside of the family law system, although private persons can file accusations of violations of child labor laws.

*e. Acceptable Conditions of Work.*—During the year MAPESS raised the minimum wage in the formal sector to approximately \$65 (5,200 kwanza) per month, which did not provide a decent standard of living for a worker and family. As a result, most wage earners held second jobs or depended on the informal sector, including subsistence agriculture, or support from abroad to augment their incomes.

The standard workweek is 40 hours with at least one unbroken period of 26 hours of rest per week. There is a limit on work of 80 hours per week. Required premium pay for overtime is time and a half for up to 30 hours of overtime, and 1.75 from 30 to 40 hours. In the formal sector there is a prohibition on excessive compulsory overtime, defined as more than two hours a day, 40 hours a week, or 200 hours a year. These standards were not effectively enforced, unless employees requested it.

The Government has set occupational health and safety standards; however, the Ministry of Labor’s Office of the Inspector General did not enforce these standards effectively. Nonetheless, the inspector general greatly increased the number of workplace inspections; 2,038 employers were inspected in the first half of the year, compared with 2,776 inspections in all of 2005. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, but it was not exercised in practice.

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## BENIN

The Republic of Benin is a constitutional democracy with a population of 7.9 million. On March 19, President Boni Yayi was elected to a five-year term in multiparty elections that observers generally viewed as free and fair. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and in contrast with 2005, there were no reports the Government forcibly dispersed dem-

onstrations. However, there were problems in several areas. Police occasional use of excessive force and vigilante violence resulted in deaths. Impunity was a problem. Harsh prison conditions, arbitrary arrest and detention with prolonged pretrial detention, and judicial corruption continued. Women were victims of violence and societal discrimination, and female genital mutilation (FGM) was common. There also were reports of trafficking and abuse of children, including infanticide and child labor.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, on May 19, police killed one person and wounded several others when an operation to prevent a group of illegal butchers from selling meat from uninspected animals turned into a violent confrontation. In an attempt to keep police and veterinary inspection service agents from confiscating the meat, the butchers threw stones, and one butcher swung a cleaver at a policeman. Another policeman fatally shot the butcher wielding the cleaver. There was no investigation of the shooting, which the police claimed was self-defense.

There were no developments in the February 2005 police killing of two persons suspected of illegally occupying a building or in the September 2005 killing of an inmate by guards during an attempted prison break.

During the year incidents of traditional mob justice continued to occur, in part due to the perceived failure of local courts to adequately punish criminals. Such cases generally involved mobs killing or severely injuring suspected criminals, particularly thieves caught in the act. On September 4, a mob intercepted two men attempting to snatch a woman's handbag. The mob burned one of the men to death and beat the second to death. Although some of these incidents occurred in urban areas and were publicized in the press, the Government made no concerted attempt to investigate or prosecute those involved, and police generally ignored vigilante attacks.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, some trafficked children were kidnapped by force during the year (see Section 5).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, the Government did not always respect these prohibitions.

On September 6, witnesses observed gendarmes in Ouidah beating two suspected thieves with clubs on the back, hands, feet, and buttocks. Such beatings in custody were commonplace, but no statistics are available.

There were no reports of the police forcibly dispersing demonstrations.

A violent confrontation in May between police and illegal butchers resulted in injuries and one death (see Section 1.a.).

Security forces entered private homes and beat the occupants during the year (see Section 1.f.).

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

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

*Prison and Detention Center Conditions.*—Prison conditions continued to be extremely harsh. Overcrowding and lack of proper sanitation and medical facilities posed a risk to prisoners' health. According to the Ministry of Justice, the country's eight civil prisons at times were filled to more than three times their capacity. The prison diet was inadequate, and malnutrition and disease were common. Family members were expected to provide food for inmates to supplement prison rations. There were deaths in prison due to malnutrition, disease, and neglect; however, statistics are not available.

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

The Government permitted prison visits by human rights monitors; non-governmental organizations (NGOs) and other agencies and religious groups continued to visit prisons.

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



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

On February 22, following an investigation, four high-ranking police officials were arrested for embezzlement of public funds, mismanagement of public property, and illegal awarding of contracts. On June 9, a fifth high-ranking police official was arrested and detained on the same charges. By year's end the judge had released three of the officials on bail.

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

On February 22, 12 police officers from a specialized police unit (Compagnie Republique de Securite) broke into a couple's home and took the couple to the Cotonou central police station for allegedly failing to repay a personal debt to their landlord. The police detained the husband and told his spouse to get money to reimburse the debt. When the police released the man after holding him for nine hours, the couple lodged a complaint against the police for unlawful arrest and detention. On August 11, the constitutional court ruled that the arrest and detention of the two individuals at the police station was arbitrary and constituted a violation of the constitution since failure to repay a personal debt is not an offense punishable by incarceration. At year's end no action had been taken against the responsible officers.

Unlike in the previous year, there were no reports that police arrested demonstrators; however, police arrested a union leader and union members (see Section 6.a.).

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

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

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

Civilian courts operate on national and provincial levels, and there are two courts of appeals. The Supreme Court is the court of last resort in all administrative and judicial matters. The Constitutional Court determines the constitutionality of laws, adjudicates disputes between the President and the National Assembly, and rules on disputes regarding Presidential and legislative elections. It also has jurisdiction in human rights cases. There is also a High Court of Justice to try the President and ministers for crimes related to their professional responsibilities.

*Trial Procedures.*—The constitution provides for the right to a fair trial; however, judicial inefficiency and corruption impeded this right. The understaffed judicial system created delays in judicial processing that resulted in longer pre-trial detention periods.

The legal system is based on French civil law and local customary law. A defendant is presumed innocent and has the right to be present at trial and to representation by an attorney at public expense if necessary. In practice the court provided indigent defendants with court-appointed counsel upon request. A defendant also has the right to confront witnesses and to have access to government-held evidence. Defendants can appeal criminal convictions to the court of appeals and the Supreme

Court, after which they may appeal to the President for a pardon. Trials were open to the public, but in exceptional circumstances the President of the court may decide to restrict access to preserve public order or to protect the parties.

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

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Any citizen may file a complaint concerning an alleged human rights violation with the constitutional court.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. The law requires police to obtain a judicial warrant before entering a private home, and they generally observed this requirement in practice with one known exception (see Section 1.d.).

There were no developments in the June 2005 case of soldiers who entered homes in Fidjrosse, Cotonou, without search warrants and beat the occupants.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government did not always respect these rights in practice. Security forces arrested, detained, and harassed journalists during the year. The law criminalizes libel, and members of the press were imprisoned for libel during the year. The law prevents private citizens and the press from declaring or predicting election results.

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

The independent media were active and expressed a wide variety of views without restriction. These publications criticized the Government freely and frequently, but the effect on public opinion was limited due to the urban concentration of publications and widespread illiteracy. A nongovernmental media ethics commission (ODEM) continued to censure some journalists during the year for unethical conduct, such as reporting falsehoods or inaccuracies or releasing information that was still under embargo. ODEM criticized 17 newspapers and television and radio stations for violating professional and ethical standards during the February-April electoral period.

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

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

On December 1, an editor and a reporter were sentenced to six months' imprisonment for libel for an article alleging that a bailiff had defrauded a widow and then raped her to shame her into silence. Two media associations publicly appealed the sentence, calling it excessive.

On September 15, police arrested and detained a copy editor and a journalist of a private newspaper on libel charges for publishing an article about the alleged mental instability of one of the President's children; the public prosecutor questioned the two individuals and ordered their release on September 17.

On September 18, police arrested and detained the editor of a private newspaper for alleged libel against the police, although no charges were filed. The following day the public prosecutor ordered his release.

The Government penalized journalists who published items counter to government guidelines. On March 6, Communications Minister Frederic Dohou fired the ORTB director general and secretary general for "insubordination to a superior authority" after ORTB declined to broadcast a videotape from President Kerekou's media office, purporting to show electoral fraud involving the registration of foreigners, primarily Togolese refugees, as voters. ORTB reportedly had consulted the

High Authority for Audiovisual Communication (HAAC), which had advised against broadcasting the tape because its authenticity had not been verified. On April 26, the new minister of communications reinstated the ORTB officials.

Police also prevented journalists from attending an election-related press conference in a private home (see Section 2.b.).

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

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

Internet access was widely available in cities, primarily in Internet cafes, but for many the cost of using the Internet was prohibitive. Due to a lack of infrastructure, Internet access was not available in most rural areas.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected these rights in practice. In contrast with 2005, there were no reports that the Government forcibly dispersed demonstrations. The Government requires permits for use of public places for demonstrations and generally granted such permits, but the Government sometimes used “public order” to deny legitimate requests for permits from opposition groups, civil society organizations, and labor unions.

No action was taken against the security forces that violently dispersed demonstrations in 2005, resulting in the death of one person and injuries to numerous others.

On March 7, after the first round of the Presidential election, police prevented journalists from entering the residence of a political leader to attend a press conference to which they were invited. After the incident, authorities claimed they acted out of a concern for “state security.”

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

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination against members of religious groups. There is no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

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

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

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

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection

against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The Government did not always provide adequate security at refugee camps. On the night of February 15, a violent clash occurred between Togolese refugees resident at the Agame refugee camp and local Beninese villagers. Two refugees were severely wounded by gunfire and one villager was seriously injured. The violence and a fire also caused severe damage to the camp's infrastructure, cutting off electricity and impairing the sanitation system. More than 9,000 refugees were forced to abandon the camp and take temporary shelter in a nearby elementary school and a police office.

Despite the violence, the Government continued to permit Togolese refugees residing in local communities and in refugee camps to participate in most economic activities and to enroll their children in local schools. At year's end approximately 6,500 Togolese refugees remained in Benin; over 3,000 returned voluntarily to Togo.

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

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

*Elections and Political Participation.*—International observers viewed the March Presidential election as generally free and fair. On March 29, after two rounds of voting, the constitutional court declared independent Thomas Boni Yayi President. The voting on March 5 and 19 was orderly and well organized despite organizational difficulties created by the Government's last-minute announcement of the date of the second round and financial difficulties faced by the National Independent Electoral Commission during election preparations. On March 5, the mayor of Abomey was arrested and questioned over allegations of possible tampering with ballot materials; however, the charges were dropped on March 14. The law prevented private citizens and the press from declaring or predicting election results (see Section 2.a.).

In June the National Assembly passed a bill to extend members' terms from four to five years; however, the constitutional court ruled the amendment unconstitutional on July 9.

Individuals and parties could freely declare their candidacy and stand for election. There were no government restrictions on political opponents. No single party or group has dominated politics. In the wake of the landslide victory of Boni Yayi, new political parties formed to support the new President and his program.

There were six women in the 83-seat National Assembly and five female ministers in the 23-member cabinet. Two of seven justices on the constitutional court were women, including the President. The President of the high court of justice also was a woman. Two of six appointed departmental prefects were women, as well as two of 77 indirectly elected mayors.

Minority ethnic groups were well represented in government agencies, civil service, and the armed forces. In the National Assembly, 19 members were from the Goun-Nago-Yoruba ethnic group, 15 from the Bariba, and 10 from the Somba-Dendi and other smaller groups. Seven cabinet ministers are from the Bariba-Somba and Dendi ethnic groups and 16 are from the Fon, Goun-Nago-Yoruba, and smaller ethnic groups.

*Government Corruption and Transparency.*—Official corruption was widespread. President Boni Yayi committed himself to combating corruption in the country and advancing good governance in the management of public affairs. He initiated financial audits in government ministries and state-owned enterprises to identify perpetrators and assess the scope of public embezzlement. On December 7, the minister of finance released an overview of the results of the audits and announced that approximately 300 individuals were responsible for embezzling \$46 million. At year's end the names of the individuals had not been released.

Police and government officials investigated allegations that Rogatien Biaoou, former minister of foreign affairs, and Thomas Guedegbe, former director of administration at the foreign ministry, were involved in the unauthorized sale of land adjacent to the UN permanent representative's residence in New York in 2005. The public prosecutor of the court of Cotonou claimed he could not prosecute a case against ex-Minister Biaoou, but that only the high court of justice could do so, and Biaoou was released on February 22 after spending 48 hours in police custody. At year's end Guedegbe remained in pre-trial detention with criminal charges against him pending.

On April 18, a parliamentary investigative committee issued a report concluding involvement of three former government ministers in the embezzlement of two million dollars (one billion francs) budgeted for the design and creation of a national computerized voter registry. On July 18, the National Assembly voted to bring Alain Adihou, minister of institutional relations in the former government, before the High Court of Justice. In addition, Adihou was accused of not returning an official four-wheel drive vehicle purchased for his use while in office. Adihou was arrested on October 25 and was in pre-trial detention at year's end. On December 21, a committee of the National Assembly recommended that Cosme Sehlin, former finance minister, and Valentin Houde, Adihou's predecessor as minister of institutional relations, also be brought before the court. The full assembly had not voted on this recommendation at year's end.

On June 4, Sefou Fagbohoun, a wealthy businessman and President of the political party African Movement for Democracy and Progress was arrested for his alleged involvement in the mismanagement of, and embezzlement of funds from, former fuel distribution parastatal SONACOP. At year's end Fagbohoun remained in pre-trial detention.

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

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

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

Local human rights NGOs include the League for the Protection of Human Rights in Benin, the National Christian Youth Association for Awareness and Development, Association for the Support of Development and Peace, Solidarity for Behavioral Change, Benin Prison Fellowship, Children's Rights Social Organizations' Network, and others. Local NGOs are independent. Some local NGOs have formed networks for more efficient implementation of their programs and to pool resources.

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

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

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

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

FGM was practiced on females ranging from infancy through 30 years of age and generally took the form of excision. Approximately 17 percent of women in the country have undergone FGM, although the figure was higher in certain regions, like Atacora (45 percent) and Borgou (57 percent), and among certain ethnic groups. For example, more than 70 percent of the women in the Bariba, Yoa-Lokpa, and Peul ethnic groups have undergone FGM. Younger women were less likely to be excised than their older counterparts. The law prohibits FGM and provides for penalties for performing the procedure, including jail sentences of up to 10 years and fines of up to \$12,000 (six million francs); however, the Government generally was unsuccessful in preventing the practice. Individuals who were aware of an incident of FGM but did not report it faced fines ranging from \$100 (50,000 francs) to \$200 (100,000 francs). Those who performed the procedure, usually older women, profited from it. NGOs and others continued to educate rural communities about the dangers of FGM and to retrain FGM practitioners in other activities. A prominent NGO, the local chapter of the Inter-African Committee, made progress in raising public awareness of the dangers of the practice, and the Government cooperated with these efforts. The Ministry of Family continued an education campaign that included conferences in schools and villages, discussions with religious and traditional authorities, and banners. NGOs also addressed this issue in local languages on local radio stations.

Prostitution, especially child prostitution, was a problem even though the law prohibits it. Penalties for prostitution included imprisonment of six months to two years and fines of \$800 (400,000 francs) to \$8,000 (4 million francs).

Sexual harassment was very common. Until recently, sexual harassment was not explicitly prohibited; however, on July 17, the National Assembly passed a law prohibiting sexual harassment and offering protection for victims of sexual harassment. Under the law, which was promulgated on September 5, persons convicted of sexual harassment faced sentences of one to two years in prison and fines ranging from \$200 (100,000 francs) to \$2,000 (one million francs). The law also provides for penalties for persons who are aware of sexual harassment offenses and do not report them.

Although the constitution provides for equality for women in the political, economic, and social spheres, women experienced extensive societal discrimination, especially in rural areas where they occupied a subordinate role and were responsible for much of the hard labor on subsistence farms. In urban areas women dominated the trading sector in the open-air markets. During the year the Government and NGO community continued to educate the public on the 2004 family code, which provides women with inheritance and property rights and significantly increases their rights in marriage, including prohibitions on forced marriage, child marriage, and polygamy. In practice women experienced discrimination in accessing employment, credit, and equal pay.

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

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

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

The 2004 family code prohibits marriage under 14 years of age; however, the practice continued in rural areas, and underage (under 18 years of age) marriage was permitted with parental consent. There also was a tradition in which a groom abducts and rapes his prospective child bride. The practice was widespread in rural areas, despite government and NGO efforts to end it through information sessions on the rights of women and children.

Despite widespread NGO campaigns, the traditional practice of killing deformed babies, breech babies, babies whose mothers died in childbirth, and one of two newborn twins (all of whom were considered sorcerers) continued in some rural areas, and practitioners operated with impunity.

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

The penal code prohibits child prostitution; however, enforcement was frequently lax, and the commercial sexual exploitation of children was a problem (see Section 5, Trafficking). Some street children became prostitutes to support themselves.

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

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

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

*Trafficking in Persons.*—The law prohibits trafficking in children. There are also laws that prohibit human smuggling that the Government has used to prosecute traffickers. However, there is no law prohibiting trafficking in adult persons. There were widespread reports that persons were trafficked to, from, and within the country.

The country was a source, transit point, and destination for trafficked persons, primarily children for forced labor and sexual exploitation. The majority of trafficking occurred internally within the extended family or community; however, organized criminal networks were also active. According to a 2000 UNICEF study, four distinct forms of child trafficking occurred in the country: *trafic-don*, the transfer of a child to a migrant family member or stranger, who turned them over to another stranger for vocational training or education; *trafic-gage*, indentured servitude in which a child was forced to work off a debt; *trafic-ouvrier*, child labor, the most common form of trafficking, involving children working as artisans, construction laborers, or agricultural or domestic workers; and *trafic-vente*, the outright sale of children.

Through the traditional practice of *vidomegon*, poor, often rural, families placed a child in the home of a more wealthy family. The child received living accommodations, while the child's parents and the urban family that raised the child split the income generated from the child's activities; however, the child often faced forced labor, long hours, inadequate food, and sexual exploitation. *Vidomegon* was traditionally intended to enable children of poor families to receive educational opportunities and a higher standard of living; however, this practice has become corrupted to facilitate the trafficking of children for forced labor. Approximately 90 to 95 percent of the children in *vidomegon* were young girls.

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

Child prostitution often involved girls whose poor families urged them to become prostitutes to provide income. Other children were lured to exchange sex for money by older men, often traffickers, who acted as their "protectors." Some children were abused sexually by teachers who sought sex for better grades. NGOs and international organizations organized assistance to child prostitution victims and worked on prevention programs.

The penal code prohibits kidnapping and prostitution. Penalties for traffickers involved in "labor exploitation" ranged from fines to prison terms, forced labor, or the death penalty, depending on the severity of the crime and the length of time over which the exploitation occurred.

On January 30, the National Assembly passed a law against child trafficking; President Boni Yayi promulgated the law on April 5. The new law provides for increased penalties for the trafficking of minors, including imprisonment from six months to life, depending on the severity of the crime, and fines from \$100 (50,000 francs) to \$10,000 (five million francs). The law states that individuals who are aware of child trafficking offenses and do not report them shall face fines of \$20 (10,000 francs) to \$100 (50,000 francs).

On July 9, along with 23 other West and Central African countries, the Government signed an agreement and adopted an action plan to combat trafficking. Regional efforts also continued between heads of state of concerned countries to cooperate to identify, investigate, and prosecute agents and traffickers, and to protect and repatriate trafficking victims.

During the year the Government augmented its efforts to arrest and prosecute traffickers. From January 2005 to October 2005, the Government prosecuted 83 trafficking cases, 20 of which resulted in convictions and prison terms of three months to one year.

UNICEF and other donors have supported the Ministry of Family to establish, equip and train more than 1,100 local committees since 1999 to combat child trafficking through community surveillance and monitoring. The Brigade for the Protection of Minors, under the jurisdiction of the Ministry of the Interior, fought crimes against children. The Government worked with NGOs to combat child trafficking, using media campaigns and greater border surveillance; however, police complained that they lacked equipment to monitor trafficking adequately. Due to resource constraints, prevailing cultural attitudes, and a lack of interagency coordination, the Government failed to meet minimum standards for the elimination of trafficking, although they made significant efforts to do so.

During the year the Ministry of Family, international NGOs, and the donor community assisted numerous children who had been trafficked to other countries to work in mines, quarries, and farms. Efforts included the provision of food, shelter, medical treatment, and subsequent placement in educational and vocational programs. The Ministry of Family also cooperated with partners to operate centers in

urban areas to provide education and vocational training to victims of child trafficking. Government efforts to reunite trafficked children with their families continued during the year; however, no statistics were available.

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

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

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the freedom to form and join unions, and the Government generally respected these rights in practice. However, unions must register with the Ministry of Interior, a three-month process, or risk a fine. The labor force of approximately 3.2 million was engaged primarily in subsistence, with only a small percentage of the population engaged in the formal (wage) sector. Although approximately 75 percent of government workers belonged to labor unions, a much smaller percentage of workers in the private sector were union members.

Police arrested the secretary general of a stevedores' union on September 15 and three union members posting strike notices on walls on September 16 for disturbing the peace. After holding the individuals in police custody for two days, the public prosecutor questioned them and ordered their release. No charges were filed.

The labor code prohibits antiunion discrimination. Employers may not take union membership or activity into account regarding hiring, work distribution, professional or vocational training, or dismissal; however, the Government did not always enforce these provisions, and there were reports that employers threatened individuals with dismissal for union activity.

*b. The Right To Organize and Bargain Collectively.*—The labor code generally allows unions to conduct their activities without interference, and the Government generally protected this right in practice. The labor code provides for collective bargaining, and workers freely exercised these rights. The Government sets wages in the public sector by law and regulation.

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

The law does not grant seafarers the right to organize or to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The labor code prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred, and trafficking was a problem (see Sections 5 and 6.d.). The law provides for imprisonment involving compulsory labor, and judges sentenced convicts to compulsory labor for various crimes during the year.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code prohibits the employment or apprenticeship of children under 14 years of age in any enterprise; however, child labor remained a problem due in part to limited government enforcement of the law. To help support their families, children of both sexes—including those as young as seven—continued to work on rural family farms, in small businesses, on construction sites in urban areas, in public markets as street vendors, and as domestic servants under the practice of *vidomegon* (see Section 5). A majority of children working as apprentices were under the legal age of 14 for apprenticeship.

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



The Ministry of Labor enforced the labor code in a limited manner and only in the formal sector due to the lack of inspectors. The Government took steps to educate parents and to prevent compulsory labor by children, including media campaigns, regional workshops, and public pronouncements on child labor problems. The Government also worked with a network of NGOs and journalists to educate the population about child labor and child trafficking.

*e. Acceptable Conditions of Work.*—The Government administratively set minimum wage scales for a number of occupations. The minimum wage was approximately \$60 (30,000 francs) per month; however, the minimum wage did not provide a decent standard of living for a worker and family. Many workers had to supplement their wages by subsistence farming or informal sector trade. Most workers in the wage sector earned more than the minimum wage, although many domestics and other laborers in the informal sector earned less.

The labor code establishes a workweek of between 40 and 46 hours, depending on the type of work, and provides for at least one 24-hour rest period per week. Domestic and agricultural workers frequently worked 70 hours or more per week, above the maximum provided for under the labor code of 12 hours per day or 60 hours per week. The labor code also mandates premium pay for overtime. The authorities generally enforced legal limits on workweeks in the formal sector.

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

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## BOTSWANA

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

The following human rights problems were reported during the year: poor prison conditions, lengthy delays in the judicial process, restrictions on press freedom, violence against women, child abuse, discrimination against homosexuals and persons with HIV/AIDs, and restrictions on trade unions. In December the High Court ruled broadly in favor of 189 San (an indigenous ethnic minority) who had sued the Government over their forced relocation from the Central Kalahari Game Reserve (CKGR), and concluded that the Government had acted wrongly in several regards.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, police shot and killed six individuals in three separate incidents. In July four persons died in an exchange of gunfire with police during an attempted robbery in Gaborone. In August one person died after being shot by police in Gaborone while fleeing a crime scene with burgled goods. In December a fugitive wanted on multiple counts of attempted murder and rape was shot and killed by police in the village of Lotlhakane.

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

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

Early in the year five soldiers and two police special constables were arrested for allegedly forcing several Zimbabwean detainees to perform sex acts on one another in November 2005. The accused were released on bail pending trial and suspended from duty.

In August two police special constables were charged with beating a Zimbabwean prisoner. They were convicted, fined, and dismissed from the police service.

There were no further developments in the June 2005 case in which five residents of Kaudwane charged that officers of the Department of Wildlife and National Parks had beaten them during questioning about poaching. The Government denied the accusations, but had not released details of its investigation by year's end.

Unlike in the previous year, there were no reports that police harassed human rights activists or forcibly dispersed demonstrators.

*Prison and Detention Center Conditions.*—Prison conditions remained poor; however, prison deaths decreased during the year, primarily due to the introduction of anti-retroviral (ARV) drug treatment in prisons. As of early September the prison system, which had an authorized capacity of 3,910, held 5,969 prisoners, a 12 percent reduction in overcrowding since September 2005. Overcrowding was worst in men's prisons and constituted a serious health threat because of the country's high incidence of HIV/AIDS and tuberculosis. Rape between inmates occurred. Conditions in the less-crowded Center for Illegal Immigrants, a detention facility, were adequate (see Section 2.d.).

Voluntary and free HIV testing, peer counseling, and anti-retroviral drug treatment were available to prisoners. In September, 434 prisoners were receiving ARV treatment, and three HIV-positive pregnant prisoners began participating in a "prevention of mother-to-child transmission" program. The Government did not provide ARV treatment to noncitizens in detention, but those in long-term detention could receive such treatment free from a local nongovernmental organization (NGO). The prison commissioner had the authority to release terminally ill prisoners in the last 12 months of their sentences and to allow citizen prisoners with sentences of 12 months or less to perform "extramural" labor. As of September the Government had released 371 prisoners under the extramural labor program.

Mistreatment of prisoners is illegal; however, the Department of Prisons received three complaints that guards mistreated inmates. Four officers were given administrative discipline in one case; the other two complaints were still being investigated at year's end.

By September 1, 33 prisoners had died in custody, primarily from HIV/AIDS-related illnesses, fewer than half the number at the same point in 2005. Although the Department of Prisons routinely investigated deaths in custody, the results of those inquests were not made public.

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

Committees appointed by the minister of labor and home affairs visited each prison facility quarterly. Although the committees documented their findings, their reports were not made public. By September no NGOs had requested to visit a prison. The Government permitted the International Committee of the Red Cross (ICRC) and the UN High Commissioner for Refugees (UNHCR) to visit facilities and prisoners during the year, and to conduct those visits according to those organizations' standard modalities.

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

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

There were 6,668 BPS officers and approximately 1,060 special constables; the latter had limited authority and were considerably less highly trained than BPS officers. There were approximately 1,800 local police, with authority limited to specified tribal areas, who also were not as highly trained as BPS officers.

The security forces did not operate with impunity, and the Government investigated and took steps to punish abuses committed by police and military personnel. In January charges were brought against two special constables and five soldiers accused of abusing a group of Zimbabwean illegal immigrants in December 2005 (see Section 1.c). In August two special constables were arrested and accused of collaborating with civilian burglars; at year's end their trial was pending.

Corruption was not considered a major problem, but respondents to a 2005 survey listed the police among the Government agencies most prone to corruption.

During the year approximately 95 police officers received human rights training at the International Law Enforcement Academy located in the country.

*Arrest and Detention.*—Police officers must produce an arrest warrant except in certain cases, such as when an officer witnesses a crime being committed or discovers that a suspect is in possession of a controlled substance. Suspects must be informed of their rights upon arrest, including the right to remain silent, and must be charged before a magistrate within 48 hours; authorities respected these rights in practice. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. There was a functioning bail system, and detention without bail was unusual except in murder cases, where it is mandatory. Detainees have the right to contact a family member and to hire attorneys of their choice; in practice, most could not afford legal counsel. The Government provides counsel for the indigent only in capital cases, although attorneys are required to accept pro bono clients.

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

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and while the judiciary was independent, the civil courts remained unable to provide timely, fair trials due to severe staffing shortages and a backlog of pending cases. A 2005 report by the Office of the Ombudsman characterized the “delays in the finalization of criminal matters in all courts” as a “serious concern,” particularly the delays in processing appeals. In a survey conducted during 2005, 31 percent of respondents cited inefficiencies in the justice system as a reason for the perceived increase in fraud in the country.

The judiciary consists of both a civil court—including magistrates’ courts, an industrial court, a court of appeal, and the High Court—and a customary or traditional court system.

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

Foreigners as well as citizens may be tried in customary courts. In customary courts the defendant does not have legal counsel, and there are no standardized rules of evidence. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. The quality of decisions reached in the customary courts varied considerably. In some cases tribal judges may issue sentences that include corporal punishment such as lashings on the buttocks.

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

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, which includes a separate industrial court for most labor-related cases. Administrative remedies are not widely available.

Most civil cases were tried in customary courts under the authority of a traditional leader. These courts handled land, marital, and property disputes.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. However, in 2002 the Government forcibly resettled most of the indigenous San and other minority members living in the CKGR to resettlement sites outside the perimeter of the reserve. Government officials maintained that the resettlement program was voluntary and necessary to facilitate the delivery of public services, to provide socio-economic development opportunities to the San, and to minimize human impact on wildlife. In December the High Court rejected most of these government positions (see Section 5).

In September 2005 the Government closed the reserve to control a disease outbreak, but reopened it on May 22. Despite the closure and earlier relocations, some San never moved outside the CKGR, and remained in the reserve at year’s end.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected freedom of speech in practice; however, the Government attempted to limit freedom of the press and continued to dominate domestic broadcasting. The Government occasionally censored stories or news sources that it deemed undesirable, and government journalists often practiced self-censorship.

The Botswana Press Agency, owned and operated by the Government, provided most of the information found in the media through the Daily News newspaper, distributed nationwide at no cost, and two FM radio stations. State-owned media generally featured uncritical reporting on the Government and were susceptible to political interference. For example, on September 25, a senior officer of the Ministry of Communications, Science and Technology instructed government journalists to request and use government statements to counter negative reporting on the CKGR issue appearing in other media.

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

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

In 2005 the Government stopped renewing radio licenses held by the NGO First People of the Kalahari (FPK), charging that the vehicle-mounted and hand-held radios were being used by poachers to help avoid wildlife patrols in the CKGR (see Section 4). The FPK said that the radios were vital for the safety of widely scattered families living in the reserve.

State-owned Botswana Television was the primary source of televised news and current affairs programs. The privately owned Gaborone Broadcasting Corporation broadcast mostly foreign programs. International television channels were available by satellite.

Unlike in the previous year, the Government did not deport any foreign journalists who criticized its policies. During 2005 the Government deported at least two foreign journalists whose reporting was critical of the Government. In each case, the Government exercised its right not to specify reasons for the deportations other than to cite national security concerns. Government officials sometimes complained of bias in the private press; however, government officials and other public figures have recourse to the courts if they believe they have been libeled. Libel is a civil matter.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet access was typically limited to urban areas.

*Academic Freedom and Cultural Events.*—Unlike in the previous year, there were no government restrictions on academic freedom or cultural events. Citing national security concerns, the Government deported Kenneth Good, an Australian professor at the University of Botswana, in May 2005 after he had written papers critical of the Government. During the year Good continued his criticisms of the Government from abroad.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice. Unlike in the previous year, there were no reports that police forcibly dispersed demonstrators.

There were no further developments concerning the September 2005 incident in which police forcibly dispersed and shot rubber bullets into a demonstration led by San leaders Roy Sesana and Jumanda Gakelebone, after the demonstrators attempted to force their way into the closed CKGR. One person was injured and 21 were arrested and later released. Trials were pending at year's end. There was a chance that the charges would be dropped in light of the High Court's December ruling that the San had the legal right to enter the CKGR.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

*Societal Abuses and Discrimination.*—Government policy and practice contributed to the generally free practice of religion. There was no known Jewish community in the country, and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

In 2002 the Government required the San to relocate from the CKGR to one of three designated settlements outside of the reserve (see Section 5). Visitors to the reserve, including relocated former residents, had to register with Department of Wildlife officials to obtain a permit to enter the CKGR. A few San remained in the reserve, and some San moved back to the CKGR during the year. Unlike in the previous year, the Government did not deny NGO entry into the CKGR.

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they fear persecution. The Government granted refugee status or asylum. The Government's system for granting refugee status was accessible but slow. During the year the Government also provided temporary protection to approximately 470 individuals who did not qualify as refugees under the 1951 Convention and the 1967 Protocol. The Government generally cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The Government held newly arrived refugees and asylum seekers, primarily from Zimbabwe, in the Center for Illegal Immigrants in Francistown until the Refugee Advisory Committee (RAC), a governmental body whose chairperson is the district commissioner of Francistown, made a status recommendation; the UNHCR was present at RAC meetings in the status of observer and technical advisor. Once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp, home to some 3,000 refugees, until their resettlement or voluntary repatriation. Refugee applicants who were unsuccessful in obtaining asylum were nonetheless allowed to remain at Dukwe if they wished, while the Government referred their cases to the UNHCR for possible resettlement. The UNHCR criticized the detention of asylum seekers at the Center for Illegal Immigrants on the grounds that asylum seekers should not be held in detention facilities. Conditions at the center were generally adequate, but refugee children in the center did not have adequate access to education or recreation for the duration of their detention, which in some cases lasted for many months.

Unlike in the previous year, there were no reports that prison guards beat refugees at the center or did not allow them to see their families.

Eleven alleged Caprivi secession leaders remained in detention while the UNHCR reviewed their refugee claims. These individuals faced criminal charges in Namibia and thus did not wish to be repatriated, but no other country agreed to accept them for resettlement. The Government allowed them to remain in detention while UNHCR attempted to resolve their cases.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The country held parliamentary elections in October 2004. The BDP, led by President Mogae, won 44 of 57 competitive seats; the Botswana National Front won 12; and the Botswana Congress Party won one. The BDP has won a majority of seats in the National Assembly in every election since independence. Domestic and international observers characterized the elections as generally free and fair; however, BDP candidates had preferential access to state-owned television during much of the campaign.

Although women accounted for approximately 57 percent of voters in the October 2004 election, they stood for office much less frequently. There were seven women in the 61-seat parliament, five women in the 20-seat cabinet, three female justices on the 13-seat High Court, and two women in the 15-seat House of Chiefs.

The law recognizes only the eight principal ethnic groups of the Tswana nation; however, members of ethnic groups not recognized by the law participated actively in the Government, particularly members of the Kalanga and Bakalagadi ethnic groups. There were 23 members of minorities in the 61-seat parliament, 10 in the 20-seat cabinet, and five on the High Court.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year. A corruption perception survey conducted in July 2005 in the business sector found that 74 percent of respondents believed that corruption was increasing in the country, though Transparency International's 2006 surveys and rankings indicated that corruption levels are still perceived as relatively low.

During the year the Government took steps to curb corruption. The Directorate on Corruption and Economic Crime (DCEC) investigated allegations of corruption, and in July launched two separate bribery prosecutions, one against a government official and the other against a police officer. In November the DCEC arrested and held an immigration officer on the charge of accepting bribes. The DCEC promoted public awareness and education, and worked to prepare codes of ethical conduct.

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

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views on most subjects, but were far less open to the involvement of some international NGOs on the issue of the CKGR relocations. Unlike in the previous year, government officials did not harass or arrest human rights activists or NGO members.

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

During the year the Government continued its refusal to renew licenses for the NGO First People of the Kalahari to operate two-way radios within the CKGR, charging that FPK had used the radios to encourage and facilitate illegal activities; the FPK represented the San in their legal challenge against the Government (see Sections 2.a. and 5). In July 2005 the Government had denied the FPK entry to the CKGR, charging that the group intended to encourage illegal resettlement in the reserve and to help poachers.

During the year the Government organized several visits to the CKGR for foreign diplomats and journalists, as well as for representatives of opposition political parties. The Government also permitted visits by the ICRC and UNHCR during the year.

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

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

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

*Women.*—The law does not specifically prohibit domestic violence against women, and it remained a serious problem. Under customary law and in common rural practice, men have the right to "chastise" their wives. Greater public awareness and improved legal protection resulted in increased reporting of domestic violence and sexual assault; however, police rarely were called to intervene in such cases.

The law prohibits rape but does not recognize the concept of spousal rape. During the year 1,544 incidents of rape were reported to the police. By law the minimum sentence for rape is 10 years, increasing to 15 years with corporal punishment if the offender is HIV-positive, and to 20 years with corporal punishment if the offender knew his HIV-positive status. A person convicted of rape is required to undergo an HIV test before being sentenced. Police lacked basic investigative techniques in rape cases.

Prostitution is illegal but was widespread. Enforcement was sporadic and complicated by vague laws that made it easier to charge violators with offenses such as unruly conduct or loitering than for prostitution. Most police enforcement took the form of periodic sweeps to clean out areas used for solicitation.

The law does not prohibit sexual harassment, although the amended Public Service Act recognizes sexual harassment as misconduct punishable under the terms of that act. Sexual harassment continued to be a problem, particularly with men in

positions of authority, including teachers, supervisors, and older male relatives who pressured women and girls to provide sexual favors.

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

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

The Women's Affairs Department in the Ministry of Labor and Home Affairs had responsibility for promoting and protecting women's rights and welfare. During the year it provided approximately \$216,000 (1.3 million pula) to NGOs working on such issues.

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

Following extensive public debate, the Government introduced a system of school fees during the year. The fees were waived for children whose family income fell below a certain amount. The state also provided uniforms, books, and development fees for students whose parents were destitute. Education was not compulsory. According to the most recent government statistics, approximately 88 percent of children attended school, and approximately 30 percent of children completed secondary school. Girls and boys attended school at similar rates. School attendance and completion rates were highest in urban areas, where transportation was readily available, and lowest in rural areas, where children lived far from schools and often assisted their families as cattle tenders, domestic laborers, and child care providers.

The UN Children's Fund (UNICEF) estimated that there were 160,000 orphans in the country, of whom approximately 120,000 had lost their parents due to HIV/AIDS. As of September the Government had registered 53,198 children as orphans. Once registered, these children received clothes, shelter, a monthly food basket worth between \$36 (216 pula) and \$92 (550 pula) depending upon location, and counseling as needed. Some relatives continued to deny inheritance rights to orphans.

Boys and girls had equal access to government healthcare centers for \$0.33 (2 pula) per visit, and students in remote areas received two free meals a day at school. Approximately 28 percent of babies born to HIV-positive mothers were protected from the virus, largely as a result of the Government's Prevention of Mother to Child Transmission Program.

Although the law prohibits defilement (sex with a child below the age of 16), no law specifically prohibits child abuse. Sexual abuse of students by teachers was a problem, and there were frequent media reports of rape, sexual assault, incest, and defilement. The increasing number of HIV/AIDS orphans contributed to an increase in incest. The law considers incest a punishable act only if it occurs between blood relatives, leaving children unprotected from incestuous acts performed by step parents, caregivers, and the extended family. The issues of intergenerational sex between girls and older men and the resulting teenage pregnancies generated extensive media coverage and public discussion.

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

Child prostitution and pornography were criminal offenses; the law stipulates a 10-year minimum sentence for defilement. Media and NGO reports indicated that child prostitution catering to truck drivers existed along the main road linking the country with South Africa, and that many of the girls were thought to be orphans.

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

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

The Government worked with NGOs to assist potential trafficking victims by hosting workshops on trafficking issues and by making grants to shelters that provided short- and long-term care for street children.

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

*Indigenous People.*—Although the Government officially considers all of the country's ethnic groups to be equally "indigenous," the earliest known inhabitants of the country, the San, were linguistically, culturally, and often by physical appearance distinct from the rest of the population. The San traditionally were hunter-gatherers. They were not, however, a homogeneous group. The estimated 50–60,000 San in the country represented approximately 3 percent of the country's population. The San remained economically and politically marginalized, have generally lost access to their traditional land in fertile regions of the country, and were vulnerable to exploitation by their non-San neighbors. Their isolation, limited access to education, ignorance of civil rights, and lack of political representation stymied their progress. After independence a substantial proportion of San resided in government-created Remote Area Dweller settlements and subsisted on government welfare benefits, supplemented by herding, hunting, and gathering. Most employed San worked as agricultural laborers on cattle ranches owned by individuals of other ethnic groups.

The colonial government established the 20,000 square mile CKGR in 1963 to protect the area's ecosystem and to allow some San groups to continue to pursue a subsistence hunter-gatherer livelihood within the reserve. By 1997 the Government had concluded that San settlements within the CKGR were incompatible with wildlife protection and social development, and most San were relocated from the CKGR under an arrangement that included government transportation and a modest, government-set compensation, usually in the form of livestock. More than 700 residents did not accept the Government's relocation inducements, and remained in the reserve. In January 2002 the Government delivered an ultimatum to the remaining CKGR residents declaring that public services within the reserve, most significantly provision of water, would cease and that all residents would be relocated outside the reserve. In April 2002 the Government forcibly resettled most San from the CKGR to the settlement areas of Kaudwane, New Xade, and Xere. Between 20 and 50 San stayed on inside the reserve, despite the closure of the wells and the end of other services.

The sustainability of the new settlements was threatened by poor employment opportunities, rampant alcohol abuse, limited hunting and grazing options, and the high cost of providing public services. The San continued to struggle with the lack of economic opportunities in the relocation areas and with a general yearning to return to their homes within the CKGR.

Until May 22, the CKGR was closed due to an outbreak of a contagious animal disease. Although the few San still residing inside the reserve were allowed to remain, the Government removed their domestic livestock as part of the quarantine process. The Government also barred the delivery of drinking water to the remaining residents by donkey cart, but allowed water deliveries by motor vehicle. The death of an elderly San woman inside the CKGR late in 2005 briefly raised tensions when the Government initially refused to allow anyone other than her immediate family into the reserve to attend the funeral. The issue dissipated after the Government relented and provided transport for the 100 people who attended the funeral. In contrast to 2005, there were no significant further clashes between the authorities and the San, and tensions over the relocation issue were generally more subdued.

On December 13, the High Court announced its rulings in the case that had been brought against the Government in 2004 by First People of the Kalahari challenging



the legality of the relocations. One hundred eighty-nine San were signed as applicants in the suit against the Government. The court ruled that although the Government had acted legally in terminating services inside the CKGR, it had acted “forcibly or wrongly and without their consent” in its relocation of the San people. The court declared that the applicants were entitled to return to the reserve without the need for entry permits, and were also entitled to be issued permits to hunt inside the reserve. The Government is not obligated to resume the provision of services within the CKGR.

The Government announced that it would accept and carry out the court’s rulings, but only with respect to the 189 actual applicants and their minor children, rather than for all of the San affected by the relocations. Many of the San and their supporters objected to this interpretation of the scope of the rulings. President Mogae held a “town hall-style” discussion with the San in the largest resettlement village over implementation of the court rulings, but the issue had not been resolved at year’s end.

A number of NGOs have made efforts to promote the rights of indigenous people or to help provide economic opportunities. However, the programs have had limited impact. In May all major domestic NGOs working on San-related issues, including the FPK and the Botswana Center for Human Rights, entered into a coalition effort to support the rights and aspirations of the San more effectively. In November, however, the FPK indicated that it intended to pull out of the coalition, though no public announcement was made.

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

The law prohibits homosexuality, but there were no reports of enforcement action by the authorities. There were, however, reports of societal discrimination and harassment of homosexuals.

#### *Section 6. Worker Rights*

*a. Right of Association.*—The law allows workers to form and join unions of their choice without excessive requirements, and workers exercised this right in practice. Public sector employees, who were extended the right to organize in 2004, were still in the process of establishing unions. The industrial or wage economy was small, and unions were concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors.

Workers may not be fired for legal union-related activities. Dismissals on other grounds may be appealed to civil courts or labor officers, which rarely ordered more than two months’ severance pay. The law severely restricts the right to strike, and virtually all strikes are ruled illegal, leaving striking workers at risk of dismissal. Legal strikes theoretically are possible only after an exhaustive arbitration process. Sympathy strikes are prohibited.

As reported in the semi-official Daily News, in September the BCL copper mine in Selebi-Phikwe dismissed 178 workers for engaging in an August strike that the High Court declared illegal. The Botswana Mine Workers Union (BMWU) protested the dismissals and announced it would conduct its own investigation into the circumstances and legality of the strike.

Also in September the BMWU appealed an industrial court ruling that a 2004 strike against Debswana, the government-DeBeers joint venture that runs the country’s diamond mines, was illegal. That ruling led to Debswana’s dismissal in 2005 of 461 workers, including several union leaders who did not participate in the strike. The court had not ruled on the appeal at year’s end.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining for unions that have enrolled 25 percent of a labor force; however, only the mineworker and diamond sorter unions had the organizational strength to engage in collective bargaining during the year.

The country’s export processing zone (EPZ) exists on paper only. No special laws or exemptions from regular labor laws apply to the EPZ.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and laws prohibit forced and compulsory labor, including by children.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although child labor is addressed in the Children’s Act, some child labor occurred. Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 14 may be employed in any industry without permission from the commissioner

of labor. No organization has petitioned the commissioner for such permission. Only persons over age 16 may be hired to perform night work, and no person under age 16 is allowed to perform hazardous labor, including mining.

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

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

The Ministry of Labor and Home Affairs was responsible for enforcing child labor laws and policies, and it was generally effective, despite limited resources for oversight of remote areas of the country. Other involved government entities included offices with the Ministry of Education and the Ministry of Local government. Oversight of child labor issues was facilitated through the Advisory Committee on Child Labor, which included representatives of various NGOs, government agencies, workers' federations, and employers' organizations.

*e. Acceptable Conditions of Work.*—The minimum hourly wage for most full-time labor in the private sector was \$0.56 (3.35 pula), which did not provide a decent standard of living for a worker and family. The cabinet determined wage policy based on recommendations from the National Economic, Manpower, and Incomes Committee, which consists of representatives of the Government, private sector, and the Botswana Federation of Trade Unions. The Ministry of Labor and Home Affairs was responsible for enforcing the minimum wage, and each of the country's districts had at least one labor inspector. Civil service disputes were referred to an ombudsman for resolution. Private labor disputes were mediated by labor commissioners; however, an insufficient number of commissioners resulted in one- to two-year backlogs in resolving such disputes.

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

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

The law provides that workers who complain about hazardous conditions may not be fired, and authorities in the Ministry of Labor and Home Affairs effectively enforced this right. The Government's ability to enforce its workplace safety legislation remained limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, employers in the formal sector generally provided for worker safety.

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## BURKINA FASO

Burkina Faso is a parliamentary republic with a population of approximately 13.9 million. In November 2005 President Blaise Compaore was reelected to a third term with 80 percent of the vote. Observers considered the election to be generally free, despite minor irregularities, but not entirely fair due to the ruling party's control of official resources. Some in the opposition also contested the legality of the President's candidacy. President Compaore, assisted by members of his party, the Congress for Democracy and Progress (CDP), continued to dominate the Government. Civilian authorities generally maintained effective control of the security forces.

The Government's human rights record remained poor, but there were improvements in some areas. The following human rights problems were reported: use of excessive force against civilians, criminal suspects, and detainees by security forces, resulting in deaths and injuries; societal violence; abuse of prisoners and harsh prison conditions; arbitrary arrest and detention; official impunity; occasional restrictions on freedom of the press and freedom of assembly; violence and discrimination against women and children, including female genital mutilation (FGM); trafficking

in persons, including children; discrimination against persons with disabilities; and child labor.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any known politically motivated killings; however, security forces killed civilians, criminal suspects, and detainees. There were approximately 12 killings.

On February 17, Fousseni Traore, a soldier, killed his girlfriend, Alima Sakande, in Tampouy, Ouagadougou City. On February 22, police arrested Traore in Leraba Province and transferred him to military custody soon thereafter. No further information was available.

On April 7, suspected gang member Salam Sawadogo died in detention at Meguet police station in Ganzourgou. Police, who claimed that Sawadogo died of heat stroke in his cell, buried his body without the family's consent. No investigation was conducted by year's end. The family did not file a report against the police. Human rights associations suspected that Sawadogo died under police torture (see Section 1.c.).

On May 3, a gendarme killed Michel Bakouan in Didyr, Sanguie, reportedly for attempting to escape from custody. Bakouan, who had been detained at the Didyr gendarmerie for several hours, was accused of assaulting a cattle farmer and stealing his cattle grazing and transportation permit. An investigation was reportedly conducted but no results were released. No action was taken against the responsible gendarme by year's end.

On October 28, police summarily executed Djolgo Yarga, Dayamba Hamsouaguini, and Bandambe Lankouande from Piela, Gnagna Province. Police suspected them of being highway bandits. A group of parliamentarians and human rights associations expressed their shock and indignation at the killings. Human rights groups, families, and friends of the victims denied police allegations that the victims were armed and killed in a fire fight. They argued that the three men were unarmed, taken to the police station for questioning, and then summarily executed without trial. The parliamentarians and human rights associations demanded an independent investigation of the case; however, no investigation was conducted by year's end.

On December 20, a fight between a group of soldiers and police in Ouagadougou resulted in the killings of four soldiers—Adi Kabore, Ben Isidine Simpore, Issouf Nacanabo, and Batiebe Ouedraogo, two policemen—Sayouba Ouedraogo and Laurent Tiendrebeogo, and an unknown number of civilians whose names were not published. There were also more than 10 injured, including civilians. Damage to police property was significant. In their attack on police targets, demonstrating soldiers broke into Ouagadougou Central Prison and approximately 614 prisoners escaped. Prison security guards killed one prisoner trying to escape and wounded five others. Less than one hundred of the prisoners returned or were recaptured by year's end. There had been long-standing tension between the military and police. This specific conflict resulted from Ouagadougou police having beaten and held in detention a young military recruit for illegally having taken a seat at a concert without paying the appropriate ticket price.

There were no further developments in the February 2005 prison death of Karim Bikienga.

No action was taken against the gendarmes who in March 2005 killed three residents—Prissare Hien, Tiadouane Hien, and Tikpare Hien—injured several others, and destroyed property during a raid on Bossoura village, Poni. The raid was an attempt to recapture a prisoner freed by a Bossoura mob, which had broken into the local gendarmerie station. In 2005 the Burkinabe Movement for Human Rights (MBDHP), the country's largest human rights organization and a vocal critic of the Government, demanded that the minister of security take action against the responsible gendarmes; however, no action was taken by year's end.

In December 2005 police killed four persons, Abdoul Aziz Ouedraogo, Adama Sawadogo, Jean-Baptiste Nacanabo, and Jean-Raphael Ouedraogo, who reportedly attempted to flee a checkpoint set up to stop highway bandits. In response to complaints by human rights nongovernmental organizations (NGOs), the Ministry of Security conducted an investigation, but no results were released by year's end.

There were no known instances of societal violence that resulted in deaths and injuries during the year; however, such incidents occur at times without being widely known. In September 2005 the body of an unidentified man was found along the roadside in Ouagadougou. Witnesses alleged that an angry mob had killed the man after he attempted to break into a store. A 2005 investigation did not produce any results.

The results of the investigation into the alleged September 2005 killing of a suspected thief had not been released by year's end.

The Government continued to distribute money from the approximately \$9.5 million (five billion CFA francs) fund set up to compensate the families of victims of incidents of political violence that occurred between 1960 and 2001; however, the actual amount disbursed during the year was unclear.

In 2005 the 19 Kassena farmers accused of killing herders in land use conflicts in 2004 were released without any trial having been held.

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

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

Security force use of excessive force to disperse demonstrators during the year resulted in injuries (see Sections 2.a. and 2.b.).

On May 4, after a series of escalating conflicts with residents, police cadets used clubs and belts to beat civilians in Ouidi, a neighborhood in Ouagadougou; 10 persons were injured and several small businesses were damaged. The conflict reportedly began when a police cadet beat a young boy accused of theft, a civilian beat the cadet in retaliation, and police cadets attacked civilians in response. Police provided medical care to the injured persons. Unspecified disciplinary measures reportedly were taken against the responsible cadets.

There were no further developments in the following 2005 cases: the February beating of a high school teacher by two army recruits in Ouahigouya, Yatenga; the June beating of Jonathan Bonkian by six soldiers in Bobo-Dioulasso; and the August beating by police of Desire Sanou, whose family filed a case in court in 2005.

Police forcibly dispersed demonstrators during the year (see Sections 1.d., 2.a., and 2.b.).

The September 2005 witchcraft case involving Noufou Bance was resolved out of court.

*Prison and Detention Center Conditions.*—Prison conditions were harsh and could be life threatening. Prisons were overcrowded, and medical care and sanitation were poor. Prison diet was inadequate, and inmates often relied on supplemental food from relatives. Pretrial detainees usually were held with convicted prisoners.

There were no confirmed reports of deaths from prison conditions or neglect during the year; however, human rights associations argued that such occurrences were not uncommon.

Prison authorities granted prison visits at their discretion. Permission generally was granted, and advance permission was not required. There were no reports of prison visits by international organizations during the year; however, during the year local NGOs visited prisons.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government did not consistently observe these prohibitions in practice.

*Role of the Police and Security Apparatus.*—The national police, under the Ministry of Security, and the municipal police, under the Ministry of Territorial Administration, are responsible for public security. Gendarmes report to the Ministry of Defense and are responsible for some aspects of public security. Human rights associations questioned the effectiveness of security forces. They believed that security forces were less effective than before in ensuring protection for the population, based on perceived growing insecurity in the country. Corruption was widespread, particularly among lower levels of the police and gendarmerie. The 2006 report by the anticorruption NGO National Network to Fight Against Corruption (RENLAÇ) stated that the police and gendarmerie were among the most corrupt institutions in the country. Impunity was a serious problem. The gendarmerie is responsible for investigating police and gendarme abuse; however, the Government took no known disciplinary action against those responsible for abuses, and the climate of impunity created by the Government's failure to prosecute abusers remained the largest obstacle to reducing abuses.

Unlike in the previous year, there were no strikes by police cadets to protest conditions of employment.

*Arrest and Detention.*—The law provides for the right to expeditious arraignment, bail, access to legal counsel after a detainee has been charged before a judge, and, if indigent, access to a lawyer provided by the state. Police have to possess a warrant to legally search or arrest. However, authorities did not ensure due process.

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

The law limits detention without charge for investigative purposes to a maximum of 72 hours, renewable for a single 48-hour period, although police rarely observed these restrictions in practice. Detainees were promptly informed of charges against them. The average time of detention without charge (preventive detention) was one week, and the law permits judges to impose an unlimited number of six-month preventive detention periods. Defendants without access to legal counsel were often detained for weeks or months before appearing before a magistrate. An estimated 48 percent of detainees nationwide were in pretrial status. Approximately 52 percent of those held in Ouagadougou Prison were pretrial detainees. In some cases prisoners were held without charge or trial for longer periods than the maximum sentence they would have received if convicted of the alleged offense. There was a pretrial release (release on bail) system; however, the extent of its use was unknown.

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

There are four operational higher courts: the Supreme Court of Appeal; the Council of State; the Audit Court and Office; and the Constitutional Council. Beneath these higher courts are two courts of appeal and 25 provincial courts. There is a High Court of Justice with jurisdiction over the President and other senior government officials. In addition there is a tribunal to try juveniles under 18.

Customary or traditional courts presided over by village chiefs previously handled many family problems, but such courts ceased to exist in 1984.

*Trial Procedures.*—Trials are public but do not use juries. Defendants are presumed innocent and have the right to consult with and be represented by an attorney. Defendants have the right to be present at their trials, to be informed promptly of charges against them, to provide their own evidence, and to access government-held evidence. Defendants can challenge and present witnesses and have the right of appeal, and, if indigent, access to a lawyer provided by the state. While these rights were generally respected, citizens' ignorance of the law and a continuing shortage of magistrates limited the right to a fair trial.

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

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent judiciary; however, the judiciary was subject to executive influence. Citizens criticized the judiciary for being corrupt and inefficient. At times people relied on the ombudsman to settle disputes with the Government.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. In national security cases, a law permits surveillance, searches, and monitoring of telephones and private correspondence without a warrant. By law and under normal circumstances, homes may be searched only if the Attorney General issues a warrant.

During the year there were reports that customs officers searched the private mail of author Vincent Ouattara, who had written a book that criticized President Compaore's regime.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government at times restricted these rights and intimidated journalists into practicing self-censorship. The President and his government remained sensitive to criticism.

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

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

During a January 16 demonstration, police confiscated the camera of Lierme Some, director of publication of the investigative paper *L'Independant*, who was covering the incident. After protests by journalists' associations, police returned the camera; however, the film was not in it.

On July 18, the judge investigating the 1998 killing of journalist Norbert Zongo dismissed charges against the sole suspect, warrant officer Marcel Kafando, former head of the Presidential guard, claiming there was insufficient evidence. Media entities, human rights organizations, the donor community, and unions denounced the decision and called for an immediate reopening of the case.

No action was taken against the six police officers responsible for the 2005 beating of journalist Urbain Kabore.

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

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. However, dire poverty and the high rate of illiteracy limited public access to the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Although the constitution and law provide for freedom of assembly, the Government at times restricted this right in practice.

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

On January 16, security forces used teargas and batons to disperse a demonstration against mayoral mismanagement in Diebougou, Bougouriba Province; 30 persons were injured. In response protestors destroyed a police vehicle and wounded a police officer. Security forces detained 33 persons and wounded 20 demonstrators. The police released 19 detainees three days later; the other 14 were charged with participation in an illegal demonstration, violence, and arson. On January 31, the 14 detainees were tried, fined approximately \$760 (397,000 CFA francs) each, and given suspended sentences of 10 months' imprisonment; the 14 were released soon thereafter.

On April 12, police in Koudougou, Boulkiembe, used teargas and rubber batons to disperse high school students protesting the last-minute cancellation of an exam. Police detained three students for questioning for several hours.

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

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

Religious groups must register with the Ministry of Territorial Administration, and failure to register may result in a fine of approximately \$95 to \$287 (50,000 to 150,000 CFA francs). All groups were given equal access to permits, and the Government approved registrations in a routine fashion.

*Societal Abuses and Discrimination.*—There were no reports of discrimination against members of religious groups or anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and there were no reports that the Government used it during the year.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection

against refoulement, the return of persons to a country where they faced persecution, and granted refugee or asylum status. The Government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention or 1967 Protocol. There were 522 persons with refugee status and 609 persons who had requested refugee status residing in the country. Most were nationals of Cote d'Ivoire, Togo, Rwanda, Burundi, the Democratic Republic of the Congo, and the Republic of Congo; others were from Chad and Liberia. Almost all the refugees and applicants lived in Ouagadougou.

During the year the Government's national refugee committee and UNHCR continued their efforts to respond to the needs of refugees.

Unlike in previous years, there were no official reports of citizens returning from Cote d'Ivoire during the year, since conditions of security in Cote d'Ivoire had improved, although it is likely that individual and small scale cross-border movements continued during the year.

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

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

*Elections and Political Participation.*—In November 2005 President Blaise Compaore won the Presidential election with 80 percent of the vote, with a turnout of 57.5 percent. Opposition candidate Benewende Sankara, the closest runner-up, received 5 percent of the vote. Despite some irregularities, international observers considered the elections generally free but not entirely fair, due to the resource advantage held by the President.

On April 23, there were local elections in 351 communes; 10 communes held repeat elections on July 9 due to irregularities. A total of 318 of the 351 new mayors were members of the ruling CDP party. Only five of the new mayors represented opposition parties. The remaining 28 mayors belonged to parties allied with President Compaore. Despite minor irregularities, international observers considered the local elections generally free but not entirely fair, due to the resource advantage held by the ruling party.

CDP membership conferred advantages, particularly for businessmen and traders seeking ostensibly open bidding contracts.

Individuals and parties can freely declare their candidacies and stand for election in Presidential elections; however, individuals must be members of a political party to run in legislative or municipal elections.

There were 12 women in the 111-seat National Assembly and five women in the 35-member cabinet. One of the three higher courts was led by a woman, 18 of the elected mayors were women, and an estimated 40 to 45 percent of new communal councilors were women.

The cabinet included 20 minority members; the National Assembly included 61 minority representatives.

*Government Corruption and Transparency.*—Official corruption was a serious problem, especially in the police, gendarmerie, and customs services. Unlike reports from the audit courts (responsible for auditing the Government's accounts), which are published, reports from the Government's High Authority to Fight Against Corruption (HACLC) were not published; however, contents were sometimes "leaked." It was rumored that the HACLC report was critical of the extent of official corruption. The anticorruption NGO RENLAC noted an increase in levels of corruption in the country.

On May 24, under pressure from RENLAC, local media, and unions, the Government removed Idrissa Zampaligre, director general of the social security office. Under Zampaligre, an estimated \$9.7 million (five billion CFA francs) were invested in overseas financial markets; RENLAC suspected that funds had been diverted.

Despite numerous instances of high-level corruption during the year and in 2005, no senior officials were prosecuted for corruption.

There were no laws that provided for public access to government information; however, government ministries generally released nonsensitive documents to citizens and noncitizens, including foreign media.

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

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

During the year there were no reports that the Government met with domestic NGO monitors, responded to any inquiries, or took action in response to any reports or recommendations. Despite human rights NGOs' criticism of the Government's human rights policies, it was generally believed that they operated without government interference. A Bobo-Dioulasso-based NGO, however, denounced the government-controlled media's censoring its views critical of government policies during the year.

The Government permitted international human rights groups to visit and operate in the country; however, there were no reported visits during the year by UN or other international organizations. The MBDHP was affiliated with the Inter-African Human Rights Union.

On March 28, the United Nations Human Rights Council (UNHRC) notified the Government that it had violated Articles 7 and 9 of the International Covenant on Civil and Political Rights in connection with the 1987 assassination of former President Thomas Sankara. In its response the Government concurred with the UNHRC's observations and agreed to act on its recommendations. In April the Government posted the UNHRC observations on its Web site and distributed copies to the media, rewrote Sankara's death certificate to show the actual cause of death, and undertook actions to pay Sankara's military pension to his family. It also agreed to pay his family more than \$82,000 (43 million CFA francs) from a family compensation fund established in 2001. However, no pension or compensation monies had been paid; Sankara's family demanded that the case be investigated and the perpetrators punished prior to accepting any financial compensation.

In June the Government ombudsman, Amina Ouedraogo, submitted an activity report for the two-year period 2004–05. According to the report, the office handled 500 cases, primarily regarding administrative matters, such as civil servants' pension benefits or land disputes; the ombudsman's duties also include handling human rights cases. Approximately 30 percent of cases handled were resolved. The ombudsman's limited resources did not permit fully effective implementation of its mandate. The ombudsman is appointed by the President for a nonrenewable five-year term; the ombudsman cannot be removed during the term.

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

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

The constitution and law prohibit discrimination on the basis of race, ethnic origin, gender, disability, and social status; however, the Government did not effectively enforce these prohibitions. Discrimination against women and persons with disabilities remained a problem.

*Women.*—Domestic violence against women, especially wife beating, occurred frequently. No law specifically protects women from domestic violence, and cases of wife beating usually were handled out of court. There were no available statistics on how many persons were prosecuted, convicted, or punished for domestic violence; however, it was believed such legal actions were infrequent because women were reluctant or ashamed to take their spouses to court. Cases that involved severe injury usually were handled through the legal system. The ministries for women's promotion, and social action and national solidarity, and several NGOs have cooperated to protect women's rights.

Childless old women with no support, particularly if their husbands had died, were usually accused of witchcraft. They were often banned from living in their villages, since they often were accused of eating the soul of a relative or a child who died. These women sought refuge at centers run by charitable organizations in big cities like Ouagadougou.

Rape was a crime and occurred frequently. There is no explicit discussion of spousal rape in the law, and there have been no recent court cases. There were organizations that counseled rape victims, including Catholic and Protestant missions, the Association of Women Jurists in Burkina, the MBDHP, the Association of Women, and Promofemmes—a regional network that works to combat violence



against women. The Government continued media campaigns to change attitudes that viewed women as inferior.

FGM was practiced widely, especially in rural areas, and usually was performed at an early age. According to a 2006 report by the National Committee for the Fight Against Excision (CNLPE), up to 81 percent of women aged 25 and older, and approximately 34 percent of girls and women under 25, have undergone FGM. The Government demonstrated its commitment to eradicate FGM through education and law enforcement. The report also indicated that the incidence of excision had decreased by approximately 49.5 percent since 1990. The adoption by the parliament of the 1996 anti-FGM legislation was credited with helping to decrease the occurrence of FGM. Perpetrators were subject to a significant fine and imprisonment of six months to three years, or up to 10 years if the victim died. More than 77 persons were sentenced during the year for perpetrating FGM. "Operation Hotline," established by the CNLPE to provide citizens with a fast and anonymous way to report violations, received approximately 32 calls during the year. The 700 percent drop in calls received compared to the previous year was due to limited anti-FGM campaigning. Another reason was that the Government reportedly failed, due to limited resources, to take immediate action or promptly investigate many suspected cases.

On January 26, police in Pouytenga, Boulgou, arrested seven persons for having practiced FGM on four girls aged two years. The detainees remained in prison awaiting trial at year's end.

During the year suspected FGM practitioners Kadiiso Ouedraogo, Azeta Ouedraogo, and Yiere Berte, who had been arrested in 2005 and 2004, were released without trial.

In December 2005 the tribunal of Kaya, Sanmatenga, sentenced six women to three months' imprisonment for performing FGM on nine young girls. The women were released after completing their prison terms.

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

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

The labor code explicitly prohibits sexual harassment, but such harassment was common. The law prescribes fines from approximately \$100 to \$1,203 (50,000 to 600,000 CFA francs) and prison terms varying from one month to five years.

The law prohibits forced marriage, and prescribes penalties from six months to two years in prison. The prison term may increase to three years if the victim is under 13; however, there were no reports of any prosecutions of violators. Polygyny was permitted, but both parties must agree to it prior to a marriage. A wife could oppose further marriages by her husband if she provided evidence that he had abandoned her and her children. Either spouse could petition for divorce; the law provided that custody of a child be granted to either parent, based on the child's best interests.

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

Overall, women represented 45 percent of the workforce. In the modern sector, women comprised one-fourth of the Government workforce, primarily in lower paying positions.

The Ministry for Women's Promotion actively promoted women's rights during the year, and the minister was a woman. During the year the Government continued to establish income-generating activities for women, including market gardening and the production of fabric, shea butter, and soap.

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

The Government allotted approximately \$182 million (95 billion CFA francs) of the national budget to education, and the law provides for free, compulsory, and universal primary education until the age of 16; however, the Government lacked the means to provide it fully. If a child qualified on the basis of grades and social condition (that is, the family was very poor), tuition-free education could continue through junior high and high school. Children still were responsible for paying for school supplies, which often cost significantly more than tuition. Many parents could

not afford to lose a child's labor in the fields or at other remunerative jobs; as a result, overall school enrollment was approximately 57 percent (51 percent for girls.) The highest grade level achieved by most children was sixth grade.

The Government promoted primary education for girls through encouragement of donor scholarships, school feeding programs, and information campaigns to change societal attitudes toward educating girls. In the primary school system, girls constituted slightly more than one-third of pupils. Schools in rural areas had even lower percentages of female students, and illiteracy among girls in rural areas was as high as 95 percent. The rate of male literacy was approximately 32 percent, and female literacy was 15 percent. The law prohibits the abuse of children under 15 and provides for the punishment of abusers. The penal code mandates a one- to three-year prison sentence and fines ranging from approximately \$601 to \$1,804 (300,000 to 900,000 CFA francs) for proven inhumane treatment or mistreatment of children; however, light corporal punishment was tolerated and widely practiced in society, although the Government conducted seminars and education campaigns against child abuse.

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

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

Several NGOs believed that child marriage was a problem in the provinces of Senou, Soum, Fada, Pama, and Diapaga; however, there were no reliable statistics. The legal age for marriage is 17.

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

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

*Trafficking in Persons.*—The law prohibits trafficking in children; however, the law does not prohibit trafficking in adults. The country was a source, transit point, and destination country for internationally trafficked persons, mostly children. The law prohibits slavery, inhumane treatment, mistreatment of children and adults, kidnapping, and violence. The penalty for child trafficking is one to 10 years' imprisonment and fines of approximately \$601 to \$3,012 (299,250 to 1.5 million CFA francs). Sexual exploitation of children was a problem.

In 2005 and during the reporting period police arrested a total of 44 child traffickers and intercepted 1,253 trafficked children. At year's end six traffickers had been sentenced to prison, and two were in detention awaiting trial in trafficking cases which began during the year.

The Ministry of Social Action and National Solidarity and that of Labor and Social Security were responsible for enforcing trafficking and child labor laws and regulations; however, the Government had limited resources to combat trafficking. The national plan of action, drafted in 2004, has not been approved by the Council of Ministers. The plan was being redeveloped to take into account regional and international agreements that the Government had signed but which were not included in the earlier version.

The Government cooperated with Cote d'Ivoire in several trafficking cases and signed a cooperative agreement with the Government of Mali to combat cross-border child trafficking. On July 6, central African countries and members of the Economic Community of West African States, including Burkina Faso, signed a multilateral antitrafficking cooperation agreement.

The country was an occasional source country for women trafficked to Europe for sexual exploitation. The country was a transit point for trafficked children, notably from Mali, who often were trafficked to Cote d'Ivoire. Malian and Nigerian children also were trafficked into the country. Destinations for trafficked children from the country included Mali, Cote d'Ivoire, Ghana, Benin, Nigeria, Niger, and Togo.

Child traffickers typically acted as intermediaries for poor families, promising to place a child in a decent work situation. Once the child was in the hands of traffickers, these promises were often disregarded. Some traffickers were distant relatives, often referred to as "aunts." Traffickers occasionally kidnapped children. Once placed in a work situation, whether in the country or beyond its borders, children were often not free to leave and were forced to work without pay and under very bad conditions.

Trafficked children were subject to violence, sexual abuse, forced prostitution, and deprivation of food, shelter, schooling, and medical care. Organized child trafficking networks existed throughout the country, and in 2005 security forces dismantled four such networks; however, none were dismantled during the reporting period. Child trafficking networks cooperated with regional smuggling rings.

According to the 2005-06 report by the Protection of Infants and Adolescents Office, security forces intercepted 1,253 trafficked children, more than half of whom were girls; 525 were destined for international trafficking.

The Government worked with international donors and the International Labor Organization to address child trafficking, in part by organizing seminars against child trafficking for customs officers. In 2005 and during the reporting period, security services and civil society groups organized similar workshops and seminars. Over the course of several years, the Government has established 128 watch committees, including 27 during the year, in 12 of the 13 regions in which child trafficking and child labor were problems. The watch committees included representatives of industries usually implicated in child labor (cotton growers, for example), the police, NGOs, and social welfare agencies. The Government also worked with international and domestic NGOs in the fight against trafficking.

The Government, in collaboration with the UN Children's Fund, operated transit centers for destitute children, including trafficked children, where food and basic medical care were provided. It also helped children return to their families. Most reintegration programs for trafficked children were run by NGOs.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, the provision of other state services, or other areas; however, the Government did not effectively enforce these provisions. There was no government mandate or legislation concerning accessibility for persons with disabilities. Advocates reported that persons with disabilities often faced social and economic discrimination. Such persons who were willing and able to work frequently found it difficult to find employment, including in government service, because of deeply entrenched societal attitudes that persons with disabilities should be under the care of their families and not in the workforce.

Programs to aid persons with disabilities were limited. In 2005 the Government established a national committee for the reintegration of persons with disabilities. During the year the committee implemented reintegration programs, capacity-building programs to better manage income generating activities, and conducted sensitizing campaigns.

*Other Societal Abuses and Discrimination.*—Societal discrimination against homosexuals and persons with HIV/AIDS were problems. Persons who tested positive for HIV/AIDS were sometimes shunned by their families, and HIV/AIDS positive wives were sometimes evicted from their homes. In addition there were reports that some house owners refused to rent lodgings to persons with HIV/AIDS.

Homosexuals were discriminated against and were at times victims of verbal and physical abuse. Both religious and traditional beliefs were intolerant of homosexuality.

#### *Section 6. Worker Rights*

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

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government respected this right in practice. Unions have the right to bargain directly with employers and industry associations for wages and other benefits, and there was extensive collective bargaining in the modern wage sector; however, this sector included only a small percentage of workers. The law provides for the right to strike, and workers exercised this right. Major trade union federations and unions called multiple strikes during the year. Unions and government officials met during the year to discuss union grievances.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, children were trafficked and used for informal labor outside their own families, sometimes without pay (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age for employment at 14 years; however, child labor was a problem. The minimum age for employment was inconsistent with the age for completing educational requirements, which generally was 16. In the domestic and agricultural sectors, the law permits children under the age of 14 to perform limited activities for up to four and one-half hours per day; however, many children under the age of 14 worked longer hours. An estimated 51 percent of children worked, largely as domestic servants or in the agricultural or mining sectors, where working conditions

were harsh. Children commonly worked with their parents in rural areas or in family-owned small businesses in villages and cities. There were no reports of children under the age of 14 employed in either state-owned or large private companies.

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

The Ministry of Labor and Social Security, which oversees labor standards, lacked the means to adequately enforce work safety and age limit legislation, even in the small business sector. Punishments for violating child labor laws included prison terms of up to five years and fines of up to approximately \$1,149 (600,000 CFA francs).

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

*e. Acceptable Conditions of Work.*—The law mandates a minimum monthly wage of approximately \$55 (28,811 CFA francs) in the formal sector; the minimum wage does not apply to subsistence agriculture or other informal occupations. The minimum wage did not provide a decent standard of living for a worker and family. Employers often paid less than the minimum wage. Wage earners usually supplemented their income through reliance on the extended family, subsistence agriculture, or trading in the informal sector. The law also mandates a standard workweek of 40 hours for nondomestic workers and a 60-hour workweek for household workers, provides for overtime pay, and establishes safety and health provisions.

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

## BURUNDI

Burundi is a constitutional republic with an elected government and a population of 6.8 million. In February 2005, 90 percent of citizens voted by referendum to adopt a new constitution. Following local and parliamentary elections in June and July 2005, the country's two houses of parliament indirectly elected as President Pierre Nkurunziza, a member of the National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) political party, in August 2005. International observers reported that the elections, which ended a four-year transitional process under the Arusha Peace and Reconciliation Agreement, were generally free and fair. Although the CNDD-FDD party dominated parliament and government, other major parties, notably the Burundian Front for Democracy (FRODEBU) and the Union for National Progress (UPRONA), were also represented. While civilian authorities generally maintained effective control of the security services, there were several instances in which elements of the security forces acted independently of government authority.

Throughout much of the year, the country remained engaged in an armed conflict between the Government and the Party for the Liberation of the Hutu People/National Liberation Front (PALIPEHUTU-FNL), led by Agathon Rwasa. Although the security situation remained calm in most of the country, fighting continued in Bujumbura Rural Province, which surrounds the capital and was the traditional stronghold of the PALIPEHUTU-FNL. During the year fighting between the National Defense Forces (FDN) and the PALIPEHUTU-FNL also occurred in the neighboring provinces of Bubanza, Kayanza, Muramvya, and Cibitoke. On September 7 the Government concluded a cease-fire agreement with the PALIPEHUTU-FNL in Dar es Salaam, Tanzania. In late September the Government began preparations for the demobilization of an estimated 3,000 former PALIPEHUTU-FNL combatants.

During the year the Government continued to integrate members of former rebel groups, including the CNDD-FDD, into the FDN. Members of former rebel groups who were not integrated into the FDN were demobilized; between 2004 and August the Government had demobilized more than 20,000 former combatants, including some former rebels.

The Government's human rights record remained poor; despite improvements in some areas, government security forces continued to commit numerous serious human rights abuses. In November UN officials and local and international human rights groups said the human rights situation had not improved since the Nkurunziza government took office in late 2005. Cases of human rights abuses were particularly prevalent in the western provinces. Many were related to the ongoing conflict with the PALIPEHUTU-FNL.

The UN and human rights organizations reported that members of the FDN, the police, and the National Intelligence Service (SNR) were responsible for summary executions, torture, and beatings of civilians and detainees, including suspected PALIPEHUTU-FNL supporters. There were reports that security forces raped women and young girls. Impunity and harsh and life-threatening prison and detention center conditions remained problems, and reports of arbitrary arrest and detention increased. Prolonged pretrial detention, lack of judicial independence and efficiency, and rampant judicial corruption continued. The Government released thousands of individuals whom it deemed to be political prisoners during the year; however, it continued to hold numerous political prisoners and political detainees, including former President Domitien Ndayizeye, former vice President Alphonse Kadege, and four other individuals who continued to be held on charges of threatening state security, despite a Supreme Court order in October that they be freed. Fighting between government and rebel forces continued during the year.

Restrictions on freedom of the press increased during the year, and the Government continued to restrict freedoms of assembly and association. Security forces' harassment of political opponents remained a problem. Societal violence and discrimination against women, trafficking in persons, and the use of child labor continued.

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

The Government continued to make significant progress in demobilizing child soldiers and reintegrating them into society, although challenges remained. Unlike in the previous year, the Government did not forcibly repatriate refugees and asylum seekers. The Government cooperated to a greater extent with UN agencies and international organizations aiding them. Trade unions had greater freedom to assemble and demonstrate peacefully.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that security forces committed political killings; however, security forces committed, often with impunity, summary executions and other unlawful killings of civilians during the year. These killings often followed fighting with rebels, in reprisal for rebel attacks, and for suspected collaboration with rebels (see Section 1.g.).

According to a report released in October by Human Rights Watch (HRW), the country's intelligence service had executed 38 individuals since the Nkurunziza government took office in late 2005 and had failed to prosecute those accused of extrajudicial killings.

Suspects reportedly were killed while in the custody of security forces. For example on February 20, police officers arrested a man outside of Bujumbura for theft. While in police custody, the man was severely beaten and transferred to Mpimba prison, where he later died; the cause of death was not clear.

On August 15, the bodies of four individuals who had been in police custody in Kinama, north of Bujumbura, were found on the roadside. Both the minister of the interior and a police spokesperson announced that an immediate investigation was underway. A police spokesperson later told journalists that none of the actions could be traced back to the police. A member of the SNR, Zabulon Nduwimana, and a police officer, Reverien Hicintuka, were later arrested on charges of murder or being an accessory to murder. Both suspects remained in custody awaiting trial at year's end.

On July 7, in the Mutakura area of Cibitoke Province, police forces from a nearby military post killed five persons and wounded 40 others. According to witnesses, a group of jubilant soccer fans returned to their homes shouting and dancing following the conclusion of the telecast of the World Cup soccer final. The sub-lieutenant in charge of the police brigade ordered his men first to throw a grenade into the crowd and later to open fire. Authorities arrested the sub-lieutenant, Felix Bigiri, as well

as a policeman, Clovis Ndimurwonko, and at year's end both remained in custody, awaiting trial.

There were no developments regarding killings reportedly committed by security forces in 2005: the May death of Mwafrika Masema following a police beating in a Rugombo commune jail in Cibitoke Province; the May beating by soldiers in Gatumba of a man who subsequently died of his injuries; the June beating by security forces of a man suspected of supporting the PALIPEHUTU-FNL who subsequently died of his injuries; and the August killing of an unidentified man by military soldiers in the Nyarabira commune in Bujumbura Rural Province.

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

There continued to be reports of deaths and injuries caused by unexploded ordnance and landmines laid in previous years by both government and rebel forces (see Section 1.g.). A national mine survey, established in 2005, was completed in May. The UN and two nongovernmental organizations (NGOs) also did limited demining and educational activities.

There were no developments in any of the politically motivated killings committed in 2005 by unidentified assailants.

During the year there continued to be numerous deaths attributed to the use of grenades and mortars by unidentified persons. While the majority of these incidents occurred in bars or public gathering places, some appeared to target individuals. For example, on May 30, five bombs exploded in the Gihosha and Mutanga Nord districts of Bujumbura, close to the residence of former second vice President Alice Nzomukunda.

On September 3, in the Nyakabiga Commune, almost 40 persons were injured when an unidentified individual or individuals threw three grenades into a local bar.

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

Killings by bandits continued to be a serious problem during the year. For example, according to UN reports, there were approximately 19 deaths attributed to bandits and armed individuals in February. In several of these cases, the killings were often accompanied by property destruction and looting. In one case a man died after bandits raided his house and burned it.

There continued to be reports during the year of mob violence, lynchings, and the killing of suspected witches, although such reports were fewer than in the previous year. Unlike in the previous year, there were no reports that local officials were complicit in the killing of suspected witches. The President announced during the year that local authorities would be held accountable for such killings. By year's end authorities had made no arrests in connection with the cases below.

On June 7, in the Murwi Commune of Cibitoke Province, unidentified armed individuals killed a woman accused of sorcery.

On August 2, in the Busoni Commune of Kirundo Province, a group of individuals lynched and killed a woman accused of sorcery.

On August 21, unidentified persons in Kirundo threw a grenade into a home, killing a woman who had been accused of sorcery by her neighbors, and wounding her husband. Authorities had made no arrests in connection with the case by year's end.

There were no reports of action taken by authorities in the killing of suspected witches by mobs in 2005.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances; although there were several kidnappings, there were fewer than in the previous year.

According to a UN report, on April 24, SNR agents abducted a man in the Buyenzi quarter of the Bujumbura Mairie Province. His whereabouts were not known by year's end.

On May 2, in the Kinindo Commune, police detained a high-ranking member of the CNDD-FDD after he accused another senior CNDD-FDD member of corruption. He was released a month later.

The Association for the Protection of Human Rights and Detained Persons (APRODH) reported 10 detainees missing from communal lockups during the year.

There were no developments in the July 2005 incident in which a group of armed men, believed to be members of the PALIPEHUTU-FNL, kidnapped a communal official in the Isale Commune of Bujumbura Rural Province.

There were no developments in the 2004 kidnapping of four persons by members of the CNDD-FDD in the Kanyosha commune of Bujumbura Rural Province. The six persons who were kidnapped in 2004 in the Ndava commune of Mwaro Province were freed; no additional information was available at year's end.

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

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

On March 24, President Nkurunziza met with SNR personnel and verbally reprimanded those responsible for the reported ill treatment and torture of detainees. The meeting resulted in a commitment to stop the use of one SNR facility as a detention center; however, by year's end authorities had not closed the facility.

The UN, HRW, and domestic NGOs League Iteka and APRODH reported that members of the security forces beat and tortured civilians and detainees throughout the year.

Multiple credible sources reported that SNR agents arbitrarily detained and tortured people thought to be members and supporters of the PALIPEHUTU-FNL (see Section 1.g.).

In August the minister of national solidarity and human rights visited former vice President Kadege and other detainees who were accused of conspiring against the Government at SNR headquarters where they were being held. Following the visit, the minister publicly acknowledged that SNR officers physically abused Kadege and some other detainees (see Section 1.d.).

There were no developments and actions taken against the FDN regarding the January 2005 beating of a man by the FDN while he was in detention, or the April 2005 incident in which FDN members beat five brick masons during their detention.

Despite the lack of precise numbers, there was a slight decrease in the reports of conflict-related rape committed by security forces and PALIPEHUTU-FNL members (see Section 1.g.). However, there were several reports of rape, including gang rape, committed by members of the security forces that were unrelated to the conflict with the PALIPEHUTU-FNL. For example, according to the UN peacekeeping mission in Burundi (ONUB), an FDN soldier reportedly raped two minors in April, and in May FDN soldiers reportedly raped a woman and two children, one of whom was gang-raped by off-duty soldiers. By year's end it was not known whether authorities had investigated or taken any action against the soldiers allegedly responsible.

There were no developments regarding the May 2005 rape of a woman by two men, one of whom was an FDN soldier, in Bujumbura; or the September 2005 rape of a woman by a uniformed police officer in the Gihanga commune of Bubanza Province.

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

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

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and sometimes life threatening. Severe overcrowding persisted. According to government officials and human rights observers, prisoners suffered from digestive illnesses, dysentery, and malaria, and prisoners died as a result of disease. According to APRODH, while there were no reports that prison guards beat prisoners in the country's 11 main prisons, there were reports that members of security forces beat detainees in the country's smaller jails and at the main detention center used by the SNR (commonly known as la Documentation); and during the year there was an increase in the number of beatings in the smaller jails at the commune level. ONUB reported that detainees and prisoners were tortured and abused. Each prison had one qualified nurse and at least a weekly doctor's visit; however, prisoners did not always receive prompt access to medical care. Serious cases were sent to local hospitals. The International Committee of the Red Cross (ICRC) was the primary provider of medicines; the Government provided insufficient food in the main prisons and did not provide food for persons held in communal lockups. Detainees and prisoners who were not held in communal lockups received 450 grams of food per day from the Government, and families often had to supplement prisoner rations.

According to the Ministry of Justice, during the year 7,242 persons were held throughout the country in facilities built to accommodate 4,050 persons.

Conditions in detention centers and communal lockups were generally worse than prison conditions. Police personnel tortured and otherwise abused detainees, which resulted in death in several instances (see Section 1.a.). According to APRODH, 15 individuals were killed in communal lockups, or small detention centers, and another 10 were missing (see Section 1.b.). Minors were not always separated from adult detainees, and ONUB documented some cases of sexual abuse. There were 400 communal lockups where those who were arrested were supposed to be held no

longer than one week; however, in practice detainees were regularly kept in these facilities for much longer periods of time. Family members were required to provide all food for detainees in communal lockups. Once detainees were transferred to larger detention facilities, the Government provided food. Communal lockups and other, larger detention centers were severely overcrowded, with limited or no provisions for medical care and no sanitation.

According to the Ministry of Justice, during the year there were 334 children in prisons, of whom 54 accompanied their convicted mothers. Juvenile prisoners were held with and often treated as adults. Political prisoners often were held with convicted prisoners. Pretrial detainees were held in communal lockups, but some were also incarcerated with convicted prisoners.

During the year dozens of former child soldiers associated with the PALIPEHUTU-FNL remained in government custody—in prisons, jails, and a newly opened welcome center for former PALIPEHUTU-FNL combatants—without any clarity on their legal status or knowledge of when they might be returned to their families. Some were as young as 13 years of age. According to a study released by HRW during the year, former PALIPEHUTU-FNL child soldiers detained in prisons lived in overcrowded cells, ate once a day, and were accused of participating in the rebellion. In contrast, children in the welcome center lived in better conditions and were not facing prosecution, although they were held with adult combatants.

During the year the Government permitted some visits by international and local human rights monitors, including the ICRC; however, municipal police commissioners and other authorities were slow to grant ONUB human rights officers access to detainees following accounts of illegal detentions and torture, and access was sometimes denied. Authorities also sometimes denied HRW, ICRC, and local NGOs access to detainees thought to have been tortured or illegally detained, who were accused of belonging to PALIPEHUTU-FNL. NGOs continued their efforts to monitor and improve sanitation, hygiene, medical care, food, and water.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, but security forces arbitrarily arrested and detained persons.

*Role of the Police and Security Apparatus.*—The national police are responsible for internal security, while the FDN may assume such responsibilities only in times of war. The police deal with criminal matters and the FDN fulfills external security and counterinsurgency roles. In practice the FDN also arrested and detained criminals. The Ministry of Defense oversees the FDN, and the Ministry of the Interior oversees the national police, including the gendarmerie. The SNR, commonly known as the Documentation Nationale, is a special police agency that reports directly to the President. The SNR's role consists of intelligence gathering, but it also has authority to arrest and interrogate suspects. According to a UN official, there was a significant increase in human rights abuses committed by the SNR during the year, including arbitrary arrests and torture of suspected FNL members.

Members of the security forces were poorly trained. Corruption, disregard for legal standards on the duration of detention, and mistreatment of prisoners remained problems. An internal affairs unit within the police force investigated crimes committed by other police units. ONUB and various NGOs provided human rights training to the police. Impunity for members of the security forces who committed serious human rights abuses and the continuing lack of accountability for those who committed past abuses remained key problems. During the year, however, the Government made progress in combating impunity among the security forces.

In September authorities in Muyinga Province arrested a policeman who was working for SNR and charged him with kidnapping and killing more than 10 persons who were suspected of collaborating with the PALIPEHUTU-FNL (see Section 1.g.).

*Arrest and Detention.*—The law requires arrest warrants in most cases, and presiding magistrates are authorized to issue them; however, police and the FDN can make arrests without a warrant but are required to submit a written report to a magistrate within 48 hours. These provisions were not always respected in practice. The requirement that detainees be charged and appear in court within seven days of their arrest was routinely violated. A magistrate can order the release of suspects or confirm charges and continue detention, initially for seven days, then subsequently for one additional period of seven days, as necessary to prepare the case for trial. Police are authorized to release suspects on bail, but this provision was rarely exercised. Police regularly detained suspects for extended periods without announcing charges, certifying the detention before a judge, or advising the Ministry of Justice within 48 hours as required. Suspects are permitted lawyers in criminal cases at their own expense, but the law does not require and the Government did



not provide an attorney to indigents at government expense. Multiple sources reported that incommunicado detention existed, although the law prohibits it.

Authorities sometimes denied prisoners prompt access to family members or to their lawyer. For example, former vice President Kadege's wife stated in August that officials did not allow her to visit her detained husband for two days immediately following his detention.

During the year there were reports of politically motivated arrests and numerous reports of arbitrary arrests. For example, in July and August, the police arrested former President Ndayizeye, former vice President Alphonse Kadege, and six other individuals accused of planning a coup d'état against the Government. The Government later accused the men of threatening state security. Police released two of the detainees after they reportedly confessed their roles in the affair. A judicially authorized 30-day detention period for the remaining six expired on September 27 without being extended. In a detention hearing on October 6, the Supreme Court ordered that the detainees be freed. The public prosecutor countermanded this order and instructed the prison not to release the detainees. At year's end the six remaining detainees in this case, including former President Ndayizeye and former vice President Kadege, remained in custody.

The Government acknowledged in August that officers of the SNR physically abused several of these detainees, including former vice President Kadege. Several local and international organizations, including HRW, jointly issued a declaration condemning the beatings during interrogations and calling on the Government to open investigations and bring to justice those responsible for abuses.

The Government repeatedly stated that it had sufficient proof of an attempted coup to justify the detentions. However, it maintained that it could not make details public until the judicial system completed its deliberations. The continuing controversy surrounding the case increased tensions between the Government and opposition parties and drew widespread criticism from human rights organizations. On September 29, the foreign minister told the diplomatic corps that the judicial system had thus far met all relevant legal requirements concerning the handling of the case. In December, government officials said the suspects had met with foreigners to plot the overthrow of the Government; however, officials did not present evidence publicly that supported this claim, and the country's defense minister subsequently told reporters that the military had no indication that a coup plot existed, and that there were "incoherent and unreliable" aspects to the case.

On August 16, police arrested Gabriel Rufyiri, President of the domestic NGO Observatory for the Struggle against Economic Corruption and Embezzlement (OLUCOME), on charges of defamation after he publicly denounced the degree of corruption in the Government. In December, after detaining Rufyiri for four months, authorities provisionally released him after a court acquitted him.

According to HRW, the country's intelligence service arbitrarily detained 200 individuals since the Nkurunziza government took office in late 2005. Furthermore, according to a UN report released in September, during the first half of the year there was a steady increase in arrests of individuals—including men, women, and school children—particularly those suspected of being PALIPEHUTU-FNL members, and particularly in the provinces of Bujumbura, Bujumbura Rural, Bubanza, and Cibitoke. The report also noted reports of security forces detaining citizens in illegal places or facilities, including three school children reportedly detained in a military camp in Bujumbura. In addition the report cited 800 reported cases of arbitrary arrest during the year in which individuals were detained on minor charges upon instruction from administrative authorities, mostly commune administrators.

Unlike in the previous year, there were no reports that security forces arrested elected officials from the FRODEBU party on suspicion of supporting or belonging to the PALIPEHUTU-FNL, or for any other reason. Nephtalie Ndikumana, a FRODEBU official who was arrested in 2005 and who remained in detention at the end of 2005, was released during the year.

The SNR on occasion carried out mass arbitrary arrests of suspected PALIPEHUTU-FNL supporters. According to an HRW report, on January 25, government forces ordered PALIPEHUTU-FNL combatants whom the security forces had captured to identify PALIPEHUTU-FNL collaborators in the Muyira zone in Kanyosha Commune. Authorities subsequently detained approximately 100 individuals whom the combatants had identified as PALIPEHUTU-FNL collaborators and sent them to the Interior Security Police's detention facility in Kigobe, Bujumbura. By year's end most had been released, but a few were still waiting to be brought before a magistrate.

During the year the Government arrested journalists, an NGO leader, and a labor unionist (see Sections 2.a., 4, and 6.a.).

Unlike in the previous year, there were no reports of police officers arbitrarily detaining or fining individuals for “moral offenses” such as wearing “inappropriate clothing.”

Most of the persons arrested on criminal charges since 1993 remained in pretrial custody. According to the Ministry of Justice, 5,443 persons, or 65 percent of the country’s prison population, had not been convicted and were awaiting trial at year’s end. Lengthy jail procedures, a large backlog in pending cases, judicial inefficiency, corruption, and financial constraints often caused trial delays. Irregularities in the detention of individuals, including holding them beyond the statutory limit, also continued. On several occasions individuals held illegally were released following intervention by ONUB. Human rights NGOs lobbied the Government for the release of prisoners who were held for long periods of time without charge.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judiciary was not independent of the executive branch. The judicial system was inefficient and subject to bribes and other forms of corruption; many citizens had no confidence in its ability to provide even basic protection, although judicial reform was a priority of the Arusha Accord.

According to information contained in a UN report released in September, there were reports of magistrates being instructed by authorities not to investigate cases concerning suspected FNL members submitted to them by police; magistrates were reportedly instructed to confirm the arrest and commit the concerned individuals to prison.

During the year the Government made significant strides in resolving the problems of ethnic balance in the judiciary, which was traditionally dominated by the members of the Tutsi minority.

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

A UN report, which resulted from a 2005 assessment mission focusing on the country’s primary judicial challenges, criticized the country’s judicial reforms as “incomplete and carried out too late,” and it singled out lack of required materials, logistics, and infrastructure. The public viewed the judiciary, according to the report, as flawed and “ethnically prejudiced and client to political powers” in the executive and legislative branches of government. In addition to asserting that magistrates’ low salaries contributed to corruption, the report noted that there was no institution to provide judges with needed skills, and that laws were published in French while most citizens speak the national language of Kirundi.

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

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

The Government officially recognizes the traditional system of informal community arbitration, known as Ubashingantahe, which functions under the guidance of community members recognized for their conflict resolution skills and which facilitates the settlement and reconciliation of disputes. The opinion of a Mushingantahe, or community arbitrator, often is necessary before access is granted to the formal civil court system. The Ubashingantahe system is limited to civil and minor criminal matters and has no jurisdiction over serious criminal matters. Traditionally, persons recognized by the community preside over deliberations, and no lawyers are involved under this system. During the year some members of the ruling CNDD-FDD party, composed of membership that continued to be predominately Hutu, looked unfavorably on the institution of the Ubashingantahe because some Hutus historically perceived it as a tool of Tutsi domination.

*Trial Procedures.*—With the exception of capital punishment cases, all trials are conducted by panels of judges. Capital punishment cases are decided by a seven-person panel: four citizens and three magistrate judges. Defendants, in theory, are presumed innocent and have a right to counsel but not at the Government’s expense, even for those who face serious criminal charges. Defendants have a right to defend themselves; however, in practice, few had legal representation since there were only 89 registered lawyers in the entire country and since most persons could

not afford a lawyer and had to plead their own cases. Authorities sometimes were unable to carry out their investigations or transport suspects and witnesses to the appropriate court because of lack of resources. All defendants, except those in military courts, have the right to appeal their cases up to the Supreme Court, and in capital cases, to the President for clemency. In practice the inefficiency of the court system extended the duration of the appeals process, effectively limiting the possibility of appeals, even by defendants accused of the most serious crimes.

Procedures for civilian and military courts are similar, but military courts typically reached decisions more quickly. Military trials, like civilian trials, generally failed to meet internationally accepted standards for fair trials. Defendants are not provided attorneys to assist in their defense, although NGOs provided some defendants with attorneys in cases involving serious charges. Trials generally are open to the public but can be closed for compelling reasons, including for national security or in cases in which publicity can do harm to the victim or a third party, such as in cases involving rape or child abuse. Defendants in military courts are allowed only one appeal.

*Political Prisoners and Detainees.*—The incarceration of political prisoners and detainees remained a problem during the year. There were an estimated 500 political prisoners at year's end. Charges against individuals convicted for nonpolitical crimes, as well as defendants awaiting trial for nonpolitical crimes, sometimes were politically motivated (see Sections 1.d. and 2.a.). International organizations and local human rights NGOs were generally afforded access to political prisoners.

In December 2005, following the appointment of a Commission on Political Prisoners, President Nkurunziza announced the conditional release of all political prisoners detained for more than two years without charge. Justice Minister Clotilde Niragira said that all of those who were temporarily freed would be required to stand before the truth and reconciliation commission once it was formed; she added that the provisional release was for prisoners who had been incarcerated in connection with the killing of former President Melchior Ndadaye in 1993 and the violence that followed. A series of four ministerial decrees granted provisional immunity to all political prisoners identified by the commission, based on the penal code's description of political crimes. The Government also released prisoners who had served at least one-quarter of their sentence, with the exception of those who had committed serious crimes. However, some organizations questioned the Government's definition of political prisoners and claimed that the process was illegal insofar as it resulted in the release of perpetrators of serious crimes, including detainees who had been sentenced to death. According to the Ministry of Justice, the Government released 3,614 political prisoners during the year. The former chairman of the Commission on Political Prisoners said that there remained approximately 100 prisoners who may qualify as "political" prisoners.

Political and civil society leaders remained divided over the definition of a political prisoner, and human rights organizations raised serious concerns over the lack of transparency in the commission's work. They noted that the commission never publicly explained the criteria on which the decisions were based. Three NGOs brought a case before the Constitutional Court, stating that the decision to release the prisoners violated the constitution and should have been based on an act of parliament rather than on an executive decree.

Human rights organizations also expressed concern over the lack of preparation in the communities to which the detainees would return. In response, the Government launched a sensitization campaign to explain its decision on political prisoners and to promote reconciliation in their communities.

*Civil Judicial Procedures and Remedies.*—The judiciary's conduct of trials regarding civil matters was well regarded by observers, but execution of courts' decisions, including payment of damages, could be very slow, sometimes taking years. Some citizens and other observers perceived many judges to be susceptible to pressure and corrupt.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law provide for the right to privacy, but the Government did not respect this right in practice. Authorities rarely respected the law requiring search warrants. It was widely believed that security forces monitored telephones. There also were numerous reports during the year that security forces looted and destroyed houses whose occupants were accused of harboring and aiding the PALIPEHUTU-FNL (see Section 1.g.).

Families of former President Ndayizeye and the five other persons arrested and detained in late July and early August on suspicion of threatening state security complained that SNR personnel followed the detainees' children and kept them

under observation while at school, and that the families received threatening phone calls (see Section 1.d.).

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

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Although the Government finalized a cease-fire agreement with the PALIPEHUTU-FNL on September 7, there were still numerous incidents of violence due to the ongoing conflict. These incidents resulted in serious abuses against the civilian population by government and rebel forces; generally no actions were taken against perpetrators. The security forces killed numerous civilians following fighting with the PALIPEHUTU-FNL, in reprisal for PALIPEHUTU-FNL attacks, and for suspected collaboration with the PALIPEHUTU-FNL. Abuses included the killing of civilians, the looting and burning of houses, attacks on noncombatants, the displacement of large numbers of civilians, and the rape of women.

While no definitive countrywide casualty figures were available, reports from media and NGOs estimated that more than 250,000, mostly civilians, had been killed in conflict-related violence since 1993. Much unlawful killing and property destruction during the year were concentrated in Bujumbura Rural Province, which was the scene of the majority of the fighting between the FDN and the PALIPEHUTU-FNL.

According to a UN report released in September, during the first half of the year, security forces killed 34 civilians—27 by the FDN, five by the police, and two by the SNR; the majority of the killings occurred in the provinces of Bujumbura, Bujumbura Rural, and Cibitoke. None of the alleged perpetrators were prosecuted for the killings, which included some summary executions of suspected FNL members or sympathizers; in some instances the perpetrators were simply shifted to other military positions.

For example, in February the FDN killed approximately 12 civilians, eight of whom reportedly had connections to the PALIPEHUTU-FNL. On February 22, in the commune of Kabezi, FDN soldiers executed six persons, all of whom were presumed to be PALIPEHUTU-FNL supporters.

According to a May UN incident report, the FDN killed 21 individuals, 10 of whom were suspected to be members of the PALIPEHUTU-FNL or to have collaborated with the PALIPEHUTU-FNL. The report offered no reasons for detainment or death.

A September UN report also reported that during the first half of the year SNR agents in Bujumbura tortured a suspected FNL member to death by mutilating his genitals and drilling his skull with a sharp object; by year's end there were no reports of an investigation regarding this killing.

On July 17, the bodies of 16 persons believed to have been in police custody were found in the Ruvubu River, in the northeastern province of Muyinga. Between May and July, police had reportedly arrested the men, accused them of supporting the PALIPEHUTU-FNL, transferred them to the Mukoni military camp in Muyinga Province, and executed them, according to Amnesty International (AI). In September the Government appointed a commission of inquiry to investigate the killings, and shortly thereafter authorities arrested three middle-ranking members of the security forces, including the head of the intelligence service in Muyinga. On October 14, the public prosecutor of Ngozi issued an arrest warrant for the head of the fourth military region, but by year's end the warrant had not been executed. On October 26, the prosecutor of Muyinga, a member of the commission who was reportedly committed to investigate the killings, was informed by his supervisors that he was to be transferred to Rutana Province, ostensibly for his personal security. AI called on the Government to appoint an independent body to fully investigate these deaths and bring to justice all those responsible, including senior military officials.

Although not as frequent as in past years, there continued to be reports of indiscriminate, conflict-related civilian deaths attributed to the FDN. These incidents were often a result of fights between soldiers and civilians, or civilian refusal to comply with threats of extortion. There were also a number of deaths related to cases of theft, looting or property damage.

On September 13, in the province of Muyinga, an officer of the SNR, Dominique Surwavuba, was arrested on suspicion of killing 15 persons thought to be PALIPEHUTU-FNL sympathizers. He remained in custody at year's end.

Multiple credible sources reported that SNR agents arbitrarily detained and tortured persons thought to be members and supporters of the PALIPEHUTU-FNL. According to these sources, SNR agents tortured these individuals by beating them with batons, breaking their feet, tying them or chaining them, using clamps on their genitals, using needles on their feet, rubbing chili oil and salt into wounds, placing them in isolation chambers without food for prolonged periods of time, and repeat-

edly threatening to execute them. There were reports that suspected FNL members were tortured to death (see Section 1.a.). These sources also reported that SNR Chief Major General Adolphe Nshimirimana was sometimes present while detainees were tortured. League Iteka and APRODH frequently reported that prison authorities tortured detainees and prisoners using methods similar to those described above.

During investigations in May, police in the Kanga quarter of the Kinama Commune beat three men accused of being PALIPEHUTU-FNL collaborators and subsequently held them at Socarti camp. No additional information was available by year's end.

Members of security forces and rebels continued to rape civilians. For example, on February 5, in the Kanyosha Commune of Bujumbura Rural Province, a member of the FDN raped a young girl. During the week of July 31 through August 5, FDN soldiers allegedly raped two women, one of whom was a minor. By year's end there were no reports of authorities taking action against the soldiers allegedly responsible.

There were no developments in the September 2005 incident in which a uniformed police officer in the Gihanga Commune of Bubanza Province raped a woman after forcing her husband to the ground at gunpoint.

Unlike in the previous year, there were no reports of widespread looting of homes by the FDN.

The PALIPEHUTU-FNL continued to kill, beat, kidnap, steal from, and rape civilians. During the year League Iteka and the UN reported numerous incidents in which the PALIPEHUTU-FNL killed civilians for supposedly cooperating with the FDN or for ceasing to cooperate with the PALIPEHUTU-FNL.

For example, on February 3, in the Kanyosha Commune of Bujumbura Rural Province, approximately 20 members of the PALIPEHUTU-FNL abducted a woman and her daughter from their home. According to a member of the community, the woman had provided food to the PALIPEHUTU-FNL until FDN soldiers at a newly-constructed military post near her home ordered her to stop providing such assistance. The woman's badly mutilated body was found on February 4; her daughter managed to escape from her captors.

The PALIPEHUTU-FNL and armed bandits killed civilians who refused to comply with extortion, although there were fewer reports than in the previous year.

No actions were taken against members of the security forces or CNDD-FDD responsible for killings, rapes, lootings, or other abuses committed in the context of conflict that were reported in 2005 or 2004. There were no reports that rebel forces punished members who were responsible for abuses.

Unexploded ordnance and landmines laid in previous years by both government and rebel forces resulted in deaths and injuries during the year. In May seven civilians, including four children, were injured in separate explosions of land mines in Gitega Province. In August a landmine uncovered near military barracks in Gatete seriously injured two children.

In May the Swiss Foundation for Mine Action conducted a general survey on mines and explosive remnants of war. As of June 15, 57 explosive ordnance disposal tasks had been completed in rural areas, accounting for the clearance of 40 percent of the agricultural land along the border with Tanzania. ONUB has provided mine risk education to 25,000 people living primarily in the high mine-affected southern provinces.

Under the law the country's minimum age for military recruitment is 16, although the Government stated that no one under 18 was recruited. A project sponsored by the Government and the UN Children's Fund (UNICEF) demobilized approximately 3,000 child soldiers from the Government security forces as well as from former rebel groups during the year. According to UNICEF, security forces no longer used children as soldiers for combat, although other sources reported that children continued to serve in the security forces as spies and porters and to perform other menial tasks. According to HRW, security forces required children who were child soldiers with the PALIPEHUTU-FNL to carry munitions for the military and assist in locating PALIPEHUTU-FNL combatants and supporters.

During the year the Ministry of Defense instructed military officers to punish soldiers found to be forcing children to perform menial tasks; punishments included the performance of extra duties, docking of pay, and confinement to quarters or the brig for up to one week. The Ministry of Defense confirmed that soldiers with such discipline problems would be among the first to leave during "downsizing" of security forces over the next year.

With support from ONUB and UNICEF, a government-established child protection network became active during the year, monitoring and reporting on human rights violations committed against children in armed conflict.

The PALIPEHUTU-FNL continued to use and recruit child soldiers, although in fewer numbers than in previous years.

In May HRW conducted interviews with detained children. HRW reported that approximately 65 children, alleged PALIPEHUTU-FNL combatants or supporters of the PALIPEHUTU-FNL, were in government custody. Some of them had deserted the PALIPEHUTU-FNL and turned themselves in, hoping to be released into society. Others were captured by government soldiers or were arrested by police officers during searches for PALIPEHUTU-FNL combatants. In June HRW estimated that there could be up to hundreds of children still actively engaged with the PALIPEHUTU-FNL in need of demobilization and reintegration (see Section 4).

In early January police officers at the Butara prison in Cibitoke province beat four PALIPEHUTU-FNL combatants who had turned themselves in to an army post at Ndora in Cibitoke. Two of the four were under the age of 18. Also in Butara, the police beat two other youths suspected of PALIPEHUTU-FNL involvement.

During the year civilians continued to be displaced by fighting, although there were fewer reports of such displacement than during 2005.

In August in Muhuta Commune in Bujumbura Rural Province, the population fled a PALIPEHUTU-FNL attack, but returned within two days. On September 5, in Gatumba, also in the province of Bujumbura Rural, civilians fled the area following a PALIPEHUTU-FNL attack before returning two days later.

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

*a. Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and of the press; however, the Government restricted these freedoms in practice, and freedom of the press deteriorated during the year. The Government continued to arrest, harass, and detain journalists. The Government periodically forced some media to suspend operations. Journalists continued to practice self-censorship, although the media sometimes expressed diverse political views.

The Government restricted freedom of speech through arrests, harassment, and intimidation (see Sections 2.b. and 4).

The Government controlled many of the major media outlets. The Government owned *Le Renouveau*, the only daily newspaper, as well as the country's only television station. The Government exercised strong editorial control of these media.

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

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

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

During the year the Government arrested, detained, harassed, and intimidated journalists. On April 17, police detained approximately 30 journalists reporting on a news conference at the residence of a former parliamentarian, Mathias Basabose. Police beat several of the journalists, who were confined at Basabose's residence for several hours before being released. Officials instructed the journalists to hand over their records of the press conference to security services before they left the premises.

On June 1, police arrested Aloys Kabura, a journalist with the Burundian Press Association, and accused him of rebellion and defamation after he reportedly made critical comments about the police following the detention of journalists at an April 17 press conference. Kabura was initially detained on the basis of article 273 of the Burundi penal code, which in his case, did not allow for pretrial detention. When the public prosecutor was questioned on this potential violation of the penal code, he issued a new, backdated arrest warrant, detailing additional offenses to warrant the pretrial detention. On June 29, the judges stated that he found no irregularities in the procedure. After a month's detention, Kabura developed a severe medical condition in his legs and was unable to walk. Prison officials initially did not respond to his request to consult a doctor. On September 19, Aloys Kabura was sentenced

to five months in prison in Kayanza, and after he had served his sentence, authorities released him.

On August 17, the Communication and Telecommunication Regulation Agency (ARCT) closed RPA's office in Ngozi. ARCT maintained that the station had not paid its broadcasting fees in a timely manner and was broadcasting illegally. RPA, which produced receipts to demonstrate that it had paid its broadcast fees on August 15, resumed broadcasting on August 24.

During the second half of the year Gabriel Nikundana, news editor of the independent radio station Radio Isanganiro, told AI that CNDD-FDD party members harassed him after Radio Isanganiro broadcast on August 24 an interview with opposition leader Alain Mugabarabona, who was detained on suspicion of threatening state security. During the interview Mugabarabona asserted that security forces beat and tortured him and the other detainees. Mugabarabona also claimed that the CNDD-FDD devised the alleged coup attempt to distract public attention from other issues.

Between October 2 and October 10, the Attorney General of Bujumbura convoked journalists, editors, and directors of three radio stations for questioning and pressed them to reveal the sources of an August 29 story; according to the story members of the police and demobilized military were planning a mock attack on the home of the President and of the CNDD-FDD party chief to fabricate evidence of a coup plot. The journalists declined to reveal their sources.

On November 22, authorities arrested editor Serge Nibizi and journalist Domitile Kiramvu of independent radio station RPA in connection with a story they published about the alleged coup plot that resulted in the arrest of the former President, among other individuals. Authorities charged them with violating judicial secrecy laws in a November news item that discussed a claim in the progovernment newspaper Intumwa that investigators had uncovered evidence of the alleged plot. (Authorities took no action against Intumwa.) In addition, on November 29, authorities arrested Matthias Manirakiza, the director of Radio Isanganiro, and charged him—as well as Nibizi—with threatening state security and public safety in an August story aired on three independent stations, including RPA; the story cited police sources as saying that authorities planned to stage fake attacks on the homes of government officials to bolster their claims of a coup plot. The prosecutor's office summoned Corneille Nibaruta, director of independent station Radio Bonesha, to testify, but Nibaruta did not respond to the summons and reportedly went into hiding. In December the executive director of the international NGO Committee to Protect Journalists said the prosecution was politically motivated. All three journalists remained in jail at year's end.

During the year the country's media associations and press freedom advocates accused the Ministry of Communication's National Communications Council, the regulatory body for news media, of preferring to punish journalists rather than promote press freedom.

Unlike in the previous year, there were no reports that the Government used direct censorship or that it suspended operations by independent media.

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

*Internet Freedom.*—There were no reports of government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. However, poverty and a lack of infrastructure prevented widespread public access to the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

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

On May 21, police arrested three members of Action Against Genocide (AC-Genocide)—Tatien Sibomana, Popon Mudugu, and their attorney Gabriel Sinarinzi—in the province of Gitega. The three had planned to participate in an AC-Genocide meeting. Authorities did not charge them and released them on May 31.

Unlike in the previous year, there were no reports of government security forces dispersing demonstrations by the government-sponsored militia group Guardians of the Peace (GP).

During the year authorities had released the 10 youths arrested in November 2005 in Musaga, Bujumbura, for attending a meeting of PA-Amasekanya, a militant pro-Tutsi group.

*Freedom of Association.*—The constitution provides for freedom of association; however, the Government restricted this right in practice. There were occasional reports that police arrested persons due to their membership in associations. Registration was required for private organizations and political parties. Private organizations were required to present their articles of association to the Ministry of Interior for approval. There were no reports that the Government failed to complete the approval process for private organizations whose purposes the Government opposed.

On June 18, Radio Bonesha reported that 14 members of the FRODEBU party were arrested in the province of Makamba. Local administration officials accused them of destabilizing the commune. No additional information was available by year's end.

Authorities harassed some FRODEBU members after they spoke out in defense of individuals accused of plotting a coup or journalists who had been arrested by authorities.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

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

In July the President signed a decree that announced the addition of the two most important Muslim holy days to the list of official national holidays.

*Societal Abuses and Discrimination.*—On September 19, unidentified persons burned two Roman Catholic churches in Bubanza.

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

There were no developments in the June 2005 killing by the PALIPEHUTU-FNL of five civilians in Bujumbura Rural Province.

There were no new developments in the investigation of the 2003 killing of Papal Nuncio Michael Courtney, although President Nkurunziza's government pledged to pursue the case actively.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Immigration, and Repatriation.*—The constitution and law provide for these rights; however, the Government restricted them in practice. On April 14, the Government lifted a curfew that had been in place since 1972. Nevertheless, the Government still restricted access into and out of Bujumbura at night. During the year local populations frequently fled fighting between the FDN and the PALIPEHUTU-FNL, and citizens' movements were restricted by checkpoints, violence, and the threat of violence. In addition the Government denied human rights observers access to some areas, such as some military camps and some facilities controlled by the SNR (see Section 4).

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

In September, a FRODEBU member of the National Assembly, Jean-Marie Ntukamazina, fled the country because he was suspected by authorities of being a PALIPEHUTU-FNL sympathizer. No additional information was available at year's end.

By year's end the Office of the UN High Commissioner for Refugees (UNHCR) facilitated the voluntary repatriation of approximately 44,900 Burundian refugees who had previously fled to neighboring countries, primarily Tanzania. This figure represented a decline from 2005, when approximately 65,000 Burundians were repatriated, and 2004, when approximately 90,000 were repatriated. The repatriates, who returned mostly to the eastern provinces, often returned to find their homes destroyed, their land occupied by others, and/or their livestock stolen. Poor living conditions and a lack of food and shelter were problems for returnees during the year, although returnees did receive a three-month food ration and other forms of assistance from UNHCR during the repatriation process. During the year the UNHCR and the National Commission for Rehabilitation of War Victims assisted in the resettlement and reintegration of refugees and internally displaced persons



(IDPs). According to the UNHCR, as of October, approximately 400,000 Burundian refugees remained outside the country.

*Internally Displaced Persons.*—Civilians regularly were displaced as a result of fighting in Bubanza, Cibitoke, and Bujumbura Rural provinces between the FDN and the PALIPEHUTU-FNL, although on a much smaller scale than in previous years. Displacements stemming from clashes between the PALIPEHUTU(FNL and the armed forces were temporary, generally lasting from several hours to several days.

Timely relief was not denied to IDPs or other populations in need due to security conditions or security forces restrictions.

There were no reports that the Government attacked IDPs or forcibly resettled them under dangerous conditions.

According to the UN Office for the Coordination of Humanitarian Affairs (UNOCHA), as of July there were approximately 120,000 long-term IDPs living in 160 sites nationwide, the majority in Kayanza, Ngozi, Kirundo, Muyinga, and Gitega provinces. The majority were Tutsis who were displaced by violence in 1993 and never returned home. Soldiers and police provided a measure of protection to the camps, which in many cases had taken on the characteristics of permanent towns and villages. According to UNOCHA, 91 percent of the IDPs were able to participate in agricultural activities and, of these, 78 percent had access to their lands of origin. In the south and east, 18.5 percent of the IDPs were former refugees. According to the UNHCR, IDP camp inhabitants sometimes were required to perform labor for soldiers without compensation.

Unlike in the previous year, there were no reports that the Government used bulldozers to destroy IDPs' houses in a Bujumbura neighborhood. By year's end the IDPs who protested in Bujumbura in 2005 had not received a letter documenting ownership of land that the Government agreed to give them in the Kinama neighborhood of Bujumbura; the Government was attempting to resettle them elsewhere.

*Protection of Refugees.*—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. The country is also a party to the Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa. The Government has established a system for providing protection to refugees and granted refugee status and asylum to some persons during the year. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. Some NGOs and humanitarian organizations expressed concern over the low percentage of applicants to whom the Government granted asylum; however, according to the UNHCR, the Government fulfilled all of its obligations to provide asylum and refugee protections and cooperated with all international organizations involved in refugee issues.

In 2005 the transitional government failed in thousands of cases to provide protection against refoulement. In early June 2005 the transitional government declared that approximately 7,000 Rwandan asylum seekers were "illegal immigrants," following a joint decision by the Governments of Burundi and Rwanda. In June and July of 2005 the two governments conducted a forced repatriation of the asylum seekers from temporary sites in Burundi without an assessment of their claims. By the end of August 2005 Burundi's government had forcibly repatriated at least 6,500 Rwandan asylum seekers from camps in northern Burundi, in cooperation with Rwandan authorities.

After taking office in August 2005, the Government of President Nkurunziza sought to address the problem of refoulement more in accordance with the 1951 Refugee Convention than did the transitional government; in late 2005 and during the year, the Government cooperated closely with the UNHCR and other humanitarian organizations assisting refugees.

In August 2005 the Governments of Rwanda and Burundi signed an agreement with the UNHCR that laid the ground rules for the voluntary repatriation of a group of approximately 4,000 Burundian refugees from Rwanda. As of October an estimated 1,300 had voluntarily returned to Burundi and approximately 2,700 remained in Rwanda.

In December 2005 the Norwegian Refugee Council began constructing a transit site in the Ngozi Province town of Musasa for the 6,000 Rwandan asylum seekers who resided in Burundi at the end of 2005. Many had fled Rwanda for a second time since having been forcibly repatriated from Burundi to Rwanda in June. The Government allowed the UNHCR to provide relief aid to these Rwandans, whom the UNHCR classified as asylum seekers.

Beginning in December 2005 and continuing during the year, the UNHCR brought in experts in refugee status determination to work with jurists to assess

the validity of the Rwandan asylum seekers' claims on a case-by-case basis. The assessment officers made recommendations based on "international criteria" to an Eligibility Commission formed under the auspices of a border police unit in the Ministry of the Interior, which delivered its decision to each claimant. Those rejected were given seven days to appeal to a separate appeals commission, which reviewed the paperwork from the original hearing and took evidence from appellants, who could be assisted by UNHCR staff and human rights groups, including League Iteka.

By the end of March, the number of Rwandan asylum seekers in the country had surged to approximately 20,000. Assisted by the UNHCR, they were quartered at the Musasa and Sangore camps in Ngozi Province as well as at informal sites at Rwisuri in Kirundo Province. The number of asylum seekers began to decline significantly in April, at the same time as drought-related food shortfalls in southern Rwanda began to ease. By mid-September 13,870 Rwandan asylum seekers had voluntarily repatriated to Rwanda, while almost 5,000 remained in the Musasa camp. By year's end all Rwandan asylum seekers remaining in the country had been interviewed, and their asylum cases had been referred to the Eligibility Commission.

Of the 2,770 case decisions (representing thousands of Rwandans) made public by the authorities as of the end of the year, authorities had approved only 26 cases (representing 72 Rwandans). Appeals had been made in more than 600 cases, but authorities had reversed only eight decisions. Of more than 4,600 persons whose cases had been processed as of the end of the year, the commission approved and granted asylum to a total of 206, or 4.4 percent. These persons had been transferred to the Jiharo transit center in Rutana by year's end.

In mid-September, according to the UNHCR, there were approximately 30,000 Congolese refugees residing in the country, in addition to the 5,000 Rwandan asylum seekers. Of the Congolese, more than 11,000 were sheltered in three UNHCR-run refugee camps: Gihinga in Mwaro Province, Gasorwe in Muyinga, and Gihar in Rutana. In addition to the camp-based refugees, there were more than 20,000 locally integrated into urban centers. Approximately 23,500 receive UNHCR assistance.

During the year the Government provided protection to certain individuals who may not qualify as refugees under the 1951 UN convention and the 1967 Protocol. These individuals included the Rwandan asylum seekers as well as some Congolese in the process of undergoing refugee status determinations.

Unlike in the previous year, authorities generally did not employ acts of intimidation, harassment, or violence to hasten the return of Rwandan asylum seekers. Rwandan authorities continued to express concerns that the PALIPEHUTU-FNL and the Rwandan rebel group Democratic Front for the Liberation of Rwanda recruited Rwandan asylum seekers in Burundi and took them to training centers, including centers in the Kibira Forest.

Unlike in the previous year, there were no reports that members of Rwandan security forces entered the country to intimidate Rwandan asylum seekers.

ONUB and the UN Organization Mission in the DRC continued their follow-up to the joint investigation into the Gatumba massacre of 152 Congolese Tutsi refugees in 2004. The minister of justice told ONUB in April 2005 that a report by a national commission of inquiry had been completed and would be released in the near future; however, by year's end the Government had not published the results of its investigation.

In July the Government appointed a commission to resolve land and property disputes resulting from the approximately 320,000 Burundian refugees who have repatriated since 2002, including some who have been in exile in Tanzania since 1972. In addressing the increasing number of land disputes, the country has relied on a mixture of customary law and legislation, but few citizens were aware of their legal rights, and most remained too poor to afford legal representation.

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

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

*Elections and Political Participation.*—In August 2005, through an indirect ballot, citizens chose their first democratically elected President in more than 12 years, marking the end of the four-year transition under the Arusha Peace and Reconciliation Agreement. The legislature elected the sole candidate, Pierre Nkurunziza of the CNDD(FDD, and he was sworn in as President in August 2005.

President Nkurunziza's election followed communal and legislative elections in June and July 2005, which independent electoral observers judged to be generally free and fair, although the campaign prior to the National Assembly elections was tense and significantly marred by violence and intimidation.

During the year there were 35 recognized political parties. The CNDD-FDD, FRODEBU, and UPRONA were the largest political parties. The CNDD-FDD, which held majorities in both chambers of the legislature, controlled most government positions.

According to a September UN report, during the first half of the year there were noticeable ongoing tensions between the Government and some opposition parties, and there was "constant harassment by members of the security forces of political opponents and critics of the Government." On March 24, the President of FRODEBU announced that the party would pull out of the Government; shortly thereafter FRODEBU officially withdrew to protest the Government's lack of consultation and transparency on several key issues affecting the country. While several ministers affiliated with the party elected to remain in their positions, even though FRODEBU asked that they withdraw their party membership, the official withdrawal "confirms a worrying trend of growing intolerance toward the views of the opposition" which could provoke internal conflict, according to the UN report.

The arrest and detainment of the former President and vice President on charges of threatening state security exacerbated tensions between the majority party and the opposition. Critics of the Government asserted that leaders within the ruling party fabricated allegations of a coup plot in order to weaken the opposition's chances in the 2010 elections. Some opposition leaders reported increased harassment and expressed fears that other key opposition leaders were also under suspicion (see Sections 1.d. and 2.b.).

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

The law stipulates quotas to maintain ethnic balance in the Government. The constitution provides that 60 percent of seats in the National Assembly be filled by Hutus, the majority ethnic group in the country, and 40 percent be filled by Tutsis, who constitute about 15 percent of the citizenry. In addition military posts are divided equally between Hutus and Tutsis. Three members of the Batwa ethnic group, which makes up less than 1 percent of the population, were appointed to the Government body.

The National Assembly continued to refuse the demands of human rights groups that have called for the repeal of a provisional immunity law that the assembly approved in 2003. The law grants provisional immunity to political leaders who return from exile to take part in government institutions. The law covers "crimes with a political aim" committed from 1962 to the date of the law's promulgation. During the year the National Assembly extended the scope of the law to cover PALIPEHUTU-FNL combatants.

*Government Corruption and Transparency.*—The Government remained subject to a culture of impunity, and widespread corruption remained a problem. Corruption was prevalent in the public and private sectors and affected numerous public services, including procurement, the granting of land use concessions, public health, and the assignment of school grades. Several respected private sector representatives and trade association officials reported that corruption remained a major impediment to commercial and economic development in the country. According to Transparency International's (TI) 2006 Corruption Perceptions Index, corruption among the country's public officials was perceived by both resident and nonresident experts to be "rampant," which is the most severe assessment designation used by TI. In December OLUCOME said the state had lost an estimated \$133 million (138.7 billion Burundian francs) to corruption and embezzlement since 2000.

During the year the Government made significant progress in eliminating off-budget accounts. However, in July the Government ordered the local brewery to pay a special off-budget "tax" for each bottled beverage it produced. The Government stipulated that this requirement would be applied retroactively to February. The Government established an off-budget bank account to receive the proceeds of this "tax."

Despite numerous allegations of corruption during the year, no parliamentary commissions of inquiry were launched. According to some observers, the lack of inquiry was due to the fact that the CNDD-FDD dominated the legislature and chaired all eight of the parliament's commissions. In September Second Vice President Alice Nzomukunda resigned her position following disagreements with CNDD-FDD party leaders. She stated that she could no longer effectively function in her position, accusing party leadership of interfering in state affairs and citing allegations of embezzlement and corruption.

The second vice President, the Ministry of Good Governance, and the National Auditing Agency were responsible for fighting corruption. The National Auditing Agency published a report in August 2005 which incriminated some former officials in a case of alleged corruption concerning the payment of approximately four million dollars (4.4 billion Burundian francs) government debt to the heirs of Belgian businessman Mojzesz Lubelski. The Constitutional Court subsequently determined in March that the National Auditing Agency did not have the authority to rule on such issues, only to give non-binding recommendations. There were no further developments in the case by year's end.

Early in the year, the Government replaced the Ministry of Good Governance's Inspector General for Finance (IGF) with an Inspector General of the State (IGE), ostensibly to yield more autonomous oversight of anti-corruption programs. However, a legal dispute concerning the integration of the former staff of the IGF into the IGE resulted in an impasse, preventing the highly trained IGF staff from undertaking its functions. By year's end the impasse had not been resolved, and the IGE remained severely understaffed.

During the year the Government acknowledged irregularities in procedures related to the request for bids in the June sale of the President's private jet. The Government ultimately sold the plane to a low bidder, and one of the losing bidders subsequently entered legal proceedings against the Government. The World Bank conditioned disbursement of funds to the Government on the conclusion of an independent audit that would investigate the bidding procedures. The Ministry of Finance engaged an auditing company to investigate procurement procedures surrounding the sale of the plane. The firm had not completed its investigation by year's end.

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

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

A number of local and international NGOs, including human rights groups, generally operated without government restrictions; however, human rights observers were not allowed to visit some government facilities, such as some military bases and prisons run by the Government's intelligence service. Government officials cooperated with these groups by providing limited access to information and other resources.

Domestic human rights groups received varying degrees of cooperation from government ministries; at times the ministries provided them with information and facilitated visits to areas of interest. Although the Government did not directly take action based on local NGO recommendations, local NGOs continued to engage in advocacy. The most prominent local human rights group, League Iteka, continued to operate and publish a newsletter. While well-established groups with international linkages and a presence in Bujumbura had a measure of protection from government harassment, indigenous NGOs, particularly those in the countryside, were more vulnerable to pressure from the local authorities.

For example, on May 10, police detained Terence Nahimana, a former parliamentarian and the head of a local NGO. According to AI, authorities arrested Nahimana after he wrote a letter to President Nkurunziza that questioned why the Government was reluctant to begin peace negotiations with the PALIPEHUTU-FNL. He also accused the Government of delaying talks with the UN on establishing a truth and reconciliation commission. On May 15, the prosecutor formally charged Nahimana with "threatening state security." A court acquitted Nahimana on December 22, and authorities released him on December 27.

On August 16, authorities imprisoned the chairman of OLUCOME, Gabriel Rufyiri, on accusations of giving false reports asserting that the Government was involved in embezzlement. A court acquitted him on December 13, and authorities released him the following day.

During the second half of the year, according to a UN report released in September, the Ngozi regional commissioner reportedly threatened a human rights activist belonging to League Iteka. The activist had written an article in which he had reported the presence of Rwandan spies among asylum seekers at a camp in Ngozi Province (see Section 2.d.). The commissioner denied making the threat and said no harm would be done to the activist.

In a November 27 article published by a UN news agency, Jean-Pierre Kisamare of League Iteka noted that the governor of one province said the NGO was an enemy of peace and had arrested some of its staff members. While League Iteka staff members were arrested during the year, all were released after a few days for lack of evidence.

Although the process of registering domestic NGOs remained lengthy and time-consuming, it was not overly burdensome or overtly discriminatory.

During the year there were reports by employees of human rights organizations that, due to the employees' work on human rights reports, unidentified persons issued threats of violence against them and their families.

The Government did not always cooperate with the UN and international NGOs. Unlike in the previous year, the President did not threaten to expel the UNHCR or the ICRC; however, in August, the Government asked that the UN recall its special representative. The UN declined to honor the Government's request, and the special representative remained in his position until the end of his term in December.

In November the Government's director of the National Office for the Coordination of International NGOs announced that 32 of the 95 registered international NGOs in the country could face expulsion for failing to abide by government regulations, namely the requirement to submit mandatory annual reports to the Government. Some in-country employees and directors of international NGOs said the country's regulations, introduced by the new government, needed to be streamlined to reduce the tendency of different ministries to demand reports in different formats; others said the regulations bordered on interference, as some government officials demanded influence over NGOs' recruitment and training processes.

According to a report released in October by the ONUB Human Rights section, although there was a slight improvement in ONUB's access to detainees, various authorities frequently denied ONUB human rights officers access to detainees (see Section 1.c).

HRW published a report in June on PALIPEHUTU-FNL child soldiers, describing the situation of at least 65 former PALIPEHUTU-FNL child soldiers held in government custody. According to the report approximately 25 were being treated as combatants and housed at a "welcome center" in Randa, Bubanza Province, and at least 40 others were being held in prisons on charges of participation in rebel groups. HRW urged the Government to clarify the status of former child soldiers to facilitate their reintegration into civilian society (see Section 1.g.).

On August 4, HRW released a joint letter of appeal to the Government condemning the beating of former vice President Alphonse Kadege and others during interrogation. The letter called on the Government to open investigations and bring those responsible for torture to justice. The UN High Commission for Human Rights in Burundi, Lawyers without Borders, and six local human rights and good governance NGOs signed the letter (see Section 1.d.).

A September HRW report highlighted the practice of detaining patients in hospitals for nonpayment of medical bills. Many of these individuals required surgery or treatment following accidents, as well as complications from childbirth. The report stated that hospitals justified the detentions by saying that they would be forced to close if they could not use such methods to oblige patients to pay their bills. HRW noted that because the Government did not consider the detentions a human rights violation, it took no actions to prevent them. The report noted the President's May 1 announcement of free maternal care and healthcare for children under the age of five, and suggested that this policy shift in healthcare should have prompted the Government to end the detention of some women and small children. However, HRW added that the change in healthcare policy would provide no relief for other patients unable to pay their bills.

The UN Office of the High Commissioner on Human Rights maintained a two-person observer team in Ngozi to deliver and explain decisions of the Eligibility Commission regarding refugee and asylum status. The Commission's purpose was to determine eligibility for those who entered the country and requested refugee and asylum status (see Section 2.d.).

In December 2005 ONUB began to withdraw its peacekeeping forces and continued to draw down its forces throughout the year. ONUB expected to conclude troop withdrawals by year's end. The UN Secretary General published two special reports on ONUB and on the human rights, humanitarian, and security situation in the country—one in March and one in June. The March report commended the Government for its efforts to facilitate demobilization and disarmament and to address socio-economic problems. It expressed concern about continuing insecurity and stressed the need for security sector reform. The UN reported that early in the year the human rights situation deteriorated noticeably in the western provinces as a re-

sult of the Government's intensified military campaign against the PALIPEHUTU-FNL. The UN Secretary General's June report noted an overall reduction in the number of reported human rights abuses but expressed concern about continued violations, primarily attributed to government forces engaged in operations against the PALIPEHUTU-FNL. The UN noted that no prosecutions of members of government security forces were reported, although the Government initiated investigations in some cases. The UN also noted that President Nkurunziza met with security forces and reprimanded those responsible for ill treatment of detainees.

During the year the UN called on the Government to utilize regional mechanisms to pursue a lasting solution to the conflict and praised the decision to resume peace talks with the PALIPEHUTU-FNL. It commended the Government's efforts to effect justice sector reform, reduce numbers of small arms and light weapons, consolidate peace, and to take steps towards institution building.

Though the Arusha Agreement called for the formation of a human rights commission, the Government had created no such commission by year's end.

In February the Government informed ONUB that a committee appointed to study the creation of an International Commission of Judicial Inquiry and a National Truth and Reconciliation Commission had completed preparatory work and provided recommendations for the commission's establishment. The proposed commission would bring to justice persons responsible for genocide, crimes against humanity, and war crimes committed in the country since it gained its independence in 1962. A UN delegation met with government representatives in March to discuss the Government's recommendations, as well as a legal framework for these bodies. By year's end, neither the truth commission nor the judicial body had been established. On September 29, the foreign minister announced that the two bodies would not need to be created simultaneously, adding that the conclusion of a cease fire agreement with the PALIPEHUTU-FNL offered an opportunity to move forward expeditiously with the creation of a Truth and Reconciliation Commission.

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

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

*Women.*—Domestic violence against women was common, although no credible statistics were available. Wives had the right to charge their husbands with physical abuse but rarely did so. The law does not specifically prohibit domestic violence; however, persons accused of domestic violence could be tried under assault provisions of the law. By year's end no known court cases had dealt with domestic abuse. Citizens traditionally did not seek police assistance in domestic dispute cases, but police intervened on occasion and upon request. Police occasionally arrested persons accused of domestic violence but released suspects within a few days, with no further investigation. According to League Iteka, husbands beat their wives, forced them out of their homes, denied them basic food necessities, and denied them freedom of movement.

The law prohibits rape, which is punishable by up to 20 years' imprisonment, but does not specifically prohibit spousal rape. The FDN and the PALIPEHUTU-FNL raped women during the year (see Section 1.g.). Doctors without Borders (MSF) received an average of 125 rape victims each month at its center for rape victims in Bujumbura; however, MSF said the number of rapes was likely much higher. As of the end of August, MSF reported 1,683 cases of sexual violence, with children less than five years of age comprising 14 percent of the total. According to ONUB, over 60 percent of reported rapes were of children aged 17 and under. A UN agency reported that many rapes were committed with the belief that they would prevent or cure sexually transmitted diseases, including HIV/AIDS. Information on rape has only recently begun to be recorded.

Many women remained reluctant to report rape due to cultural reasons and fear of reprisals. According to ONUB's human rights department, during the year only one out of every three women raped lodged a complaint. According to a field officer at a MSF center in Bujumbura, only 10 to 15 percent of rape victims actually initiated legal proceedings.

Many rape victims did not receive medical care due to the intimidation caused by cultural attitudes. Men often abandoned their wives following acts of rape, and women and girls were ostracized. In some instances police and magistrates reportedly ridiculed and humiliated women who alleged that they were raped; according to a UN agency, there were reports that some police required that victims provide food for and pay the costs for incarceration of those they accused of rape. Many of those who sought judicial redress faced the weaknesses of the judicial system, in-

cluding many judges who did not regard rape as a serious crime, and a lack of medical facilities for gathering important medical evidence. In the limited number of cases that were investigated, successful prosecutions of rapists were rare.

Civil society and religious communities attacked the stigma of rape to help victims reintegrate into families that had rejected them. League Iteka, APRODH, and ONUB continued to encourage women to press charges and seek medical care, and international NGOs provided free medical care in certain areas. The Government also raised awareness of the problem's extent through seminars and local initiatives describing the kinds of medical care available. Although no precise statistics were available, a UN report stated in June that during the year more victims filed complaints, obtained urgent medical assistance, and received briefings on their legal rights. The UN attributed the change to increased sensitization of the population on issues related to sexual violence.

In the first eight months of the year, a project sponsored by a foreign government to help victims of torture provided assistance to 1,055 rape victims.

The law prohibits prostitution; however, it continued to be a problem. There were reports that soldiers and rebels sexually exploited women and young girls residing near military installations and rebel camps. However, there was no evidence that they trafficked women for prostitution.

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

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

Enrollment of girls in elementary education increased by over 11 percent in the first school year following the President's August 2005 abolishment of all school fees (see Section 5, Children).

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

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

According to the Ministry of Education, the Government provided public schooling up to a maximum age of 22. Schooling was compulsory up to age 12; however, in practice this was not enforced. Sixth grade was the highest level of education attained by most children, with approximately 9 percent of girls and 12 percent of boys of secondary school age attending school, according to UNICEF.

The NGO Maison Shalom, which ran several centers for orphaned and other vulnerable children in different parts of the country, estimated that 60 percent of the country's school-age children were illiterate. Female illiteracy remained a particular problem. Approximately 40 percent of women were literate compared with 56 percent of men.

At his August 2005 inauguration, incoming President Nkurunziza abolished all school fees. However, students still had to pay for uniforms, textbooks, and other school materials. While this initiative made schooling available to hundreds of thousands of new students, it also led to an educational emergency involving overcrowded classrooms and teachers teaching multiple shifts. More than 25 percent of primary schools were destroyed in the war, and many teachers were killed. At the commencement of the school year in September, the Primary School Teacher's Union said the school system was still unprepared, and it complained of the continued shortage of faculty and classrooms. Some schools reported difficulties in paying for some services, such as guards, which they previously funded with school fees.

Despite these problems, a recent survey reported an increase in primary school attendance of 11.3 percent for girls and 15.3 percent for boys.

In April in cooperation with the Government, UN agencies launched a project intended to provide 300,000 children in the country with a new vaccine to protect them against diphtheria, tetanus, hepatitis B, measles, and tuberculosis; in 2005 the project was piloted in Makamba, Kirundo, and Muyinga provinces, and according to UNICEF it was expanded during the year to cover the entire country for children less than a year old.

According to UNICEF, 30,000 children were living with HIV/AIDS. Anti-retroviral treatment for children was available via a UNICEF-funded program in the context

of a program to prevent HIV transmission from mother to infant. UNICEF estimated that there were over 240,000 children orphaned by AIDS.

In June the World Health Organization launched its road map for the prevention of HIV/AIDS infection. The program was designed to increase HIV/AIDS prevention awareness, increase distribution of condoms, and improve the availability of reactive treatments and drugs for sexually transmitted diseases.

Child abuse occurred but was not reported to be a widespread problem, apart from rape of minors (see Section 5, Women).

The percentage of women between the ages of 20 and 24 who had been married or in a union before 18 years of age was 17 percent, according to UNICEF statistics.

Trafficking of children was a problem. Under the law the country's minimum age for military recruitment is 16, although the Government stated that no one under 18 was recruited. According to UNICEF, security forces no longer used children as soldiers for combat, although other sources reported that children continued to serve in the security forces as spies and porters and to perform other menial tasks. The PALIPEHUTU-FNL continued to use and recruit child soldiers, although in fewer numbers than in previous years (see Section 1.g.).

Child labor remained a problem (see Section 6.d.).

The ongoing conflict and increasing prevalence of HIV/AIDS has increased the number of orphans, which has resulted in an increase in the number of street children. The total number of orphans in the country, including children who were orphaned by causes other than HIV/AIDS, was more than 837,000, according to the National Council for the Fight Against HIV/AIDS. According to the Ministry for National Solidarity, Human Rights, and Gender, there were approximately 5,000 street children in the country. According to UNICEF, an estimated 18,363 children were heads of household, mostly in rural areas. A group of approximately 15 NGOs working with street children developed an action plan and met monthly to coordinate intervention activities in this area.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports of trafficking. Traffickers could be prosecuted under existing laws against assault, kidnapping, rape, prostitution, slavery, and fraud, but among police this was not widely understood.

During the year the country was a source and transit country for children trafficked for the purpose of forced labor and child soldiering. The trafficking of child soldiers by the PALIPEHUTU-FNL within the country remained a problem (see Section 1.g.).

During the year there were arrests of alleged traffickers but no reports of prosecutions or convictions. Allegations of trafficking during the year were made by women, who alleged that they had been promised jobs elsewhere, taken against their will, and sexually abused. The Ministry for National Solidarity, Human Rights, and Gender was responsible for combating trafficking. According to the new criminal code, those charged with crimes related to trafficking can receive up to 20 years in prison. There were no cases during the year in which the Government was requested to participate in international investigations of trafficking.

In January police arrested a man in Cibitoke Province for attempting to sell his seven-year-old son. In Bujumbura a Congolese national was arrested under suspicion of trafficking three young girls who disappeared in August.

In December, in the Makamba Province town of Vugizo, police arrested a mother for selling her five-year-old daughter. She told police she had already sold five of her 11 children. The buyer was also arrested, but police released both the buyer and the seller on October 2 because the country had no law specifically prohibiting trafficking in persons.

Unlike in the previous year, there were no reports of government soldiers or rebel combatants coercing sexual exploitation of women.

The Government supported public awareness campaigns and programs to prevent trafficking and continued to demobilize and provide assistance to former child soldiers from the FDN, GP, and six former rebel groups (see Section 1.g.).

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



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

Discrimination against Hutus, who constituted an estimated 85 percent of the population, occurred less frequently during the year. The new constitution, adopted in 2005, requires ethnic quotas on representation within the Government and in the military. Hutus significantly increased their presence and power in the Government following the 2005 elections.

*Indigenous People.*—The Batwa (Pygmies), who were believed to be the country's earliest inhabitants, comprised approximately 1 percent of the population and generally remained economically, socially, and politically marginalized. Unlike in the previous year, there were no reports of Hutus threatening members of the Batwa and causing scores of them to flee the country. Most Batwa lived in isolation, without formal education and without access to government services, including health care and the judicial system. Refugees International has reported that the popular perception of the Batwa as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

There were occasional reports that private individuals burned Batwa homes during the year.

*Other Societal Abuses and Discrimination.*—The constitution specifically outlaws any discrimination against those with HIV/AIDS or other incurable illnesses. There were no reports of government-sponsored discrimination against such individuals, although some observers suggested that the Government was not actively involved in preventing societal discrimination.

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

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law protects the right of workers to form and join unions without previous authorization or excessive requirements, and although most workers exercised this right in practice, the army, gendarmerie, and foreigners working in the public sector were prohibited from union participation. The law does not address the rights of state employees and magistrates. The law prevented workers under the age of 18 from joining unions without the consent of their parents or guardians. According to the Confederation of Burundian Labor Unions (COSYBU), many private sector employers systematically worked to prevent the creation of trade unions, and the Government failed to protect private sector workers' rights in practice. Union representatives indicated, however, that relations with the Government improved during the year. Unlike in past years, the Government permitted unions to choose their own representatives to the tripartite National Labor Council. However, according to the International Trade Union Confederation (ITUC), in order for persons to stand for union office they must work in the sector for one year.

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

From January 2005 until July, the Government withdrew union dues from employee salaries but withheld payment of those dues to COSYBU. The International Labor Organization stated that the delayed payments hampered COSYBU's operations.

Unlike in the previous year, there were no reports of government security agents preventing COSYBU's leadership from traveling to an international labor conference, and no reports of a member of COSYBU's leadership going into hiding due to such government harassment.

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

The Textile Company of Burundi (COTEBU) dismissed Raphael Horumoende, the vice President of COTEBU's employees' union, and three other employees after they protested COTEBU management's interference in union activities. COSYBU and human rights organizations interceded with COTEBU to ensure that it reinstated the four employees. The Ministry of Labor reinstated the workers in December.

In July police in the province of Muyinga imprisoned the President of the Inter-professional Provincial Committee, a labor rights advocacy group, after he asked authorities to provide all civil servants the same housing benefits that teachers received. COSYBU intervened to secure his release within a week. Unlike in the previous year, there were no reports of the Government firing a union leader or suspending union members due to an impending strike.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law recognizes the right to collective bargaining; however, wages are excluded from the scope of collective bargaining in the public sector. In practice collective bargaining was freely practiced. In the public sector, wages were set according to fixed scales, following consultation with unions. There are no export processing zones.

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

The law provides workers with a conditional right to strike; although the law bans solidarity strikes and permits requisition orders in the event of strike action, workers exercised this right in practice. For a strike to be legal, the law requires workers to obtain authorization in advance from their employer and to inform the Ministry of Labor prior to the strike. All other peaceful means of resolution must be exhausted prior to the strike action; negotiations must continue during the action, mediated by a mutually agreed upon party or by the Government; and six days' notice must be given. The Ministry of Labor must determine if strike conditions have been met before a strike can legally take place, which gives the ministry the power to veto all strikes, according to the ITUC. The labor code prohibits retribution against workers participating in a legal strike.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there continued to be reports that it occurred (see Sections 1.g. and 2.d.). During the year there were reports that security forces continued to use persons, including children, to perform menial tasks without compensation. A 2003 UNICEF survey found that 640,000 children in the country had been forced to work.

The PALIPEHUTU-FNL forced rural populations to perform uncompensated labor, such as the transport of supplies and weapons, and recruited children for labor, although to a lesser extent than in previous years (see Section 1.g.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Code states that children under the age of 18 cannot be employed by "an enterprise," except for the types of labor the Ministry of Labor determines to be acceptable, which include light work or apprenticeships that do not damage children's health, interfere with their normal development, or prejudice their schooling. However, the Government did not effectively enforce these laws, and child labor remained a problem. The legal age for labor for most types of non-dangerous labor is the age of 18. Children under the age of 16 in rural areas regularly performed heavy manual labor in the daytime during the school year. According to the ITUC, the vast majority of children in the country worked during the year.

Children were legally prohibited from working at night, although many did so in the informal sector. Most of the population lived by subsistence agriculture, and children were obliged by custom and economic necessity to participate in subsistence agriculture, family-based enterprises, and the informal sector. Child labor also existed in the mining and brick-making industries. UNICEF estimated that approximately 600,000 children worked in these areas.

There continued to be reports of children engaging in forced or compulsory labor, and that children were trafficked (see Section 5). The use of child soldiers and child prostitution continued to be problems (see Sections 1.g. and 5).

The Ministry of Labor enforced labor laws only when a complaint was filed, at least in part due to a lack of labor inspectors.

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

*e. Acceptable Conditions of Work.*—The legal minimum wage for unskilled workers continued to be \$0.15 (160 Burundian francs) per day. However in practice, most employers paid their unskilled laborers a minimum of roughly \$1.40 (1,500 Burundian francs) per day. Such an income does not provide a decent standard of living for a worker and family. Most families relied on second incomes and subsistence agriculture to supplement their earnings.

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

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

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## CAMEROON

Cameroon, with a population of approximately 17.3 million, is a republic dominated by a strong presidency. Despite the country's multiparty system of government, the Cameroon People's Democratic Movement (CPDM) has remained in power since it was created in 1985. In October 2004 CPDM leader Paul Biya won re-election as President. The election was flawed by irregularities, particularly in the voter registration process, but observers believed the election results represented the will of the voters. The President retains the power to control legislation or to rule by decree. He has used his legislative control to change the constitution and extend the term lengths of the presidency. Although civilian authorities generally maintained effective control of the security forces, security forces sometimes acted independently of government authority.

The Government's human rights record remained poor, and it continued to commit numerous human rights abuses. Security forces committed numerous unlawful killings; they regularly engaged in torture, beatings, and other abuses, particularly of detainees and prisoners. Impunity was a problem in the security forces. Prison conditions were harsh and life-threatening. Authorities arbitrarily arrested and detained anglophone citizens advocating secession, local human rights monitors and activists, and other citizens. The law provides for the arrest of homosexuals and persons not carrying identification cards. There were reports of prolonged and sometimes incommunicado pretrial detention and infringement on citizens' privacy rights. The Government restricted citizens' freedoms of speech, press, assembly, association, and harassed journalists. The Government also impeded citizens' freedom of movement. The public perceived government corruption to be a serious problem. Societal violence and discrimination against women; trafficking in persons, primarily children; discrimination against indigenous Pygmies and ethnic minorities; and discrimination against homosexuals were problems. The Government restricted worker rights and the activities of independent labor organizations, and child labor, slavery, and forced labor, including forced child labor, were reported to be problems.

Poor understanding of human rights has contributed to abuses in the country. The Government took significant steps during the year to improve citizen's understanding of their specific human rights and protection through publication of its own human rights report. The Government also conducted training sessions throughout the country on the provisions of the penal code scheduled for implementation in 2007.

### RESPECT FOR HUMAN RIGHTS

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

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

There were new developments in the 2004 killing of John Khontem. On April 12, the Ngoketunjia High Instance Court sentenced National Assembly member Doh Gah Gwanyin III and each of nine codefendants to 15 years in prison and a \$1,000 fine (500,000 CFA francs). Gwanyin filed a motion for bail because of poor health, and, on August 18, the Bamenda Court of Appeals granted him bail.

On November 29, security forces mistakenly shot and killed a man while trying to arrest another person who allegedly participated in a violent demonstration the day before in Maga, Far North Province.

There were reports that police used excessive force to disperse demonstrators, resulting in the deaths of several of them (see Section 2.b.).

Prisoners reportedly died in custody during the year due to beatings and abuse by security forces.

There were new developments in the February 2005 torture case of banker Emmanuel Moutombi. The Douala Military Tribunal's investigation yielded the names of those involved in Moutombi's death. On March 21, the tribunal sentenced gendarmerie officers Athanase Domo, Pierre Minkeng Ndjemba, and Jean Mbiakop to 10, nine, and eight years in jail, respectively, on charges of torture that resulted in death. Two other officers, Anatole Clement Banem and Jean-Claude Menanga Ahanda, received 10 and six month sentences, respectively, on violation of instructions charges. The court released two of the codefendants due to lack of evidence. The court also ordered the Government to pay \$90,000 (44 million CFA francs) in damages to Moutombi's family.

There were new developments in the March 2005 shooting death of Jean-Pierre Mpohe. On October 27, the Kribi High Court sentenced Police Commissioner Japhet Bello Miagougoudom to 15 years in prison and awarded \$40,000 (20 million CFA francs) in damages to the victim's family. The court also sentenced Police Inspector Aboubakari Modibo to 10 years in jail but acquitted the seven other codefendants.

There were no new developments in the 2005 police killings of Denis Serge Etoundi, Aurelien Mayouga Noundou, Elvis Sigala Tasama, or Claude Obam Ndoum.

There were no new developments in the 2004 beating death of Emmanuel Song Bahanag or the torture death of Laurent Gougang.

There were no new developments in the 2004 police killings of Justin Abena Ngono or Desire Etoundi.

There were new developments in the 2000 high-profile case of the shooting death of Luc Benoit Bassilekin. On April 27, after a two year suspension, the Douala Military Tribunal resumed hearings on the case. The trial was ongoing at year's end.

There were fewer reports that police used excessive, including deadly, force than in the previous year.

There were fewer incidents where police beat or shot suspects. The Government took more steps to investigate and prosecute officers who used excessive force (see Section 1.d.).

On February 23, police officer Daniel Ayissi Fouda of the Mbengwi police station in the Northwest Province allegedly shot and killed Elvis Ndengue, a motorcycle taxi driver, after Ndengue refused to transport a young woman who Ayissi Fouda had just arrested to the police station. Ayissi Fouda fled the crime scene. The investigation was ongoing at year's end.

On August 22, the Yaounde district attorney charged Ni John Fru Ndi, chairman of the Social Democratic Front (SDF), with the murder of Gregoire Diboule. Fru Ndi was accused of being responsible for violence that resulted in the death. On May 28, SDF vanguards from Bamenda stormed the party's head office in order to prevent the party's dissenting faction from holding a congress (see Section 3). The charges against Fru Ndi were still under investigation at year's end.

During the year mob violence and summary justice against persons suspected of theft and the practice of witchcraft continued to result in deaths and serious injuries. The press reported 43 deaths from beatings and burning, the most ever reported.

Douala, the economic capital, had the highest number of mob "justice" incidents. The mob violence was attributed in part to public frustration over police ineffectiveness and the release without charge of many individuals arrested for serious crimes (see Section 1.d.). During the year there was a notable rise in crime, and authorities responded by purchasing 60 vehicles to increase police efficacy. The country has a functional police academy and engaged in training police for neighboring countries.

On January 19, former subjects of Fon Vugah Simon II, the former traditional ruler of Kedjom Keku, a village of Mezam Division in the Northwest Province, beat him to death and then burned his body upon his return to the village after having been deposed two years earlier. They accused him of immorality and destroying their tradition. Shortly after the killing, the gendarmerie arrested 59 persons. Approximately 20 were released and the rest remained in pretrial detention. Hearings began on June 28 and were still ongoing at year's end.

On March 4, a mob burned to death Jean-Pierre Onguene, Serge Toussaint Awa Amougou, and Joseph Cyrille Meba'a, whom they caught stealing in the Yaounde

neighborhood of Nsimeyong-Damase. The police initially caught and held the suspects, until a large mob broke into the police station, pulled out the three, and killed them. An investigation was still ongoing at year's end.

On June 2, an angry crowd burned to death Jean Bape, Daniel Fotie, and Clovis Koagne on allegations of theft in various houses of Tchokaong, a village of Mifi Division in the West Province. The gendarmerie was still investigating the case at year's end.

In October 2005 the Meme High Court (Southwest Province) sentenced Police Inspector Stephen Ngu to eight years in prison for beating and burning to death Afuh Bernard Weriwo.

There were no new developments in the 2005 burning deaths of Papi Gosse, Jonas Benang, and an unknown individual in Douala.

There were no new developments in any of the killings by mobs in 2004. There were no new developments in the 2003 appeal of the acquittal of six army officers who were charged with executing nine youths in Bepanda.

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

There were no developments in the 2005 case of 20 citizens reportedly captured by agents of Equatorial Guinea's government and taken to Equatorial Guinea for alleged crimes.

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

In the majority of cases of torture or abuse, the Government rarely investigated or punished any of the officials involved; however, in at least one case during the year, gendarmerie officers accused of torturing a citizen to death in 2005 were detained and investigated (see Section 1.a.).

During the year there were no reports that persons in police and gendarmerie custody died as a result of torture.

There were reports that security forces detained persons at specific sites where they tortured and beat detainees. Security forces also reportedly subjected women, children, and elderly persons to abuse.

Numerous international human rights organizations and some prison personnel reported that torture was widespread; however, most reports did not identify the victim because of fear of government retaliation against either the victim or the victim's family. Most victims did not report torture for fear of government reprisal or because of ignorance of, or lack of confidence in, the judicial system.

In Douala's New Bell Prison and other nonmaximum security penal detention centers, prison guards inflicted beatings, and prisoners were reportedly chained or at times flogged in their cells. Authorities administered beatings in temporary holding cells within police or gendarme facilities.

Two forms of physical abuse commonly reported by male detainees were the "bastonnade," where authorities beat the victim on the soles of the feet, and the "balancoire," during which authorities hung victims from a rod with their hands tied behind their backs and beat them, often on the genitals.

Security forces reportedly continued to subject prisoners and detainees to degrading treatment, including stripping them, confining them in severely overcrowded cells, denying them access to toilets or other sanitation facilities, and beating detainees to extract confessions or information about alleged criminals. Pretrial detainees reported that they were sometimes required, under threat of abuse, to pay "cell fees," a bribe paid to prison guards to prevent further abuse.

On June 13, Yaounde police stormed a gathering of students from the University of Yaounde II, who were protesting an unannounced hike in taxi fares. Police, who arrived to disperse the spontaneous demonstration, violently beat and seriously injured many students. They also arrested 50 students, who were later released.

In June officers from the Yaounde antiriot squad beat Wackenhut guard service employee Felix Ahanda and many of his colleagues, who were demonstrating to demand payment of money they alleged the firm owed them. The beating left Ahanda with damaged testes.

According to the French-language news site Afrique Centrale, in August soldiers severely injured and wounded five policemen while trying to free a fellow soldier from police custody by force.

There were no new developments in the 2005 police beatings of Genevieve Toupouwou, Gregoire Angotchou, or Nelson Ndi Nagyinkfu.

There were also no developments in the 2005 incident in which security forces beat and arrested 50 students in Bafoussam, West Province, for participating in an illegal demonstration.

There were no new developments in the 2004 beating of a man named Bikele by police officers, or the 2004 assault and arrest of Epie Nzoukwelle by a local government official.

Security forces physically abused and harassed journalists during the year (see Section 2.a.).

There were no reports that security forces sexually abused individuals during the year.

There were no new developments in the 2004 case of sexual abuse of Biloa Ndonga by a gendarmerie mobile unit in the Melen neighborhood of Yaounde.

Illegal immigrants from Nigeria and Chad reported that they were subjected to harsh treatment and imprisonment (see Section 5).

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded, unsanitary, and inadequate, especially outside major urban areas. The Government did not provide funds to cover serious deficiencies in food, health care, and sanitation, which were common in almost all prisons, including “private prisons” operated by traditional rulers in the north. Prisoners were kept in dilapidated, colonial-era prisons, where the number of inmates was four to five times the intended capacity. According to a 2004 report by the International Center for Prison Studies, published by the Catholic newspaper La Croix, there were 67 prisons for the country’s approximately 20,000 detainees.

Overcrowding was exacerbated by the large number of long pretrial detentions. In 2005, 800 persons were hired and trained to work in the prison system. In 2004 the Government shifted responsibility for administering prisons and detention centers and all individuals arrested by security forces from the Ministry of Territorial Administration and Decentralization to the Ministry of Justice. In addition the Government created a human rights body within the Ministry of Justice to monitor abuses in prisons and jails (see Section 4).

There were reports that prisoners died due to a lack of medical care.

There were no developments in the March 2005 case of Djabba Bouba, a prisoner in the Douala prison who reportedly starved to death in a Douala prison.

Health and medical care were almost nonexistent in the country’s prisons and in its detention cells, which were housed in gendarmeries and police stations. However, while some prisons had medical facilities, they lacked the funds and personnel to administer assistance. Between August 5 and 7, three inmates died at the Kumba prison in the Southwest Province, reportedly from untreated tuberculosis.

Prisoners’ families were expected to provide food for their relatives in prison. Douala’s New Bell Prison contained seven water taps for a reported 3,500 prisoners, contributing to poor hygiene, illness, and death.

Prison officials reportedly tortured, beat, and otherwise abused prisoners with impunity. Corruption among prison personnel was widespread.

Prisoners sometimes could bribe wardens for special favors or treatment, including temporary freedom. Prisoners in New Bell Prison could pay bribes for more comfortable sleeping arrangements and to avoid doing prison chores.

There were two separate prisons for women.

There were also a few pretrial detention centers for women; however, women routinely were held in police and gendarmerie complexes with men, occasionally in the same cells. The secretary of state in charge of penitentiary administration acknowledged this was a serious problem. Mothers sometimes chose to be incarcerated with their children or babies while their children were very young or if they had no other child care option.

Juvenile prisoners were often incarcerated with adults, occasionally in the same cells or wards. There were credible reports that adult inmates sexually abused juvenile prisoners.

Pretrial detainees routinely were held in cells with convicted criminals.

Some high-profile prisoners were separated from other prisoners and enjoyed relatively lenient treatment.

Authorities held adults, juveniles, and women together in temporary detention centers. Detainees usually received no food, water, or medical care. Detention center guards at times resorted to corruption, accepting bribes from detainees in return for access to better conditions, including permission to stay in an office instead of a cell. Detainees whose families were informed of their incarceration relied on their relatives for food and medical care. Overcrowding was common in the detention centers and was often aggravated by the practice of “Friday arrests” (see Section 1.d.).

In the North and Extreme North provinces, the Government continued to permit traditional chiefs, or Lamibe, to detain persons outside the Government penitentiary system, in effect creating private prisons. Traditional rulers throughout the country derive support and legitimacy from their subjects, many of whom turn to the Lamibe for dispute resolution. Within the palaces of the traditional chiefdoms of Rey Bouba, Gashiga, Bibemi, and Tcheboa there were private prisons that had a reputation for serious abuse. Prior to the destruction of the palace prison in 2005 in Garoua, in the North Province, palace staff estimated that a total of 50 prisoners were held in the palace prison annually, normally for one to two weeks.

Individuals who were found guilty in Garoua were reportedly often beaten or subject to other forms of physical abuse. According to members of all the chiefdoms' palace staffs, individuals accused of serious crimes such as murder were turned over to local police.

The Government permitted international humanitarian organizations access to prisoners. Both the local Red Cross and the National Commission on Human Rights and Freedoms (NCHRF) made infrequent, unannounced prison visits during the year. The Government continued to allow the International Committee of the Red Cross (ICRC) to visit prisons. In 2005 the ICRC stated that the Government allowed international nongovernmental organizations (NGOs) increased access to prisons.

In July 2005, during a visit by diplomatic observers to the Douala New Bell Prison, the prison administrator said that the prison, built to hold 700 inmates, held 3,194. Of these, 2,300 were pretrial detainees, who were not held separate from convicted prisoners. In August 2005, during a similar visit to the Yaounde Kondengui Prison, the same observers learned that the prison, built for 800 inmates, held 3,521 of whom were awaiting trial. In May 2004 a senior official estimated that 1,600 out of 1,800 inmates in Bafoussam Prison were pretrial detainees.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, security forces continued to arrest and detain citizens arbitrarily.

*Role of the Police and Security Apparatus.*—The national police, the National Intelligence Service (DGRE), the gendarmerie, the Ministry of Territorial Administration, the army's military security department, the army, the minister of defense, and, to a lesser extent, the Presidential Guard are responsible for internal security; the national police and gendarmerie have primary responsibility for law enforcement. The Ministry of Defense, including the gendarmerie, national police, and DGRE, are under an office of the presidency, resulting in strong Presidential control of security forces. The national police includes the public security force, judicial police, territorial security forces, and frontier police. In rural areas, where there is little or no police presence, the primary law enforcement body is the gendarmerie.

Citizens viewed police as ineffective, which frequently resulted in mob "justice" (see Section 1.a.). It was widely believed that individuals paid bribes to law enforcement and the judiciary to secure their freedom. Police officers and members of the gendarmerie were widely viewed as corrupt officials who frequently and arbitrarily arrested and detained citizens. Police demanded bribes at checkpoints, and influential citizens reportedly paid police to make arrests or abuse individuals involved in personal disputes. Private disputes, such as feuds between business partners, frequently resulted in one party making allegations of impropriety or homosexuality about the other and involving the security forces.

According to Transparency International's 2005 Global Corruption Barometer, citizens viewed the police as extremely corrupt. Impunity remained a problem but was less severe than in previous years. Insufficient funding and inadequate training contributed to a lack of professionalism in the national police. The Center Province purchased 150 police vehicles to improve police effectiveness.

Edgar Alain Mebe Ngo'o, who in 2004 was appointed the general delegate for national security, took significant steps during the year to investigate, suspend, and prosecute security forces accused of abuses.

In 2005 Mebe Ngo'o rehabilitated the "police of the police," an internal affairs unit of undercover agents that had been dormant for many years. By year's end the unit was functioning and had received funding, although there were no public reports of any cases investigated by this unit.

During the year Mebe Ngo'o also sanctioned at least 17 police officials who violated laws and regulations, including those on corruption and extortion. Seven others were also sanctioned by the courts.

For example, on March 2, pending legal action, Mebe Ngo'o suspended three police commissioners for three months without pay for intimidation and aggravated corruption. On September 4, the President signed decrees terminating them from the police force, and revoking their pension rights. On August 21, Mebe Ngo'o sus-

pending eight police officers for three months without pay who were involved in the trafficking of ordinary passports.

In March 2005 Mebe Ngo'o suspended a Douala police officer and a Yaounde police inspector for three months for behavior that "tarnished the image of the police." He suspended another Yaounde-based police inspector for two weeks for keeping a citizen's driving license unnecessarily.

During the year courts convicted at least seven police and gendarmerie officers for human rights abuses.

On May 15, the Douala prosecutor detained four police officers from the Douala Central Police Station No. 2 for the theft of \$2,000 (one million CFA francs) seized from a thief who had stolen the money from a shop. In June the Bafoussam tribunal sentenced a police inspector from the Fouban police station to one year in jail, a \$400 fine (200,000 CFA francs), and \$300 in damages (150,000 CFA francs) to be paid to Raoul Noka for the 2003 suit that his lawyer filed against him for the non-payment of his legal fees. On August 4, the Yaounde High Court sentenced a gendarmerie commissioned officer to 18 months in jail for the 2005 murder of his young neighbor.

On August 23, the Bamenda Court sentenced the Bamenda judicial police commissioner to pay damages of \$1,200 (600,000 CFA francs) to Edwin Nkwain Mbang for arbitrarily arresting and detaining him for 18 days in 2001.

In May 2005 the Douala Military Tribunal sentenced two police inspectors from the Douala Central Police Station No. 1 to six months in jail for the 2001 armed assault and robbery of three Nigerian citizens.

The Government also took actions to reform security forces including the police and gendarmerie. On June 22, several gendarmerie and police officers completed a four-week training seminar on order preservation, with an emphasis on citizens' rights, human rights, and individual freedoms. The Government also sent candidates to attend the International Law Enforcement Academy police training.

*Arrest and Detention.*—The law requires police to obtain an arrest warrant except when a person is caught in the act of committing a crime. Police legally may detain a person in connection with a common crime for up to 24 hours and may renew the detention three times before bringing charges. While this provision was generally respected, there were unverifiable reports that police occasionally violated it.

The law provides for the right to judicial review of the legality of detention only in the country's two anglophone provinces, and this provision was respected in practice. In the francophone provinces, French legal tradition applies, precluding judicial authorities from acting on a case until the authority that ordered the detention turns the case over to a prosecutor. In practice these processes took between 15 days to a month. In francophone provinces, after a magistrate has issued a warrant to bring a case to trial he may hold the detainee in administrative or pretrial detention indefinitely, pending court action. During the year such detention often was prolonged, due to the understaffed and mismanaged court system. The law permits detention without charge by administrative authorities such as governors and senior divisional officers for renewable periods of 15 days, ostensibly to combat banditry and maintain public order. Persons taken into detention frequently were denied access to both legal counsel and family members. The law permits release on bail only in the anglophone provinces; bail was granted infrequently.

To prepare for the new Code on Criminal Procedure scheduled to enter into force in January 2007, the Ministry of Justice organized training sessions on the code in each of the country's 10 provinces. The code extends the right of individuals to be released on bail to the whole country. It also allows those arrested and held in police and gendarmerie facilities for investigation to be assisted by a lawyer from the beginning of their detention.

Police and gendarmes often arrested persons on spurious charges on Fridays at mid-day or in the afternoon. While the law in the anglophone provinces provides for judicial review of an arrest within 24 hours, the courts did not convene on weekends, so individuals arrested on a Friday typically remained in detention until Monday at the earliest. Police and gendarmes made such "Friday arrests" after accepting bribes from persons who had private grievances. There were no known cases of policemen or gendarmes being sanctioned or punished for this practice.

Security forces and government authorities reportedly continued to arbitrarily arrest and detain persons, often holding them for prolonged periods without charges or trial and, at times, incommunicado.

There were reports of political detainees, including anglophone citizens advocating secession, local human rights monitors or activists, journalists, and other critics of the Government (see Sections 2.a. and 2.b.).

Police also arrested persons during unauthorized demonstrations, invariably releasing them within a few hours unless they engaged in violence (see Section 2.b.).



During the year security forces preemptively arrested approximately 70 leaders, members, and supporters of the Southern Cameroons National Council (SCNC), an anglophone secessionist group (see Section 3).

There were no developments in the 2005 trial of three SCNC members charged with disturbing the public order.

On April 2, gendarmes of the Center Province town of Bokito arrested and detained Suzanne Binyom and Felicite Atchang for 24 hours at the request of Ernest Oloume, the ruling party deputy from the locality. The women had come to pay a courtesy call on their parliamentarian. Oloume told the gendarmes that the women looked suspicious; they in turn filed a complaint for arbitrary arrest and detention.

On April 17, gendarmes from the Yaounde-Kondengui brigade arrested and briefly detained Alice Nkom, a prominent Douala-based lawyer. She was visiting her clients, alleged homosexuals who had been awaiting trial for several months, in the Yaounde central prison. Nkom took some pictures of her clients but was prevented from continuing by prison wardens, who claimed she had no right to take pictures. Nkom told them that there was no law prohibiting her actions. Unable to cite a law backing their claim, prison officials called the gendarmes to have Nkom removed.

On September 15, Police Commissioner Mve of the Douala judicial police office ordered the arrest and detention of Conrad Mongue-Din, a Douala-based lawyer. Mongue-Din went to the judicial police office to assist a client. The police commissioner denied his request for access. When Mongue-Din insisted, Commissioner Mve ordered Mongue-Din detained, claiming he created a disturbance. Mongue-Din filed a complaint through the Douala branch of the Cameroon Bar Association.

There were no developments in the 2005 arrest of a labor leader during a sit-in (see Section 6.a.).

There were no developments in the 2004 arrest of a Human Rights Defense Group member by a Northwest Province chief.

Police frequently arrested persons without identification during sweeps (see Section 1.f.). Citizens are required to carry identification with them at all times.

The law provides that detainees must be brought promptly before a magistrate; however, bureaucratic inefficiency and, at times, arbitrary actions led to prolonged pretrial detention, and sometimes persons were held incommunicado for months or even years (see Section 1.c.). For example, in 2005, in Douala's New Bell Prison and Yaounde's Kondengui Prison, 5,300 of the 6,715 persons incarcerated were in pretrial detention. This high number was due to many factors, including the complexity of cases, staff shortages, and corruption. The average pretrial detention period ranged from one to five years. Longer detention periods were often linked to the loss of a file and the absence of a lawyer to follow up on the case. In January 2005 the Union of Northwest Human Rights Organizations stated it had visited 20 detainees in the Bamenda Prison who had each been awaiting trial for 10 years.

In 2003 the Ministry of Justice and the European Union launched an assistance program to examine cases of prolonged pretrial detention and resolve them. The program was still ongoing at year's end; however, the lack of personnel impeded its effectiveness.

There was no information available on Barnabe Atangana or Beniot Bilongo, who remained in pretrial detention at the end of the year after 22 years and nine years, respectively.

The law specifies that, after an investigation has concluded, juveniles should not be detained without trial for longer than three months; however, in practice the Government detained juveniles for longer periods of time. For example, at the end of 2004, Michel Sighanou, a juvenile who was transferred from the Yabassi prison to another prison in 1996, had been awaiting trial for more than seven years. No additional information was available at year's end.

In recent years there have been reports that some prisoners were kept in prison after completing their sentences or having been released under a court ruling. During a July visit to Douala, a Catholic prison chaplain told diplomatic observers that there were still many such cases. Authorities kept more than 100 prisoners in jail past their release dates due to the prisoners' inability to pay court fees or damages.

The Government took steps to implement a tracking system that would permit authorities to locate released prisoners and collect fines or damages.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judiciary remained highly subject to executive influence, and corruption and inefficiency remained serious problems. The court system was subordinate to the Ministry of Justice, which was part of the presidency. A constitutional anomaly names the President as "first magistrate," thus "chief" of the judiciary and the theoretical arbiter of any sanctions against the judiciary, which could influence judicial action. In practice, however, the President has not filled this role. The constitution specifies that the President is the guarantor of the legal sys-

tem's independence. He also appoints all judges with the advice of the Supreme Council of the Magistrature. Some politically sensitive cases were never heard by the courts. However, the judiciary showed modest signs of growing independence. During the year the courts found the Government liable for damages in a few human rights cases involving abuses by security officers. For example, in the Miagougoudom case, the Government awarded the victim's family \$40,000 (20 million CFA francs) in damages (see Section 1.a.).

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

The legal system includes both national and customary law, and many criminal and civil cases can be tried using either one. However, criminal cases are generally tried in statutory courts, and customary court convictions involving witchcraft automatically are transferred to the statutory courts, which act as the Court of First Instance. Customary law, which is used most frequently in rural areas, is based upon the traditions of the ethnic group predominant in the region and is adjudicated by traditional authorities of that group. Customary law is deemed valid only when it is not "repugnant to natural justice, equity, and good conscience." However, many citizens in rural areas remained unaware of their rights under civil law and were taught that they must abide by customary laws. Customary law ostensibly provides for equal rights and status; however, men may limit women's rights regarding inheritance and employment, and some traditional legal systems treat wives as the legal property of their husbands.

Customary courts served as a primary means for settling civil disputes in rural areas, primarily in family-related civil cases, such as in matters of succession, inheritance, and child custody. Divorce cases can be brought to customary courts only if the Government has not sanctioned the marriage through an official license. Customary courts may exercise jurisdiction in a civil case only with the consent of both parties. Either party has the right to have a case heard by a statutory court and to appeal an adverse decision by a customary court to the statutory courts. Most traditional courts also permitted appeal of their decisions to traditional authorities of higher rank.

The legal structure is strongly influenced by the French legal system, although in the two anglophone provinces certain aspects of the Anglo-Saxon tradition apply. In the past this mixed legal tradition led to conflicting court action in cases handled in both francophone and anglophone jurisdictions.

During the year the Government approved a new Criminal Procedure Code and conducted training on the code throughout the country, in anticipation of its implementation in 2007.

*Trial Procedures.*—The law provides for a fair public hearing in which the defendant is presumed innocent. However, this provision often was not respected. There is no jury system. Defendants have the right to be present and to consult with an attorney in a timely manner. Defendants generally were allowed to question witnesses and to present witnesses and evidence on their own behalf. Defendants also had access to government-held evidence relevant to their cases. Because appointed attorneys received little compensation, the quality of legal representation for indigent clients often was poor. The bar association and some voluntary organizations, such as the Cameroonian Association of Female Jurists, offered free assistance in some cases. The Project for the Improvement of Conditions of Detention continued to engage lawyers to work on prison cases. Trials normally were public, except in cases judged by the Ministry of Justice to have political overtones or to be disruptive to social peace. In practice defendants enjoyed a presumption of innocence and exercised their right to appeal their cases.

There were reports that officials continued to hold individuals in prison beyond the jail terms set by the courts. In 2005 the general prosecutor of the Yaounde Superior Court reviewed the files of approximately 150 prisoners at the Kondengui Prison to check their judicial status.

Political bias by judges (often instructed by the Government) often stopped trials or resulted in an extremely long process with extended court recesses. Powerful political or business interests enjoyed virtual immunity from prosecution; some politically sensitive cases were settled through bribes.

Military tribunals may exercise jurisdiction over civilians when the President declares martial law and in cases involving civil unrest or organized armed violence. Military tribunals also have jurisdiction over gang crimes, banditry, and highway robbery. The Government interpreted these guidelines broadly and sometimes used military courts to try matters concerning dissident groups.

Military trials were subject to irregularities and political influence.

*Political Prisoners.*—During the year authorities continued to hold two groups of prisoners who could be considered political prisoners.

There were no developments in the case of 15 members of the secessionist group SCNC serving long prison sentences following their 1999 convictions in military trials. Their trials and convictions did not meet international or national legal standards; Amnesty International and other international human rights NGOs criticized the trials as unfair. In addition the military tribunal admitted into evidence confessions that were credibly alleged in court to have been exacted under torture.

The prisoners maintained they were political prisoners convicted for supporting a political belief; however, the Government claimed they were imprisoned for acts of violence against government offices and officers. The Government permitted access to the prisoners on a regular basis by international humanitarian organizations.

Because it advocates succession the Government considered the SCNC an illegal organization and refused to register it as a political organization.

During the year the Government continued to hold two individuals widely considered by human rights NGOs to be political prisoners because of irregularities in their trials and restricted access to counsel. Titus Edzoa, former minister of health and long-time aide to President Biya, and Michel Thierry Atangana, Edzoa's 1997 campaign manager, were arrested in 1997, three months after Edzoa resigned from government and launched his candidacy for President. They were convicted on charges of embezzling public funds and sentenced to 15 years in prison.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, these rights were subject to the "higher interests of the state," and there were numerous, credible reports that police and gendarmes harassed citizens, conducted searches without warrants, and opened or seized mail with impunity. The Government continued to keep some opposition activists and dissidents under surveillance. Police sometimes punished family members and neighbors of criminal suspects.

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

During the year police put the houses of SCNC officials and activists under surveillance, searched the houses of some SCNC leaders, and disrupted SCNC meetings in private residences (see Section 3).

An administrative authority may authorize police to conduct neighborhood sweeps without warrants. Such sweeps at times involved forced entry into homes in search of suspected criminals or stolen or illegal goods. Security forces sometimes sealed off a neighborhood, systematically searched homes, arrested persons, sometimes arbitrarily, and seized suspicious or illegal articles.

In 2005 there were credible reports that security forces in Douala and Yaounde used such sweeps as a pretext to loot homes and arbitrarily arrest persons for minor offenses, such as not possessing identity cards. For example, in June 2005 the Douala police, accompanied by gendarmes and soldiers, conducted a sweep in the Douala neighborhoods of Bonakouamouang, Bessengue Valley, and Bessengue, and arrested approximately 100 individuals, mostly young men and women. Police held them in a Douala police station until their identity was established, a process that took 24 hours.

Citizens without ID cards were detained until their identity could be established and then released. Several complained of the police's arbitrary seizure (theft) of electronic devices and cell phones, and registered their complaints at the police station.

There continued to be accusations, particularly in the North and Far North provinces, that traditional chiefs arbitrarily evicted persons from their land.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and while the Government continued to restrict these rights in practice, media groups were vibrant and active.

The Government sometimes invoked strong libel laws to silence criticism of the Government and officials. Journalists, particularly broadcast journalists, often practiced self-censorship as a result of real or expected government intimidation, harassment, and criminal penalties for speech-related offenses.

Individuals generally were able to criticize the Government publicly and privately without being subjected to government reprisal, although the country's strict libel law resulted in self-censorship. However, the Government prohibited discussion or

advocacy of secession, which resulted in numerous arrests of SCNC members during the year (see Section 3).

On May 12, the Yaounde administrative authorities pressured the Cameroon Episcopal Conference to cancel a press conference where it was to present its final report for the 2004 Presidential election. The Justice and Peace Committee, which organized the conference, finally cancelled it.

On September 1, the Sous-prefet of Yaounde I banned opposition leader Woungly Massaga's press conference on an electoral reform plan based on a project by the Catholic Church. The Sous-prefet asserted that Woungly Massaga could not hold the conference because he failed to demonstrate that the Catholic Church authorized him to endorse its project. A week later, the Sous-prefet of Yaounde III banned a press conference by Massaga in that locale on the same grounds.

On September 19, the Sous-prefet of Yaounde I banned a meeting that Nouveaux Droits de l'Homme, a democracy and human rights NGO, organized at the Chamber of Agriculture. Droits de l'Homme wanted to launch a "National Forum of Civil Society on Elections," to discuss electoral reform and the creation of an independent electoral body that would govern all elections. In his ban order, the Sous-prefet asserted that he did not understand the real purpose of the meeting.

The Government published one of the country's few daily newspapers, the Cameroon Tribune. The newspaper did not report extensively on protests or political parties critical of the Government, overtly criticize the ruling party, or portray government programs in an unfavorable light.

During the year approximately 200 privately owned newspapers were published; however, only an estimated 25 were published on a regular basis, primarily for lack of funding. Mutations, La Nouvelle Expression, and Le Messager were the only privately owned daily newspapers. Newspapers were distributed primarily in urban areas, and most continued to criticize the Government and report on controversial issues, including corruption, human rights abuses, homosexuality, and economic policies. However, the Government used criminal libel laws to inhibit the press by criminalizing the propagation of false information.

Despite the large number of private newspapers in the country, the influence of print media was minimal. Distribution was problematic outside of major towns, and prices of independent newspapers were high, due largely to high government taxes on newsprint.

In 2004 the Government established a special fund to support the development of the press, particularly newspapers, and funds were disbursed to some private newspapers and radio stations. The Government continued to disburse such funds during the year. According to media reports, funding was awarded very selectively, and some media outlets, such as Mutations and Radio Reine, refused to apply for funds. The Government exerted control over some newspaper warehouses and seized editions of controversial newspaper editions prior to distribution or after they were released.

The Government tightly controlled the broadcast media. Radio remained the most important medium reaching most citizens. There were approximately 20 privately owned radio stations operating in the country. Approximately 75 percent of private radio stations were concentrated in Yaounde and Douala. Ownership of the private radio stations was very diverse, with only one owner having more than one station. The state-owned CRTV broadcast on both television and radio and was the only officially recognized and fully licensed broadcaster in the country. The Government levied taxes on all registered taxpaying citizens to finance CRTV programming, which allowed CRTV a distinct advantage over independent broadcasters.

Nonprofit rural radio stations were required to submit an application to broadcast but were exempt from paying licensing fees. Potential commercial radio and television broadcasters must submit a licensing application and pay an application fee when the application is submitted. Once the license is issued, stations must then pay an annual licensing fee, which can be expensive. Although the Government had not issued new broadcast licenses in many years, companies operated without them.

During the year the National Communications Council (NCC), whose members were appointed by the President, continued to review all broadcasting license applications, the first step in issuing licenses. In addition a technical committee composed of government-appointed members—including government officials, journalists, and jurists—continued to review the NCC's decisions.

There were no developments in the 2005 case of the closure of Lake Side Independent Radio for broadcasting without a license.

There were several low-power, rural community radio stations with extremely limited broadcast range that were funded by the UN Educational, Scientific, and Cultural Organization and foreign countries. The Government prohibited these sta-

tions—which broadcast programs on education, health, the environment, and development to small audiences—from discussing politics.

The law permits broadcasting by foreign news services but requires them to partner with a national station. The BBC, Radio France International, and other foreign services broadcast in partnership with state-owned CRTV.

Television was less pervasive but more influential than print media. The five independent television stations largely avoided criticizing the Government, although their news broadcasts sometimes focused on poverty, unemployment, poor education, and government neglect, and corruption which the broadcasts said had caused these problems.

Like the Cameroon Tribune, CRTV provided broad reporting of CPDM activities, while giving relatively little attention to the political opposition. During the year CRTV management continued to instruct staff repeatedly to ensure that government views prevailed at all times.

Security forces, usually acting under the command of local provincial government officials, reportedly continued to restrict press freedom by arresting, detaining, physically abusing, threatening, and otherwise harassing journalists.

On January 3, gendarmes from the Douala neighborhood of Bonaberi attacked Pius Njawe, a journalist and the publisher of *Le Messager* newspaper. Njawe was driving his car on the Wouri bridge in Douala when he witnessed a car accident. He stopped to take pictures, but the investigating gendarmes barred him from doing so. When Njawe insisted, the gendarmes beat and kicked him, finally pushing him back into his car. Njawe did not file a complaint against the gendarme officers.

On September 3, officers from the Yaounde military security agency (Semil) arrested and detained Duke Atangana Etotogo, publisher of the monthly *L'Afrique Centrale*, without a warrant and seized magazine copies that were on sale. Etotogo published a series of analytical reports on the armed forces and their leadership. The purpose of the arrest was to force him to reveal his sources. Semil released Etotogo after five days of intensive interrogation. Before his release on September 7, the military security agency demanded that Etotogo write a letter of apology to the President, who is the supreme chief of the armed forces, which he did.

According to the NGO Committee to Protect Journalists in April Eric Motomu, editor of *The Chronicle*, was beaten unconscious by the bodyguard and driver of opposition leader John Fru Ndi. Motomu said he was treated for head and chest injuries. Earlier, Motomu had been summoned by police in Bamenda in connection with a defamation case brought against him by Fru Ndi. However, Motomu was not formally charged.

On November 6, Sweet FM radio presenter Agnes Taile was attacked by three hooded intruders, who forced their way into Taile's home in Douala, dragged her outside, beat her, and tried to strangle her. She was hospitalized with multiple injuries. Authorities had not made any arrests by year's end.

There were no developments in the 2005 police beatings of journalists Philip Njaru and Innocent Yuh, who were hospitalized from their wounds. There were also no developments in the 2005 case of broadcasters Freedom FM and Radio Oku, which were both closed by government officials.

There were no reports that the Government indirectly censored the media by controlling advertising revenues. Since the Government was the largest advertiser in the country, however, and could choose which media outlets to pay to place advertising, it continued to have a certain degree of influence over media outlets.

The Government prosecuted its critics in the print media through criminal libel laws. These laws authorize the Government, at its discretion and the request of the plaintiff, to criminalize a civil libel suit or to initiate a criminal libel suit in cases of alleged libel against the President and other high government officials; such crimes are punishable by prison terms and heavy fines. The libel law places the burden of proof on the defendant. Local leaders in particular abused this law to keep local reporters from reporting on corruption and abusive behavior. Various government members and senior government officials filed nine libel suits against journalists.

On March 3, a Yaounde court sentenced Jean-Pierre Amougou Belinga, publisher of the Yaounde-based weekly *L'Anecdote*, to four months in jail on defamation charges. In February Belinga published a list of alleged homosexuals, which included Gregoire Owona, a government member, who filed a libel suit. The court ruling found only that the publisher could not substantiate his claim. The court fined Belinga \$2,000 (one million CFA francs) and ordered him to pay symbolic damages to the plaintiff and publish the ruling in several newspapers. Similar suits were filed by Owona and by Jean-Pierre Mayo, the general manager of the Yaounde-based National Social Insurance Fund hospital, against Biloa Ayissi, publisher of the Yaounde-based weekly *Nouvelle Afrique*. In the Owona case, the court sentenced

Ayissi on March 24 to six months in jail for defamation, fined him \$2,000 (one million CFA francs), ordered him to pay symbolic damages to the plaintiff and to publish the ruling in several newspapers and some electronic media. In the Mayo case, the court ordered Ayissi to pay \$6,000 (three million CFA francs) in damages.

The other journalists whom courts convicted on defamation charges in private cases included Dieudonne Mveng, publisher of the weekly newspaper *La Meteo*, Socrate Dipanda, publisher of the weekly *Le Constat*, Peter William Mandio, publisher of the weekly *Le Front*, Henriette Ekwe, columnist with *Le Front*, and Georges Gilbert Baongla, publisher of the weekly *Le Dementi*. Most received suspended prison sentences. None of the journalists sentenced to prison terms were sent to prison.

There were no developments in the April 2005 defamation case against Guibai Gatema and Abdoulaye Oumate.

There were no developments in the 2005 libel case against *Le Jeune Observateur* publisher Jules Koum Koum.

There were no developments in the 2004 case of Eric Wirkwa Tayu, convicted of defamation.

In March 2005 the Union of Cameroonian Journalists created the Cameroon Media Council (CMC), an independent, self-regulating body of journalists aiming to promote press freedom, access to information, professionalism, and ethical reporting. The CMC, supported by the minister of communication, also had as part of its mission the goal of reviewing and disciplining media professionals and arbitrating complaints against journalists. Complaints included ethical breeches, such as the common practice for newspaper reporters and editors of accepting payments from politicians and businessmen to write articles containing unsubstantiated allegations against the opponents and competitors of their benefactors.

*Internet Freedom.*—There were no reports that the Government attempted to monitor the Internet. There were also no reports that the Government restricted access to the Internet. The Internet was available and used by citizens, although access was limited by cost and slow connections.

*Academic Freedom and Cultural Events.*—Although there were no legal restrictions on academic freedom, state security informants reportedly operated on university campuses. Professors said that participation in opposition political parties could adversely affect their professional opportunities and advancement. During the year strikes in the state universities of Yaounde I, Yaounde II, and Douala deteriorated and resulted in violent confrontations between students and security forces (see Section 2.b.).

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly; however, the Government restricted this right in practice.

The law requires organizers of public meetings, demonstrations, or processions to notify officials in advance but does not require prior government approval of public assemblies and does not authorize the Government to suppress public assemblies that it has not approved in advance. However, officials routinely have asserted that the law implicitly authorized the Government to grant or deny permission for public assembly. Consequently, the Government often did not grant permits for assemblies organized by persons or groups critical of the Government and repeatedly used force to suppress public assemblies for which it had not issued permits.

Security forces forcibly disrupted the demonstrations, meetings, and rallies of citizens, trade unions, and groups of political activists throughout the year.

On numerous occasions throughout the year, authorities refused to grant the SCNC, an unregistered political group the Government deemed illegal because it advocated secession, permission to hold rallies and meetings, and security forces arrested and detained some activists (see Section 3).

On March 9, Douala gendarmes disrupted a gathering of *Manifeste Africain pour la Nouvelle Indépendance et la Démocratie* (MANIDEM), an opposition party, although the party claimed it had received tacit approval for the meeting from the competent administrative authority. Some benches were broken in the altercation, but MANIDEM resumed its meeting after the gendarmerie group commander intervened and called his subordinates to order.

Police forcibly dispersed student demonstrators during the year, which resulted in deaths and injuries. For example, on June 13, Yaounde police dispersed a gathering from the University of Yaounde II and arrested 50 students (see Section 1.c.). The rector filed suits against some of the students.

On August 4, the Yaounde First Instance Court began hearings on the cases of four leaders of the Association for the Defense of Students' Interests (ADDEC)—Ibrahim Mohaman, Rodrigue Batogna, Messi Bela, and Tememou—in connection

with charges of rebellion and disturbance of public order. The trial was ongoing at year's end.

On November 29, the Buea antiriot police shot and killed two students, Ufeanei Ivo Abiandong and Bennett Moma Kenyufon, while dispersing a demonstration at the University of Buea. The students were protesting those admitted to the faculty of medicine because the protesters believed the minister of higher education had tampered with the names on the admission's list. An investigation was ongoing at year's end.

On December 21, Foumban gendarmes shot and killed Issah Njifouh, a night watchman, during a demonstration in Njinka Chiefdom in Foumban. The demonstrators were protesting the Government's decision to replace Adamou Ndam Njoya, an opposition leader and traditional ruler of their chiefdom, with another person. An investigation was still ongoing at year's end.

The Yaounde First Instance Court sentenced students to prison terms during the year in connection with events that occurred in 2005.

On April 11, the Yaounde First Instance Court sentenced Thierry Okala Ebode, a leader of the ADDEC, to a suspended six month jail term (which could be imposed at any time over the next three years if arrested on similar charges) on charges of rebellion and disturbance of public order. In November 2005 ADDEC had organized a meeting on the campus of the University of Yaounde I to discuss issues that made students' lives difficult. The university rector reportedly called the gendarmes to break up the meeting. This resulted in clashes between the gendarmes and the students, of whom many were arrested. There were no developments in the 2005 killing of two University of Buea students by security forces.

There were no reports that security forces broke up or disrupted gatherings of the SDF during the year. However, administrative authorities banned marches and meetings that the SDF wanted to conduct in Douala and Limbe. For example, on July 4, the Sous-prefet of Douala I banned a march organized by the SDF to protest the pauperization of citizens. The Sous-prefet justified the ban by claiming the march might disturb public order. On October 13, the Sous-prefet of Limbe banned a meeting of the National Executive Committee of the SDF on the grounds that internal fighting might disrupt public order.

*Freedom of Association.*—The law provides for freedom of association, but the Government limited this right in practice.

The conditions for government recognition of a political party, a prerequisite for many political activities, precluded peaceful advocacy of secession. While more than 180 political parties, together with a large and growing number of civic associations, operated legally, the Government continued to refuse to register the SCNC as a political party and harassed and arrested its leaders and members (see Section 3).

*c. Freedom of Religion.*—The law provides for freedom of religion and the Government generally respected this right in practice; however, there were a few exceptions.

Religious groups must be approved and registered with the Ministry of Territorial Administration and Decentralization to function legally. Although there were no reports that the Government refused to register any group, the process usually took several years, due primarily to administrative delays. The Government did not register traditional religious groups on the grounds that the practice of traditional religion was a private concern observed by members of a particular ethnic or kinship group or the residents of a particular locality.

There were no further developments in the January 2004 arrest and detention of Michel Atanga Effa and Gervais Balla for the 2003 murder of a priest or in the May 2004 beating of Pastor Alombah Godlove by the traditional ruler of his village.

The practice of witchcraft is a criminal offense under the law; however, individuals generally were prosecuted for this offense only in conjunction with another offense, such as murder. Witchcraft traditionally has been a common explanation for diseases of unknown cause.

*Societal Abuses and Discrimination.*—There were occasionally reports of discrimination in the northern provinces, particularly in rural areas, by Muslims against Christians and persons who practiced traditional indigenous religions. However, the overall amicable relationship among religious groups in society contributed to religious freedom.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights; however, security forces routinely impeded domestic travel during the year.

Roadblocks and checkpoints manned by security forces proliferated in cities and on most highways, making road travel both time-consuming and costly. Extortion of small bribes was commonplace at these checkpoints. Police frequently stopped travelers to check identification documents, vehicle registrations, and tax receipts as security and immigration control measures. There were no reports that security forces killed individuals suspected of evading checkpoints. However, there were credible reports that police arrested and beat individuals who failed to carry their identification cards as required by law.

The law prohibits forced exile, and the Government did not use it; however, some human rights monitors or political opponents who considered themselves threatened by the Government left the country voluntarily and declared themselves to be in political exile.

In 2005 the Government, the Nigerian High Commission to Cameroon, and the Office of the UN High Commissioner for Refugees (UNHCR) signed a tripartite agreement for the voluntary repatriation of 10,000 of the 17,000 Nigerian Fulani cattle breeders who fled their homes in 2001 to escape ethnic fighting. During the year a large number of Nigerians returned home.

*Internally Displaced Persons (IDPs).*—In March 2005 between 10,000 and 15,000 citizens in and around the Adamawa Province villages of Djohong and Ngaoui were displaced following attacks and looting by unidentified armed groups from the Central African Republic (CAR).

According to the Adamawa Province's governor, the groups targeted cattle herders of the M'bororo ethnic group, kidnapping them and demanding ransom due to the group's perceived wealth. The Government reportedly sent troops in 2005 to restore order in the border area, and during the year a rapid intervention unit operated in the area.

During the year the Government worked with the UNHCR to protect and assist IDPs.

*Protection of Refugees.*—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system of providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. In 2005 the National Assembly passed legislation that formally established the status of refugees, and the President signed it into law in July 2005.

The Government also provided protection to certain individuals who may not qualify as refugees under the 1951 Convention and its 1967 Protocol. At year's end the UNHCR estimated that the country provided temporary protection to approximately 17,500 refugees, the majority of whom were Chadian and Nigerian, in addition to 5,300 asylum seekers, some of whom were economic refugees presenting themselves as political victims.

During the year, as a result of numerous attacks and kidnappings by unidentified armed groups in the CAR, approximately 20,000 members of the M'bororo ethnic group reportedly fled to the country, according to UN agencies and local human rights groups, bringing the total number of refugees to 35,083. In June the UNHCR reported that 20,383 M'bororos from CAR settled near the CAR border, with approximately 13,000 in the East Province and 7,000 in Adamoua. There were also 2,948 Nigerian refugees in Banyo (Adamoua and Northwest provinces) and 11,752 urban refugees in Yaounde and Douala.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The Government has been tolerant and understanding of CAR and Chadian citizens coming across the borders to flee their countries, facilitating their entry and providing assistance.

A special task force, including troops from the Economic and Monetary Community of Central Africa (comprised of Cameroon, Gabon, CAR, Equatorial Guinea, Congo Brazzaville, and Chad), regularly launched joint operations, with logistical support from the French army, against CAR and Chadian rebels.

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

The law provides that citizens have the right to change their government peacefully; however, dominance of the political process by the President and his party and electoral intimidation, manipulation, and fraud limited the ability of citizens to exercise this right in past elections.



*Elections and Political Participation.*—In October 2004 President Biya, who has controlled the Government since 1982, was re-elected with approximately 70 percent of the vote in an election widely viewed as freer and fairer than previous elections, and in which opposition parties fielded candidates. However, the election was poorly managed and marred by irregularities, in particular in the voting registration process, but most international observers deemed that the irregularities did not prevent the elections from expressing the will of the voters.

Some observers said progress had been made and called the election transparent; others, such as the Commonwealth Observer Group, stated that the election lacked credibility. Some opposition parties alleged that there was multiple voting by individuals close to President Biya's party and massive vote rigging. One domestic group described the election as a masquerade. The 2002 legislative elections, which were dominated by the CPDM, largely reflected the will of the people; however, there were widespread irregularities.

In December the National Elections Observatory published its assessment of the 2004 elections; the assessment cited electoral weakness in voter registration and report collection, recommended that the observatory assume control of voter registration, and called for an increased responsibility for the observatory in organizing elections. The Government also established an independent electoral commission.

Since 1991 only government bills proposed by the presidency have been enacted by the National Assembly. However, in March the National Assembly agreed to consider a private member's bill on the funding of political parties and electoral campaigns that an opposition party tabled at the session opening. This consideration followed another one that took place in 2004. Only parties with representatives in the National Assembly can submit bills for consideration. During its June 2005 session, the National Assembly refused to consider a bill on electoral reform tabled by the SDF, the leading parliamentary opposition party.

Members of the Beti ethnic group, including the Bulu subgroup to which the President belongs, figured prominently in the Government, civil service, and management of state-owned businesses.

The President's control over the country's administrative apparatus was extensive. The President appoints all ministers, including the Prime Minister, and also directly appoints the governors of each of the 10 provinces. The President also has the power to appoint important lower level members of the 58 provincial administrative structures.

The right of citizens to choose their local governments remained circumscribed. The Government increased greatly the number of municipalities run by Presidentially appointed delegates, who have authority over elected mayors. Delegate-run cities included most of the provincial capitals and some division capitals in pro-opposition provinces; however, this practice was almost nonexistent in the southern provinces, which tended to support the ruling CPDM party. In municipalities with elected mayors, local autonomy was limited since elected local governments relied on the central government for most of their revenue and administrative personnel.

There were more than 180 registered political parties in the country. Fewer than 10, however, had significant levels of support, and only five had seats in the National Assembly. The ruling CPDM held an absolute majority in the National Assembly; opposition parties included the SDF, based in the anglophone provinces and some major cities. The largest of the opposition parties were the National Union for Democracy and Progress, the Cameroon Democratic Union, and the Union of the Peoples of Cameroon.

The Government considered one unregistered anglophone political group, the SCNC, illegal, because it advocated secession from the country and authorities refused to register it as a political organization. During the year security forces preemptively arrested approximately 70 leaders, members, and supporters of the SCNC; such arrests were conducted to prevent persons from participating in political meetings.

On numerous occasions throughout the year, authorities refused to grant the SCNC permission to hold rallies and meetings. Security forces disrupted SCNC meetings, including in private residences, arresting SCNC activists and releasing them a couple of days later. For example, on April 27, gendarmes arrested 65 SCNC activists in Oku, in the Northwest Province, while they were holding a meeting in a private residence. They were not charged and were released four days later. On May 7, the Bamenda police broke up Hitler Mbinglo Humphrey's press conference in the Musang-Rendez-vous neighborhood, arresting Mbinglo Humphrey and three others. The police subsequently arrested 17 other activists who protested the arrest of their leaders. They were released after a brief detention.

In August SDF Chairman Fru Ndi was accused of being responsible for violence that resulted in the death (see Section 1.a.).

On September 16, gendarmes from the Bamenda gendarmerie legion in the Northwest Province arrested five SCNC activists in their office: Fidelis Tchenkwo, Emmanuel Enu, Prescilla Khan, Elvis Bandzeka, and Cletus She. They were released after a brief detention. The SCNC claimed that the arrests were to prevent the activists from preparing and holding a meeting of the "Northern Zone."

On September 19, the Prefect of Mezam Division in the Northwest Province signed an order banning all public meetings, rallies, or gatherings of more than four persons and prohibiting access to electronic media for any SCNC official or sympathizer.

On October 1, security forces arrested and detained some activists in the Northwest and Southwest provinces for activities such as raising an SCNC flag in a public market place. They were released after a few days' detention.

On October 1, the Bamenda police blocked access to radio and television stations, put the houses of SCNC officials and activists under surveillance, and searched the houses of some SCNC leaders, including Chief Ayamba Ette, the SCNC chairman, Nfor Ngalla Nfor, the vice President, and Binlo Hitler, the President of the Northern Zone.

In advance of the annual celebration of Southern Cameroon "independence" on October 1, the Government engaged in a campaign of closing down SCNC rallies and meetings.

There were no developments in the 2005 arrests of three SCNC members charged with disturbing the public order.

The Government also continued to hold some SCNC activists in temporary detention pending trials.

Women held 18 of 180 seats in the National Assembly, six of 61 cabinet posts, and a few of the higher offices within the major political parties, including the ruling CPDM.

Many of the key members of the Government were drawn from the President's Beti/Bulu ethnic group, as were disproportionately large numbers of military officers and CPDM officials. Pygmies were not represented in the National Assembly or the Government.

*Government Corruption and Transparency.*—Corruption remained a serious problem in all branches of government. The public perception was that judicial and administrative officials were open to bribes in almost all situations. According to a Transparency International survey published in December 2005, an average household paid \$205 (113,000 CFA francs) each year in bribes, or more than 20 percent of the average person's annual income; the average annual income per person was approximately \$800 (440,000 CFA francs).

According to Transparency International's 2006 Corruption Perceptions Index, corruption among the country's public officials was perceived by both resident and nonresident experts to be "rampant," which was the most severe assessment designation used by Transparency International.

Unlike in the previous year, international activists did not criticize the Government's lack of transparency in managing revenues from an international oil pipeline.

During the year the Government also took some steps to fight corruption. For example, on January 25, the Government officially launched the activities of the National Agency for the Investigation of Financial Crimes (ANIF). Part of its mission is to fight money laundering, corruption-related enrichment, and the embezzlement of public funds.

On February 3, ANIF conducted a working session with the managers of the financial institutions to train them on effectively participating in the fight against corruption.

On March 11, the President signed a decree repealing the order that created the National Corruption Observatory and a decree creating the National Anticorruption Commission, which replaced the observatory. The commission is under the President's authority. Its leading mission was to monitor and evaluate the effective implementation of the Government's anticorruption plan. It also gathered, centralized, and analyzed allegations and information regarding corrupt practices. Findings of the investigations conducted by the commission could lead to disciplinary or legal proceedings.

During the year the Government sanctioned approximately 45 government employees and senior officials on corruption and embezzlement charges. Sanctions ranged from suspensions to dismissals.

On April 6, the National Assembly passed legislation requiring senior state administrators and managers to declare their assets after their appointment and again when they leave office.

On October 5, the National Assembly lifted the parliamentary immunity of Edouard Etonde Ekoto, the former board chairman of the Douala Port Authority, and Andre Boto'o a Ngon, the former board chairman of the Cameroon Real Estate Corporation, in connection with the high profile arrests of Ndong, Belinga, and Edou. Prosecutors interrogated them and while they were formally charged with embezzling public funds, Ekoto and Ngon were not arrested. Interrogations continued at year's end.

There were publicized prosecutions of government officials accused of corruption during the year.

The Government began legal proceedings against the general managers of three government-owned corporations and some of their close collaborators. On February 21, police arrested Emmanuel Ondo Ndong, general manager of FEICOM, the financial institution that funds councils; Gilles Roger Belinga, the general manager of the Cameroon Real Estate Corporation; and Joseph Edou, the general manager of Credit Foncier, a real estate funding company. In connection with these cases, the prosecutor ordered the arrest and detention of 52 persons who were already under pre-trial detention. The trials, which began in December, were still ongoing at year's end.

On February 24, Minister of Energy and Water Resources Alphonse Siyan Siwe was arrested, and dismissed from his job, on corruption charges stemming from his tenure as the director of the Douala Port before he joined the Government in December 2004. The investigation was still ongoing at year's end.

On May 23, the prosecutor of Mbalmayo (Center Province) ordered the arrest and detention of Dieudonne Zang Mba Obele, for embezzlement of public funds. Hearings were held in June and Obele was ultimately released for lack of evidence.

There were no developments in the 2005 government corruption case in which three postal service officers were accused of embezzling \$2 million (101 million CFA francs) in public funds in 2002.

In March 2005 the Government installed a new computer program to detect fraud by government employees and to better control the number of its civil servants and employees. By year's end the system revealed at least 3,000 "ghost" employees who did not exist or who were fraudulently drawing salaries. From the end of 2005 to March, the Government sanctioned scores of fraudulent employees.

In June and August 2005, the Government hired 22 potential candidates for the Audit Bench of the Supreme Court. In August 2005 the candidates started a two-month training program at the National School of Administration and Magistracy. In December 2005 the President appointed them Audit Bench Magistrates and they became fully active during the year.

There were no laws providing citizens with access to government information, and in practice such access was difficult to obtain. Most government documents, such as statistics, letters exchanged between various administrations, draft legislation, and investigation reports, were not available to the public or the media.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing findings on human rights cases; however, government officials repeatedly impeded the effectiveness of local human rights NGOs during the year by harassing members of human rights groups, limiting access to prisoners, refusing to share information, and threatening and using violence against personnel. Philip Njaru, a human rights activist and executive director of the Kumba-based Friends of the Press Network, a human rights organization in Southwest Province, reported that police continued to harass him throughout the year.

Access to prisons by international NGOs reportedly improved during the year (see Section 1.c.).

The activities of virtually all of these groups were limited by a shortage of funds and trained personnel. Observers criticized the country's NGO laws for giving the Government the power to deny NGOs authorization to operate and to eliminate them by decree.

Numerous domestic human rights NGOs operated in the country, including, among others, the National League for Human Rights, the Organization for Human Rights and Freedoms, the Association of Women against Violence, the Movement for the Defense of Human Rights and Freedoms, and the Cameroonian Association of Female Jurists.

Unlike in the previous year, there were no reports that the Government arrested NGO members.

In September 2005 Amnesty International released a report, *Contracting Out of Human Rights: The Chad-Cameroon Pipeline Project*, that criticized the Government for placing financial interests above the concerns of citizens. Citing claims that the 2003 construction of an oil pipeline running from Douba in southern Chad to the port city of Kribi in the southwest of the country had damaged the livelihoods of fishermen, Amnesty International called on the Government to offer recourse to the fishermen and to amend the agreements with oil companies to safeguard human rights. The Government continued to work with the conglomerate running the pipeline to identify communities affected by the pipeline and to offer remuneration and other self-help projects.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations such as the ICRC.

The NCHRF, instituted in the 1990s, has the authority to summon witnesses and publish reports and the findings of its investigations. In July 2005 the President signed the implementing decree for a law passed by the National Assembly in 2004 that expanded the powers of the NCHRF and authorized it to summon witnesses and publish reports and investigative findings. It also created a permanent secretariat and a division in charge of the protection and promotion of human rights and freedoms. While the NCHRF remained hampered by a shortage of funds, during the year it conducted a number of investigations into human rights abuses, visited prisons, and organized several human rights seminars aimed at judicial officials, security personnel, and other government officers. Although the commission infrequently criticized the Government's human rights abuses publicly, its staff intervened with government officials in specific cases of human rights abuses by security forces, attempted to stop "Friday arrests" (see Section 1.d.), and sought to obtain medical attention for jailed suspects in specific cases. In September the President signed a decree appointing members to the commission and dismissing all incumbents but the chairman. The incumbents were appointed 15 years ago.

In February 2005 the Government created a division of human rights in the Ministry of Justice to investigate and report on all cases of human rights abuses in the areas under the ministry's responsibility, including prisons, jails, and courtrooms.

During the year the Government published its own human rights report, which included a complete list of all the legal rights and protections afforded to citizens.

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

The law does not explicitly forbid discrimination based on race, language, or social status, but does prohibit discrimination based on gender and mandates that "everyone has equal rights and obligations." The Government, however, did not enforce these provisions effectively. Violence and discrimination against women, trafficking in persons, discrimination against ethnic minorities, and discrimination against homosexuals were problems.

*Women.*—Domestic violence against women was common. While there were no reliable statistics, a large number of newspaper reports indicated that the problem was widespread. The law does not specifically prohibit domestic violence. While assault is prohibited and is punishable by prison terms and fines, the Government did not effectively enforce it in cases of assault on women. Women's rights advocates asserted that the law does not impose effective penalties against men who commit acts of domestic violence. There are no gender-specific assault laws, even though women were the predominant victims of domestic violence. Spousal abuse is not a legal ground for divorce. In cases of sexual assault, a victim's family or village often imposed direct, summary punishment on the suspected perpetrator through extra-legal means, ranging from destruction of property to beating. During the year there were no reports of any convictions or of any action by the Government to combat domestic violence.

The law prohibits rape; although rape occurred, police and the courts rarely investigated and prosecuted rape cases, which resulted in some convictions during the year. Official and private media regularly covered rape cases handled by the courts. During the year newspapers covered nine high profile rape cases which resulted in the arrest and detention of the perpetrators, whose pending trials were ongoing. In 2005 a couple of newspapers released special issues on the problem of rape, which was becoming acute, particularly in Douala and Yaounde. According to one of the reports, the Douala Courts heard approximately 40 cases per month.

The law does not prohibit female genital mutilation (FGM), and FGM was not practiced widely; however, it continued to be practiced in isolated areas in three of the 10 provinces, including some areas of Far North, Eastern, and Southwest provinces.

Internal migration contributed to the spread of FGM to different parts of the country. The majority of FGM procedures were clitorectomies. The severest form of

FGM, infibulation, was performed in the Kajifu region of the Southwest Province. FGM usually was practiced on infants and preadolescent girls. Public health centers in areas where FGM is frequently practiced counseled women about the harmful consequences of FGM; however, the Government did not prosecute any persons charged with performing FGM. The Association of Women Against Violence continued to conduct a program in Maroua to assist victims of FGM and their families and to educate local populations.

During the year breast ironing emerged as another form of violence against women, practiced in an effort to protect prematurely well-developed young girls from predatory older men. NGOs were leading public awareness campaigns to combat this practice.

While the law prohibits prostitution, it was tolerated. Prostitution was practiced predominantly in urban areas and places frequented by tourists. Trafficking for the purposes of commercial sexual exploitation occurred (see Section 5, Trafficking).

There were no developments in the 2005 case of a foreign pharmaceutical company that had conducted a clinical study of a drug intended to prevent the spread of HIV/AIDS among 400 female prostitutes, none of whom had HIV at the beginning of the trial. Local and international NGOs criticized the company and the Ministry of Health for lack of transparency and negligence, asserting that the Government and the company did not sufficiently inform the prostitutes of the risks involved with taking part in the trials. In response to the allegations of misconduct, the Ministry of Health suspended the clinical tests in 2005, citing "dysfunctions" and saying that "certain corrective measures" needed to be taken by the research team. The minister also set up an independent inquiry, which reported that although allegations about safety made by certain NGOs were not true, new procedures needed to be instituted to ensure more regular reporting and study site accreditation before the trials could resume.

While the law prohibits sexual harassment, very few cases were reported or prosecuted during the year. The Government did not conduct any public education campaigns on the subject and there were no statistics available on its occurrence.

Despite constitutional provisions recognizing women's rights, women did not enjoy the same rights and privileges as men. Some points of civil law were prejudicial to women.

The law allows a husband to oppose his wife's right to work in a separate profession if the protest is made in the interest of the household and the family; a husband may also end his wife's commercial activity by notifying the clerk of the commerce tribunal of his opposition based upon the family's interest. Partly for this reason, some employers required a husband's permission before hiring female employees.

Customary law is far more discriminatory against women, since in many regions a woman traditionally was regarded as the property of her husband. Because of the importance attached to customs and traditions, civil laws protecting women often are not respected. In the customary law of some ethnic groups, husbands not only maintain complete control over family property, but also can divorce their wives in a traditional court without being required to provide either verifiable justification or alimony. Polygamy is permitted by law and tradition. In cases of divorce, the husband's wishes determine the custody of children over the age of six. While a man may be convicted of adultery only if the sexual act takes place in his home, a woman may be convicted without respect to venue.

Traditional law normally governs the extent to which a woman may inherit from her husband in the absence of a will, and traditions varied from group to group. In many traditional societies, customs grant greater authority and benefit to male heirs than to female heirs. Women were also forced to marry and in some regions parents could, and did, give girls away in marriage without the bride's consent. Often the husband, who could be many years older than his bride, paid his wife's parents a "bride price." Once a price had been paid, the girl was considered the husband's property. When a married man died, his widow often was unable to collect any inheritance, since she herself was considered part of the man's property. Often the widow was forced to marry one of the deceased husband's brothers. If she refused, she had to repay the bride price in full and leave the family compound. In the northern provinces, some Lamibe reportedly prevented their wives and concubines from leaving the palace. The lack of a national legal code covering such family issues often left women defenseless against these male-oriented customs.

In 2004 religious leaders, including Catholics, Protestants, and Muslims, launched a nationwide program to fight violence against women.

*Children.*—During the year the Government made some efforts to protect children's rights and welfare, including participation in seminars on children's rights.

The law provides for a child's right to education, and schooling was mandatory through the age of 14 and free in public primary schools. Since parents had to pay uniform and book fees for primary school, and because tuition and other fees for secondary education remained costly, education was largely unaffordable for many children. The Government took measures during the year to improve access to schools, such as the construction of new classrooms, recruitment of new teachers, and provision of water fountains.

According to 2005 government statistics, 72.2 percent of girls between the ages of six and 14 were enrolled in school, compared to 81.3 percent of boys in the same age group. According to the UN Children's Fund (UNICEF), the secondary school enrollment ratio (gross) was 36 percent for boys and 29 percent for girls. The low education rate continued to be attributed to socio-cultural prejudices, early marriage, sexual harassment, unwanted pregnancy, and domestic chores.

A 2004 government study found there is a large gap between the capacity of the schools and the number of potential students. According to the study, preschools served only 16 percent of the potential student population. Within the school system, the northern provinces were the most underprivileged, with only 5.7 percent of all teachers working in the Adamawa, North, and Extreme North provinces combined. The study showed that elementary schools only had enough seats for 1.8 million students, although 2.9 million attended school.

The Government provided limited and basic medical care through local clinics and hospitals as well as through a limited number of school doctors. Boys and girls had equal access to state-provided medical care.

The exact extent of familial child abuse was not known, although children's rights organizations targeted the problem. Newspaper reports often cited children as victims of kidnapping, mutilation, and even infanticide. There were several credible stories of mothers (usually young, unemployed, and unmarried) abandoning their newborns in streets, garbage cans, and pit toilets.

FGM was performed primarily on young girls (see Section 5, Women).

While the minimum legal age for a woman to marry is 15, many families facilitated the marriage of young girls by the age of 12. Early marriage was prevalent in the northern provinces of Adamawa and North, but was particularly characteristic of the remote Far North Province, where many women as young as 13 faced severe health risks from pregnancies. There were no statistics on the prevalence of child marriage. Anecdotal evidence indicates that some parents might have promised a female baby to an older male in order to begin receiving dowry payments.

There were reports of child prostitution and trafficking in children during the year (see Section 5, Trafficking).

Child labor remained a problem (see Section 6.d.).

Although exact numbers were unavailable, the country had a significant number of displaced or street children, most of whom resided in urban areas such as Yaounde and Douala.

On July 24, the Douala gendarmerie legion deported approximately 30 street children from the Akwa neighborhood to a suburb 18 miles from the city. The gendarmes' operation followed a series of aggravated thefts, allegedly perpetrated by the street children. The children were reportedly left along the road because there was no facility to harbor them, and they subsequently returned to Douala by their own means.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, but the law does prohibit slavery, prostitution, forced labor, and other crimes related to trafficking in persons and establishes minimum age requirements for workers. Trafficking remained a problem. Courts prosecuted traffickers using various provisions of the Penal Code that address related crimes. The country was a source, transit, and destination point for internationally trafficked persons; trafficking also occurred within the country. The Anti-Child Trafficking law, drafted by the Government in cooperation with the International Labor Organization (ILO), took effect in December 2005.

The law provides that any person who engages in crimes often associated with trafficking in persons shall be punished by prison terms of between six months and 20 years.

The Ministry of Labor, Employment, and Social Insurance was primarily responsible for fighting trafficking; however, the ministry was severely underfunded. It was believed that authorities prosecuted several trafficking cases during the year, but actual rates were difficult to determine since traffickers could be prosecuted under various sections of the penal code; there was no system for tracking outcomes.

In February 2005 a Yaounde court sentenced an individual named Nkodo to three years in jail and ordered her to pay damages of \$2,000 (one million CFA francs) to her victim, a 19-year-old girl who worked for her as a prostitute.

In May 2005 gendarmes in Yaounde dismantled a prostitution ring which exploited young boys. The boys were lured into the ring with promises of being hired by prestigious soccer clubs in a foreign country. Police arrested three of the organization's five members, who were in detention and awaiting trial at year's end; the other two were still in hiding. The boys were returned home.

In May 2005 police arrested three members of a homosexual and pedophile network of child traffickers. The three were formally charged and put under detention in the Yaounde central prison pending trial.

In June 2005 police arrested three individuals, including a local woman and two Gabonese men, in the South Province close to the Gabonese border. The three individuals were arrested while trying to smuggle two 13-year-old girls, who were kidnapped in the Boyo Division of the Northwest Province, into Gabon. The three were put under detention pending trial. During the investigation, South Province police officials said it was the third time that they had arrested traffickers at the country's borders with Gabon and Equatorial Guinea.

The Government continued to fight trafficking through the use of an interagency committee and a program to find and return trafficked children. In addition the Government cooperated with Gabon, Nigeria, Togo, and Benin in fighting trafficking through the exchange of information and preparation of common legislation on trafficking. In 2005 the ILO and some local NGOs briefed parliamentarians on the problem of trafficking in persons.

Women and children traditionally have faced the greatest risk of trafficking and have been trafficked most often for the purposes of sexual exploitation and forced labor. Most trafficking in children occurred within the country's borders, while most trafficked women were transported out of the country. According to anecdotal evidence from the NCHRF, women often were "hired" into hubs of prostitution, often in Europe. The method for trafficking women usually involved a marriage proposition by a foreign businessman. The woman was inducted into servitude upon arrival at a foreign destination. Girls were internally trafficked from the Adamawa, North, Far North, and Northwest provinces to Douala and Yaounde to work as domestic servants, street vendors, or prostitutes. Children were also internally trafficked to work on cocoa bean plantations. There have been credible reports of slavery, especially in some chiefdoms in the North Province (see Section 6.c.). For example, there were reports that the Lamido (the traditional Muslim chief) of Rey Boubu in the Northern Province held slaves inside his compound. Although he was replaced by his son in 2004, there was no indication that the slaves were released.

According to a 2005 study by the International Circle for the Promotion of Creation and the Cameroon Society for Prevention of Child Abuse and Neglect, of 722 young girls between nine and 20 years old interviewed in the cities of Yaounde, Douala, Bamenda, and Bafoussam, 291 were the victims of sexual exploitation.

There were no reports of radio advertisements offering to take adolescent girls between the ages of 10 and 17 to Yaounde and Douala for domestic labor; however, there continued to be flyer advertisements.

A 2000 ILO study conducted in Yaounde, Douala, and Bamenda, reported that trafficking accounted for 84 percent of child laborers in those three cities. Local NGOs believed this statistic was still accurate. In most cases, intermediaries presented themselves as businessmen, approaching parents with large families or custodians of orphans and promising to assist the child with education or professional training. The intermediary paid parents an average of \$12 (6,000 CFA francs) before transporting the child to a city where the intermediary would subject the child to forced labor with little remuneration. In four out of 10 cases, the child was a foreigner transported to the country for labor. The report also indicated that the country was a transit country for regional traffickers, who transported children between Nigeria, Benin, Niger, Chad, Togo, the Republic of the Congo, and the CAR for indentured or domestic servitude, farm labor, and sexual exploitation. Citizens also were trafficked to South Africa.

During the year the ILO and the Government continued to support an awareness campaign to eradicate child trafficking in airports. Special antitrafficking embarkation and disembarkation cards continued to be designed and distributed. The cards described the dangers of trafficking and how to recognize the phenomenon.

The Government continued to work with local and international NGOs to provide temporary shelter and assistance to victims of trafficking. In August 2005 a local NGO graduated 70 trafficking victims from its rehabilitation and reintegration program. The Catholic Relief Service worked to combat corruption in local schools that

led to child prostitution. UNICEF was also actively engaged in combating girls' prostitution throughout the year.

*Persons With Disabilities.*—The law provides certain rights to persons with disabilities, including access to public institutions, medical treatment, and education, and the Government was obliged to bear part of the educational expense of persons with disabilities, to employ them where possible, and to provide them with public assistance when necessary. On August 2, the minister of secondary education and the minister of social affairs signed an order that made access to public secondary education free for persons with disabilities and children born of poor parents with disabilities. There were few facilities for persons with disabilities and little public assistance; lack of facilities and care for persons with mental disabilities was particularly acute. Society largely tended to treat those with disabilities as outcasts, and many felt that providing assistance was the responsibility of churches or foreign NGOs. The law does not mandate special access provisions to private buildings and facilities for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The population consists of more than 200 ethnic groups, among which there were frequent and credible allegations of discrimination. Ethnic groups commonly gave preferential treatment to fellow ethnic group members in business and social practices. Members of the President's Beti/Bulu ethnic group from southern parts of the country held key positions and were disproportionately represented in government, state-owned businesses, the security forces, and the ruling CPDM party.

There were no developments in the 2005 M'Bororo case against Alhadji Baba Ahmadou Danpullo. Since 1986 the M'Bororo have claimed that Danpullo kidnapped M'Bororo women, forcibly displaced the M'Bororo and seized their land and cattle, and used his money and influence with the Government to order the beating and false imprisonment of members of the M'Bororo.

Northern areas of the country continued to suffer from ethnic tensions between the Fulani (or Peuhl) and the Kirdi. The Kirdi remained socially, educationally, and economically disadvantaged relative to the Fulani in the three northern provinces. Traditional Fulani rulers, called Lamibe, continued to wield great power over their subjects, often including Kirdi, sometimes subjecting them to tithing and forced labor. Isolated cases of slavery were reported, largely Fulani enslavement of Kirdi.

Natives of the Northwest and Southwest provinces tended to support the opposition party SDF and consequently suffered disproportionately from human rights abuses committed by the Government and its security forces. The anglophone community was underrepresented in the public sector. Although citizens in certain francophone areas—the East, Far North, North, and Adamawa provinces—voiced similar complaints about under-representation and government neglect, anglophones said they generally believed that they had not received a fair share of public sector goods and services within their two provinces. Some residents of the anglophone region sought greater freedom, equality of opportunity, and better government by regaining regional autonomy rather than through national political reform and have formed several quasi-political organizations in pursuit of their goals.

Police and gendarmes subjected illegal immigrants from Nigeria and Chad to harsh treatment and imprisonment and often targeted Nigerian and Chadian communities when seeking to identify illegal immigrants. During raids, members of the security forces extorted money from those who did not have regular residence permits or those who did not have valid receipts for store merchandise. Some members of the country's large community of Nigerian immigrants complained of discrimination and abuse by government officials. Authorities repeatedly announced crack-downs on undocumented Nigerian immigrants, and illegal immigrants were subject to harassment on some occasions, although at a lower level than in previous years.

*Indigenous People.*—Approximately 50,000 to 100,000 Baka, Bakola, and Bagyeli (Pygmies) primarily reside (and were the earliest known inhabitants) in the forested areas of the South and East provinces. While no legal discrimination exists, other groups often treated the Baka as inferior and sometimes subjected them to unfair and exploitative labor practices. Baka reportedly continued to complain that the forests they inhabit were being logged without fair compensation. Some observers believed that sustained logging was destroying the Baka's unique, forest-oriented belief system, forcing them to adapt their traditional social and economic systems to a more rigid modern society similar to their Bantu neighbors.

Local Baka along the path of the Chad-Cameroon pipeline continued to complain that they were not compensated fairly for their land. Others alleged that they had been cheated of their compensation by persons posing as Baka representatives. On June 22, the committee in charge of the follow-up on the pipeline organized an evaluation seminar to determine compensation for the Bakola and Bagyeli. The com-



mittee agreed that despite improved access to education and healthcare, much remained to be done to improve living conditions for the pygmies.

An estimated 95 percent of Baka did not have national identity cards; most Baka could not afford to provide the necessary documentation to obtain national identity cards, which were required to vote in national elections. In 2004 Plan International and another NGO launched a program to educate Bakas about their political rights, which included the construction of a communal radio in the region of Abong-Mbang (Upper Nyong Division, East Province).

In August 2005 the Ministry of Social Affairs launched the Project to Support the Economic and Social Development of Bakas in South Province. The mission of the three-year project was to allow the issuance of birth certificates and national identity cards to 2,300 Bakas, as well as to help register hundreds of students in school.

*Other Societal Abuses and Discrimination.*—Homosexual activity is illegal, with a possible prison sentence of six months to five years and a possible fine ranging from approximately \$40 to \$400 (20,000 to 200,000 CFA francs). While prosecution under this law was rare, homosexuals suffered from harassment and extortion by law enforcement officials. In addition, false allegations of homosexuality were used to harass enemies or to extort money.

There were new developments in the May 2005 arrest of 17 suspected homosexuals; five of whom were released shortly after their arrest for lack of evidence. On June 12, the Yaounde First Instance Court found the remaining men guilty of sodomy and sentenced them to 10 months in jail, although they were subsequently released for time served.

In June the administration of the Douala-based Eyengue Nkongo College, a private high school, expelled 34 students (including 12 females), alleging they were homosexuals. One female student was arrested upon her expulsion. One woman who lived near the school and two former schoolmates were also arrested. On July 7, the Douala First Instance Court released them after giving them a suspended three-year prison term and a fine of \$50 (25,000 CFA francs) on homosexuality charges.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join trade unions. However, the Government imposed numerous restrictions. The law does not permit the creation of a union that includes both public and private sector workers, or the creation of a union that includes different, even closely related, sectors.

The law requires that unions register with the Government, permitting groups of no less than 20 workers to organize a union by submitting a constitution, internal regulations, and nonconviction certifications for each founding member. The law provides for prison sentences and fines for workers who form a union and carry out union activities without registration. Government officials said that the Government provided union certification within one month of application. However, independent unions, especially in the public sector, have found it difficult to register.

Registered unions were subject to government interference. The Government chose the unions with which it would bargain; some independent unions accused the Government of creating small nonrepresentative unions amenable to government positions and with which it could “negotiate” more easily. Some sections of labor law have no force or effect because the presidency had not issued implementing decrees.

In January and February 2005, the Ministry of Labor, with the assistance of experts from the ILO, held discussions with all trade unions in an effort to put in place a system for tracking and recognizing unions that would meet international criteria. The initial focus of this effort was on determining the actual, paid membership of each union to determine the size and importance of each group.

In 2005 the Government restricted the civil rights of union leaders. For example, in 2005, police arrested and detained Alain Marcellin Mibo (for one hour), the leader of the Primary Education Teachers Association. For several weeks Mibo and his colleagues had been holding sit-ins in front of the Prime Minister’s office to demand that they be given full-time civil servant status, instead of the part-time or temporary status they were employed under.

The constitution and law prohibit antiunion discrimination and employers guilty of such discrimination were subject to fines of up to approximately \$2,000 (one million CFA francs). However, employers found guilty were not required to compensate the workers for discrimination or to reinstate fired workers. The Ministry of Labor did not report any complaints of antiunion discrimination during the year, although there were credible press reports of union leader harassment.

*b. The Right To Organize and Bargain Collectively.*—The constitution and law provide for collective bargaining between workers and management as well as between labor federations and business associations in each sector of the economy.

Two formal collective bargaining negotiations took place during the year, one with truck drivers and one in the tourism sector, including hotels, bars, restaurants, and night clubs.

There were no developments in the 2005 media sector collective bargaining dispute.

When labor disputes arose, the Government chose the labor union with which it would negotiate, selectively excluding some labor representatives. Once agreements were negotiated, there was no mechanism to enforce implementation; some agreements between the Government and labor unions were ignored by the Government.

There were no developments in the May 2005 case involving workers from AES-Sonel who, through the Confederation of Free Cameroon Trade Unions, sought to annul a March 2005 collective bargaining agreement.

The Labor Code explicitly recognizes workers' right to strike but only after mandatory arbitration, and workers exercised this right during the year. Arbitration decisions are legally binding, but often unenforceable because the parties refuse to cooperate. It is not uncommon for such decisions to be overturned or simply ignored by the Government or employers. The provision of the law allowing persons to strike does not apply to civil servants, employees of the penitentiary system, or workers responsible for national security. Instead of strikes, civil servants were required to negotiate grievances directly with the minister of the appropriate department in addition to the minister of labor.

In June there were five separate strikes, although some of them were related.

There were no developments in the 2004 case involving workers from the National Agency for Support to Forestry Development.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor; however, there were reports that such practices occurred. Authorities continued to allow prison inmates to be contracted out to private employers or used as communal labor for municipal public works. Money generated from these activities was usually pocketed by prison administrators and not given to detainees.

The ILO confirmed that there was an increase during the year in serious trafficking issues, and slavery situations have been identified in the northern provinces (see Section 5). NGOs and religious associations reported that children were kidnapped, sold, or "lent" by their parents to individuals claiming to look after their interests and sent to Yaounde or Douala to work in child beggar networks and, in some cases, prostitution rings. Some children were sent to neighboring countries to work. These victims were generally of both sexes and between the ages of six and 14 years old. According to a local human rights monitor the majority of parents implicated in this practice were naive, thinking only of the money to be earned and failing to imagine the conditions in to which their children would be placed.

In the South and East provinces, some Baka, including children, continued to be subjected to unfair and exploitative labor practices by landowners, including work on the landowners' farms during harvest seasons without payment (see Section 5).

The Government expressly prohibits forced and compulsory labor by children, but these practices occurred (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law generally protects children from exploitation in the workplace and specifies penalties ranging from fines to imprisonment for infringement; however, child labor remained a problem. The Government specifically prohibits forced and compulsory labor by children, but there were reports that it occurred in practice.

The law sets a minimum age of 14 for child employment, which is inconsistent with the age for completing educational requirements (see Section 5).

The law also bans night work and enumerates tasks that children under the age of 18 cannot legally perform. These included moving heavy objects, dangerous and unhealthy tasks, working in confined areas, and prostitution. The law also states that a child's workday cannot exceed eight hours. Employers were required to train children between the ages of 14 and 18, and work contracts must contain a training provision for minors. The prohibition against night work was not effectively enforced.

Information on child labor was difficult to obtain. However, according to a 2000 study by the ILO and Ministry of Labor, child labor existed chiefly in urban areas and in the informal sector such as street vending, car washing, agricultural work, and domestic service. Many urban street vendors were less than 14 years of age. An increasing number of children worked as household help, and some children were involved in prostitution. In the north there were credible reports that children from needy homes were placed with other families to do household work for pay. In the nation's major cities of Yaounde, Douala, and Bamenda, the ILO estimated

that 40 percent of employed children were girls, of whom 7 percent were less than 12 years of age, and 60 percent had dropped out of primary school.

Parents viewed child labor as both a tradition and a rite of passage. Relatives often employed rural youth, especially girls, as domestic helpers, and these jobs seldom allowed time for the children to attend school. In rural areas, many children began work at an early age on family farms. The cocoa industry also employed child laborers. According to estimates, up to 8,000 underaged children (between the ages of five and 17) were working in the cocoa industry at year's end. These children originated, for the most part, from the Northern and Northwestern provinces.

In March 2005 the ILO presented the preliminary draft of the ILO West Africa Cocoa/Agriculture Program to eliminate child labor. The program was started in the country in 2003 and ended in April. The program met its goal by removing approximately 1,300 children from hazardous work and forced labor conditions in the cocoa sector by March. Lack of additional funding for the program, however, raised concerns about what will happen to these rescued children.

The Ministry of Social Affairs and the Ministry of Labor were responsible for enforcing existing child labor laws through site inspections of registered businesses; however, the Government did not allocate sufficient resources to support an effective inspection program. Moreover, the legal prohibitions do not include family chores, which in many instances were beyond a child's capacity. In 2005 the Government employed 58 general labor inspectors to investigate child labor cases.

During the year foreign government officials visited the Cameroon Development Cooperation's (CDC) Del Monte banana and rubber plantations. They found children as young as six and seven working in the Tiko banana plantation, carrying heavy banana bunches on their heads, carting water to the fields, working around the nurseries, or harvesting rubber from the trees. Officials denied that children under 21 were hired on the plantation. Foreign observers, having met with both CDC and Del Monte officials, were satisfied that the companies neither recruited nor condoned child labor (and had systems in place to prevent this), and that the children observed at the Tiko project were primarily "free lancers," village children delivering water or collecting discarded bananas. There were fewer controls at the rubber plantation, where officials admitted that children often collected rubber in the mornings and evenings, mostly to help their family members working on the plantation.

The ILO continued to work with specific contact persons in various ministries and agencies involved in antitrafficking activities; it also conducted nationwide investigations and cooperated with local organizations.

*e. Acceptable Conditions of Work.*—The minimum wage was approximately \$47 (23,514 CFA francs) per month and was applicable in all sectors. The minimum wage did not provide for a decent standard of living for an average worker and family. The Ministry of Labor was responsible for enforcing the minimum wage nationally.

The law establishes a standard workweek of 40 hours in public and private non-agricultural firms and 48 hours in agricultural and related activities. There are exceptions for guards and firemen (56 hours a week), service sector staff (45 hours a week), and household and restaurant staff (54 hours a week). The law mandates at least 24 consecutive hours of weekly rest. Premium pay for overtime ranges from 120 to 150 percent of the hourly pay depending on amount and whether it is for weekend or late-night overtime. There is a prohibition on excessive compulsory service. Ministry of Labor inspectors were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program.

The Government sets health and safety standards. Ministry of Labor inspectors and occupational health physicians were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program. The law does not provide workers with the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment.

## CAPE VERDE

Cape Verde, with a population of approximately 460,000, is a multiparty parliamentary democracy in which constitutional powers are shared among the elected head of state, President Pedro Verona Rodrigues Pires, and Prime Minister Jose Maria Neves. Pires was reelected for a second five-year term on February 12 in generally free and fair elections. Nationwide legislative elections held on January 22 also were declared generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The human rights problems reported were police abuse of detainees, poor prison conditions, lengthy pretrial detention, excessive trial delays, media self-censorship, violence and discrimination against women, child abuse, child labor, and juvenile crime. Persons under the age of 16, who are not legally accountable, committed murder and other serious crimes which violated other persons' human rights.

The Government approved a project to improve prison conditions.

#### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were credible reports that police continued to beat persons in custody and in detention.

In October 2005 Corporal Sandro Santos was struck 25 times with a baton as punishment ordered by his company commander, Domingos Lima Rocha. Rocha was not reprimanded or prosecuted during the year. Santos' family filed a criminal suit against the army, and the case was still pending at year's end.

*Prison and Detention Center Conditions.*—Prison conditions were poor, and facilities were severely overcrowded. Sanitation and medical assistance were poor; however, a doctor and nurse were available, and prisoners were taken to public hospitals for serious medical problems. Psychological problems among prisoners were common.

Unlike in the previous year, there were no reports that prisoners were killed.

In December 2005 one prisoner was killed and three persons injured, including one guard, in a riot at the Sao Martinho Prison. Prisoners attacked the police during the riot, and the police reportedly shot one prisoner. There were allegations of abuse by prison guards following the riot, and after a judiciary police investigation, the case was awaiting trial at year's end.

Juveniles were held together with adults, and pretrial detainees were held together with convicted prisoners.

The Government permitted formal visits by international human rights monitors to prisons and visits to individual prisoners; however, there were no such visits during the year. Local nongovernmental organizations (NGOs) and media representatives frequently visited the prisons and reported on prison conditions.

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

*Role of the Police and Security Apparatus.*—The police force is organized nationally under the Ministry of Internal Administration and is made up of the public order police who are responsible for law enforcement and the judicial police who are responsible for investigations. Logistical constraints, including lack of vehicles, limited communications equipment, and poor forensic capacity, limited police effectiveness. Corruption was not a significant problem.

Impunity was a problem. Police action was in many instances curtailed by the Penal Proceedings Code. Police abuses were investigated internally; these investigations resulted occasionally in legal action against the perpetrators. During the year the Government trained police to address more effectively issues related to illegal immigration, drug trafficking, and terrorism.

*Arrest and Detention.*—Police may not make arrests without a warrant issued by an authorized official, unless a person is caught in the act of committing a felony. The law stipulates that a suspect must be brought before a judge within 48 hours of arrest. The law provides a detainee with the right to a prompt judicial determination of the legality of the detention, and the authorities respected this right in practice. Attorneys inform detainees of the charges against them. There was a functioning bail system. Detainees were allowed prompt access to family members and to a lawyer of their choice and, if indigent, to one provided by the Government.

Lengthy pretrial detention was a serious problem, and detainees often remained in jail without charge for more than a year. The judicial system was overburdened and understaffed, and the dropping of charges without a court judgment was a frequent means for terminating criminal cases.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary was understaffed and inefficient.

The judicial system is composed of the Supreme Court of Justice (SCJ) and the regional courts. Of the five Supreme Court judges, one is appointed by the President, one by the National Assembly, and three by the Superior Judiciary Council. Judges are independent and cannot belong to a political party. Regional courts adjudicate minor disputes on the local level in rural areas. The civilian courts have jurisdiction over state security cases. There are penal courts to handle criminal cases, including violations of the electoral laws, civil courts to handle civil and commercial suits, and one military court. The SCJ is the highest appellate court, and also handles administrative cases. The military court can not try civilians.

*Trial Procedures.*—The law provides for the right to a fair and public nonjury trial. Defendants have the right to be present and to consult with an attorney in a timely manner; free counsel is provided for the indigent. Defendants have the right to confront or question witnesses against them and to present witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants are presumed to be innocent until proven guilty and can appeal regional court decisions to the SCJ. The law extends the above rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The ordinary courts handle civil matters and lawsuits seeking damages for, or cessation of, a human rights violation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there continued to be reports of media self-censorship.

There were three independent newspapers and one state-owned newspaper; six independent radio stations and one state-owned radio station; and one state-owned television station and two foreign-owned stations. Foreign broadcasts were permitted. The independent media were active and expressed a wide variety of views without restriction. Journalists were independent of government control and were not required to reveal their sources.

The law requires a formal licensing mechanism for mass media, including government authorization to broadcast; however, there were no reports that licenses were denied or revoked or that the Government refused to authorize broadcasts during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

The Catholic majority enjoyed a privileged status in national life. For example, the Government provided the Catholic Church with free television broadcast time for religious services and observed its holy days as official holidays.

To be recognized as legal entities by the Government, religious groups must register with the Ministry of Justice; however, failure to do so did not result in any restriction on religious practice.

*Societal Abuses and Discrimination.*—The case before the SCJ of four Seventh-day Adventists who were accused of desecrating a Catholic church on Boa Vista Island was pending at year's end.

There was no Jewish community. There were no reports of discrimination against member of religious groups of acts of anti-Semitism.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The constitution and law prohibit forced exile, and the Government did not employ it.

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

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol; and provided it to approximately 455 persons during the year.

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

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

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

*Elections and Political Participation.*—In the January 22 legislative elections individuals and parties were free to declare their candidacies. The ruling African Party for the Independence of Cape Verde (PAICV) won with 52 percent of the vote and 41 seats in the National Assembly. The main opposition party, Movement for Democracy (MPD), won 44 percent and 29 seats. The Union for a Democratic and Independent Cape Verde (UCID) won 2 percent and the remaining two seats. The MPD contested the results with allegations of fraud and filed for an annulment of the elections with the SCJ. On February 24, the SCJ rejected the annulment request.

The country received representatives from a joint delegation of the International Foundation for Election Systems (IFES), the Nigerian National Electoral Commission (INEC), the West African Civil Society Organization Forum (FOSFAO), and Global Rights. IFES and INEC were satisfied with the elections, which they deemed free and fair. FOSFAO praised the population for its maturity and civic education, but highlighted some negative aspects such as the location of polling stations and delays in the opening of polling stations.

The Presidential elections were held on February 12, and individuals and parties were free to declare their candidacies. International observers were present and satisfied with the election. The incumbent President Pires of the PAICV received a second term with 51 percent of the vote. The MPD Presidential candidate, Carlos Veiga, won 49 percent of the vote. On February 21, Veiga petitioned the SCJ to annul the Presidential election results; he stated the elections were not free or transparent. On March 11, the SCJ ruled there were no legal grounds for annulment and confirmed President Pires as the winner.

Although the National Electoral Commission (CNE) and the SCJ declared the legislative and Presidential elections generally free and fair, they also recognized that there were some irregularities in both elections. The CNE noted that the electoral code needed to be amended to provide greater security and transparency. It also cited a need for stricter, more consistent voter identification and registration processes, and the adoption of indelible ink on ballots.

There were 11 women in the 72-seat National Assembly. There were seven women in the 21-member cabinet, and one woman on the SCJ.

There were no members of minorities in the Government.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year.

The law provides for freedom of access to governmental information without restriction, provided that privacy rights are respected; however, there were no requests for such information during the year.

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

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

There were three private human rights groups: the National Commission of the Rights of Man, the Ze Moniz Association, and the Alcides Barros Association.

The powers of the independent ombudsman, who would serve a five-year term, were defined in 2003; however, no ombudsman had been elected by year's end.

In January Amnesty International (AI) visited the country; AI did not release a report on the visit during the year.

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

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not enforce these provisions effectively, and violence and discrimination against women and abuse of children were serious problems.

*Women.*—Domestic violence against women, including wife beating, was widespread. The Government and civil society encouraged women to report criminal offenses such as spousal abuse, which is punishable by 2 to 13 years' imprisonment; however, longstanding social and cultural values inhibited victims from doing so. The law protects certain rights of the victims of sexual, mental, and verbal abuse; however, it does not ensure compensation. While there were mechanisms to deal with spousal abuse, these mechanisms neither ensured the punishment of those responsible nor effectively prevented future violence. Nevertheless, reports to police of domestic violence continued to increase during the year. There were police and judicial delays in acting on abuse cases. Violence against women was the subject of extensive public service media coverage in both government- and opposition-controlled media.

Women's organizations, such as the Women Jurists' Association, continued to seek legislation to establish a special family court to address crimes of domestic violence and abuse; however, there was no such legislation by year's end.

Rape, including spousal rape, is a criminal offense, but the Government generally did not effectively enforce the law. The law protects certain rights of rape victims; however, it does not ensure compensation. The penalties for rape were 8 to 16 years' imprisonment. NGOs such as The Association in Support of Women's Self-Promotion in Development and The Cape Verdean Women's Organization held campaigns against rape.

Prostitution of minors is forbidden by law, but the Government generally did not enforce it. Sex tourism was a growing problem, but there are no laws to address it.

Sexual harassment was very common, but not culturally perceived as a crime. It is prohibited by law with a penalty of one year in prison, but the Government did not effectively enforce this.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system.

Women were frequently neglected by the police when they filed legal complaints against their husbands.

Despite legal prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continued. Although they often were paid less than men for comparable work, women were making inroads in various professions, especially in the private sector.

The Women Jurists' Association provided free legal assistance to women throughout the country suffering from discrimination, violence, and spousal abuse.

*Children.*—The Government was committed to children's rights and welfare. The Government provided free and universal education for all children aged 6 to 12. Education was compulsory until age 11; however, secondary education was free only for children whose families had an annual income below approximately \$1,951 (160,000 escudos). There was a 100 percent basic education enrollment rate for all children; the enrollment rate in secondary school for all children was 70 percent.

The Government provided free primary health care for children, and boys and girls had equal access.

Child abuse and mistreatment and sexual violence against children were serious problems. The media reported cases of sexual abuse against children and adolescents. Government efforts to address these problems were inadequate.

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

*Trafficking in Persons.*—The law prohibits trafficking in minors, but not adults, and there were reports that persons were trafficked to and from the country. Police reports alleged that the country was a transit point for trafficking in persons from West African countries to the Canary Islands and to Europe. However, there was no concrete data to support this information.

Unlike in the previous year, there were no reports of trafficking in children. Sentences for trafficking in children range from 12 to 16 years' imprisonment. There were no prosecutions during the year. The Ministry of Justice and the Ministry of Internal Administration are responsible for combating trafficking. The Government did not extradite citizens who were accused of trafficking in other countries.

In 2005 the Government assisted the Spanish government with international investigation of eight female citizens involved in trafficking 179 adolescents from the country to Europe. In February the case was tried in Spain, and the women were sentenced to eight years' imprisonment for illegal emigration.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government effectively enforced these provisions. The Government did not effectively implement laws and programs to ensure access to buildings for persons with disabilities. Several NGOs, including an association for the blind, were active.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 22 percent of workers were unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right of workers to bargain collectively; however, there was very little collective bargaining, and no collective bargaining agreements during the year. Workers and management in the small private sector, as well as in the public sector, normally reached an agreement through negotiations. Although there were no collective labor contracts, workers succeeded in negotiating important issues such as salary increases; however, as the country's largest employer, the Government continued to play the dominant role in setting wages. It did not fix wages for the private sector, but salary levels for civil servants provided the basis for wage negotiations in the private sector.

The law provides union members with the right to strike, but the Government at times limited this right. When workers attempted to strike, the Government invoked a "civil request" under which it had the power, in an emergency or if a strike threatened coverage of basic needs, to list minimum services that a union must continue to provide during any strike.

There are no special laws or exemptions from regular labor laws in the one export processing zone, which encompasses the whole country.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, but the Government did not effectively implement them in practice. The law prohibits children under the age of 16 from working at night, more than seven hours per day, or in establishments where toxic products were produced; however, the Government rarely enforced the law.

Child labor was a problem. Child labor was identified mostly in the cities, where children work independently washing cars on the streets, and in the countryside, within low income families where children do domestic work. The legal minimum age for employment was 16 years, which was inconsistent with the age for completing educational requirements (see Section 5).

The ministries of justice and labor were responsible for enforcing child labor laws; however, such laws were seldom enforced.

*e. Acceptable Conditions of Work.*—There were no established minimum wage rates in the private sector. Large urban private employers linked their minimum wages to those paid to civil servants. For an entry-level worker, this wage was approximately \$146 (12,000 escudos) per month. The majority of jobs paid wages that did not provide a worker and family with a decent standard of living; most workers relied on second jobs and extended family support.

The law provides for a maximum workweek for adults of 44 hours, prohibits excessive compulsory overtime, and requires that a premium be paid for hours beyond the standard workweek. There is a required rest period of 12 consecutive hours per week. While large employers generally respected these regulations, many domestic servants and agricultural laborers worked longer hours.



The director general of labor conducted sporadic inspections to enforce the labor code and imposed fines on private enterprises that were not in conformity with the law; however, the Government did not enforce labor laws systematically, and much of the labor force did not enjoy legal protection. The Government has not set occupational health and safety standards; however, there is a general provision in the law that requires employers to provide a healthy and safe work environment. Few industries employed heavy or dangerous equipment. The law does provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

## CENTRAL AFRICAN REPUBLIC

The Central African Republic (CAR) is a constitutional republic whose population of approximately 4.1 million is governed by a strong executive branch and weak legislative and judicial branches. In March and May of 2005, the country held two rounds of multiparty Presidential and legislative elections that resulted in the election of General Francois Bozize, the country's former armed forces chief of staff, as President; in 2003 Bozize seized power in a military coup, declared himself President, and headed a transitional government until the 2005 elections. National and international observers judged the elections to be generally free and fair and representative of the people's will, despite irregularities and accusations of fraud by candidates running against Bozize.

Fighting between rebels and government security forces contributed significantly to a "political and military crisis," according to a UN report released in December. The fighting resulted in numerous civilian killings and, along with widespread banditry and kidnappings by unidentified groups, caused the displacement during the year of approximately 185,000 persons, almost 5 percent of the population. The sharp deterioration of the security and humanitarian situation in the country was compounded by regional instability and arms proliferation. Despite the presence of almost 400 peacekeeping soldiers from neighboring member countries of the Economic and Monetary Union of Central Africa (CEMAC), lawlessness persisted in large swaths of the country, particularly in the north, and analysts estimated that only 2 percent of the country's territory was under state authority. Civilian authorities did not maintain effective control of security forces.

Many observers said the Government's counteroffensive against rebels in the northwest targeted the population of the region—a traditional stronghold of the opposition party—which made it difficult for the Government to collect intelligence about the rebel movement and further alienated communities already suffering from socio-economic marginalization due to long-term insecurity.

The Government's human rights record remained poor; although there were improvements in some areas, the Government's respect for human rights deteriorated overall, and serious problems remained. Reports of extrajudicial killings by the Central Office for the Repression of Banditry (OCRB) decreased, but reports of the military killing civilians increased sharply due to government counteroffensive operations against rebels in the north. Acts of torture, beatings, rape, and other abuses of suspects and prisoners by security forces continued to be a problem. Impunity, particularly military impunity, worsened. Conditions in prisons and detention centers remained harsh and life threatening. The Government's use of arbitrary arrest and detention increased significantly, particularly following fighting in the north between rebels and the military, which contributed to an increase in political detainees. Prolonged pretrial detention, denial of a fair trial, and judicial corruption continued to be problems. The Government restricted freedom of the press, although to a lesser extent than in the previous year. Freedom of movement deteriorated greatly because of actions by security forces, armed bandits, and rebels. Government corruption and lack of access to government-held information—particularly information related to the security situation—remained serious problems. In addition societal violence, including female genital mutilation (FGM), discrimination against women, and societal discrimination against indigenous people (Pygmies) also remained problems. Restrictions on workers' rights, child labor, and forced labor—including forced child labor—also were serious challenges facing the country.

Unidentified armed groups—thought to be common criminals and remnants of insurgency groups from previous conflicts, including former pro-Bozize combatants from Chad—continued to attack, kill, rob, beat, and rape civilians and loot and burn villages in the north. Kidnappings by unidentified armed groups increased during the year, contributing significantly to the country's massive population displacement.

In addition several politically motivated rebel groups in the northwest and northeast—including the Restoration of the Republic and Democracy (APRD) and the Union of Democratic Forces for Unity (UFDR)—emerged during the year and resulted in an increase in attacks on civilians across the country, including counter-offensive attacks by the military, which accused some civilians of supporting the rebels. Rebels of the APRD partly controlled areas in the northwest, allegedly with support from Chadian rebels. Well-armed members of the UFDR in the northeastern region bordering Sudan and Chad attacked and overran the Gordil military camp in Vakaga Prefecture in June, resulting in casualties among the military and the multinational CEMAC peacekeeping force. Between October and December, the UFDR seized control of four towns in the northeast and demanded that the Government agree to negotiations on sharing political power with the rebel front, which by November had nominally united the country's various rebel groups under the name of the UFDR. The Government, which accused the Sudanese government of supporting the rebellion in the northeast, refused. With French military assistance, government security forces regained control of these towns by year's end; however, many feared that the rebels would relaunch their offensive.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed politically motivated killings; however, security forces continued to commit executions and other extrajudicial killings with impunity throughout the year. In addition the security forces, particularly the Presidential security forces (commonly known as the Presidential guard), killed numerous civilians suspected of supporting rebels.

The OCRB, a special antibanditry police squad, continued to arbitrarily execute suspected bandits without respecting the basic due process rights of the accused, and was responsible for other extrajudicial killings and deaths resulting from torture. However, it killed fewer individuals during the year, according to local non-governmental organizations (NGOs). The OCRB, which normally operated only in and around Bangui, committed such abuses with tacit government support and popular approval, partly because the OCRB's actions were seen as an effective means of reducing crime.

The OCRB often apprehended suspected armed robbers, bandits, and thieves after conducting informal, undocumented investigations; transported them to Cattin, a town three miles southwest of Bangui; shot and killed them; and then used open-air jeeps to drive the dead bodies through town in broad daylight (to exhibit the dead as a deterrent to crime) before depositing the bodies at a morgue. The director of the OCRB, however, claimed he was not aware of any extrajudicial executions. In 2005 the minister of the interior, who oversees the OCRB, and the minister of justice stated that while the OCRB killed suspects during the year, they believed that these killings occurred only after OCRB members were shot at by suspects attempting to evade apprehension.

There were no developments in the March 17 killing of Yacoub Ibrahim by members of the OCRB in the Bangui neighborhood of Kilometre 5.

The Government generally did not prosecute OCRB members responsible for killings committed during the year. The minister of justice said that most parents of suspected criminals killed by the OCRB did not file complaints with the judicial system because of the social stigma associated with being related to accused criminals. The public prosecutor and UN officials, however, said they believed that many victims' families did not file complaints against the OCRB because of fear of retribution and the widespread belief that the OCRB enjoyed almost total impunity.

During the year there were credible reports that security forces committed other unlawful killings, including during the apprehension of suspects, as well as killings allegedly in connection with personal disputes or rivalries. For example, on January 2, following a dispute that began at a bar in Bangui between two members of the security forces, Staff Sergeant Jean-Claude Sanze shot and killed Lieutenant Wilfrid Yango Kapita, a member of the Presidential guard, in Boy-Rabe, a Bangui neighborhood. After the killing Sanze took refuge at the headquarters of the country's UN Peacebuilding Support Office (BONUCA), where he was allowed to spend the night. The following morning, at the request of the public prosecutor, a criminal investigations officer took custody of Sanze and the public prosecutor assured BONUCA that Sanze would be protected until his trial. That same day, while Sanze was incarcerated in the Research and Investigation Section of the National Gendarmerie, Presidential guard members who had been close to Kapita forcibly removed Sanze from his prison cell, tortured him, shot and killed him on the premises of the gendar-

merie, and disfigured and exposed his remains to the public. On the same day, Presidential guard members also ransacked and looted the residence of Nicolas Tiangaye, a lawyer and former President of the country's National Transition Council, to whom Sanze had periodically provided security. Although the Government informed BONUCA that an investigation had been launched, by year's end the Government had not take any judicial or disciplinary action against the Presidential guard members responsible for the killing.

On January 5, following the funeral for Sanze, members of security forces reportedly shot and killed two mourners. By year's end authorities had made no arrests in connection with the killings.

On August 28, Sergeant Adomi Wilibona, a Presidential guard member, reportedly shot two young street vendors at a coffee bar near the Central Market in Bangui. At year's end the case was pending before the Permanent Military Tribunal.

On September 21, Captain Achille Lakouama, a military surgeon and assistant doctor of President Bozize, shot and killed Pascal Bembe, director of the Presidential Protocol Office, outside Bembe's house during the negotiation of a loan repayment. After the alleged killing, Lakouama reportedly took refuge in the residence of an absent President Bozize, who later granted him special protection and confinement. After protests by the archbishop of Bangui and local human rights NGOs, authorities arrested Lakouama and said he would be brought before the Permanent Military Tribunal during its December session; however, the tribunal canceled this session due to lack of available funds. At year's end Lakouama remained in detention at a military camp, according to his lawyer.

In December, in an incident that further highlighted the tension between Chadian members of the Presidential guard (some of whom helped President Bozize seize power in 2003) and CAR members of the security forces, Chadian members of the Presidential guard attacked a military police station in Bangui, abducted a gendarme and a youth, and reportedly killed them by slitting their throats. The incident occurred after a group of youths stoned to death a Chadian member of the Presidential guard, who had stabbed a CAR police officer in an attempt to steal his car, according to press reports. By year's end, the police officer had recovered in the hospital, and there were no reports of any legal or disciplinary action taken against anyone involved in the incident.

During the year there were numerous instances in which the security forces, particularly the Presidential guard, killed civilians suspected of supporting rebels. For example, following attacks by APRD rebels on military targets in the northwest, security forces led by Lieutenant Eugene Ngaikousse, a member of the Presidential guard, reportedly conducted reprisal attacks on numerous villages near the Chadian border between January 29 and 31, on February 11 and 18, and on March 22. According to credible reports, during the reprisal attacks, Presidential guards indiscriminately killed up to 100 civilians in the northwestern prefectures of Ouham Pende and Ouham. While the Government said that insurgents were dressed in plain clothes and difficult to identify, victims of the security forces' attacks reportedly included several school children (some as young as 10 years old), as well as teachers, a village chief, and a municipal police officer. Ngaikousse's counteroffensive campaign forced at least 7,000 residents to flee to southern Chad and several thousand others to abandon their villages and take refuge in the bush.

According to multiple credible sources—including Bangui-based journalists who were allowed limited access to Paoua and Markounda in March, Amnesty International (AI), the International Committee of the Red Cross (ICRC), and interviews by foreign diplomats with CAR refugees who fled to southern Chad during the year—in the Ouham Pende prefecture town of Paoua alone, security forces killed at least 35 civilians in late January. Soldiers executed three students for failing to lead them to insurgents and arms caches, and four unidentified bodies were burned in the local gendarmerie. Ngaikousse's forces accused youths of being traitors and rebel sympathizers before torturing and summarily executing some of them, including 17 students from Paoua College. Among the 50 civilians killed by security forces on February 11 were seven students who were beaten to death; that same day government forces burned or destroyed more than 10 villages near Paoua. AI, local journalists, and local NGOs called on the Government to establish an independent commission to investigate the killings and punish members of security forces responsible for the attacks; however, by year's end no such commission had been formed. No action was taken against Ngaikousse. The public prosecutor said authorities arrested some members of security forces responsible for killings and other abuses during the year and that they were scheduled to be tried by a court in 2007; however, it was unclear whether any of these arrests were in connection with the alleged killings and other abuses mentioned above.

In late September and early October, government forces killed, tortured, and raped an undetermined number of residents during fighting between security forces and APRD rebels in and around the Gribingui prefecture village of Wandago, near the city of Kaga-Bandoro.

During November and December, humanitarian groups, which could not access the northeast due to insecurity, received phone calls from residents in Birao, the capital of Vakaga Prefecture, alleging that the military had committed executions and rape there during a counteroffensive mission against UFDR rebels. By year's end there was no confirmation of these reports and no additional information.

In early December during a counteroffensive campaign against APRD rebels, security forces reportedly accused the residents of Zoumbeti, a Gribingui prefecture village (30 miles south of Kaga-Bandoro), of collaborating with the rebels and looted and burned down their village; two elderly men were burned to death in their homes, according to the village's deputy chief.

The Government arrested some members of the military who allegedly killed persons during the year. However, by year's end the Permanent Military Tribunal, which was normally charged with handling such cases, had held no trials due to constraints on funding, according to officials. Approximately 50 cases, including 18 killings, remained pending.

During the first part of the year, the public prosecutor continued to conduct a criminal investigation of Lieutenant Jean-Celestine Dogo regarding his role in the alleged torture and killing of two men in 2004. Although President Bozize had officially dismissed Dogo from the security forces in 2004 (following Dogo's temporary arrest in connection with the killings), there were numerous credible reports during the first five months of the year that Dogo continued to serve in the security forces and commit violations against civilians (see Section 2.a.); the Government, however, denied these reports. In late May Dogo was killed by a rebel ambush during a military mission in Vakaga Prefecture. After President Bozize attended Dogo's funeral, some observers criticized the Government for failing to ensure that Dogo no longer operated in the security forces and for failing to combat impunity in the security forces.

There were no arrests in the case of a man who died from severe injuries—allegedly inflicted by Dogo and other Presidential guard members—shortly after being found in a bag in September 2005.

While unidentified armed bandits had contributed to the country's instability for many years, during the year they demonstrated a growing willingness to kill civilians. For example, on March 7, unidentified armed men shot and killed the mayor of Bossangoa, Jean Brice Guenefei; rebels of the Patriotic Movement for the Restoration of the CAR later claimed responsibility, although some observers were doubtful of the veracity of this claim. In addition, on March 15, unidentified armed individuals shot and killed another mayor, Kossi Augustin, and his son, in their home in the Ouham prefecture village of Korom-Mpoko. By year's end there were no reports of authorities making arrests in connection with these killings.

On April 9, unidentified armed men in uniform attacked a vehicle clearly marked as UN property near Yaloke in Ombella Mpoko Prefecture, killing two doctors on a World Health Organization (WHO) mission, Eric Kelembho and Joachim Kaba Mbri. By year's end authorities had made no arrests in connection with the killings.

During the year there were weekly reports of unidentified armed men in uniform forcibly entering personal residences at night in and around Bangui to kill and harass civilians and to loot personal belongings.

Although information about these armed groups and highway bandits was difficult to obtain, aid workers and UN officials said they believed the armed groups were a mix of common criminals and remnants of insurgent groups from recurring conflicts in the region. Some human rights observers said they believed that many of the armed groups were comprised of the same rebels and mercenaries, including Chadian former combatants, who helped Bozize seize power in the 2003 coup, and that since Bozize had been unable to pay them what they considered a proper compensation after he seized power, the former combatants were exacting payments from civilians by force.

Civilians continued to take vigilante action against presumed thieves, poachers, and some persons believed to be Chadian combatants.

Mobs reportedly continued to kill and injure suspected sorcerers or witches during the year. For example, on October 23, local media reported the killing of a nine-year-old girl who was seriously burned and subsequently died after she was accused of being a sorcerer. Authorities arrested two members of her family and detained them at the women's prison in Bangui. The case was pending before a court at year's end.

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

During the year unidentified armed groups conducted kidnappings of M'bororo children for ransom (see Section 5).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law and the constitution prohibit torture and specify sanctions for those found guilty of physical abuse, police, including the OCB, continued to torture, beat, and otherwise abuse criminal suspects, detainees, and prisoners, according to local human rights groups such as the Association Against Torture (ACAT) and the Central African Human Rights League (LCDH). The Government did not take effective action to punish police who tortured suspects, and impunity remained a problem. Family members of victims and human rights groups, including the LCDH, pursued court complaints filed since 2003 with the prosecutor regarding the deaths of several prisoners due to police abuse; however, authorities did not take action on any of the cases by year's end. The LCDH reported the abuse of civilians by the Presidential security forces and filed court complaints of police abuse.

Police most commonly employed a form of torture known as *le cafe*, the repeated beating of the sole of an individual's feet with a baton or stick. Immediately after administering *le cafe*, police would sometimes force the individual to walk on badly bruised feet, and if the individual was unable to do so, police would further beat the individual.

During the Criminal Court's session in September, many prisoners, including 14 people arrested for endangering the security of state, testified before the court regarding the cruel and inhuman treatment they received from security forces during their detention. Some said that they were beaten and frequently tortured, and some of them had serious injuries, including broken legs or arms.

On October 23, members of the OCB seriously beat and tortured National Assembly member Ali Kassala and placed him in a jail cell following a dispute in Bangui. Kassala had gone to the OCB headquarters to demand the release of his relatives, who had been arrested and detained by the OCB. Kassala was brought before a prosecutor and released a few hours later. Several parliamentarians noted Kassala's parliamentary immunity and criticized the police's mistreatment of their colleague. They requested an investigation and called on the Government to take action against the OCB members responsible for the abuses. At year's end no additional information was available.

In late September and early October, government forces tortured and raped an undetermined number of residents during fighting between security forces and rebels (see Section 1.a.).

In December security forces beat the deacon of a Bangui church (see Section 1.f.).

Security forces rarely were punished for committing acts of violence against civilians. However, in September authorities arrested Commandant Ambroise Azoukateme, a member of the OCB and the chief of an anti-narcotics police squad, for abuses committed against detainees including torture, inhuman treatment, beatings, arbitrary arrest, and fraud. During the last quarter of the year, a court sentenced him to two years in prison.

According to the magistrate of the Permanent Military Tribunal, 32 members of the military arrested during the year on charges of committing beatings, torture, and killings were scheduled to be brought before the court by the year's end; however, the tribunal postponed its December session and had heard no cases by year's end due to what officials said was a lack of available funding. Among those arrested was Lieutenant Grepe, who was arrested in September for committing abuses against detainees.

By year's end, there were no reports that the Government had taken action against members of security forces responsible for the following acts of torture and beatings committed in 2005: the January beating of Rufin Louango, an employee of a foreign embassy, by Lieutenant Dogo in Bangui; the March beating of three young individuals after an arbitrary search of their Bangui home by former Lieutenant Dogo, Presidential security forces member Lieutenant Olivier Koudemon (alias Gbangouma), and a member of the armed forces named Aziz; the allegedly ethnically motivated beating in March of Sergeant Marcel Kila, a Yakoma, by two unidentified military officers of the Gbaya ethnicity, near the Berengo military training center; the June beating of a taxi driver in the Kilometre 5 neighborhood of Bangui; or the October beating of Jean-Michel Mandaba, deputy secretary of former President Patasse's Central African People's Liberation Movement (MLPC), and Joseph Tchendo, President of the country's media regulatory body, in Bangui.

Members of the armed forces often committed other abuses against civilians, including armed robbery and racketeering. No action generally was taken against these soldiers.

Members of security forces, particularly members of the military, raped civilians during the year. There were reports that security forces continued to commit rape, including collective rape, often in school buildings at night; however, there were fewer reports that security forces raped women than in the previous year. Security forces rarely were punished for raping civilians; for the most part, perpetrators either escaped police custody or were released by fellow soldiers and other security agents.

In October human rights observers reported that a member of the army attempted to rape a 15-year-old girl and seriously injured her in the Gribingui prefecture town of Kaga-Bandoro. The girl's parents filed a complaint before the Permanent Military Tribunal, and at year's end an investigation was underway.

There were no reports that the Government had taken action against the five uniformed military officers responsible for the April 2005 rape of a young girl near the central market of Bangui, or the September 2005 rape of a 16-year-old girl in a Bangui neighborhood by a police officer.

During the year unidentified armed groups continued to attack, rob, beat, and rape civilians in villages and those traveling on main routes, mostly in the countryside.

The International Criminal Court (ICC) continued to consider whether it would investigate a complaint filed by the Government in 2005 against former President Patasse, Jean-Pierre Bemba, the vice President of the Democratic Republic of the Congo (DRC) and a former rebel leader, and others for crimes against humanity committed prior to and during the 2003 coup (see Section 4).

During the year a combination of rebels, bands of unidentified armed men, and government soldiers attacked civilians in the northwest and northeast. During these attacks, the perpetrators tortured, beat, and raped civilians; burned and looted homes; and forced more than 35,000 civilians to flee the country (see Sections 1.a., 1.c., and 2.d.). For example, in late September and early October, members of the Presidential guard reportedly burned or destroyed 10 villages around the Ouham-Pende prefecture town of Paoua, including Botona and Kebe. The Presidential guard denied involvement in the arson attacks.

*Prison and Detention Center Conditions.*—Prison conditions were extremely harsh and well below international standards; prison conditions outside Bangui generally were worse. There were reports that guards tortured prisoners. There were an estimated 1,000 prisoners in the country. Most of the prisons outside of Bangui were completely destroyed during the 2003 fighting. Prison cells were overcrowded, and basic necessities, including food, clothing, and medicine were inadequate and often confiscated by prison officials. Prisoners depended on family members to supplement inadequate prison meals and were sometimes allowed to forage for food near the prison. Prisoners frequently were forced to perform uncompensated labor. Unlike in the previous year, this work involved public works projects rather than work at the residences of government officials and magistrates.

There were two prisons in Bangui: Ngaragba central prison for men and Bimbo central prison for women. Inmates with infectious diseases lived among healthy inmates, and medicine was either unavailable or too expensive. Detainees and inmates at both prisons received one meal per day; meals were insufficient and consisted of cassava, rice, and either green beans, fish, or (occasionally) meat, depending on the day of the week. Inmates slept on the floor or on thin matting provided by their families or charities. A few shower stalls, interior open-air courtyards, and weekly visiting hours were available to all detainees and prisoners at both prisons.

On October 20, Ngaragba held 350 individuals, including 180 pretrial detainees. Several detainees had been detained for seven months and had not yet appeared before a judge. On average, there were 10 individuals in each common room. In the prison section reserved primarily for former government officials suspected or convicted of financial crimes, common rooms held four persons on average.

Bimbo's population consisted primarily of pretrial detainees, most of whom were women accused of sorcery. Several individuals had been detained for four months and had not appeared before a judge; few had lawyers. Prison officials allowed detainees and prisoners to be sent to a nearby hospital when they became ill. Overcrowding was reportedly not a problem, and children younger than five years old were allowed to stay with their mothers at the prison. There were no reports of rapes or sexual harassment by the all-male prison guard staff.

Male and female prisoners were held in separate facilities in Bangui but housed together elsewhere. Pretrial detainees were not held separately from convicted prisoners.

Conditions in detention centers were worse than those in prisons and in some cases were life-threatening. Bangui's detention centers consisted of overcrowded cells with very little light and leaky buckets for toilets. According to the local

human rights groups, lack of training and poor supervision at detention centers were serious problems and continued to result in torture and beatings. Suspects in police and gendarmerie cells had to depend on family, friends, religious groups, and NGOs for food. Several detainees complained that they had not eaten in two days, had not been allowed to bathe or shower in two weeks, and had lice. Detainees with infectious diseases lived among healthy prisoners, and medicine was not available. Suspects generally slept on bare cement or dirt floors. Corruption among guards, who had not been paid in months, was rife. Guards often demanded between \$0.37 (200 CFA francs) and \$0.55 (300 CFA francs) to permit showers, allow for the delivery of food and water, or permit family visits.

During visits in May by AI delegates and a foreign diplomat to several detention centers in Bangui, a single five-square-meter cell at the National Gendarmerie's Research and Investigation Department (SRI) housed 12 detained soldiers accused of desertion (see Section 1.d.). The cell was dirty, had no toilet, and smelled of human waste. Detainees noted that during storms, which were frequent in the rainy season, the cell was flooded, subjecting the soldiers to illnesses. At the Port Police Station, the cell also smelled of human waste and had no sleeping facilities. One of the detainees whom AI encountered, Mohammed Diakite, a Malian, had been detained there for two months, appeared to be approximately 16 years old, and was virtually unable to communicate due to mental illness. He was being held for alleged illegal entry into the country but had not been seen by a judge.

In Bangui, male and female detainees were separated; however, they reportedly were not separated in detention facilities in the countryside. There were no separate detention facilities for juvenile prisoners, who routinely were housed with adults and often subjected to physical abuse.

The Government permitted prison visits by human rights observers. The ICRC and religious groups routinely provided supplies, food, and clothes to prisoners. The ICRC and the human rights unit of BONUCA had unrestricted access to prisoners. In May AI delegates visited several detention centers in Bangui.

*d. Arbitrary Arrest or Detention.*—The law provides protection against arbitrary arrest and detention and accords the right to a judicial determination of the legality of detention; however, security forces frequently ignored such provisions, and there was a significant increase in the use of arbitrary arrest and detention during the year.

*Role of the Police and Security Apparatus.*—The National Police, including the OCRB, are under the director general of police, who is under the Ministry of Interior and Public Security. The military forces, including the Presidential guard and the National Gendarmerie are under the Ministry of Defense. Both the police and military share responsibility for internal security.

As part of its efforts to protect citizens and safeguard property, the Government continued to support joint security operations in the capital conducted by the armed forces, CEMAC peacekeepers, and French forces.

Police were not effective, partly as a result of salary arrears owed by the Government and a severe lack of resources. Many citizens lacked faith in the police; consequently, mob violence against persons suspected of theft and other offences remained a problem (see Section 1.a.). Corruption in the police, including the use of illegal roadblocks to commit extortion, remained a serious problem (see Sections 2.d. and 3). During the year the LCDH accused the security forces of terrorizing the population, killing civilians, and committing armed robbery with impunity. Despite being criticized by local human rights groups and the media for committing numerous, serious human rights abuses, the OCRB continued to expand its mission, which local NGOs said was cause for concern. Although the OCRB was created to function only in Bangui and to focus on combating violent banditry, the OCRB increasingly investigated, detained, and abused persons accused of lesser crimes such as embezzlement and petty theft; it also conducted some operations outside Bangui.

There were mechanisms available to investigate police abuses. Citizens could and did file complaints of police abuse with the public prosecutor of the republic. The most common complaints involved thefts, rape, brutality, and embezzlement. With the assistance of BONUCA and the high commissioner of human rights and good governance, the prosecutor actively investigated numerous complaints of police abuse, including reported killings; however, impunity remained a severe problem. The prosecutor had the authority to order the arrest of police officers suspected of committing abuses and exercised that authority during the year; however, the prosecutor's staff was small, had only one computer (a gift from an NGO), and was severely lacking in other resources.

The public prosecutor said the Government prosecuted three OCRB members for abuses committed against civilians during the year. For example, in September the

public prosecutor arrested a prominent member of the OCRB, the head of the anti-narcotics police squad, for serious abuses committed against detainees and other civilians (see Section 1.c.). In addition a court convicted and sentenced two police superintendents for use of arbitrary detention and torture; no additional information was available by year's end.

BONUCA continued to provide security forces agents, including police officers, with human rights training.

*Arrest and Detention.*—Judicial warrants are not required for arrest. The law stipulates that persons detained in cases other than those involving national security must be brought before a magistrate within 48 hours, although this period is renewable once, for a total of 96 hours. In practice authorities often did not respect this deadline, in part due to inefficient judicial procedures and a lack of judges. By law national security detainees are defined as those held for crimes against the security of the state. National security detainees may be held without charge for up to eight days, and this period can be renewed once, for a total of 16 days. However, in practice persons were held without charge for long periods. The law allows detainees to have access to their family and to legal counsel. Indigent detainees may request a lawyer provided by the Government. Detainees are allowed to post bail or have family members post bail for them. Lawyers and families generally had free access to detainees.

Security forces arbitrarily arrested and detained numerous persons, and the Government's use of arbitrary arrest and detention increased during the year.

Between February and May the Government arrested more than 40 individuals suspected of supporting or engaging with several armed political groups seeking to overthrow the Government of President Bozize. Many of the detainees claimed to have been arrested solely because of their known or suspected family connections with opponents of the Government (see Section 1.e.).

In May authorities arrested approximately 50 soldiers after they allegedly refused to fight against rebels in the northeast. Authorities accused them of desertion, but the soldiers said they had come to Bangui to collect their allowances, which they had not received for several months. In May approximately 15 were being held in harsh conditions at the SRI in Bangui, and according to local human rights defenders, 40 other soldiers reportedly were held at the Kassai barracks on the outskirts of Bangui. By year's end authorities had released all soldiers accused of desertion.

By year's end authorities had released the following persons: high school student Guy Aime Nzawouin, whom police had arrested in March 2005 on charges of selling voter registration cards; Joseph Clotaire Abanda-Kaya, the country's charge d'affaires in the DRC, whom authorities had arrested in April on charges of preparing a coup d'etat; and MLPC member Marcel Bagaza and three other men—Kalme Djakobaye Sindo, Alexandre Marboua, and Edourd Beroge—who were acquitted by a court during the year following their arrests in August 2005 on charges of fraud.

Unlike in the previous year, there were no reports that security forces arrested or detained a journalist; however, authorities arrested and briefly detained a labor leader (see Section 6.a.).

During the year individuals, particularly women, continued to be arrested and charged with the practice of witchcraft, or sorcery, which was punishable by execution, although no one received the death penalty during the year (see Section 1.e.). Prison officials at Bangui's Bimbo central prison for women said that persons accused of sorcery were arrested and detained or imprisoned for their own safety since village mobs sometimes killed suspected sorcerers or witches (see Section 1.a.). In late 2005 Bangui prison officials estimated that 50 to 60 percent of female detainees were arrested in connection with charges of sorcery or witchcraft. Human rights observers said the belief in sorcery was so entrenched in the country that attempts to abolish legal recognition of the crime would be very difficult; however, observers said they were continuing to push for fair trials of those accused of the crime (see Section 1.e.).

Prolonged pretrial detention was a serious problem. At year's end pretrial detainees in Bangui comprised 52 percent of Ngaragba's prison population and an estimated 50 percent of Bimbo's prison population. Detainees usually were informed of the charges levied against them; however, many waited in prison for several months before seeing a judge. Judicial inefficiency, corruption, severe financial restraints on the judicial system, and a lack of judges contributed to pretrial delays. Some detainees remained in prison for years because of lost files and bureaucratic obstacles.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the judiciary remained subject to the influence of the executive branch. Judges are appointed by the President after being nominated by the Superior Council of Magistrates. The courts barely functioned due to inefficient adminis-



tration of the courts, a shortage of trained personnel, growing salary arrears, and a lack of material resources. For example, the Ministry of Justice had only one computer and one printer to serve the entire country. In addition, many citizens did not have access to the judicial system. The Ministry of Justice occasionally had sufficient funds to send judges to geographically isolated communities located great distances from the nearest courthouse, but the average citizen had to travel at least 31 miles to reach one of the country's 25 courthouses. More courts were being established beyond the capital; however, traditional justice ordered by the head of a family or a village retained a preponderate role in settling conflicts and administering punishments. Furthermore, for the entire population, there were fewer than 150 judges, many of whom were not intimately familiar with the national laws. The overwhelming majority of citizens did not have the opportunity to be defended by a barrister, as there were fewer than 40 practicing lawyers in the country, almost exclusively in Bangui.

Judicial corruption remained a serious impediment to citizens' right to receive a fair trial. According to the LCDH, the judicial system was "rotten," from the judges down to the bailiffs. Many lawyers would pay judges to receive verdicts favorable to their clients. There were, however, some efforts to combat judicial corruption. The Ministry of Justice continued to implement a zero-tolerance policy; although the ministry suspended four judges suspected of engaging in corruption in 2005, it was not known whether the special disciplinary council reviewing their conduct had taken any action, or whether other judges were suspended during the year. During the year the Ministry of Justice continued to conduct a standard ministry-wide review every two months to identify areas where lack of efficiency might be hindering the judicial process. There was no additional information on these reviews at year's end.

The judiciary consists of a tribunal of first instance, the court of appeal, the cassation court, the high court of justice, the Supreme Court, commercial and administrative courts, a military court, and the Constitutional Court. The highest court is the Constitutional Court, which determines whether laws passed by the National Assembly conform to the constitution. The Constitutional Court also receives appeals challenging the constitutionality of a law. Lower courts hear criminal and civil cases and send appeals to the court of appeals.

The Permanent Military Tribunal judges only members of the military.

There were numerous reports that, due to judicial inefficiency, citizens in a number of cities established their own courts to deal with cases through parallel justice, especially in cases of suspected witchcraft; however, the minister of justice disputed the existence of such alternative courts.

*Trial Procedures.*—Trials are held publicly, and defendants have the right to be present and to consult a public defender. Juries are used in the penal court for criminal trials. If an individual is accused of a serious crime and cannot afford a lawyer, the Government has an obligation to provide one. Defendants also have the right to question witnesses, to present witnesses and evidence on their own behalf, and to have access to government-held evidence relevant to their case. Defendants are presumed innocent until proven guilty, and if convicted, defendants have the right to appeal. The Government generally complied with these legal requirements; however, the judiciary did not enforce consistently the right to a fair trial, and there were many credible reports of corruption within the court system. According to the minister of justice, there continued to be a grave lack of neutrality among judges, many of whom were significantly influenced by politics in their rulings. One ethnic group in particular was reportedly subject to legal discrimination and unfair trials (see Section 5).

During the year the OCRB continued to commit extrajudicial killings of persons suspected of being violent recidivists. The Government and, to some degree, the citizenry tolerated these acts, in part because of a general lack of faith in the judicial system (see Section 1.a.).

Witchcraft or sorcery is a crime punishable by execution, although no one accused of witchcraft received the death penalty during the year. Most individuals convicted of sorcery received sentences of one to five years in prison; they can also be fined up to \$1,500 (817,800 CFA francs). During a typical trial of someone accused of sorcery, traditional doctors were called to give their opinion of the suspect's ties to sorcery. "Truth herbs" were used to make a suspect "confess." Neighbors were called as witnesses and, because spells were believed to involve burying bits of clothing, sample cuttings of clothes were brought before the jury as evidence. Police and gendarmes conducted investigations into witchcraft.

The Permanent Military Tribunal, which judged only members of the military accused of crimes, held no sessions during the year due to what officials said was a

lack of available funding, and several cases involving human rights abuses against civilians remained pending at year's end (see Sections 1.a. and 1.c.).

*Political Prisoners and Detainees.*—There were no reports of the Government holding political prisoners during the year; however, there were several reports of the Government detaining persons for political reasons and holding at least some of them for most of the year. Authorities granted BONUCA's human rights unit and human rights NGOs access to many of these detainees during the year, although some of the detainees were held incommunicado initially and again later before their release.

Between February and May authorities arrested more than 40 persons accused of supporting rebel groups; authorities had reportedly released all of them by year's end. The series of arrests followed two key events: the January 29 attack by rebels on security forces in the northwestern town of Paoua, and the February arrest near Bangui of former army lieutenant Jean-Jacques Larmassoum. After being arrested, Larmassoum reportedly told authorities that he had been conspiring with former President Patasse to overthrow the Government, that he was the leader of the APRD rebels in the northwest, that the APRD had been responsible for attacks on security forces, and that he had been in Bangui to collect financial assistance from his supporters. Some of those arrested were relatives or personal friends of government opponents living abroad.

Many of those arrested were members of former President Patasse's ethnic group or his political party, the MLPC; among those arrested were a former prefect, Raymond Behourou, a former member of parliament, Mamadou Raikina, and a chief of police, Clotilde Gamo. In May authorities arrested Claude Yabanda, a member of the executive bureau of the opposition Patriotic Front for Progress for endangering state security. Yabanda, who denied having any connection with the MLPC as well as the Government's charge that he supported rebel groups, remained in prison until authorities, under pressure from human rights NGOs, released him in December.

Initially, authorities refused to allow the detainees to have access to legal counsel. Legal experts in the country expressed serious concern that the overwhelming majority of the detainees were not being held on grounds established by law or according to procedures established by law. For example, judicial officials failed to formally charge most of the detainees within the time frame of 48 hours as stipulated by the law.

Several weeks after their arrest, many of the detainees were still being held incommunicado, without charge, and without access to their families, lawyers, and doctors. According to AI, they had not appeared before an independent and impartial judge to challenge the basis for their arrest and continued detention. By June, after several weeks in detention, some of the detainees had been charged with endangering the internal security of the state and were transferred to Ngaragba and Bimbo prisons. However, according to AI, the majority of the detainees remained held without charge or trial at the SRI and other detention centers, such as the Camp de Roux military barracks in Bangui, where they were reportedly denied visits by their relatives and access to legal counsel. In September a court acquitted some of the defendants, but security forces refused to release them for several days (see Section 1.e.). In a report published in November, AI criticized the Government for arbitrarily arresting individuals, detaining them for several months without charge or trial, failing to respect a court's decision, and holding detainees in harsh and sometimes life-threatening conditions (see Sections 1.c., 1.e., and 4).

According to local human rights defenders, some detainees were apparently detained simply because they were related to leaders of armed groups, strongly suggesting that they were political detainees. For example one of those detained was Nelson N'Djader, the 17-year-old brother of Florian N'Djader, the leader of the northwestern rebel group Union of Republican Forces (Florian had claimed responsibility for attacks on security forces in January and was sentenced by a court to 10 years' imprisonment in September). Nelson, who was taken into custody on May 18 after applying for a visa at the embassy of the DRC (his mother's country of origin), told AI that prior to his arrest he had received numerous death threats by telephone and in person from members of security forces, who accused him of collaborating with his brother. AI concluded that "it appears [Nelson] was detained solely on account of his brother being a leader of an armed group, rather than [any] involvement [of his own] in armed insurrection." In October AI was informed that Nelson had been released on an unspecified date, although he was required to report regularly to authorities.

On September 12, the Criminal Court acquitted 14 persons accused of supporting rebels. Among those acquitted were Lydie Florence Ndouba, sister of former President Patasse's spokesperson, former member of parliament Mamadou Raikina,

former prefect Raymond Behourou, and Marcel Bagaza. The court concluded that the prosecution had failed to produce sufficient evidence against them and freed them on September 13. However, at the end of the trial, Presidential guard forces were sent to the court to prevent the detainees' release. The Presidential guard took the detainees illegally to the Ngaragba prison in Bangui and later in the evening, to Bossembele prison in the prefecture of Ombella-Mpoko. They were detained illegally for several days, including three days of incommunicado detention without food and in the same cell. Following protests from several civil society groups, including a strike by Members of the CAR Bar Association, the detainees were returned to Bangui and released on September 25. While the Government permitted BONUCA access to the detainees on a regular basis, many observers interpreted the Government's refusal to accept the acquittal as further evidence that the detentions had been politically motivated.

*Civil Judicial Procedures and Remedies.*—The constitution provides for an independent judiciary in civil matters, and citizens had access to a court to bring lawsuits seeking damage for abuses; however, there was a widespread perception that judges were easily bribed and that litigants could not rely on courts to render impartial judgments. Many courts were understaffed and personnel were paid poorly.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits invasion of homes without a warrant in civil and criminal cases; however, police sometimes used provisions of the penal code governing certain political and security cases that allow them to search private property without a warrant. Security forces continued to carry out warrantless searches for guns and ammunition in private homes.

During the year fighting between government forces and rebels resulted in the destruction of at least 1,700 homes, and aid agencies said they believed many thousands more had been destroyed, particularly in the northwestern provinces of Ouham and Ouham-Pende. The fighting, in addition to banditry and kidnappings by unidentified groups, forced approximately 185,000 residents to abandon their villages during the year to seek refuge in Chad (15,000) or Cameroon (20,000), or to live in the bush (150,000) (see Sections 1.a., 1.c., and 2.d.).

In January, following a dispute between two members of the security forces, members of the Presidential guard forcibly entered, ransacked, and looted the home of lawyer and prominent human rights defender Tiangaye (see Section 1.a.).

In February gendarmes searched for guns in the home of Christophe Douba, a member of the National Assembly belonging to the opposition party MLPC, without a warrant and without respect of his parliamentary immunity.

In December President Bozize announced that he had ordered security forces to burn several houses belonging to deacons of Kina Baptist Church. President Bozize gave the order, which provoked widespread criticism from domestic independent media, after the deacons had burned down a pastor's house following an interpersonal dispute. In addition, security forces arrested two deacons and beat one of them; authorities had released the two deacons by year's end. The President said the order to burn the houses was intended to deter parties in the dispute from committing additional acts of arson.

The Government continued to engage in wiretapping without judicial authority.

During the year there were weekly reports of unidentified armed men in uniform forcibly entering personal residences at night (see Section 1.a.).

There was no additional information on the July 2005 arrest by the OCRB of Gilbert Bissidi Beodo, President of a local Bangui chapter of the opposition party MLPC.

During the year unidentified armed groups attacked, looted, and burned homes in rural areas in the northern part of the country (see Sections 1.a., 1.c., and 2.d.).

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

*a. Freedom of Speech and the Press.*—The constitution and law provide for freedom of speech and of the press; however, despite the implementation of an almost completely decriminalized press law in 2005, the Government employed threats and intimidation to limit criticism of the Government, although there were fewer instances than in the previous year. On the whole, local media observers said there was greater press freedom during the year and attributed the increase to the new press law and the creation in February 2005 of the High Council of Communications (HCC), an independent institution composed of nine members, including journalists, charged with promoting press freedom and assisting the Government with media licensing and regulation. In addition the Central African Journalists' Union (UJCA) and the Central African Association of Private and Independent Newspaper Publishers, both of which campaigned vigorously for the adoption of the new press law,

continued to advocate greater press freedom during the year. Journalists who worked for state-owned media reportedly practiced self-censorship.

Individuals could criticize the Government publicly without reprisal.

Throughout the year, more than 30 newspapers, many of which were privately owned, published at varying intervals and often criticized the President, the Government's economic policies, and official corruption. While five independent dailies—including *Le Citoyen*, *Le Confident*, and *Le Democrate*—were available in Bangui, they were not distributed outside of the Bangui area, and the absence of a functioning postal service continued to hinder newspaper distribution. Financial problems prevented many other private newspapers from publishing regularly, and the average price of a newspaper, approximately \$0.55 (300 CFA francs), was more than most citizens could afford.

Radio was the most important medium of mass communication, in part because the literacy rate was low. The Government owned and operated a radio station and the country's only television station.

The private radio station Radio Ndeke Luka continued to provide a popular and independent alternative to the state-owned Radio Centrafrique, although the reach of Ndeke Luka was limited; outside Bangui, it was available for only one hour daily, via shortwave. Ndeke Luka broadcast domestically produced national news and political commentary and rebroadcast international news throughout the country, with assistance from a foreign media development organization and the UN Development Program. Radio Notre Dame, which was owned and operated by the Catholic Church, broadcast national news, debates, legal counseling, and human rights education. International broadcasters, including Radio France Internationale, continued to operate during the year.

The Government continued to monopolize domestic television broadcasting, although at least one application to establish a private television station was pending at year's end.

Journalists continued to face many challenges, including chronic financial problems, a serious deficiency of professional skills, the absence of an independent printing press, and a severe lack of access to information held by the Government (see Section 3). The UJCA continued to lobby the Government for the creation of a national press center where journalists could receive professional training.

During the year security forces often harassed journalists and sometimes physically and verbally threatened them; there were also reports near the end of the year of government ministers and other high-level officials threatening journalists who were critical of the Government. For example, according to Reporters without Borders, in early January Lieutenant Dogo, a Presidential guard member who had recently been dismissed from the military, called *Le Citoyen* managing editor Maka Gbossokotto, insulted him, and ended the conversation by saying "we will meet and see," which Gbossokotto interpreted as a threat. Dogo was reportedly angry over the newspaper's publication of an article detailing a fatal dispute among members of security forces that resulted in two killings (see Section 1.a.).

In February the acting minister of communication threatened to suspend the broadcasting operations of Radio Ndeke Luka following broadcasts that were critical of the Government.

According to reports during the year, security forces often threatened Ndeke Luka journalist Zephirin Kaya for his criticism of security forces who committed abuses against civilians. On August 25, Kaya reported that a security forces member threatened him and attempted to shoot him while he covered an official ceremony honoring high school graduates.

In December government ministers and high-level officials in the presidency reportedly made a series of threats against the director of Radio Ndeke Luka. The officials made the threats after the station broadcast comments critical of the Government, including criticism of the President's decision to appoint what some media outlets considered unqualified officials to the country's media oversight body.

Unlike in the previous year, there were no reports of security forces arresting, detaining, issuing death threats to, or attempting to abduct journalists.

In early 2005 the President signed a law passed by the transitional legislative body in December 2004 that precludes the imprisonment of journalists for defaming a third party in a published story; instead, a right of reply or compensation must be accorded to the plaintiff. However, the law still provides for terms of imprisonment and fines of up to \$1,823 (one million CFA francs) for journalists who incite disobedience among security forces or incite persons to violence, hatred, or discrimination through publication in a newspaper or a broadcast. In addition the law provides for terms of imprisonment of between six months and two years and fines of up to \$1,823 (one million CFA francs) for the publication or broadcast of false or fabricated information that "would disturb the peace." Although defamation is no

longer punishable by imprisonment under the law, journalists found guilty of libel or slander faced fines of between \$182 and \$1,823 (100,000 and one million CFA francs).

Other provisions in the new press law that concerned local press observers included a requirement that local press organs submit copies of their next publications to four government entities and the HCC prior to distribution and the requirement that foreign press organs submit copies of publications to two government ministries and the HCC at least four hours before distribution.

Unlike in the previous year, there were no reports of local administrators in or near Bouar and Berberati confiscating editions of publications.

The Ministry of Communication maintained a ban on the diffusion by media of songs, programs, or articles deemed to have a "misogynist character" or to disrespect women.

Unlike in the previous year, officials did not use libel laws to suppress criticism of political leaders. The libel suit filed in 2005 against Gbossokotto by a government prosecutor was dropped.

Local journalists and the HCC reported that violence perpetrated by former pro-Bozize rebel fighters, forces loyal to former President Patasse, and armed bandits prevented Bangui-based reporters from venturing outside the capital and severely limited the availability of information about several rural prefectures, particularly in the northern and western regions of the country. However, in March a group of journalists traveled to the northwest and reported on abuses allegedly committed by security forces against civilians suspected of supporting rebels, as well as on the displacement of large numbers of civilians and the harsh conditions in which they lived following the outbreak of fighting between rebels and the military (see Section 1.a.).

*Internet Freedom.*—Unlike in the previous year, there were no reports of the Government limiting or blocking access to the Internet for certain journalists. There were no reports of the Government monitoring e-mail or Internet chat rooms. Although less than 1 percent of the population had access to the Internet, individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

*Academic Freedom and Cultural Events.*—There were no reports that the Government restricted academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for the right of assembly; however, although the Government afforded more respect to this right than during the previous year, the Government restricted this right on a few occasions. Organizers of demonstrations and public meetings were required to register with the minister of the interior 48 hours in advance, and political meetings in schools or churches were prohibited. The law required any association intending to hold a meeting to write a letter to the Ministry of Interior to obtain the ministry's approval prior to any meeting. In some cases when associations asked for such approval, the ministry refused "for security reasons."

In September security forces invaded the customs union's headquarters and prevented a meeting called by the union after the Government dissolved the customs administration.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right. All associations, including political parties, must register with the Ministry of Interior, and the Government usually granted registration expeditiously. The Government normally allowed associations and political parties to hold congresses, elect officials, and publicly debate policy issues without interference, except when they advocated sectarianism or tribalism.

The law prohibiting nonpolitical organizations from uniting for political purposes remained in place; however, there were no reports that this law was enforced during the year.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, although it prohibits what the Government considers to be religious fundamentalism or intolerance and establishes fixed legal conditions based on group registration with the Ministry of Interior. The Government generally respected the right to religious freedom during the year. The constitutional provision prohibiting religious fundamentalism was understood widely to be aimed at Muslims, who made up between 15 and 20 percent of the population; however, this provision was not supported by any additional legislation.

In May OCB Director Yves Gbeyero reportedly severely assaulted a pastor who had asked for the release of a detainee who had been arrested after the pastor ac-

cused him of stealing a camera. There were no reports of disciplinary action against Gbeyero.

In December President Bozize ordered security forces to burn down several homes belonging to Baptist deacons; security forces carrying out the order beat one deacon and arrested another (see Section 1.f.).

Religious groups (except for traditional indigenous religious groups) were required by law to register with the Ministry of Interior. The ministry's administrative police monitored groups that failed to register; however, the police did not attempt to impose any penalty on such groups. The ministry could decline to register, suspend the operations of, or ban any organization that it deemed offensive to public morals or likely to disturb the peace. Any religious or nonreligious group that the Government considered subversive was subject to sanctions. The Ministry of Interior also could intervene to resolve internal conflicts about property, finances, or leadership within religious groups. Under this framework, the Ministry of the Interior indefinitely closed a Protestant church in Bangui at the end of March after authorities were notified that two factions within the church were planning to fight each other with knives. Government authorities declared the closure was necessary to prevent violence until tensions subsided. Police made no arrests, and the church remained closed at the end of the year.

During the year the Government continued to ban the Unification Church, claiming that it was a subversive organization likely to disturb the peace because of its alleged training of younger church members as paramilitaries.

According to the Ministry of Territorial Administration, several of the 34 Protestant churches whose activities were suspended by the Government in 2003 (for supposedly being created without regard for official rules and regulations) had fulfilled government requirements to reopen and had resumed their activities by year's end. To reopen, these religious institutions had to prove they had a minimum of 1,000 members. Additionally, church leaders had to present evidence that they graduated from what the Government considered high caliber religious schools and provide documentation proving that the church was created with respect to local law. A few of these churches did not reopen for failure to meet these requirements. Some observers perceived this decree as an attempt by the Government to regulate the proliferation of places of worship, which had become a trend in the country and a source of concern for the Government over recent years.

Police often arrested and detained persons accused of witchcraft or sorcery (see Sections 1.d. and 1.e.).

On September 27, approximately 30 unidentified armed men reportedly attacked a theological college in Bata, near Bozoum in Ouham Pende Prefecture. No additional information was available.

Mobs reportedly continued to kill and injure suspected sorcerers or witches during the year (see Section 1.a.).

*Societal Abuses and Discrimination.*—There were no reports of anti-Semitic acts. For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for the right to move freely throughout the country; however, the Government restricted this right during the year. Security forces, customs officers, and other officials harassed travelers unwilling or unable to pay bribes or "taxes" at checkpoints along major intercity roads and at major intersections in Bangui.

During the year police increased the number of vehicles that it stopped and searched, particularly in Bangui. In addition local human rights organizations and UN officials said the problem of illegal road barriers constructed by members of the military was widespread and that travelers regularly encountered extortion at these barriers. Members of the military did not allow road travelers to pass without paying a fee. For example, merchants and traders traveling more than 350 miles on the main route from Bangui to Bangassou encountered an average of 25 military barriers; at each road block, a motorist paid an average fee of \$16 (8,781 CFA francs), which amounted to \$410 (225,000 CFA francs) for the entire trip. This type of extortion greatly discouraged trade and road travel and severely crippled the country's economy. Following protests from National Assembly deputies and human rights organizations, the Government ordered the demolition of illegal barriers on the road but took no disciplinary actions against security forces who beat travelers to extort money. Despite these measures, security forces continued to block the roads to extort money.

Significant numbers of unidentified bandits and rebels, including former combatants that helped President Bozize come to power in 2003, continued to severely im-

pede freedom of movement—including that of traders and delivery trucks—particularly in northern and northwestern zones of the country that the Government effectively did not control. The Government also was unable to control highway bandits operating in the eastern prefectures of Ouaka and Haute-Kotto. The highway bandits, or *coupeurs de routes*, often constructed road barriers to stop drivers, robbed them, and sometimes killed them if they refused to pay (see Section 1.a.). Because many travelers ceased carrying large sums of money with them, many highway bandits in the northern and northwestern areas of the country reportedly turned to the more lucrative business of kidnapping and targeted the children of a traditionally wealthy ethnic group (see Section 5).

With the exception of diplomats, the Government required that all foreigners obtain an exit visa. Travelers intending to exit the country could be required to obtain affidavits to prove that they owed no money to the Government or to parastatal companies.

The constitution does not permit the use of exile, and the Government did not employ it in practice. Former President Patasse remained in self-imposed exile during the year.

During the year unidentified armed groups committed violations against cattle herders—primarily members of the M'bororo ethnic group—due to their relative wealth, causing more than 20,000 cattle herders to flee the Ouham-Pende and Nana-Mambere prefectures in the northwest and to take refuge in Cameroon (see Section 5).

Some observers continued to criticize the Government for failing to restore order to the north and charged that the Government had made the situation worse after security forces, which were deployed in the north to engage armed rebels, killed civilians and committed other abuses against persons suspected of supporting rebels (see Sections 1.a. and 1.c.).

*Internally Displaced Persons (IDPs).*—During the year there was a threefold increase in the number of IDPs—from approximately 50,000 to an estimated 150,000 (almost 4 percent of the population)—due to fighting between government security forces and rebel groups, as well as attacks on civilians by rebels, armed bandits, and government soldiers. These attacks reportedly resulted in the killing and rape of civilians, the burning of villages, and looting (see Sections 1.a. and 1.c.). Displacement occurred throughout the year, and the overwhelming majority of IDPs were in the northwestern prefectures of Ouham (bordering Chad) and Ouham Pende (bordering Chad and Cameroon), where civilians abandoned their villages out of fear and lived in the bush for much of the year, surviving on little more than roots and wild food. Starting in October, thousands of individuals fled their homes due to fighting in the north-central prefectures of Gribingui and Bamingui-Bangoran (both of which border Chad) and the northeastern prefecture of Vakaga (which borders Sudan and Chad). By October the UN estimated that one million citizens, particularly IDPs, had been affected by “severe levels of violence” during the year. In addition to hygiene-related illness, chronic malnutrition increased as insecurity prevented many subsistence farmers from planting crops, and the majority of livestock was either looted or migrated to safety in neighboring Cameroon. The absence of security also rendered the northwestern region largely inaccessible to humanitarian organizations, contributing to the lack of proper medical care, food security, and school facilities.

CEMAC peacekeepers conducted joint security operations in an effort to secure the northern region of CAR and control the proliferation of small arms. Despite these operations, however, the Government was not able to provide a sufficient degree of security or protection for IDPs in the northern part of the country.

In June Prime Minister Elie Dote led a “peace mission” to the northwestern subprefecture of Paoua, the site of retribution attacks on civilians by security forces early in the year (see Section 1.a.), and made an appeal for IDPs to return to their homes and help build a stable region. However, many critics argued that the Government needed to make more efforts to provide security and key infrastructure and services.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against *refoulement*, the return of persons to countries where they feared persecution, and granted refugee status and asylum. The Government accepted refugees *prima facie*.

The Government continued to cooperate with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting the country's ap-

proximately 20,000 refugees, as well as asylum seekers. According to the UNHCR, during a voluntary repatriation effort in April, 10,000 southern Sudanese refugees were "stranded" in the Mboki camp of the southeastern prefecture of Haut-Mbomou when the Government closed the country's border with Sudan due to insecurity and constant border crossings by Chadian rebels based in Sudan. However, following an agreement it reached with the Government, the UNHCR announced on December 8 that it planned to resume the voluntary repatriation of almost 8,000 southern Sudanese, as well as approximately 900 refugees from the DRC.

During the year security forces subjected refugees to the same types of arbitrarily arrest and detention as citizens; however, refugees were especially vulnerable to such human rights violations. The Government allowed refugees freedom of movement; however, they were subject to the same roadside stops and harassment by security forces and unidentified armed groups as citizens were.

Several international organizations worked with the Government and UNHCR to assist refugees during the year. They included the ICRC, Doctors without Borders, an international confederation of Catholic organizations called Caritas, and the international NGO International Cooperation.

### *Section 3. Respect for Political Rights: the Right of Citizens to Change their government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in Presidential and legislative elections in 2005, which election observers considered to be generally free and fair, despite some problems. During the year the Government failed to hold previously scheduled municipal elections.

*Elections and Political Participation.*—In March and May 2005 the country held two rounds of multiparty Presidential and legislative elections that resulted in the election of General Bozize as President; Bozize had seized power in a 2003 military coup, declared himself President, and headed a transitional government until the 2005 elections. Domestic and international election observers judged the elections to be generally free and fair and representative of the voters' will, despite irregularities and accusations of fraud made by candidates running against Bozize.

The campaign prior to the first-round elections was tense. The independent press reported isolated incidents of clashes between rival groups of supporters, particularly the supporters of Bozize and former President Kolingba, who was one of 11 Presidential candidates; there also were allegations of fraud involving voter registration documents.

The opposition Union of Active Forces of the Nation (UFVN), a grouping of Bozize's rivals, denounced the elections for alleged fraud and irregularities involving voting and vote counting and called for the elections to be voided. Former President Kolingba said the election was completely rigged, and his supporters claimed that militants armed by supporters of Bozize threatened them. The Joint Independent Electoral Commission (CEMI) chairman acknowledged there had been cases in which there were more votes than registered voters but said he believed the election reflected the will of the people.

In March 2005, before election officials had tallied the results of the first round of Presidential elections, armed individuals exchanged gunfire outside the Bangui house of former President Kolingba. The minister of the interior said the exchange of gunfire, which resulted in the wounding of one military soldier in the head, was a "misunderstanding" between members of the military. However, according to a spokesman for Kolingba, unidentified gunmen attacked the residence in an attempt to kill Kolingba. The incident occurred on the same day that Kolingba and other Presidential candidates belonging to the UFGV called for the annulment of Presidential elections due to fraud and irregularities.

During the 2005 electoral campaign security forces sometimes beat, threatened, and intimidated individuals.

Following elections, Presidential candidate Ziguele attempted to have Bozize's victory invalidated, claiming that soldiers had forced or intimidated citizens into voting for Bozize, but the Constitutional Court rejected this assertion.

During the year authorities held an election for a parliamentary seat that the CEMI canceled in 2005 due to fraud. NGOs and other observers considered the election, which took place in the southern administrative division of Boganangone, credible and fair.

The National Convergence Movement, a grouping of smaller parties, military officials, and political leaders supporting General Bozize, held 42 of the National Assembly's 105 seats, which represented the largest number of any party; the MLPC held the second highest number of seats, 11. Presidential candidate Kolingba's party, the Central African Democratic Rally, held eight seats.



On March 31, the law that allowed President Bozize to rule by decree for three months, which was adopted by the National Assembly in December 2005, expired. The law provided that all Presidential decrees would require the advice of the Constitutional Court, be effective until March 31, and be subject to ratification by the National Assembly at the end of that period. The Prime Minister said the law allowed the Government to take “emergency measures” to fight corruption and improve the civil service; measures taken included the removal of three ministers for fraud, the harmonization of civil service salaries, and the establishment of a new retirement age. The law, which was passed after cabinet meetings and consultations with the country’s Constitutional Court, reportedly was intended to quicken the adoption of political and economic reforms by bypassing parliamentary debates and votes. Several local human rights NGOs criticized the National Assembly’s decision to give additional power to the President and accused President Bozize of attempting to establish a “dictatorship.” According to the minister for parliamentary affairs, rule by decree was in accordance with article 29 of the constitution. In October the National Assembly passed a law that effectively approved civil service-related measures that the Government had adopted during the three months of Bozize’s rule by decree.

During the year there were several indications of the legislature’s weakness and lack of independence. For example, in August, on the day that the National Assembly’s 105 deputies were scheduled to vote on proposed legislation regulating radioactive minerals, a larger-than-usual number of security forces members surrounded the National Assembly building, roughly frisking and questioning parliamentarians as advocates of the bill reportedly offered bribes for the deputies to approve it. Following the bill’s adoption, independent newspapers and NGOs criticized the deputies for their lack of independence.

The state remained highly centralized. The President appointed all regional government officials—who ran the country’s 16 prefectures and 60 subprefectures—and regional government entities had no significant fiscal autonomy. Provisions in the constitution provide for municipal elections; however, by year’s end they had not been held, and towns continued to be led by mayors appointed by the President.

During the year the LCDH criticized President Bozize for holding the position of minister of defense, saying that article 23 of the constitution prohibits the President from holding “any other political function or electoral mandate,” under penalty of dismissal; however, government officials said this criticism was based on a misinterpretation of the constitution.

According to recommendations from a 2003 government-sponsored national dialogue, women were supposed to make up 35 percent of posts in government ministries and political parties; however, this provision was not respected during the year. Ten women held seats in the 105-seat National Assembly, and there were three women in the President’s cabinet.

There were two members of the M’bororo ethnic group and approximately 13 Muslims in the 105-seat National Assembly. Pygmies (Batwa or Ba’Aka), the indigenous inhabitants of the southern part of the country, represented between 1 and 2 percent of the population; they were not represented in the Government and continued to have little political power or influence (see Section 5).

*Government Corruption and Transparency.*—Misappropriation of public funds and corruption in the Government remained widespread. Corruption continued to contribute to the country’s incapacity to pay 40 months of government salary arrears, which the International Monetary Fund (IMF) and local human rights activists said was a major threat to the country’s security, stability, and advancement of human rights. The country’s tax collection and public expenditure management systems were extremely weak by international standards, and the lack of transparency and accountability in the use of public resources was a serious problem. Corruption was prevalent in almost every sector, from education and health to customs and law enforcement. Civil service salary fraud drained 10 percent of the country’s monthly budget, according to public statements by the Prime Minister in October 2005. According to Transparency International’s (TI) 2006 Corruption Perceptions Index, corruption among the country’s public officials was perceived by both resident and non-resident experts to be “rampant,” which is the most severe assessment designation used by TI.

Corruption was particularly rife in the management and oversight of three of the country’s key exports, timber, gold, and diamonds. In 2005 experts said that the quantity of diamonds exported illegally from the country—an estimated 500,000 carats—was equal to the quantity that was exported legally and that the value of legally exported diamonds was often understated. According to an interview during 2005 with an IMF official, there was a particular need for the Government to increase transparency in the allocation of mining permits and the regulation of enter-

prises active in the mining sector. In September 2005 the minister of mines indefinitely suspended the granting of mining permits for gold and diamonds and prohibited foreign nationals from traveling in mining zones. The prohibition followed the Government's discovery of numerous irregularities in mining zones, as well as the presence of numerous foreigners, many of whom did not have mining permits.

In the health sector, before providing treatment or medicine, many doctors and nurses demanded bribes of at least \$2 (1,000 CFA francs) from even the poorest patients. In recent years, in the education sector, so many students paid teachers or administrators for a passing score on their baccalaureates, or national high school exit exams, that the exam scores lost their value. The inflation of exam scores was so egregious that it led many higher learning institutions in other countries, such as France, to evaluate CAR students with suspicion or disregard their applications altogether, effectively reducing a CAR student's educational opportunities, according to the LCDH.

During the year several local human rights observers accused mid- and high-level government officials of profiting from the extortion that members of security forces committed on a monthly or weekly basis at roadside checkpoints and illegal road-blocks (see Section 2.d.).

The Government took some significant steps to combat corruption. For example, in August the Government dissolved the customs service in an effort to combat corruption and the misappropriation of public taxes. Reform of the customs administration was underway at year's end. The decision to reform the collection of customs revenues reportedly yielded sufficient funds to pay civil servants two sets of salary arrears toward the end of the year; however, some observers argued that too much of the new collection process was not transparent.

The September session of the Criminal Court sentenced former President Patasse, who remained in exile, and Luis Sanchez, a French citizen, to 20 years' imprisonment with hard labor and ordered them to pay part of a fine of \$10 million (five billion CFA francs) for embezzling \$136 million (70 billion CFA francs) of public funds during Patasse's presidency.

The Government continued to conduct a targeted campaign against embezzlement, money laundering, and other forms of financial fraud.

During the year the Government stopped publishing periodic declarations by government officials of their personal assets and wealth; the declarations, which the Government had begun publishing in August 2005, were intended to prevent embezzlement and other forms of government corruption. According to the constitution, the President, government ministers, members of the National Assembly, and judges are required to declare publicly their personal assets.

During the year the Government removed from office three ministers accused of fraud related to the payment of civil servants. In addition, by verifying diplomas and other documents, the Government continued to combat the existence of "ghost workers" in the civil service who attempted to receive salaries fraudulently.

The case of three public treasury employees accused of embezzling \$95,500 (52 million CFA francs) in 2005 was pending before a court at year's end. In October 2005 the Government suspended them for three months without pay.

The law provides for access by journalists to "all sources of information, within the limits of the law"; however, it does not specifically mention government documents or government information, and no mention is made of access by the general public. The Government was often unable or unwilling to provide information, and lack of access to information continued to be a problem for journalists and the general public. Furthermore, several years of political and economic instability and conflict made information difficult to collect, even for the Government, particularly in the countryside. Information on the humanitarian situation, for example, was difficult to obtain and sometimes contradictory.

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

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing in press releases their findings on human rights cases. Government officials were somewhat responsive to their views but increasingly criticized them publicly for their reports of human rights violations committed by security forces. In general, local NGOs were weak, although there were a few that were active and had a sizable impact on the promotion of human rights. Some local NGOs, including the LCDH, the Human Rights Observatory, the anti-torture NGO ACAT, and the Association of Women Jurists actively monitored human rights problems; worked with journalists to draw attention to human rights violations, including those allegedly committed by the army; pleaded individual cases of human rights abuses before the courts; and engaged in efforts

to raise the public's awareness of citizens' legal rights. The destruction or loss of scarce resources, such as automobiles and computers, during fighting and looting in 2002 and 2003 limited local human rights NGOs, although they continued gradually to rebuild their capacity during the year. The potential impact of local human rights NGOs continued to be weakened by the failure of most members to pay membership dues and the noticeable dearth of international development organizations and foreign diplomatic missions, which once provided them with training and some financial support. For these reasons, the activities of local human rights NGOs were quite modest in scope and limited almost exclusively to Bangui.

During the last quarter of the year, defense lawyers and human rights activists who opposed the continued detention of 15 defendants acquitted by a court in September reportedly received threats from members of the security forces (see Section 1.e.).

During the last quarter of the year the military instructed the few aid organizations and NGOs operating in Paoua, a provincial town in the northwestern prefecture of Ouham Pende, to suspend their activities for security reasons. As a result, organizations such as Doctors without Borders, the ICRC, and the World Food Program were unable to deliver to IDPs more than 50 tons (45,000 kilograms) of food, which remained in a warehouse. However, by year's end these organizations had reportedly resumed their activities.

During the year human rights activists, including the President of ACAT, reported receiving anonymous death threats following their criticism of government tolerance of impunity and their public denunciation of abuses committed by security forces.

According to the International Federation for Human Rights (FIDH), during the year the Government undertook a campaign to publicly defame and threaten domestic human rights NGOs. During an August meeting with members of the opposition MLPC, President Bozize reportedly spoke of a meeting he had in June with the FIDH and LCHD and said that he had "wanted to stab" the President of the LCDH during the meeting, accompanying his words with a stabbing gesture. In December President Bozize delivered a speech in which he accused magistrates, human rights defenders, journalists, and members of the political opposition of "blocking the development of the CAR" and charged that domestic human rights defenders had reported falsehoods and insulted their country and President. In a speech delivered in March, the President accused human rights defenders of protecting "criminals."

Until the military instructed aid organizations in November to stop their activities, international human rights NGOs and international organizations operated in the country without interference from the Government; however, there were very few operating in the country. Due to insecurity caused by unidentified armed groups in many parts of the country, the activities of international groups were limited to Bangui and sometimes a few other locations. During the year armed groups reportedly targeted the small number of humanitarian workers who were operating in the northwest, stopping their vehicles and robbing them. The northwest, including Vakaga Prefecture, was inaccessible to NGOs due to instability and fighting between rebels and the military.

In June UN Secretary General Kofi Annan reported to the UN Security Council that the country's humanitarian situation, particularly in the northwest, had deteriorated sharply during the first half of the year, during which thousands of civilians abandoned their villages as a result of armed rebel movements, attacks by bandits, and reprisals by the armed forces against rebels and civilians suspected of aiding the rebels. Annan highlighted "many reports of arbitrary or summary execution; torture; cruel, inhuman, or degrading treatment; arbitrary arrest and detention; violation of time limits on police custody; and restriction of the freedom of movement."

In June several local human rights organizations issued a joint public statement protesting "appalling" detention conditions in the country, as well as long-term detention without trial after arbitrary arrests. Instead of responding to the concerns highlighted by the organizations, the Bangui High Court procurator accused the organizations of making false allegations and indulging in sensationalism.

In November AI released a report charging that the Government violated its own laws and international human rights by arbitrarily arresting individuals, detaining many of them for several months without charge, and detaining them for up to six or more months without trial. The report detailed the arrest and detention between February and May of more than 40 persons accused by the Government of supporting armed groups and endangering national security. The report highlighted harsh and sometimes life-threatening detention conditions, the Government's refusal to release 15 defendants after a court had acquitted them, and the Government's denial of basic medical care to detainees (see Sections 1.c., 1.d., and 1.e.). AI urged the Government to respect its own laws and international human rights

standards, including detainees' rights to a fair trial, to be informed promptly of charges, and to be tried in a reasonable amount of time (see Sections 1.d. and 1.e.).

In November a UN delegation completed a fact-finding mission to the Vakaga Prefecture bordering Sudan and Chad. The delegation—composed of political, security, and humanitarian experts—was later expected to present its findings to the UN Secretary General. A week prior to the completion of the delegation's mission, the UN Security Council decided to extend the mandate of BONUCA until the end of 2007 and expressed its deep concern about the country's security situation.

In a report presented to the UN Security Council on December 28, the UN Secretary General noted that security had deteriorated during November and December, especially in the north and along the borders with Chad and Sudan, which negatively impacted the overall human rights situation. In the conflict zones security forces, rebel groups, and armed bandits committed "abuses of all kinds," including killings. Impunity, particularly among members of the Presidential guard, continued to hinder the administration of justice. The report recommended that the Government make greater efforts to restructure the security forces and underlined the importance of strengthening national democratic institutions and promoting an inclusive national dialogue involving all political stakeholders to relieve tensions and resolve the country's ongoing "political and military crisis."

During the year BONUCA's human rights section continued to actively monitor human rights practices, assist the Government in capacity building, sensitize the public to human rights, conduct visits to prisons and detention centers, and conduct human rights training for hundreds of government security agents. Although based in Bangui, BONUCA had two field offices in the countryside throughout the year, one in the Nana-Mambere prefecture town of Bouar and one in the Ouham prefecture town of Bossangoa. In October it opened a third field office in the Ouaka province town of Bambari, in the south-central part of the country. BONUCA continued to receive complaints of killings and other violations committed by security forces, which it researched and documented. It worked very closely with the Ministry of Justice, often visiting the public prosecutor of the republic to submit for judicial investigation complaints it received about security agents. BONUCA also worked with the Ministry of Communications, National Reconciliation, and the Promotion of Human Rights.

UN Development Program and government officials continued collecting weapons from former combatants and reintegrating thousands of them into civilian life. By year's end the disarmament, demobilization, and reintegration program had demobilized more than 5,100 former combatants, and of that number, more than 1,700 had been reintegrated. The program had collected hundreds of small arms, as well as numerous munitions, rocket launchers, grenades, and land mines. Although the exact number of small arms in the country remained unknown, the Government's estimate of 50,000 small arms circulating nationally, beyond its control, could have underestimated the scale of the problem, according to a small arms survey published in 2005 by the Graduate Institute for International Studies in Geneva, Switzerland.

The High Commission of Human Rights and Good Governance, which is attached to the presidency, conducted human rights training for members of the security forces. Each week, the commission received and investigated an average of 10 citizen complaints of human rights violations committed by members of the Government, and it sometimes forwarded cases to the Ministry of Justice. In addition, during the year it conducted several investigations of government ministries to combat human rights violations, including corruption. Having approximately 30 persons employed in its Bangui headquarters and 100 in the countryside, the commission did not have adequate resources and lacked the means to conduct proper training of its investigators. Some human rights observers criticized the commission for its lack of independence and its lack of effectiveness in reducing impunity in the security forces.

The Human Rights Commission (HRC) in the National Assembly sought to strengthen the capacity of the legislature and other government institutions to advance human rights. Among their human rights priorities, HRC members said they aimed to stop extrajudicial killings by the OCRB, improve conditions in detention centers, reduce prolonged detentions without trial, fight corruption, expand women's and minorities' rights, and combat the worst forms of child labor. The commission said it suffered from a severe lack of resources.

On November 30, the pretrial chamber of the ICC noted that almost two years had passed since the ICC prosecutor received the referral from the Government regarding the situation of crimes within the jurisdiction of the ICC, including crimes committed in the country since 2002. The ICC's pretrial chamber requested that the ICC prosecutor provide information on the alleged failure to decide within a reason-

able time whether or not to initiate an investigation, and that it take measures to preserve evidence and protect victims. In April the cassation court, the country's highest criminal court, held that only the ICC was capable of trying the serious crimes committed in the country since July 2002 by persons who remained outside of the national territory during the year, including former President Patasse, DRC Vice President Jean-Pierre Bemba and combatants under his command, and others. In 2005 the ICC prosecutor said an analysis would be carried out to determine whether to initiate an investigation; however, no decision had been made by year's end.

Domestic and international NGOs, including the FIDH and the LCDH, continued to accuse the Government of failing to cooperate fully with the ICC's prosecutor and criticized the Government for failing to conduct an exhaustive and independent investigation of the alleged war crimes and crimes against humanity committed by pro-Bozize rebels and soldiers and rebels loyal to then President Patasse during 2002 and 2003, including summary executions, systematic rape, and widespread looting. Government officials said an investigation had been made difficult by the insecurity still present in the north.

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

The constitution stipulates that all persons are equal before the law without regard to wealth, race, or sex; however, the Government did not enforce these provisions effectively, and significant discrimination existed.

*Women.*—Although the law does not specifically mention spousal abuse, it prohibits violence against any person and provides for penalties of up to 10 years' imprisonment; however, domestic violence against women, including wife beating, reportedly was common. Inadequate data made it impossible to quantify the extent of domestic violence. Spousal abuse was considered a civil matter unless the injury was severe. According to the Association of Women Jurists, a Bangui-based NGO specializing in the defense of women's and children's rights, victims of domestic abuse seldom reported incidents to authorities, and when incidents were addressed, it was done within the family or local community. The courts tried very few cases of spousal abuse, although litigants cited these abuses during divorce trials and civil suits. Some women reportedly tolerated abuse to retain financial security for themselves and their children.

The law prohibits rape; however, rape remained a problem. The law does not specifically prohibit spousal rape. Rape is punishable by imprisonment with hard labor, although the law does not specify a minimum sentence. Police sometimes arrested men on charges of rape; however, the social stigma induced many families to avoid formal court action.

Although the law prohibits FGM, which is punishable by up to 10 years' imprisonment, girls continued to be subjected to this traditional practice in certain rural areas and, to a lesser degree, in Bangui. According to the WHO, FGM affected more than 40 percent of girls. In addition, according to data collected by the UN Children's Fund (UNICEF) between 1998 and 2005, an estimated 36 percent of females between the ages of 15 and 49 had undergone FGM. According to the Association of Women Jurists, anecdotal evidence suggested that fewer girls and women had undergone FGM as a result of efforts to sensitize women to the dangers of the practice.

Although the law does not prohibit prostitution, it prohibits the incitement of someone to prostitution and the act of profiting from an individual's prostitution; however, prostitution existed during the year. The law designates a fine and imprisonment for three months to one year for those found guilty of procurement of individuals for sexual purposes (including assisting in prostitution). For cases involving a minor, the penalty of imprisonment is between one and five years. Some young girls reportedly engaged in prostitution for economic reasons, particularly in urban centers. The practice had reportedly grown more common since 2002.

Trafficking in persons occurred (see Section 5, Trafficking).

The law prohibits sexual harassment; however, the Government did not effectively enforce the law, and sexual harassment was a problem.

The law does not discriminate against women in inheritance and property rights, but a number of discriminatory customary laws often prevailed, and women's statutory inheritance rights often were not respected, particularly in rural areas. The family code further strengthened women's rights, particularly in the courts; however, access to the judicial system remained very limited throughout the country.

Women were treated as inferior to men both economically and socially. Single, divorced, or widowed women, including those with children, were not considered to be heads of households. Only men were entitled to family subsidies from the Government. Women in rural areas generally suffered more discrimination than women in urban areas. There were no accurate statistics on the percentage of female wage

earners. Women's access to educational opportunities and to jobs, particularly at higher levels in their professions or in government service, was limited.

Polygyny is legal, although this practice faced growing resistance among educated women. The law allows a man to take up to four wives, but a prospective husband must indicate at the time of the first marriage contract whether he intends to take additional wives. In practice many couples never married formally because men could not afford the traditional bride payment. The family code authorizes the use of bride payments, but it neither requires them nor sets a minimum payment amount. Women who were educated and financially independent tended to seek monogamous marriages. Divorce is legal and can be initiated by either partner.

The Association of Women Jurists advised women of their legal rights and how best to defend them and filed complaints with the Government regarding human rights violations. During the year several active women's groups solicited guidance from the Association of Women Jurists and organized workshops and seminars to promote women's and children's rights, including seminars to encourage women to participate fully in the political process.

*Children.*—The Government spent little money on programs for children, and churches and NGOs had relatively few programs for youths. In addition instability had a disproportionate effect on children, who accounted for almost 50 percent of all IDPs during the year. Humanitarian organizations reported in June that in the northwestern prefectures of Ouham and Ouham Pende only 9 percent of school-age children attended school due to lack of security.

Furthermore, following the 2003 coup, approximately three-quarters of the country's schools were destroyed, although UNICEF has since assisted the Government in rebuilding some primary schools in the southwest region of the country. The failure of the education system, caused by a meager budget and salary arrears, resulted in a shortage of teachers and an increase in the number of street children.

Education is compulsory from ages six to 14, although parents rarely were prosecuted for their children's nonattendance. Students must pay for their own books, supplies, transportation, and insurance. At the primary level (ages six to 11), approximately 60 percent of children did not attend school, according to a national census conducted by the Government in 2003 and published in June 2005. Primary school enrolment rates for all prefectures were on average less than half that of Bangui commune, and in practice, children in rural areas often started school two to three years later than children in urban areas. Girls did not have equal access to primary education, as 36.9 percent of girls of primary school age were enrolled in school compared with 44.3 percent of boys. There were extremely few, if any, Pygmies enrolled in primary school during the year. The census indicated that 10.8 percent of children of secondary school age were enrolled in school. The majority of young women dropped out of school at age 14 or 15 due to societal pressure to marry and bear children. In addition, the census indicated that, of persons 10 years and older, 32 percent of the country's women were literate compared with 53.8 percent of men.

In recent years communities have taken initiatives to fill the void in cases where the public education system was lacking or in areas where there were no schools. As a result, the majority of teachers at the primary level were parents, and according to the UN Office for the Coordination of Humanitarian Affairs, three-quarters of all teachers had no formal training, a problem that continued to hinder the effectiveness of public schooling.

During the year UNICEF continued to conduct a campaign to raise awareness of the importance of child education, with a particular focus on the need to increase the literacy rate among girls. In addition, in recent years the Government, UNICEF, the UN Population Fund, and other donors have developed an action plan to address the need for more complete birth registration to improve children's access to education and other social services. There were no reliable statistics on birth registration; however, in September UNICEF began conducting a five-month study to determine the percentage of births that were registered.

Corruption in the education system continued to be a problem. According to numerous credible reports, male teachers in primary and secondary schools and at the university level routinely pressured their female students into having sexual relationships in exchange for passing grades; the spread of HIV/AIDS was extremely prevalent between teachers and their female students.

The Government's incapacity to pay salary arrears to teachers and scholarship arrears to students at the university level continued to be a serious problem. For example in September primary and high school teachers threatened to go on strike if the Government did not pay them three months of salary arrears. After negotiation between the Government and the teachers' union, they resumed activities at the beginning of the academic year.

The Government did not provide medical coverage for uninsured children. Most children's families could not afford access to the fee-based health care system. Health officials cited evidence during the year that diseases previously brought under control, such as human sleeping sickness and river blindness, were now spreading again. According to UNICEF, the country's main health indicators, including child mortality under age five, maternal mortality, and malnutrition, continued to deteriorate markedly in recent years. For example approximately 30 percent of children died before the age of five. During the year, in response to the deteriorating healthcare situation, the Government continued working with UN agencies to implement a plan to reduce maternal and infant mortality by 2015.

The penal code forbids parental abuse of children under the age of 15 years, and child abuse was not widespread. A juvenile court tried cases involving children and provided counseling services to parents and juveniles during the year. In February a court sentenced two parents to four years' imprisonment for abusing their five-year-old girl.

In September a local private newspaper reported that a member of parliament had raped his 14-year-old daughter. Although authorities did not arrest the parliamentarian, the case was pending before a court at year's end.

In October police arrested the parents of a nine-year-old girl who had suffered serious burns after her parents had allegedly accused her of being a sorcerer. At year's end an investigation was ongoing and the parents remained in custody.

FGM was performed primarily on young girls (see Section 5, Women).

The law establishes 18 as the minimum age for marriage. However, an estimated 57 percent of children had entered into marriage before the age of 18, according to data collected between 1987 and 2005 by UNICEF.

Trafficking of children and child prostitution occurred (see Section 5, Trafficking).

During the year unidentified armed groups in the northwest of the country kidnapped numerous children, reportedly often keeping them in chains and depriving them of food (see Section 5, National/Racial/Ethnic Minorities).

Child labor remained a problem (see Section 6.d.).

There were more than 6,000 street children between the ages of five and 18 residing in the country, including 3,000 in Bangui. Many experts believed that HIV/AIDS and a belief in sorcery, particularly in rural areas, contributed to the large number of street children. An estimated 110,000 children have lost one or both parents to HIV/AIDS, and children accused of sorcery (often reportedly in relation to HIV/AIDS-related deaths in their neighborhoods) were often expelled from their households. Many street children begged and stole; several charitable organizations provided them with humanitarian assistance.

There were NGOs specifically promoting children's rights, including some, such as Voix du Coeur, which assisted street children.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports of persons being trafficked, although NGOs and government officials said that trafficking in persons was not widespread. The country was a source and destination country for children trafficked for forced labor and sexual exploitation. While the majority of child victims were trafficked within the country, some were also trafficked to and from Cameroon and Nigeria. Children were trafficked for domestic servitude, sexual exploitation, and forced labor in shops and commercial labor activities. According to NGOs, orphaned boys and girls were particularly at risk of being trafficked.

Trafficking was confined primarily to children, both girls and boys, who primarily were orphans. During the year there were reports that these children were forced into domestic servitude and commercial labor activities, such as street vending and agricultural work. In recent years there were reports that children were brought in by members of the foreign Muslim community from Nigeria, Sudan, and Chad and that merchants, herders, and other foreigners doing business in and transiting the country brought girls and boys into the country. Child trafficking victims were not afforded the benefit of a formal education, despite the mandatory school age, and worked without remuneration for their labor. There were a few anecdotal reports of children being trafficked to Nigeria and several other nearby countries for use as agricultural workers. There was also anecdotal evidence of sexual exploitation of girls in Bangui, and there were reports that children were publicly beaten.

Some girls entered prostitution to earn money for their families.

Traffickers can be prosecuted under laws against slavery and sexual exploitation, labor code violations, and mandatory school age laws. Specific laws that address the crime of prostitution have been used in recent years to punish those who trafficked women for the purposes of prostitution.

During the year the Government did not receive or investigate any cases of trafficking, nor did it use or have access to special investigative techniques in traf-

ficking investigations. By year's end no government agency had been assigned to study, combat, or raise awareness of trafficking. The head of the High Commission of Human Rights and Good Governance, located in the President's office, said that because the Government believed that trafficking was not a problem in the country, it had not set up shelters for trafficking victims and had not incorporated a trafficking component in its human rights training seminars for security forces and other officials.

There were no known NGOs specifically working to combat trafficking.

*Persons With Disabilities.*—There was no codified or societal discrimination against persons with disabilities. However, there were no legislated or mandated accessibility provisions for persons with disabilities, and such access was not provided in practice. The Government had not developed a national policy or strategy to provide assistance to persons with disabilities. Approximately 10 percent of the country's population had disabilities, mostly due to polio. There were several government- and NGO-initiated programs designed to assist persons with disabilities, including handicraft training for the blind and the distribution of wheelchairs and carts by the Ministry of Social Affairs.

The Ministry of Social Affairs continued to work with the NGO Handicap International during the year to provide treatment, surgeons, and prostheses to persons with disabilities. For example a \$24,660 (12.7 million CFA francs) physiotherapy center for persons with disabilities continued to operate in Dekoa, 160 miles northeast of Bangui.

*National/Racial/Ethnic Minorities.*—The population included more than 80 ethnic groups; many of these groups spoke distinct primary languages and were concentrated regionally outside urban areas. The largest ethnic groups were the Baya (33 percent of the population), the Banda (27 percent), the Mandja (13 percent), and the Sara (10 percent). The nomadic and semi-nomadic M'bororo, also known as Bush Fulanis or Peulhs, comprised approximately 7 percent of the population but played a preponderant role in the economy; they were involved in mining development and remained the most important cattle breeders in the country.

Between January 1 and November 30, as a result of an increase in attacks and kidnappings for ransom by unidentified armed groups, more than 20,000 cattle herders—primarily M'bororos—reportedly fled to Cameroon from the northwest, primarily from Nana-Mambere and Ouham-Pende prefectures, according to UN agencies and local human rights groups. In 2005 an estimated 10,000 M'bororos fled to Cameroon for the same reasons. According to reports received by the UNHCR, the perpetrators were a combination of security forces, rebel soldiers, and bandits, and Chadian soldiers who targeted the M'bororo due to their perceived wealth (the size of their cattle herd). UNICEF said that, according to its NGO partners in the affected region, the attackers often were themselves members of the M'bororo ethnic group.

In December the UNHCR said that the perpetrators often kidnapped women and children and held them for ransoms of between \$2,000 and \$4,000 (one million and two million CFA francs); in addition, in certain areas of the northwest, such as Bawa, perpetrators attacked and burned entire villages. Although there were no details available on the number of persons abducted during the year, kidnappings in 2005 involved an estimated 1,000 M'bororo children, and parents often could only finance the ransoms by selling their entire cattle herds, according to the Germany-based NGO Society for Threatened Peoples. Parents of the kidnapped children reportedly often did not contact security forces for fear that the kidnappers would retaliate by killing the abducted children. During the year, despite the Cameroonian government's deployment of elite security forces on the Cameroon-CAR border, armed groups in the CAR continued to conduct frequent attacks on the M'bororo population on the Cameroonian side of the border.

The ongoing displacement of cattle herders, particularly M'bororos, resulted in beef shortages during the year, making meat unaffordable for much of the population and significantly affecting the country's food security.

The country's major political parties continued to have readily identifiable ethnic or ethnic-regional bases.

During the year there was occasional violence involving Chadian members of the Presidential guard and other members of the security forces (see Section 1.a.). However, relative to previous years, tensions between the Chadian community, whose members number in the thousands and have resided in the country for generations, and those who considered themselves to be native to the country were not as apparent.

*Indigenous People.*—Despite constitutional protection, there was societal discrimination against Pygmies (Batwa or Ba'Aka), the earliest known inhabitants of the



rain forest in the southern part of the country, predominately in Lobaye, Ombella-Mpoko, and Sangha prefectures. Pygmies comprised approximately 1 to 2 percent of the country's population. In general Pygmies had little input in decisions affecting their lands, culture, traditions, and the allocation of natural resources. Indigenous forest-dwelling Pygmies, in particular, were subject to social and economic discrimination and exploitation, which the Government has done little to prevent. The Government continued to fail to issue and deliver identity cards to Pygmies, which, according to many human rights groups, effectively denied them access to greater civil rights.

Pygmies, including children, often were coerced into agricultural, domestic, and other types of labor within the country. Pygmies often were considered to be the slaves of other local ethnic groups, and when they were remunerated for performing labor, their wages were far below those prescribed by the labor code and lower than those paid to members of other groups.

During the year the international NGO International Cooperation continued to promote the rights of Pygmies, monitor discrimination, and gain access to public services through the obtainment of birth certificates. Refugees International has reported in recent years that Pygmies were effectively "second-class citizens" and that the popular perception of Pygmies as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

*Other Societal Abuses and Discrimination.*—The penal code criminalizes homosexual behavior; however, there were no reports that police arrested or detained persons they believed to be homosexual. Societal discrimination against homosexuals existed during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows all workers to form or join unions without prior authorization, and a relatively small part of the workforce, primarily civil servants, exercised this right. Police forces and judges are allowed to form unions; however, security forces, including the military and gendarmes, are prohibited from forming unions.

A person who loses the status of worker, either through unemployment or retirement, can belong to a trade union and participate in its administration. The labor code requires that union officials be full-time wage-earning employees in their occupation, and that they may conduct union business during working hours as long as the employer is informed 48 hours in advance and provides authorization.

In March security forces arrested Noel Ramadan, the deputy secretary general of the Syndicated Union of CAR Workers, for allegedly receiving undue salary benefits; they detained him for at least one day before releasing him.

Unlike in the previous year, there were no reports that police closed a trade union's headquarters to prevent a rally.

The law expressly forbids antiunion discrimination; however, during the year there were some reports of antiunion discrimination directed toward employees who participated in strikes. Employees can have their cases heard in the labor court. The law does not state whether employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities, although employers found guilty of such discrimination legally were required to pay damages, including back pay and lost wages.

*b. The Right To Organize and Bargain Collectively.*—The labor code provides for the right of workers to organize and administer trade unions without employer interference and grants trade unions full legal status, including the right to file lawsuits, and the Government generally respected these rights in practice. The code provides that unions may bargain collectively and provides workers protection from employer interference in the administration of a union. Collective bargaining occurred in the private sector during the year. The Government generally was not involved if the two parties were able to reach an agreement.

The country's largest single employer was the Government, and government employee trade unions were especially active. In the civil service, the Government set wages after consultation, but not negotiation, with the unions; wage levels have remained unchanged for more than two decades. Salary arrears continued to be a severe problem during the year for military personnel and the country's 24,000 civil servants. The Government owed government employees up to 40 months of salary arrears, and the arrears continued to be a major complaint of the unions. Civil servants continued to demand the payment of salary arrears and to hold strikes throughout the year. During the year the Government continued efforts to identify fraudulent "ghost workers" in the civil service to help reduce budgetary problems and pay salary arrears (see Section 3).

Unions have the right to strike in both the public and private sectors, and workers exercised this right during the year; however, security forces, including the military and gendarmes, are prohibited from striking. To be legal, strikes must be preceded by the union's presentation of demands, the employer's response to these demands, a conciliation meeting between labor and management, and a finding by an arbitration council that union and employer failed to reach agreement on valid demands. The union must provide eight days' advance written notification of a planned strike. The law states that if employers initiate a lockout that is not in accordance with the code, the employer is required to pay workers for all days of the lockout. However, the Government has the authority to end strikes because of public interest. The code makes no other provisions regarding sanctions on employers for acting against strikers.

*c. Prohibition of Forced or Compulsory Labor.*—Although the labor code specifically prohibits forced or compulsory labor, there were reports that such practices occurred (see Sections 5 and 6.d.). Prisoners reportedly were forced to work on public works projects without compensation for government officials or magistrates; the prisoners often received shortened sentences for doing so. Pygmies, including children, often were coerced into labor within the country and often treated as slaves (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code forbids the employment of children under 14 years of age; however, the Ministry of Labor and Civil Service did not enforce the provision, and child labor was common in many sectors of the economy, especially in rural areas. In some cases, the labor code provides that the minimum age for employment could be reduced to 12 years for some types of light work in traditional agricultural activities or home services. The law prohibits children under 18 from performing hazardous work or working at night; however, children continued to perform hazardous work during the year. The labor code does not define the worst forms of child labor.

Reliable statistics on child labor were not available; however, according to data collected by UNICEF between 1999 and 2005, an estimated 57 percent of children between the ages of five and 14 were involved in child labor activities at the time of the survey. UNICEF considered a child to be involved in labor activities according to the following classification: children five to 11 years old who, during the week preceding the survey, did at least one hour of economic activity or at least 28 hours of domestic work; and children 12 to 14 years old who, during the week preceding the survey, performed at least 14 hours of economic activity, or at least 42 hours of economic activity and domestic work combined.

Throughout the country, children as young as seven years old frequently performed agricultural work, often with their parents, during the year. In addition children often worked as domestic workers, fishermen, and in mines (often in dangerous conditions). An international agency reported that children worked in the diamond fields alongside adult relatives. In Bangui, many of the city's 3,000 street children worked as street vendors.

In some rural areas, teachers or principals used school children as occasional or part-time labor on farms, ostensibly to teach them how to work the land and raise chickens since many students did not attend school beyond the primary level (see Section 5). The schools used the proceeds from the sale of farm produce to purchase school supplies and equipment and to fund school-related activities.

The labor code prohibition of forced or compulsory labor applies to children, although they are not mentioned specifically; however, forced child labor occurred.

The Government had extremely few resources to enforce the prohibition against forced labor or child labor laws effectively. The Ministry of Labor and Civil Service had approximately 30 labor inspectors and two vehicles to cover the entire country. Salary arrears and the lack of personnel training severely impeded its enforcement capacity.

The country had only two centers—both located in Bangui—that worked to rehabilitate former child laborers and street children and facilitate their reinsertion into the education system. UNICEF, local NGOs, and labor unions continued to call for the allocation of government resources toward the creation of rehabilitation centers and special schools for former child laborers. Labor unions continued to highlight the absence of an inspection regime to prevent child labor and called on the Government to launch an awareness campaign to sensitize parents to the risks of child labor.

*e. Acceptable Conditions of Work.*—The labor code states that the minister of labor must set minimum wages in the public sector by decree. The minimum wage varies by sector and by kind of work. For example the monthly minimum wage was equivalent to approximately \$17 (8,500 CFA francs) for agricultural workers but approxi-

mately \$52 (26,000 CFA francs) for office workers. The minimum wage did not provide a decent standard of living for a worker and family, and wage levels had not changed in more than 20 years. Most labor was performed outside the wage and social security system (in the vast informal sector), especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 40 hours for government employees and most private sector employees. Household employees may work up to 52 hours per week. The law also requires a minimum rest period of 48 hours per week.

There are general laws on health and safety standards in the workplace, but the Ministry of Labor and Civil Service neither precisely defined nor actively enforced them. The labor code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it does not provide the right for workers to remove themselves from such conditions without risk of loss of employment.

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## CHAD

Chad is a centralized republic with a population of approximately 10 million. On May 3, citizens reelected President Idriss Deby, leader of the Patriotic Salvation Movement (MPS), to a third term in what unofficial observers characterized as an orderly, but seriously flawed, election boycotted by the opposition. Deby has ruled the country since taking power in a 1990 rebellion. Political power remained concentrated in the hands of a northern oligarchy composed of the President's Zaghawa ethnic group and its allies. The executive branch effectively dominated the legislature and judiciary, thereby eliminating potential challenges to a culture of impunity for the ruling minority. Civilian authorities did not maintain effective control of the security forces, elements of which frequently acted independently of government control.

During the year the security situation sharply deteriorated as a result of fighting that involved rebel groups, government forces, armed militias, and civilians. Fighting occurred between government forces and antigovernment rebel groups along the eastern border with Sudan and the southern border with the Central African Republic (CAR). There was some thawing of relations between Chad and Sudan by mid-year, but by the end of the year Sudan's continued support for Chadian rebels prompted the Government to accuse Khartoum of seeking to replace the Deby government with an "Arab regime." Violence between competing ethnic groups and bandit attacks on civilians occurred throughout the country. By year's end hundreds of persons were killed and injured, tens of thousands were displaced, and numerous villages in the east and southeast of the country were destroyed. Up to 110,000 internally displaced persons (IDPs) and an estimated 230,000 Sudanese refugees lived in the eastern part of the country after fleeing the violence in Darfur. The deteriorating security environment, characterized by threats of rebel attacks, harassment of humanitarian workers, and dramatically increased vehicle theft, led to the withdrawal of all but essential UN and humanitarian nongovernmental organization (NGO) employees from the country and aggravated the already precarious security situation in the area.

The Government's poor human rights record deteriorated further during the year; security forces committed numerous serious human rights abuses. The following human rights abuses were reported: limitation of citizens' right to change their government; extrajudicial killings, torture, beatings, and rapes by security forces; impunity for human rights abuses committed by members of the security forces; politically motivated disappearances; arbitrary arrest and detention by security forces; harsh and life-threatening prison conditions and lengthy pretrial and post-sentence detention; executive interference in the judiciary and lack of judicial effectiveness; official infringement of privacy rights including illegal searches, confiscation, and wiretaps; limits on freedom of speech and the press and freedom of assembly, including harassment and detention of journalists; widespread official corruption; violence and societal discrimination against women, including the widespread practice of female genital mutilation (FGM); child abuse; slavery; trafficking in persons; and forced labor, including the use of child soldiers and other types of forced and abusive child labor.

Armed civilian militias were responsible for interethnic killings, abuse, and torture of civilians and humanitarian aid workers, unlawful arrest and detention, burning of villages, displacement of thousands of persons, and the destruction of civilian property in areas where they operated. Rebel groups seeking to overthrow the regime engaged government armed forces repeatedly, and attacked the capital in April. Antigovernment rebel groups directed their activities against government tar-

gets while militias generally engaged in banditry and, if ethnically based (as was usually the case), in violence against other ethnic groups.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Government agents committed politically motivated killings, and officially sanctioned extrajudicial killings of suspected criminals by security forces continued. Arbitrary and unlawful killings by security forces were widespread during the year. For example, in September, in the district of Beboto prefecture of Yamodo, a commandant of the gendarmerie killed two citizens who he suspected of being bandits. There were numerous incidents in which security forces fired on persons without sufficient cause, whether or not there was loss of life. The Government did not prosecute or punish members of the security forces who committed killings.

During the year security forces killed a number of civilians who were suspected of collaboration with rebel forces (see Section 1.g.).

Security forces were believed to have committed numerous killings during apprehensions or in custody.

Police use of excessive force resulted in the killing of at least one demonstrator (see Section 2.b.).

On April 29, unidentified armed men in military uniform killed Mahamat Moussa, a government employee on duty in Ati. At year's end there had been no investigation of the case.

On May 11, in Mongo, gendarme Almardi Ahmat killed the governor's driver in the presence of several witnesses in the center of town. No official action was taken against the gendarme.

There were no developments in any of the 2005 killings by security forces.

Unexploded ordinance and landmines laid by government, rebel, and foreign forces resulted in deaths (see Section 1.g.).

Armed militias killed scores of civilians during the year (see Section 1.g.).

Unidentified assailants and armed bandits attacked a number of NGO employees during the year, resulting in one death (see Section 4).

Armed bandits continued to operate on many roads, assaulting, robbing, and killing travelers; some perpetrators were identified as active duty soldiers or deserters. Their motive generally appeared to be robbery, and some of their targets were employees of foreign assistance organizations or NGOs (see Section 4). In June, for example, a group of armed assailants kidnapped four persons in Zabi village, near Pala. The attackers demanded \$7500 to release the victims. When family members were unable to respond to the demands, armed bandits killed two of the hostages, both young boys. No investigation had been conducted on the case by year's end.

No action was taken against the perpetrators of numerous 2005 attacks and killings by bandits, including the killings of two NGO employees.

Interethnic fighting resulted in numerous deaths (see Section 5).

*b. Disappearance.*—There continued to be reports of politically motivated disappearances during the year. The NGO Human Rights Without Borders reported that secret detention centers were created after the April 13 attacks and that at least 16 high-ranking army officers were being kept in these centers (see Section 1.e, Political Prisoners and Detainees).

There were no developments in numerous politically motivated disappearances that occurred between September and December 2005 in connection with alleged mutiny attempts, military desertions, political defections, and rebel attacks carried out on two military installations. There also was no information on the June 2005 military arrest and disappearance of Naguili Delphine.

In September 2005 authorities released and reportedly returned to service 46 air force officers who had been arrested in May 2005 and sent to the northern part of the country. Similarly, 13 to 15 army colonels who were arrested in August 2005 were released in October 2005. The Ministry of Defense announced through media that the officers had not been detained on political grounds; in the air force case the stated reason was insubordination.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such practices, members of the security forces tortured, beat, abused, and raped citizens. Impunity for those who committed human rights abuses remained widespread. Security forces arrested and beat journalists and a human rights worker during the year.

On April 15, security forces detained BBC correspondent Dillah Yombirim while he was interviewing residents in N'Djamena. Yombirim was subsequently taken to

a military camp, where he was detained for two hours and badly beaten before being released without charge.

On April 24, gendarmes arrested and allegedly beat Monodji Mingar Fidel, President of the Chadian League for Human Rights (LTDH). No charges were filed against him and he was released after 24 hours.

On May 9, police allegedly tortured and beat Mahamat Bichara, a payroll officer in the Ministry of Finance, who had been arrested and accused of falsifying and then removing administrative documents. Bichara was provisionally released in July pending further investigation of the case. No charges had been filed by year's end.

Also in May the chief army commandant in the southern town of Sarh arrested, detained, and allegedly tortured Brahim Kaba, Mahamat Adoum Kanassam, Kadi Saleh Togbao, and Abderahim Brahim. The traders reportedly refused to pay a bribe supplemental to commercial taxes already collected. They were not charged with any offense and were released in June.

There were no developments in the numerous 2005 cases of torture or mistreatment by security forces.

During the year human rights organizations continued to receive reports of police and gendarmes raping women in custody.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded, had poor sanitation, and provided inadequate food, shelter, and medical facilities. As a result of inadequate record-keeping and management, many individuals remained in prison after completing their sentences or after courts had ordered their release.

Local human rights organizations continued to report on the existence of military prisons and prisons run by the immigration service, to which access was prohibited. It was unknown who was detained in these prisons and for what reasons they were held.

While the law provides that a doctor must visit each prison three times a week, this provision was not respected. The law authorizes forced labor in prison, but human rights organizations reported that generally it did not occur.

Unlike in the previous year, there were no reports that prisoners died from negligence.

Juvenile males were not always separated from adult male prisoners and in some cases children were held with their prisoner mothers. Pretrial detainees were held with convicted prisoners.

The Government permitted the International Committee of the Red Cross (ICRC) to visit most civil prisons on a regular basis, and the ICRC conducted such visits during the year. The ICRC confirmed the existence of illegal prisons run by the gendarmerie, the ANS, and the police, and requested access to them; however, no access was granted. The Government provided the NGO Chadian Association for the Promotion of Human Rights (ATPDH) with a permanent authorization notice to visit civil prisons at any time, without need to provide advance notice. Other NGOs, including human rights groups, were required to obtain authorization from a court or from the director of prisons; such authorizations depended largely on the personal inclinations of those with authority to grant permission. Prisoners were also secretly kept in regular jails. NGOs were not allowed access to military prisons.

*d. Arbitrary Arrest or Detention.*—Although prohibited by the constitution and law, arbitrary arrest and detention were serious problems.

*Role of the Police and Security Apparatus.*—The National Army (ANT), Republican Guard, gendarmerie (military police force), national police, nomadic guard (GNNT), and National Security Agency (ANS) are responsible for internal security. The ANT, gendarmerie, and GNNT report to the Ministry of Defense; the national police report to the Ministry of Public Security and Immigration; and the Republican Guard and ANS report to the President. The Ministry of Defense is under the direction of the presidency. Officers from President Deby's ethnic group and closely allied ethnic groups dominated the ANS and Republican Guard.

The police force was centrally controlled, but exercising oversight, particularly outside of N'Djamena, was difficult. Police officials who committed human rights abuses generally enjoyed impunity. Government officials publicly acknowledged the country's growing internal security problems, which resulted in part from the inability of the national police in N'Djamena and in the regions to counter widespread banditry, particularly outside of N'Djamena, and the proliferation of arms resulting from a succession of civil wars. The Government continued to allow months to pass before it paid police force members, and corruption was widespread.

The defection of government troops to rebel groups was reportedly widespread, but no data or estimates of their numbers were available. Retribution against the

families and villages of defectors included the burning of homes, arrest and torture of family members, and destruction of crops and other property.

*Arrest and Detention.*—While a judicial official is required by the constitution and law to sign arrest warrants, the Government often did not respect this requirement, and secret arrests occurred. The law requires both access to bail and access to counsel, but neither was regularly provided. Few detainees had the means to pay for private counsel, and incommunicado detention was a problem. Detainees were not promptly informed of charges, and judicial determinations were not made promptly, which contributed to widespread prison overcrowding. The constitution and law state that legal counsel should be provided for indigent defendants and defendants should be allowed prompt access to family members and counsel; however, in practice this usually did not occur.

During the year security forces arbitrarily arrested and reportedly tortured persons, particularly those suspected of collaborating with rebels (see Sections 1.c. and 1.g.).

Police continued to arrest journalists and NGO officials who criticized the Government (see Sections 2.a. and 4).

The Government also arrested numerous military defectors and members of their families (see Section 1.g.).

On May 9, gendarmes arrested 12 farmers from the town of Guite on suspicion of being rebel sympathizers and subsequently killed one of the farmers (see Sections 1.a. and 1.g.).

On May 13, the chief commandant of the ANS in the southern town of Koumogo arrested Mahmat Bouba, Elhadj Mbonou, and several herders; the commandant seized the money and property of the detainees. No investigation of the case had been conducted by year's end.

In April 2005 the chief police commandant arrested Ahmat Nagrtoloum, an employee of the Ministry of Finance in N'Djamena. Human rights groups were denied access. He was charged with embezzlement in July 2005 and released pending trial. The case had not gone to trial by year's end.

Lengthy pretrial detention remained a problem. Persons accused of crimes could be imprisoned for several years before being charged or tried, particularly those who were arrested in the provinces for felonies and transferred to the overcrowded prison in N'Djamena. Of the 3,416 inmates held in the country's prisons as of August 2005 (the most recent data available), 1,980 were pretrial detainees.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judiciary was ineffective, underfunded, overburdened, vulnerable to intimidation and violence, and subject to executive interference. In practice government officials and other influential persons often enjoyed impunity from judicial sanction. Members of the military, in which the President's Zaghawa ethnic group figured prominently, continued to enjoy a particularly high degree of impunity from prosecution. During the year members of the judiciary received death threats or faced demotion or removal from their positions for not acquiescing to pressure from corrupt officials. The two lawyers representing employees of an ESSO (Exxon) subcontractor who were demanding back wages had their licenses temporarily revoked. The lawyers were charged with inciting the workers to occupy Ministry of Justice offices in protest, including confining the minister of justice in his office for one day.

At the national level, a Supreme Court, constitutional court, and court of appeals exist; some of their members were appointed by the Government rather than elected by citizens as required by law, which weakened judicial independence. The constitutionally mandated high court of justice can try high-ranking government officials whose cases are submitted by the National Assembly. In December 2005 the Ministry of Morality brought charges of mismanagement (embezzlement) of official funds against three former ministers of livestock. At year's end the National Assembly had not acted on these cases.

At the provincial level there are appeals courts in N'Djamena, Moundou, and Abeche.

The constitution and law mandate that the Superior Council of Magistrates recommend judicial nominations and sanction judges who commit improprieties; however, continuing problems between the Government and magistrates prevented any sanctions from being considered or carried out. In 2005 a five-judge judicial oversight commission, similar in function to the Superior Council, began conducting investigations of judicial decisions and addressing suspected miscarriages of justice. However, in contrast to the Superior Council, the President appointed members of the commission, which increased executive control over the judiciary and diminished

the authority of the Superior Council. Parties to judicial cases could appeal to the commission.

*Trial Procedures.*—Applicable law was sometimes confusing, as courts tended to blend the formal French-derived legal code with traditional practices, and customary law often continued in practice to supersede Napoleonic law. Residents of rural areas often lacked access to formal judicial institutions, and legal reference texts were not available outside the capital. In most civil cases, the population relied on traditional courts presided over by village chiefs, canton chiefs, or sultans. However, decisions could be appealed to a formal court.

Defendants are presumed innocent until proven guilty, but in practice many judges assumed a suspect's guilt, particularly in crimes involving rape or theft. Cases are heard as public trials, and defendants have the right to appeal any decision. Defendants, their lawyers, and judges are permitted by law to question witnesses.

The law states that indigents should be provided promptly with legal counsel; in practice, this seldom occurred. Human rights groups sought to improve this situation, and sometimes provided free counsel themselves.

The Muslim concept of *dia*, which involves a payment, based on the decision of local leaders, to the family of a murder victim or other victim of a crime, was practiced widely in northern Muslim areas. Non-Muslim groups, who supported implementation of a civil code, continued to challenge the use of the *dia* system, arguing that it was incompatible with the constitution. Such groups further accused the Government of supporting *dia* practices by permitting the existence of local tribunals. A technical committee chaired by a former foreign minister was formed to identify a solution but had not come up with any proposal by year's end.

*Political Prisoners and Detainees.*—Human rights organizations reported that the Government held political prisoners and detainees in military and immigration prisons, and that they were denied access to such prisons (see Section 1.g.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, but the Government conducted illegal searches and wiretaps, monitored private mail through the postal service, and monitored private e-mail through the main post office server. Security forces also regularly stopped citizens and extorted money or confiscated belongings. For example, on February 24, the Government summarily destroyed the residence and seized the family goods of former army general Seby Aguid, who had joined a rebel group operating outside of the country.

During the year the Government ordered the temporary closure of cellular telephone networks. The military and police officials conducted searches and confiscations of satellite telephones, including those of NGOs, international organizations, and diplomatic vehicles.

There were occasions when police officers arrested family members of suspects (see Section 1.d.).

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—During the year the country was engulfed by fighting that involved rebel groups, government forces, armed militias, and civilians. Rebel attacks and government counterattacks resulted in hundreds of deaths, thousands of injuries, the displacement of some 110,000 IDPs, and widespread destruction of homes and property during the year. Following a series of attacks by rebels and armed militia, the Government in November declared a state of emergency in three eastern provinces that was ongoing at year's end.

Massacres occurred in the Salamat and Goz-Beida regions. The Government, Chadian Red Cross, and human rights NGOs reported that 260 people were killed in Salamat in mid-October and 140 in Goz-Beida from November 4 to 7, and that thousands were injured in these episodes. They were committed by armed civilian militias suspected of being made up of Chadian Arabs.

Sudanese militiamen abducted approximately 4,700 refugees from refugee camps in the east on March 17–19 (see Section 2.d.).

Security forces killed numerous citizens suspected of collaborating with rebel forces. For example, on March 16, in Bebo, Pen Brahim Moussa Arssimi, the chief commandant of the gendarmerie, killed Sayam N'demra, a farmer, after accusing him of having connections with rebels. There was no action from the Government by year's end, although the LTDH reported on the case.

Security force members killed other security force members during the year. For example, in March the remains of Nandigar Mbaioissoumta, a gendarme in the eastern border town of Adre, were found thrown in a well. Mbaioissoumta had been accused by other gendarmes of being a rebel sympathizer. The prime suspect, Idriss

Adoum Idriss, a chief commandant of the gendarmerie, had not been arrested by year's end.

On April 2, the LTDH reported that soldiers killed seven civilians in Bebora and three civilians in Bاندouda, both eastern towns. On April 6, in the eastern town of Betogo, two soldiers reportedly killed Andre Tomboi and Louis Mbatel. The Government took no action in either case.

On April 25, security forces arrested, detained without charge, and allegedly tortured Nourène Fadoul, a 17-year-old student from the Tama ethnic group, as a result of an altercation with Zaghawa students at his high school. The other students had accused Fadoul of supporting rebel leader Mahamat Nour, whose United Front for Change is predominantly Tama. There were no charges in the case.

On May 9, gendarmes arrested 12 farmers from the town of Guite who were suspected of being rebel sympathizers. One of the farmers was killed; the others were released in June, according to the Chadian Human Rights League.

Rebel attacks and government counterattacks occurred throughout the year, primarily along the eastern border with Sudan, but also along the southern border with CAR. Interethnic attacks on villages in the eastern part of the country started in late 2005. After a December 2005 attack on Adre by antigovernment rebels—described as equipped and armed by the Sudanese government—the army pulled back to reinforce key border towns, leaving vast areas along the border with Sudan unprotected. Militias burned houses and stole the cattle of unprotected villages, resulting in numerous deaths and the displacement of thousands of persons, including more than 20,000 in Koloy. In April more than 12,000 IDPs arrived at a refugee camp near the town of Goz-Beida.

On April 13, rebels attacked N'Djamena, where they were defeated by government soldiers. The fighting resulted in hundreds of civilian deaths, in addition to injuries, extensive damage to homes and property, and the temporary displacement of hundreds of families. One local hospital reported treating 45 wounded civilians, some as young as five years old.

During November an armed force on horseback—most likely a mixture of Sudanese and Chadian militiamen, or Janjaweed—attacked 23 villages in the southeast, resulting in the deaths of 200 persons and the displacement of 10,000 persons. The attackers reportedly gouged out the eyes of some of the residents, while others were trapped and died after their homes were set on fire.

Militias also attacked and killed humanitarian workers during the year. In November, near the southeastern town of Koloy, armed men on horseback killed an employee of Doctors Without Borders (MSF), wounded a second MSF employee, and destroyed the MSF clinic and its water supply. Seven captured MSF employees were later released and returned to work in a different location in the country. Several thousand IDPs who had been resident in Koloy were relocated to Adde in the eastern part of the country.

Landmines laid by government, rebel, and foreign forces reportedly resulted in 26 deaths and 60 injuries. A large number of these incidents took place in N'Djamena, most likely the result of unexploded ordinance from the April 13 attack on the city. According to the Government's High Commission for Demining, between January and August 2.5 million square meters were cleared and 224 anti-personnel and anti-tank mines and 6,900 pieces of unexploded ordinance were destroyed.

Security forces arrested and detained numerous persons suspected of rebel activity or collaboration with rebels; some were held incommunicado in secret prisons at year's end. The Government also arrested military defectors, some of whom had joined rebel groups, and members of their families during the year.

For example, following the April 13 rebel attack on N'Djamena, the Government arrested at least 16 high-ranking army officers who reportedly were being held in secret prisons without trial at year's end. Among those detained was Colonel Ismat, the ANS director of analysis. He was released without being charged in October and returned to service. The NGO Human Rights Without Borders, which reported that secret detention centers had been created, appealed to the Government to release information on the detainees, but was unable to obtain further information. The NGO held three press conferences to publicize the names of the detainees and draw attention to their arbitrary arrest.

In March soldiers from the Republican Guard arrested and detained Nodjitel Modard, a resident of a suburb of N'Djamena, and accused him of protecting rebels in his house. During the same month the ANS arrested and detained El Hadj Abba Zene, also a civilian resident of an N'Djamena suburb, on the same charge. They were subsequently released without being formally charged.

According to LTDH, on April 14, gendarmes arrested and tortured Brahim Almaridi and Bechir Zam-Zam for allegedly collaborating with rebels.



On April 20, the police commandant of Batha arrested and detained Al Hadj Annakour, Mahamat Zeine, Sakaheir, Chous Youssouf, and Bachar Djibrine. They were suspected rebel sympathizers, but were released without being charged.

In May the ANS arrested eight persons suspected of supporting the rebels, including Tadjou Hamad Adano, Pierre Marabeye, Todje Issi Albert, Mbainaissem Sylvain, Adoum Bloh Mersia, Ali Amat Mahamat, Djimta Joseph, and Hassan Moksia. All were later released without being charged.

On May 26 police agent Ahamat Moussa Alguisseir arrested, detained, and allegedly tortured Ahmat Mahamat, a trader living in Ati. A businessman, Mahamat was alleged to have provided funds to the rebels. He was subsequently released without being charged.

A number of persons arrested and detained in 2005 were released during the year.

The law prohibits the use of child soldiers; however, there were unconfirmed reports that young males were recruited by security forces during the year. In October the independent press accused the Government of using child soldiers and published photos of youths engaged in a military campaign in the southern town of Am Timan. In December 2005 unconfirmed reports of the forced recruitment of male youths circulated after the Government began enforcing a curfew during the holidays, in particular of forced recruitment in N'Djamena and Abeche.

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

*a. Freedom of Speech and Press.*—Although the constitution and law provide for freedom of speech and of the press, the Government limited these freedoms in practice and intimidated journalists and publishers, who practiced self-censorship.

Individuals who publicly criticized the Government often faced official reprisal. There were reports that the Government attempted to control criticism by monitoring meetings of the political opposition, and there were reports that the Government attempted to intimidate its critics.

The Government owned the newspaper Info Tchad and influenced another, *Le Progres*, but it did not dominate the press. A number of private newspapers, many of which were critical of government policies and leaders, were published and circulated freely in the capital. In November, however, the Government instituted a state of emergency which included strict press censorship provisions against reporting on the rebels, interethnic conflict, and criticism of the Government relative to its handling of internal security.

Due to widespread illiteracy and the relatively high cost of newspapers and television, radio remained the most important medium of mass communication. The government-owned Radiodiffusion Nationale Tchadienne had branches in N'Djamena, Abeche, Moundou, Sahr, and Taya. There were numerous private radio stations that broadcast throughout the country, many of them owned by religious organizations. A new privately owned commercial radio station, Radio N'Gato, began broadcasting in July.

The licensing fee set by the Government's High Council for Communications (HCC) for a commercial radio station remained prohibitively high at approximately \$10,000 (five million FCFA) per year, 10 times the fee for radio stations owned by nonprofit NGOs. The HCC monitored and censored the content of radio station programming.

The Government owned and operated Teletchad, the only domestic television station, but did not interfere with private channels originating outside the country.

During the year the Government harassed and detained journalists. For example, on April 28, security forces arrested radio journalist Tchanguis Vatankah after he signed a press release calling for the postponement of the May 3 election to allow more room for political dialogue (see Section 3). Vatankah went on a hunger strike, was held incommunicado until May 16, and was released on May 19. An Iranian citizen, Vatankah said authorities lifted an expulsion threat against him only after he pledged to keep out of politics and to step down as head of the Chadian Union of Private Radios.

On October 27, security forces arrested Notre Temps reporter Evariste Ngaralbaye after he published an article that accused the army of using child soldiers (see Section 1.g.). Ngaralbaye was released after four days imprisonment.

In September 2005 an appeals court dismissed the charges against Michael Didama, the editor of independent newspaper *Le Temps*, Sy Koumbo Singa Gali, the editor of *l'Observateur*, and Caronde Djamra, a freelance journalist; the three journalists had been arrested earlier in the year for jeopardizing national security and defamation.

In December most independent newspapers began a 15-day strike to protest censorship measures introduced by the Government as part of emergency measures im-

posed after the November rebel attacks in the east. Some radio stations joined the media protest and did not broadcast for three days. The emergency measures included a requirement that all news items be submitted for approval to the HCC before publication or broadcast to prevent interethnic violence. Journalists called the move an over-reaction.

Some journalists in rural provinces reported that government officials warned them not to engage in any contentious political reporting. In addition some domestic journalists claimed that the Government restricted their ability to cover some events or visit certain locations and limited their access to high-ranking officials, restrictions that the Government did not impose on foreign journalists.

Unlike in the previous year, the Government issued warnings but did not close radio stations.

Government controlled media were subject to censorship; however, at times they were critical of the Government.

During the year rebel fighters abducted journalists. For example, on April 11, United Front for Change rebels in Mongo seized Eliakim Vanambyl, the editor of radio station FM Liberte. The reasons for the abduction of Vanambyl, who was released on April 17, were unknown.

*Internet Freedom.*—The Government did not restrict access to the Internet but reportedly monitored e-mail through the main post office server (see Section 1.f.). Although increasingly available to the public at Internet cafes, the growth of Internet access was almost entirely through the Government telecommunications company.

*Academic Freedom and Cultural Events.*—There were no reports that the Government restricted academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—Although the constitution and law provide for freedom of assembly, the Government limited this right in practice. Authorities banned demonstrations they expected would be critical of the Government, despite being notified five days in advance as required by law; however, they permitted demonstrations they presumed would support the Government and its policies.

Throughout the year the police regularly disrupted student gatherings, and police use of excessive force to disperse demonstrators resulted in at least one death.

During a February 4 student demonstration against the lack of teachers in Pala, gendarmes shot and killed 15-year-old Issa Wardougou, who was marching with the other demonstrators toward the governor's office. No action was taken against the security forces involved.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. In February the Government approved the reestablishment of the Chadian Association of Students, an organization that had been banned since 2004.

*c. Freedom of Religion.*—While the law provides for religious freedom, at times the Government limited this right. The law also provides for a secular state. Senior government officials were predominantly Muslim, and some policies favored Islam in practice. For example, the Government continued to sponsor annual haj trips to Mecca for certain government officials.

The Islamic religious group Faïd al-Djaria remained banned on the grounds that its religious customs, including singing and dancing together by men and women in religious ceremonies, were un-Islamic.

Although the different religious communities generally coexisted without problems, there were reports of tensions within the Muslim community between the High Council for Islamic Affairs (a government-sanctioned, nongovernmental body) and radical elements within the community. During the year there were regular meetings between key religious leaders to discuss peaceful collaboration among groups.

*Societal Abuses and Discrimination.*—February demonstrations by Muslims expressing concerns about the depictions of Muhammad in a Danish newspaper resulted in damage to several Christian properties.

There was no known Jewish community and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the law provides for these rights, in practice the Government imposed some limits. The Ministry of Territorial Administration required an "authorization for circulation" for foreign travelers, including humanitarian agency personnel intending to visit the eastern part of the country, due to insecurity in the region.

In 2005 the minister of territorial administration banned roadblocks throughout the country; however, elements of the security forces, rebels, and bandits continued to maintain roadblocks, extorting money from travelers, and often beating and in some cases killing them.

Tension along the border with CAR continued to hinder free movement in the region. During the year bandits from CAR continued to enter the country and attack citizens, despite an agreement by government officials of both countries to stem insecurity along the border and seize weapons held illegally by militias, herders, and other individuals.

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

*Internally Displaced Persons (IDPs).*—By year's end there were an estimated 70–110,000 IDPs in the region along the Sudanese border (and more than 230,000 Sudanese refugees). The IDPs were largely the former residents of villages along the eastern border with Sudan, particularly in the southeastern region in the vicinity of Goz-Beida.

In April attacks on the town of Koloy, which was home to approximately 20,000 IDPs, resulted in their displacement to neighboring villages, which sometimes quadrupled the villages' populations overnight. At a refugee camp near the town of Goz-Beida, more than 12,000 persons arrived in April. Some IDPs were forcibly displaced two or three times.

Interethnic violence created additional IDPs. From December 15 to 17, militia on horseback attacked civilians of the Dadjo ethnic group in the southern portion of the border with Sudan. These so-called Janjaweed attacks were widespread throughout the year, but especially in November and December. The victims were mostly non-Arabs of the Dadjo tribe in the southeast, but other non-Arab groups were targeted as well. The armed militia subsequently attacked government officials investigating the situation and refugees from the nearby Goz Amer refugee camp. Violence between Arab and non-Arab ethnic groups spread to the neighboring towns of Habile and Aradif, resulting in as many as 50 deaths. The burning of Dadjo villages near the Goz Amer camp resulted in approximately 600 to 700 new IDPs in the region.

The Government publicly acknowledged that its resources were directed toward fighting rebel groups and armed militia and that it could not protect or provide for the growing number of IDPs and refugees in the country. By year's end the UN had withdrawn all but essential employees in the country due to threats of rebel and militia attacks in the east, aggravating the already precarious situation for IDPs and refugees in the country.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status and consequently is not in compliance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government also provided protection to certain individuals who may not qualify as refugees under the convention or its protocol. An official national structure, the National Committee for Welcoming and Reinsertion of Refugees, handled foreign refugee matters and returning citizens who had been refugees in other countries.

The Government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR and the Government worked together to identify safer sites for refugees from the Darfur region along the Sudanese border. According to the UNHCR, the country hosted approximately 220,000 Sudanese refugees from Darfur, 200,000 of whom were located in 12 camps along the eastern border with Sudan. By the end of the year there were an estimated 48,000 refugees from CAR, including some 18,000 who arrived during the second half of the year. There were also small numbers from the Democratic Republic of the Congo.

Most of the refugees in the south were living in three camps. As in the east, UNHCR and its UN and NGO partners provided food, shelter, health, educational, agricultural (vegetable gardening), and security support for these refugees. The camps faced serious water and sanitation challenges that were only slowly being addressed because of the limited humanitarian NGO presence.

The Government was unable to protect the refugee camps in the east, and there were threats of attacks on camps and relief agencies during the year (see Section 4). Refugees from Darfur were regularly targeted throughout the year.

According to an investigation by the NGO Human Rights Watch, SLA commander Khamis Abdullah, a Masalit, gained access to the predominantly Masalit camps of Bredjing and Treguine, facilitated by the Chad National Refugee Commission. He

recruited an estimated 4,700 refugees, some voluntarily but most coercively. They were marched to an SLA training camp near the town of Arkoum. NGO observers considered it likely that the Government was complicit in this event. There were Janjaweed attacks near Koukou-Angarana camp in May and on the nearby Goz Amer camp in December.

On November 25, rebels briefly held the eastern town of Abeche. In the absence of local authorities, residents attacked the humanitarian infrastructure in Abeche and looted World Food Program and UNHCR warehouses. Rebels took fuel and arms from government deposits. An early December attack on Guereda further north also affected the humanitarian community serving three camps in that area, although humanitarian workers were not directly targeted. These two events were decisive in the UN decision to declare security phase IV in Eastern Chad and remove all but the most essential expatriate and local staff.

Anti-refugee sentiment among citizens living in refugee-affected areas was high due to competition for such local resources as wood, water, and grazing land—and the provision of goods and services to Sudanese refugees that was not available to the local population. There continued to be reports that citizens attacked refugees and destroyed their wells out of frustration and fear of resource shortages.

The UNHCR and its partner organizations expressed concern about the possibility of the militarization of the refugee camps by Sudanese and Chadian rebels, particularly those located close to the border. As a result, the Government agreed to move Oure Cassoni and Am Nabak camps to safer locations. However, proposed alternate locations were both insecure and lacking water sources. The Government, UNHCR, and NGOs were still looking for suitable relocation sites at year's end. Refugees in at least one of the camps, however, adamantly opposed relocation, preferring to remain close to the border of their traditional homeland.

At year's end UN agencies were still operating in the country's eastern region, although their personnel numbers were greatly reduced. Expatriate staff presence was particularly low, and many functions were being covered by less experienced local staff, especially for UNHCR and UN Children's Fund (UNICEF) programs in more remote areas.

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

Although the constitution and law provide citizens with the right to change their government, the Government continued to limit this right in practice. The executive branch dominated the other branches of government.

*Elections and Political Participation.*—On May 3, President Deby, leader of the ruling MPS, was reelected to a third term in what unofficial observers characterized as an orderly, but seriously flawed election that was boycotted by the opposition. The Government had dismissed appeals from the opposition, civil society, religious groups, and some members of the international community to postpone elections and organize a national dialogue. Observers noted low voter participation, underage voting, multiple voting, and other irregularities.

Communal elections and legislative elections, originally scheduled for 2005, again were postponed by the Government during the year.

There were approximately 78 registered political parties in the country. Parties allied with the Government generally received favorable treatment. Opposition political leaders accused the Government of co-opting their most popular local politicians to run as MPS members in local elections and alleged intimidation by the military of party members who refused to cooperate. Northerners, particularly members of the Zaghawa ethnic group, including the Bideyat subclan to which the President belongs, continued to dominate the public sector and were overrepresented in key institutions of state power, including the military officer corps, elite military units, and the Presidential staff.

There were six women among 39 ministers in the cabinet. There were 10 women in the 155-seat National Assembly, and two women in the 25-member national election commission.

Both the cabinet and the National Assembly had diverse ethnic representation.

*Government Corruption and Transparency.*—Corruption continued to be a serious problem. According to Transparency International's corruption perceptions index for the year, corruption was characterized as "rampant."

In July two cabinet ministers were removed from their positions for misappropriation of government funds after the Ministry of Morality conducted an investigation. It was unclear whether the ministers would go to trial since ministers and members of government are immune from criminal trial unless the National Assembly suspends their immunity, which has never previously occurred (see Section 1.e.).

In September the College for the Monitoring and Control of Oil Resources (CCRSP) issued its second report on poverty reduction projects funded with oil revenues. It identified many deficiencies in the execution of projects, including contract delays, nondelivery of goods, poor quality of projects, lack of communication between priority sector ministries and local authorities, and corrupt practices such as double-charging for services. The Government had not taken action on deficiencies identified in the CCRSP's first report in 2005.

The law does not provide for public access to government information. The Government provided such access to government-employed journalists, but independent media journalists complained that they were not given sufficient access to government information. In June 2005 the Government mandated that the proceedings of some ministerial meetings be broadcast on the radio or published in *Info Tchad*, a government newspaper. The Government's low capacity to store and retrieve information continued to be a problem.

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

The Government obstructed the work of domestic human rights organizations during the year through arrest, detention, and intimidation; nevertheless, such groups were able to investigate and publish their findings on human rights cases. Government officials generally were accessible to human rights advocates but were often unresponsive or hostile to their findings.

There were two principal local human rights organizations: the ATPDH and the LTDH. These and smaller human rights organizations worked together through an umbrella organization, the Association for Human Rights. Their activities included observing government detention practices, assisting individuals who suffered human rights abuses, and holding public conferences and seminars addressing press freedom and arrests of journalists, relocation of residents of local neighborhoods, transparency of oil revenues, disappearances of individuals, and the socio-political situation and its impact on human rights.

Despite pressure from the Government, human rights groups were outspoken in publicizing abuses through reports, press releases, and the print media, but only occasionally were they able to intervene successfully with authorities. There was a perception on the part of government officials that most local human rights groups were composed mainly of political opponents, which weakened their credibility with the Government and some international organizations.

Gendarmes arrested and allegedly beat a human rights worker during the year (see Section 1.c.).

Unidentified assailants and armed bandits attacked numerous NGO employees during the year, resulting in one death. For example, on January 12, armed bandits attacked the Catholic NGO SECADEV in the eastern part of the country and stole a vehicle. In March unidentified assailants in military uniform shot and injured Sylvia Gaya, a foreign employee of UNICEF in Abeche, during a carjacking. A November rebel attack on relief agencies in Abeche resulted in the killing of an employee of Doctors Without Borders (MSF).

Hundreds of aid workers were evacuated from the eastern part of the country due to increased hostilities between military forces and antigovernment rebel groups. Beginning in late November, nearly 500 aid workers were relocated from Abeche, the eastern city that served as a hub for relief agencies in the region, to N'Djamena.

The Government allowed access to the eastern region for employees of the International Criminal Court who were investigating charges of war crimes and crimes against humanity in Sudan; however, the Government continued to obstruct the work of international human rights organizations, such as Amnesty International.

Belgian courts continued their investigation of crimes against humanity allegedly committed by former President Hissein Habre during his rule from 1982 to 1990. In September 2005 a Belgian court announced an indictment of Habre, who was living in self-imposed exile in Senegal. Although the Government of Senegal had agreed to an African Union request to prosecute Habre, no action had been taken in the case by year's end.

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

While the constitution and law prohibit discrimination based on origin, race, gender, religion, political opinion, or social status, the Government did not effectively enforce these provisions. The Government favored its ethnic supporters and allies.

*Women.*—Although the law prohibits violence against women, domestic violence, including spousal abuse, was common. Wives traditionally were subject to the authority of their husbands, and they had limited legal recourse against abuse. Al-

though family or traditional authorities could provide assistance in such cases, police rarely intervened.

The law prohibits rape, prostitution, and spousal abuse, but all were problems, although no reliable quantitative data was available.

There were reports that family members killed women for breaking social taboos. For example, in some places girls and women may not visit the site where an initiation ceremony is to take place. If a female violates this prohibition, the village leaders can kill her.

The law prohibits the practice of female genital mutilation (FGM); however, FGM was widespread and deeply rooted in tradition. According to a 2004 government report by the National Institute of Statistics, Economic and Demographic Studies, 45 percent of local women had undergone excision. The highest rates of FGM—90 percent or more—were among Arabs, Hadjarai, and Ouaddai. Lower percentages were reported among the Sara (38 percent) and Gorane (2 percent). According to the survey, 70 percent of Muslim females and 30 percent of Christian females were subjected to FGM. The practice was prevalent especially among ethnic groups in the east and south. All three types of FGM were practiced. The least common but most dangerous and severe form of FGM, infibulation, was confined largely to the region on the eastern border with Sudan. FGM usually was performed prior to puberty as a rite of passage.

FGM could be prosecuted as a form of assault, and charges could be brought against the parents of FGM victims, medical practitioners, or others involved in the action, but prosecution was hindered by the lack of specific penalty provisions in the penal code. There were no reports that any such suits were brought during the year. The Ministry of Social Action and Family was responsible for coordinating activities to combat FGM, and sponsored a public awareness campaign during the year in the south (where FGM is widely practiced) on the health risks of FGM and the fact that the practice is contrary to law.

Although the law prohibits prostitution, pimping, and owning a brothel, prostitution was a problem, particularly in the southern oil-producing region. The law provides for prison terms of two months to two years and a fine of \$100 to \$1,000 (50,000 to 500,000 FCFA) for violations. There were no reported prosecutions during the year.

The law does not prohibit sexual harassment.

Discrimination against women remained widespread. In practice women did not have equal opportunities for education and training, making it difficult for them to compete for the relatively few formal-sector jobs. Although property and inheritance laws based on the French code do not discriminate against women, local leaders adjudicated most inheritance cases in favor of men, according to traditional practice.

The exploitation of women was pervasive, especially in rural areas, where women did most of the agricultural labor and were discouraged from seeking formal schooling. Illiteracy was estimated at 66 percent for women, compared to 48 percent for men.

While no law addresses polygamy, husbands may opt at any time to declare a marriage polygynous. If a husband takes a second wife, the first wife has the right to request that the marriage be dissolved; however, she must repay the bride price and other expenses related to the marriage. In 2005 polygyny became a controversial issue between Muslim and Christian communities during debate over revision of the family code, which remained pending. Issues involved in code revision were contentious; as a result, the Council of Ministers created a committee to propose compromises on controversial issues, such as polygyny and inheritance.

*Children.*—The Government generally supported the activities of NGOs and international donors to improve children's rights and welfare, but the Government had few resources to organize its own activities. Although the Government increased its assistance to the education sector, it was unable to fund public education beyond the primary level and medical care adequately. Government education policy for children and youth focused on improving classroom facilities and infrastructure.

By law education is universal, compulsory, and free from ages five through 12; parents were required to pay tuition to public schools beyond the primary level. During the year free primary school education was offered for the first time since 1973; however, except in some rural schools, parents were required to pay for textbooks. Approximately half of teachers were hired and paid by parent-teacher associations, without government reimbursement. UNICEF reported in 2005 that 46 percent of school-age boys and 33 percent of girls attended primary school. Educational opportunities for girls were limited mainly because of the traditional role of young girls in doing household tasks such as obtaining water and wood. The percentage of girls enrolled in secondary school was extremely low compared with that of boys, primarily because of early marriage.

Child abuse, including abuse of child herders, remained a problem (see Section 6.d.).

FGM was commonly practiced on young girls (see Section 5, Women).

Although the law prohibits sexual relations with a girl under the age of 14, even if married, the ban was rarely enforced. Families arranged marriages for girls as young as 12 or 13; the minimum legal age for engagements was 11. The law prohibits forced marriages of minors (defined as anyone under 18) and provides for imprisonment of six months to two years and a fine of \$100 to \$1,000 (50,000 to 500,000 FCFA). There were some forced marriages, and the custom of buying and selling child brides continued to be widespread. Many young wives were forced to work long hours of physical labor for their husbands in fields or homes.

Several human rights organizations reported on the problem of the mahadjir, children who attended certain Islamic schools and were forced by their teachers to beg for food and money. There was no reliable estimate of the number of mahadjir children.

Trafficking in children was a problem (see Section 5, Trafficking).

The law prohibits the use of child soldiers; however, there were reports that young males were recruited by security forces during the year (see Section 1.g.).

Child labor remained a serious problem (see Section 6.d.).

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, traffickers could be prosecuted under statutes prohibiting kidnapping, sale of children, and child labor. Persons were trafficked to, from, and within the country. Cross-border trafficking was not widespread, and internal trafficking was largely restricted to children.

Children were trafficked for forced labor and sexual exploitation. The majority of victims were trafficked within the country to work as involuntary domestic servants, herders, or beggars (see Section 6.d.). A 2004 NGO survey of child herders who had been returned to their parents indicated that between 1,500 and 2,000 children between six and 17 years of age may have been trafficked. Children from Cameroon and CAR were trafficked for commercial sexual exploitation to the country's oil-producing regions. Children from the country were trafficked to Cameroon, CAR, and Nigeria.

The law provides penalties of between 10 months' and life imprisonment with hard labor for trafficking violations, and between 10 and 20 years of hard labor in prison for the trafficking of children. No economic or financial aid for victims was available unless a court awarded damages. The Ministry of Justice's child protection department continued to cooperate with UNICEF and NGOs to combat trafficking.

UNICEF reported that 360 child herders were rescued and returned to their communities during the year.

*Persons With Disabilities.*—The law prohibits discrimination against such persons; however, in practice the Government operated few education, employment, or therapy programs for such persons, and no laws mandate that buildings be accessible to persons with disabilities. Several local NGOs provided skills training to persons with hearing or visual impairment. The Government, in conjunction with NGOs, continued to sponsor an annual day of activities to raise awareness of persons with disabilities. The Ministry of Social Action and Family is responsible for the rights of the disabled.

*National/Racial/Ethnic Minorities.*—There are approximately 200 ethnic groups, many of which are concentrated regionally. They speak 128 distinct primary languages. Although most ethnic groups were affiliated with one of two regional and cultural traditions—Arab and Saharan/Sahelian-zone Muslims in the North, Center, and East; and Sudanian-zone Christian or animist groups in the South—internal migrations in response to urbanization and desertification resulted in the integration of these groups in some areas.

Societal discrimination continued to be practiced routinely by members of virtually all ethnic groups and was evident in patterns of employment, especially across the North-South divide. The law prohibits government discrimination on the basis of ethnicity, although in practice it continued to influence government appointments and political alliances (see Section 3). Political parties and groups generally had readily identifiable regional or ethnic bases.

In the east, interethnic violence occurred in Guereda, Goz-Beida, and Oum Hadjer during the second half of the year. These clashes were mainly between nomadic and semi-nomadic groups and local sedentary populations. The total number of persons killed and injured in this violence was estimated by the Government and by ATPDH as approaching 400 persons.

Clashes between herders and sedentary populations and other interethnic violence, often concerning land use, continued to be a serious problem.

*Other Societal Abuses and Discrimination.*—Societal discrimination continued to be practiced against homosexuals and those afflicted with HIV/AIDS.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law allows all employees except members of the armed forces to join or form unions of their choice without excessive requirements, and the Government generally respected this right; however, the authorization of the Ministry of the Interior is required. The ministry can also authorize the immediate administrative dissolution of an association and permit authorities to monitor association funds.

An ordinance requires prior authorization from the Ministry of the Interior before an association, including a labor union, may be formed; however, there were no reports that the ordinance was used. The ordinance also allows for the immediate administrative dissolution of an association and permits authorities to monitor association funds.

In the formal sector, more than 90 percent of employees belonged to unions; however, the great majority of workers were nonunionized, unpaid subsistence cultivators or herders. The Government, which owned businesses that dominated many sectors of the formal economy, remained the largest employer.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to organize and bargain collectively, and the Government protected these rights. Although there are no restrictions on collective bargaining, the law authorizes the Government to intervene under certain circumstances. For example, workers for a private cellular telephone company were prevented by the Government from starting their strike on the day they had chosen because it coincided with the President's inauguration. There are no export processing zones.

The law recognizes the right to strike, and workers exercised this right in practice. The right to strike is limited in the public sector by a decree requiring minimum service to be maintained. While the law permits imprisonment with forced labor as punishment for participation in illegal strikes, no such punishment was imposed during the year.

In June the Union Syndicat du Travail (UST), the leading labor union, organized strikes in response to the Government's failure to implement a 5 percent increase in civil servant salaries provided for in the 2005 national budget. Local media reported that the strikes were paralyzing basic public services, particularly access to medical care. In mid-June the minister of labor charged that the strikes were a destabilizing influence and called for the U.S. to reconsider its position. During a July 13 address to the National Assembly, the Prime Minister stated that the salary increase was a government priority, but that budgetary constraints resulting from military actions against rebels in April and May prevented the Government from satisfying U.S. demands. Following another week of strikes, the U.S. and the Government negotiated a temporary resolution, in which the U.S. agreed to suspend its activities for two months to allow the Government to implement the 5 percent salary increase retroactive to January. The Government implemented the 5 percent increase in November, but declined to make it retroactive to January.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, during the year there continued to be reports of forced labor practices in the formal economy and isolated instances of local authorities demanding forced labor by both children and adults in the rural sector (see Section 6.d.). There were also reports that prisoners were required to work to pay back taxes they allegedly owed.

The law permits imprisonment with forced labor for participation in illegal strikes.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the labor code stipulates that the minimum age for employment in the formal sector is 14, the Government did not enforce the law. The law prohibits children under the age of 18 from undertaking "any work which, by its nature or the circumstances in which it was carried out, was likely to harm the health, safety, or morals of children"; however, in practice child labor, including forced child labor, was a serious problem. According to a 2000 UNICEF study (the most recent available), 65.5 percent of minors worked, including those performing domestic chores for more than four hours per day, those working within the family (herding, microcommerce, etc.), and those who were underage and working for someone outside the family.

An estimated 20 percent of children between the ages of six and 18 worked in abusive, exploitive labor in the urban informal sector, according to a study published by Human Rights Without Borders. Children throughout the country worked in agriculture and herding. They also were employed in the commercial sector, par-



ticularly in the capital, as street vendors, manual laborers, and helpers in small shops. Young girls worked as domestic servants, mainly in N'Djamena. A 2005 UNICEF-government survey of child domestics in N'Djamena noted that 62 percent were boys; 24 percent were between eight and 14 years of age, 68 percent were between 15 and 17; and 86 percent were illiterate.

There were also credible reports that children were forced into slavery. According to a 2004 UN news service report, aid workers in the country estimated that families had sold as many as 2,000 children—some as young as eight—into a system in which they worked as child cattle herders. In some areas local authorities fined parents caught selling their children into forced labor. To avoid detection, some families worked with intermediaries to pass children from families to the farm owners.

Some children worked as domestic servants in the households of relatives for little compensation. Some young girls were forced into marriages by their families and then compelled to work in their husbands' fields or homes and to bear children while they were still too young to do so safely (see Section 5).

The law prohibits the use of child soldiers; however, there were reports during the year that it occurred (see Section 1.g.).

The Office of Labor Inspection is responsible for enforcement of child labor laws and policies. That office had approximately 16 labor inspectors to cover the entire country. Reportedly they had no funding during the year to carry out field work and investigations.

The Government did not have a comprehensive plan to eliminate the worst forms of child labor; however, the Government worked with UNICEF and other NGOs to increase public awareness of child labor. During the year UNICEF organized workshops in regional towns to share information on the dangers of forced child labor and the benefits of education. The training provided each town with one individual charged with overseeing the continuing sensitization campaign. In 2005 UNICEF developed a program to reduce the prevalence of young girls serving as household domestics. In addition the campaign to educate parents and civil society on the dangers of child labor, particularly for child herders, continued.

*e. Acceptable Conditions of Work.*—The labor code requires the Government to set minimum wages, and the minimum wage at year's end was \$56 (28,000 FCFA) per month. Most wages, including the minimum wage, did not provide a decent standard of living for a worker and family. Nearly all private sector and state-owned firms paid at least the minimum wage, but it was largely ignored in the vast informal sector. In 2005 the Government began for the first time to pay all its employees at least the minimum wage, and government salaries increased overall by 5 percent. However, in some areas there were long delays in the payment of those salaries. Salary arrears remained a problem, although less so than in previous years. Low wages among customs, police, and military officials contributed to almost daily extortion of the civilian population along all major roads (see Section 2.d.).

The law limits most employment to 39 hours per week, with overtime paid for supplementary hours. Agricultural work was limited to 2,400 hours per year, an average of 46 hours per week. All workers were entitled to an unbroken 48-hour rest period per week; however, these rights rarely were enforced.

During the year oil pipeline workers in the south protested that they had not been properly compensated for overtime work. Their case was adjudicated by the Ministry of Justice, which ruled in their favor in October. The consortium of companies responsible for construction of the pipeline accepted the Ministry of Justice decision and began retroactive payments of more than \$12 million (six billion FCFA).

The labor code mandates occupational health and safety standards and gives inspectors the authority to enforce them; however, these standards were generally ignored in the private sector and in the civil service.

Workers had the right to remove themselves from dangerous working conditions; however, in practice they could not leave without jeopardizing their employment. The labor code explicitly protects all workers, including foreign and illegal workers, but the protections provided were not always respected in practice.

## COMOROS

The Union of the Comoros is a constitutional, multiparty republic of approximately 690,000 citizens. The country consists of three islands—Grande Comore, Anjouan, and Moheli—and claims a fourth, Mayotte, which France governs. In May citizens elected President Ahmed Abdallah Mohamed Sambi in polling that international observers described as free and fair; Sambi's May 26 inauguration was the

first peaceful and democratic transfer of power in the country's history. Disputes continued over the division of responsibilities between union and island governments and the union government's nonpayment of salary to its employees, including teachers and doctors. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, although there were some areas of concern. The following human rights problems were reported: poor prison conditions, restrictions on freedom of religion, official corruption, discrimination against women, child abuse, and child labor.

#### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions remained poor; common problems included improper sanitation, overcrowding, inadequate medical facilities, and poor diet. Authorities held pretrial detainees with convicted prisoners. The Government permitted visits by independent human rights observers, as well as the UN Development Program and the United Nations Children's Fund (UNICEF).

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

*Role of the Police and Security Apparatus.*—Six separate security forces report to four different authorities. A union military and a union gendarmerie handle defense and local policing on Grand Comore and Moheli; Anjouan maintains its own gendarmerie. The union police force handles immigration and some local policing in Grand Comore. Each of the three islands also has its own local police force.

There was continued corruption in the police force. Citizens paid bribes to evade customs regulations, avoid arrest, falsify police reports or, for police personnel, to receive promotion within the force. Impunity was a problem, as there was no mechanism to investigate police abuses. Union police took part in international training to become more professional.

*Arrest and Detention.*—The law requires warrants for arrests and provides that detainees may be held for 24 hours, although these provisions were not always respected in practice. The procurer general must approve continued detention. A tribunal informs detainees of their rights, including the right to legal representation. According to the law, public attorneys are available to indigent individuals, but in practice there was a dearth of legal representation. There is a bail system under which the individual is not permitted to leave the country.

After taking office in May, President Sambu granted amnesty to hundreds of "short term" prisoners, including those held for proselytizing, to alleviate prison crowding.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice. The head of state appoints magistrates by decree.

The seven-member Constitutional Court includes a member appointed by the President of the Union, a member appointed by each of the two union vice Presidents, a member appointed by each of the three island government Presidents, and a member appointed by the President of the National Assembly. Minor disputes can be reviewed by the civilian court of first instance, but in practice they are often settled by village elders outside of the formal structure. Juries decide criminal cases, which can be reviewed before the appellate court.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are mostly open to the public. Juries deliberate criminal cases, and there is an appeal process. The legal system incorporates French legal codes and Islamic Shari'a law. In practice village elders decided most disputes without using the formal legal system.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—By law there is an independent and impartial judiciary for civil matters. In practice formal courts have insufficient resources and are rife with corruption. Most civil disputes are settled outside the formal court system, either directly between the parties or via informal community arbitration by respected elders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government partially limited press freedom.

Paramilitary police detained Aboubacar M'changama, director of the independent weekly *l'Archipel*, from March 25 to 27 for "divulging military secrets." Aboubacar had published an article about discontent in the military.

There was a government-supported newspaper, *Al-Watwan*, and four independent papers, *Kashkazi*, *Le Canal*, *La Gazette des Comores*, and *l'Archipel*. The Anjouan island government intimidated journalists to deter them from writing articles critical of the Government. (No newspapers were printed in Anjouan, but the papers listed above were available there.)

There is independent radio on all three islands. One government radio station operated on a regular schedule. Local community radio stations operated in very narrow transmission areas. Citizens who lived overseas primarily funded these stations, which were staffed by volunteers and were allowed to operate without government interference or regulation. Mayotte Radio and French television also broadcast without government interference. Several small, community-based television stations operated without government interference; local residents and their relatives overseas provided funds for their operation.

Prior to the Presidential election in May, the union military temporarily confiscated the equipment of Radio Moheli, because the station's broadcasts were controversial. In May persons not in uniform vandalized radio equipment at Radio Ngazidja and Moroni FM in Grand Comore. While never proven, press reports suggested the attacks were politically motivated.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Illiteracy and shortages of electricity and phone lines limited Internet use to the small, relatively wealthy and educated minority of Comorans. Several Internet cafes and the Internet stations at the American Corner in Moroni have expanded usage in and near cities.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly and association; however, in practice the Government did not always respect this right. Unlike in the previous year, however, no deaths or injuries resulted from excessive use of force by security forces.

No action was taken by authorities concerning the killing by soldiers of one civilian, and wounding of 16 others, in connection with a massive protest against a fuel price hike in September 2005.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion; however, the Government restricted this right in practice. The constitution does not declare Islam the official religion but declares that the laws must draw inspiration from Islam. The great majority of the population was Sunni Muslim. Proselytizing for any religion except Islam was illegal.

On May 29, four men were sentenced to three months in prison for "evangelizing Muslims." One woman was also convicted and received a three-month suspended sentence. They had been arrested one week earlier for hosting Christian religious debates in a private residence. After 40 days, all four were released in the Presidential amnesty.

*Societal Abuses and Discrimination.*—Christians continued to face intense social pressure, including restricting the use of the few Christian churches to noncitizens.

Family and community members were likely to harass those who join non-Muslim faiths.

There was no known Jewish population and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

In June Le Canal reported that police conducted late night home inspections in search of “illegal immigrants.”

Intervillage conflicts sometimes restricted movement of citizens within the country’s borders. There were cases of individuals from Grand Comore being refused entry into Moheli and Anjouan; this was not, however, by central government policy.

The law does not prohibit forced exile, but the Government did not use it.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution, but it did not grant refugee or asylum status routinely.

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

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

*Elections and Political Participation.*—The constitution provides for a “rotating” presidency in which each island takes a turn at holding a primary for Presidential candidates. Former President Azali, a native of Grand Comore, was the first to hold office in this system. During the year the turn passed to Anjouan; all 12 Presidential candidates had to be natives of Anjouan to run in the primary. From the 12, Anjouan voters selected three to run in the May national election that led to the election of President Sambi. International observers considered the elections free and fair. The May 26 inauguration of President Sambi was the first peaceful and democratic transfer of power in the country’s history. The constitution thus restricts, by island, who can run for the presidency, but aside from the rotation principle, anyone is free to run.

Unelected elders leading traditional social, religious, and economic institutions filled voids in communities where the formal government was ineffectual or nonexistent.

There was one woman in the 33-member National Assembly. There was one female minister and two female vice Presidents in the union government. There were no minorities in high-level offices.

*Government Corruption and Transparency.*—Resident diplomatic, UN, and humanitarian agency workers reported that petty corruption is commonplace at all levels of the civil service. The new Sambi government launched a highly-publicized campaign against embezzlement by senior officials, bribery by customs and immigration officers, and unfair or non-transparent practices for offering government contracts and procurement. The few private sector operators in the country reported that corruption and lack of transparency were the norm.

In June the Government arrested several officials of the former regime on charges of corruption. Former government ministers Rehema and Sitti and former Colonel Abdallah of the union police were tried for stealing administrative property, convicted, sentenced to eight months in prison, and fined \$360 (147,000 Comoran Francs). Former secretary general Abdou was convicted on the same charge and sentenced to four months’ imprisonment and fined \$480 (196,000 Comoran Francs).

In 2005 there were allegations that private firms such as Comoros Hydrocarbure and Comoros Telecom partially financed the predecessor Azali government by providing funds for official travel. However, there were no reports that the newly installed Sambi government continued the practice.

Investigations continued into the 2005 award of government contracts to a firm with ties to former President Azali.

There are no laws providing for public access to government information. Those who have personal or working relationships with government officials can generally access government information, but not members of the general public. To encourage greater transparency, President Sambi published his own salary in August.

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

One domestic and some international nongovernmental organizations operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

In June the National Assembly passed a law establishing a human rights commission, which had not yet convened by year's end.

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

The law prohibits discrimination based on race, sex, disability, language, or social status; however, there was discrimination against women.

*Women.*—The law prohibits domestic violence. Although the Government did not take any action to combat violence against women, police and human rights groups believe it to be rare. Women could seek protection through the courts in such cases, but in practice the extended family or village elders customarily addressed such problems.

Rape is illegal, punishable by imprisonment of five to 10 years or up to 15 years if the victim is younger than 15 years of age. The Government did not enforce the laws on rape effectively. The law does not specifically address spousal rape.

Prostitution is illegal, arrests for prostitution are rare, and there were no reports of harassment of prostitutes.

Sexual harassment is illegal and punishable by up to 10 years' imprisonment. Although rarely reported due to societal pressure, such harassment was nevertheless a common problem.

The law provides for equality of persons, and in general, inheritance and property rights do not discriminate against women. Men retained the dominant role in society, although the matriarchal tradition afforded women some rights, especially in terms of landholding. Societal discrimination against women was most apparent in rural areas where women had farming and childrearing duties and fewer opportunities for education and wage employment. In urban areas growing numbers of women were employed and generally earned wages comparable to those of men engaged in similar work; however, few women held positions of responsibility in business. The law does not require women to wear head coverings, but many women faced societal pressure to do so.

*Children.*—The Government has not taken any specific action to protect or promote children's welfare. Because of a lack of inspectors, the Government does not enforce legal provisions that address the rights and welfare of children.

Education is free and compulsory for children below the age of 16, but the Government rarely provided public school education for children past the age of 14. According to UNICEF, 31 percent of children attended elementary school between 1996 and 2004. During the school year, teacher strikes over nonpayment of salaries interrupted school several times. Boys generally had greater access to schools than did girls.

Boys and girls had equal access to state-provided medical care, which was limited.

Although there are no official statistics on child abuse, it was common, and often occurred when impoverished families sent their children to work for wealthier families. A 2002 UNICEF study found that child abuse, including sexual abuse, was widespread and often occurred at home. There also were reports that teachers raped students. In December 2005, for example, the newspaper *Kashkazi* reported the death of an 11-year-old girl who had been raped by her teacher and subsequently died in childbirth. The teacher was suspended from his position, but no arrests were made.

Child prostitution and child pornography are illegal. The law considers unmarried children under the age of 18 as minors, and they are protected legally from sexual exploitation, prostitution, and pornography. There were no statistics regarding these matters, but they were not considered serious problems.

Child labor occurred (see Section 6.d.).

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

*Persons With Disabilities.*—There are no laws that mandate access to buildings for persons with disabilities or that prohibit discrimination in employment and public services. In general, persons with disabilities were likely to face discrimination, but specific reports were not available relating to employment, education, access to health care, or in the provision of other state services.

In April the country's first handicapped center opened in Ikoni, Grand Comore.

### Section 6. Worker Rights

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and many of those in the wage labor force did so in practice. The wage labor force, however, was less than 7,000 persons, of whom approximately 5,000 were government employees. Teachers, civil servants, taxi drivers, and dockworkers were unionized. Approximately 80 percent of the population engaged in farming on small land holdings, subsistence fishing, and local commerce.

The labor code, which was rarely enforced, does not include a system for resolving labor disputes.

The law does not prohibit anti-union discrimination by employers in hiring practices.

*b. The Right To Organize and Bargain Collectively.*—The law protects workers from employer interference in their right to organize and administer their unions, and the Government protected this right in practice. Unions have the right to bargain collectively, although employers set wages in the small private sector, and the Government, especially the ministries of finance and labor, set them in the larger public sector. There are no export processing zones.

The law provides for the right to strike, and government employees exercised this right to protest non-payment of salaries. There are no laws protecting strikers from retribution, but there were no reported instances of retribution.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor by adults but not by children. There were some reports that such practices occurred (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law defines 15 as the minimum age for employment, but the Government did not always enforce this law. Children usually worked in subsistence farming and fishing. Some families placed their children in the homes of wealthier families where they worked in exchange for food, shelter, or educational opportunities. Other forms of child labor generally were not a problem due to the lack of wage employment opportunities. A 2000 UNICEF study found that approximately 15 percent of children were not paid for their work. The actual number was likely higher. The Government did not actively enforce child labor laws nor did it seek to prevent illegal child labor.

*e. Acceptable Conditions of Work.*—There was no minimum wage. At various times during the year, the Government did not pay civil servant salaries (see Section 6.b.). Despite strikes and other protests, the union government was unable to pay government employees, including low-level government officials, teachers, and medical workers, for several months due to budgetary difficulties.

The law specifies a workweek of 37 hours, one day off per week, and one month of paid vacation per year. According to the law, workers receive time-and-a-half for overtime. These laws, like many others, were not enforced. Employers, particularly the Government, were often remiss in paying salaries.

No safety or health standards have been established for work sites. Workers generally could not remove themselves from an unsafe or unhealthful situation without risking their employment.

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## DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of the Congo (DRC) is a nominally centralized republic with a population of approximately 60 million. President Joseph Kabila, who came to power in 2001 after the assassination of his father, Laurent Desire Kabila, headed a transitional government for most of the year. It was formed in June 2003 to end five years of civil war and was composed of former belligerent factions, including the previous government, rebel groups, civil society, and political opposition. A new constitution, passed by referendum in December 2005, entered into force February 18. The three-year transitional period drew to a close with multiparty Presidential and National Assembly elections July 30, and Presidential runoff and provincial assembly elections October 29. Voters elected Kabila President and gave his Alliance for the Presidential Majority (AMP) coalition a majority of legislative seats in elections that international observers considered credible; there had not been democratic elections in more than 40 years. Kabila was inaugurated on December 6, and nominated Antoine Gizenga as prime minister on December 30.

At year's end government control of certain areas of the country remained weak, particularly in remote areas of the east, including North and South Kivu provinces,

the Ituri District of Orientale Province, and northern Katanga Province, where a number of armed groups continued to operate. More than 17,000 peacekeeping soldiers of the United Nations Mission in the Congo (MONUC) continued to work in coordination with the Congolese national army (FARDC) to limit areas of armed group activity.

During the year the transitional government made progress integrating control of key institutions such as the army, police, and local administration; however, different elements of the transitional government sometimes acted independently of, or contrary to, the interests of others. Civilian authorities generally did not maintain effective control of the security forces, which were poorly trained, poorly paid, undisciplined, and committed numerous and serious human rights abuses with impunity.

In all areas of the country, the human rights record remained poor, and numerous serious abuses were committed. Unlawful killings, disappearances, torture, rape, and arbitrary arrest and detention by security forces increased during the year, and the transitional government took few actions to punish violators. Harsh and life-threatening conditions in prison and detention facilities; prolonged pretrial detention; lack of an independent and effective judiciary; and arbitrary interference with privacy, family, and home also remained serious problems. Security forces continued to recruit and retain child soldiers and to compel forced labor by adults and children. They also continued to abuse press freedom, particularly during the election campaign. Also during the campaign, broadcast stations owned by Vice President Jean-Pierre Bemba promoted ethnic hatred. The transitional government continued to restrict freedoms of assembly and movement; government corruption remained pervasive; and security forces restricted nongovernmental organizations (NGOs). In addition, societal discrimination against women and ethnic minorities, trafficking in persons, child labor, and lack of protection for workers' rights continued to be pervasive throughout the country.

Armed groups continued to commit numerous, serious abuses—some of which may constitute war crimes—including unlawful killings, disappearances, and torture. They also recruited and retained child soldiers, compelled forced labor, and committed serious sexual abuses and other possible war crimes.

There was major improvement in one area: the country held its first democratic national elections in more than 40 years. More than 70 percent of registered voters participated in the first round of elections, and more than 65 percent participated in the second round. A freely elected National Assembly took office September 24. In addition, during the year the transitional government supported prosecution of serious human rights abuses. It transferred a former militia leader to the International Criminal Court (ICC) to face charges of recruitment of child soldiers, and a military court sentenced seven soldiers to life imprisonment for crimes against humanity.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Transitional government security forces committed numerous unlawful killings with impunity. According to MONUC, the FARDC and the national police (PNC) committed two-thirds of all unlawful killings in the country. During the first six months of the year, members of the FARDC allegedly killed more than 50 civilians, and PNC officers allegedly killed at least 10.

Transitional government security forces arbitrarily and summarily executed civilians, often for failing to surrender their possessions or to submit to rape.

On January 22, in Kagaba, Ituri District, FARDC soldiers of the Fourth and Sixth Integrated Brigades allegedly shot several civilians, killing 13, including four women and two children, and wounding two others as they attended Sunday mass. No action was taken against the soldiers.

On June 26, a FARDC commandant in Kongolo, Katanga Province, allegedly killed a member of the Federation of Congolese Enterprises after the victim refused to pay money demanded by the commandant to buy a motorbike.

In Butembo, North Kivu Province, on July 18, FARDC soldiers of the Second Integrated Brigade allegedly killed a civilian who attempted, with others, to stop soldiers from extorting money from them.

In Fataki, Ituri District, a drunken FARDC soldier shot and killed two election workers during vote counting on October 30. The families of the victims destroyed part of nine polling centers in retribution. A military court sentenced the soldier to death.

Transitional government security forces killed suspects during apprehension or while holding them in custody.

For example, a FARDC commander in the Ituri District town of Dii arrested 19 suspects in a murder case and detained them at a military camp on January 22. One detainee allegedly died of severe mistreatment while in detention.

An elderly man in the North Kivu Province town of Kilindera died in custody on March 22, one day after military prosecutors arrested him in an attempt to force him to pay a fine. The soldiers in charge of the jail allegedly kicked him, beat him with truncheons and ropes, and forced him to march 32 miles until he died.

On September 26, guards at Kinshasa's main prison allegedly opened fire on prisoners while attempting to force them to return to their cells, killing five and wounding several others. The prisoners had rioted in reaction to a prohibition on visits by family members. There were no reports of authorities taking action against the guards involved.

Transitional government security forces killed demonstrators while attempting to disperse them (see Section 2.b.).

Transitional government security forces committed other killings, including some involving beatings and excessive force, killings during election-related clashes, and accidental killings.

For example, in the South Kivu Province town of Panzi, three FARDC soldiers allegedly attempting to intimidate a civilian by firing into the air accidentally shot him in the chest, killing him on June 8.

In the Equateur Province town of Bumba, a mob burned 32 polling stations on October 29 after bullets fired by security forces attempting to restore order accidentally killed a 15-year-old boy and wounded another person. The incident occurred after security forces responded to a crowd beating the President of a voting center, who they believed had stuffed ballot boxes. There were no reports of authorities taking action against the security personnel involved.

From August 19–22, fighting in Kinshasa between guard forces loyal to Vice President Bemba and security forces loyal to President Kabila resulted in the deaths of 23 people, including several civilians. Renewed clashes on November 11 resulted in the deaths of four people, including three civilians.

Fighting in the east between armed groups and the army displaced thousands of civilians, limited humanitarian access to vulnerable populations, and resulted in or contributed to hundreds of civilian deaths, many from illness and starvation (see Section 1.g.).

Colonel Simba Hussein, who was sentenced to death for killing a civilian who refused to change the colonel's tire in July 2005, was transferred to a prison in another province, from which he was paroled during the year. There were unconfirmed reports that he had returned to active service by year's end.

Unidentified armed men killed a journalist and may have been politically motivated (see Section 2.a.).

Unlike in the previous year, there were no reports that unidentified armed men in uniform forcibly entered personal residences in Kinshasa at night to harass civilians, loot personal belongings, or kill persons involved in personal feuds.

Armed groups operating outside government control committed killings of civilians, and summary executions (see Section 1.g.).

During the year mob violence resulted in deaths; crowds that gathered in public places killed civilians and soldiers.

For example, on July 27, participants in a Kinshasa campaign rally for Vice President and Movement for the Liberation of Congo (MLC) Presidential candidate Bemba killed a civilian, two soldiers, and three police officers, including one by burning him alive. The mob injured 20 other police officers, looted the offices of the High Authority for Media (HAM) and the National Observatory for Human Rights (ONDH), gang raped at least one woman, and destroyed two churches and several houses. Subsequent investigation by the ONDH assigned full blame to the MLC for the incident. An MLC spokesman alleged the police victims had died in a car accident.

Civilians killed members of the security forces for allegedly committing serious crimes during the year. A mob in Mbuji Mayi, in Eastern Kasai Province, burned a policeman to death on March 21 for allegedly shooting and stabbing a civilian while attempting to rob the civilian as part of an armed gang.

On August 2, a mob of 2,000 persons in the North Kivu Province town of Katwiguru burned alive a police officer who allegedly killed a civilian while attempting to extort money from him.

During the year parents and relatives, as well as other adults, killed children accused of sorcery.



A father in the Equateur Province town of Zongo threw his five-month-old baby into a river in September for alleged sorcery. Days earlier adults in the provincial capital of Mbandaka threw a 15-year-old boy in the river for sorcery. Police made arrests in both cases.

By year's end no prosecutions had taken place against individuals who burned to death children accused of sorcery in Mbuji Mayi, Eastern Kasai Province in 2005.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances by government forces; however, security forces allegedly abducted civilians during the year. For example, according to MONUC, FARDC soldiers abducted four civilians from Kagaba, Ituri District in early March and later killed them. The soldiers also raped several women and dragged a 74-year-old woman more than 100 yards along the ground. There were no reports of authorities taking action against the soldiers involved.

Armed groups operating outside government control kidnapped numerous persons, often for forced labor, military service, or sexual services. Many of the victims disappeared (see Section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—On June 12, the transitional government promulgated a new law criminalizing torture; however, during the year security services continued to torture civilians, particularly detainees and prisoners. There were unconfirmed reports that members of the security services tortured or abused civilians to settle personal disputes. Authorities had taken no known action against the soldiers who committed the abuses described below by year's end.

FARDC soldiers allegedly tortured a diamond digger in Mbuji Mayi, Eastern Kasai Province on March 13. Three soldiers took the digger to a cell, suspended him upside down from an electrified post, and beat him for two hours to extract the names of ex-military groups illegally working in the concession of the Mine of Bakwanga (MIBA) diamond parastatal.

Republican Guard (GR) troops arbitrarily arrested and tortured 84 fishermen in Equateur Province on August 24. The soldiers allegedly stripped, trampled, and beat the men before locking them in an underground cell in inhuman conditions for three days. They also confiscated the fishermen's voting cards.

In Kahorohoro, South Kivu Province, FARDC soldiers under the command of Lieutenant Colonel Mutupeke allegedly arrested, beat, whipped 60 times, and tortured an 18-year-old boy on September 1 to extract confession of a crime.

Security services employed cruel, inhuman, and degrading punishment.

On March 28, GR Lieutenant Mukalayi accused a man in Kinshasa of denouncing the head of state and demanded \$50 (26,500 Congolese francs) as a "fine." When the man failed to pay, soldiers took him to a military camp, demanded to know if he supported opposition groups, and reportedly struck him 50 times until he began to hemorrhage internally.

On May 21, a police officer in Kindu, Maniema Province arbitrarily arrested a civilian working on the political campaign of the minister of the interior. They allegedly beat the civilian seriously on his face and genitals. The officer worked for the governor, a political opponent of the minister. No known action had been taken against the soldiers by year's end.

In June GR soldiers reportedly arrested and beat a journalist in Kinshasa (see Section 2.a.)

During the year security forces killed some demonstrators and injured others while attempting to disperse them (see Section 2.b.).

Human rights organizations reported that police and soldiers commonly abused homeless children, stole their possessions, and paid for sex or raped them. According to Human Rights Watch (HRW), police extorted bribes from gangs of street youths to prevent harassment and colluded with them in crime and prostitution. Political groups encouraged and paid homeless children and youth gangs to disrupt public order.

At year's end there were no reports of any action taken against a FARDC officer responsible for the November 2005 arrest, whipping, and beating of a woman in Kambabma-Kaboneke.

Members of transitional government security forces raped civilians with impunity.

Members of the naval and police forces committed mass rape in the Equateur province towns of Ganda, Likako, and Likundju on March 18. They allegedly raped 34 women and three girls, attempted to rape nine others, tortured 50 civilians, and looted 120 houses.

PNC agents in the Equateur Province town of Bolongo committed mass rape during the night of August 5–6 allegedly in retaliation for opposition by the town's resi-

dents to enforcement of an arrest warrant. The agents raped 60 women, including two girls, and looted houses and buildings.

Members of transitional government security forces and of armed groups operating outside government control committed torture, rape, and otherwise physically abused numerous persons as a consequence of conflict during the year (see Section 1.g.).

*Prison and Other Detention Center Conditions.*—Conditions in most large prisons were harsh and life threatening. During the year an unknown number of persons died in prisons due to neglect; MONUC reports indicated that at least one person died each month in prisons in the country. The penal system continued to suffer from severe shortages of funds, and most prisons were severely overcrowded, in poor a state of repair, lacked sanitation facilities, or were not designed to be used as detention facilities. Health care and medical attention remained inadequate and infectious diseases were rampant. In rare cases, prison doctors provided care; however, they often lacked medicines and supplies.

In several prisons, the Government has not provided food for many years. Many prisoners starved to death; food remained inadequate and malnutrition widespread. In general, prisoners' families and friends were the only source of food and other necessities. Prisoners with no one to provide food were particularly at risk. Local NGOs reported that authorities sometimes moved prisoners without telling families, making the provision of food difficult or impossible. Prison staff often forced family members to pay bribes to bring food to prisoners.

According to MONUC, two civilian detainees charged with armed robbery died in April from infected foot wounds caused by leg irons in Kongolo prison, Katanga Province.

Larger prisons sometimes had separate facilities for women and juveniles, but others generally did not. Male prisoners raped other prisoners, including men, women, and children, according to numerous credible reports. Prison officials held pretrial detainees together with convicted prisoners and treated both groups the same. They generally held individuals detained on state security grounds in special sections. Government security services often clandestinely transferred such prisoners to secret prisons. Civilian and military prisons and detention facilities held soldiers and civilians alike.

Harsher conditions existed in small detention facilities. These facilities were overcrowded and generally intended for short-term pretrial detention; in practice they were often used for lengthy stays. Detention center authorities often arbitrarily beat or tortured detainees. These facilities usually had no toilets, mattresses, or medical care, and detainees often received insufficient amounts of light, air, and water. The centers generally operated without dedicated funding and with minimal regulation or oversight. Detention center authorities or influential individuals frequently barred visitors or severely mistreated detainees. Guards frequently extorted bribes from family members and NGOs to visit detainees or provide food and other necessities.

The security services, particularly the intelligence services and the GR, continued to operate numerous illegal detention facilities characterized by extremely harsh and life-threatening conditions. Members of government security services regularly abused, beat, and tortured detainees incarcerated there, sometimes fatally (see Sections 1.a and 1.g). Authorities routinely denied access to family members, friends, and lawyers.

According to MONUC, military jails had makeshift cells, including some that were located underground, that held military and sometimes civilian detainees. MONUC confirmed multiple cases of torture in detention centers run by security services. These facilities lacked adequate food and water, toilets, mattresses, and medical care, and authorities routinely denied prisoners access to their families, friends, and lawyers.

According to a March 16 MONUC report on arrests and detentions in prisons, government security forces and prison officials routinely violated prisoners' and detainees' rights. Security forces lacking legal detention authority often arrested and detained individuals. Despite a Presidential decision to close illegal jails operated by the military or other security forces, none were closed during the year. The report found that 70 to 80 percent of detained persons did not see a judge for months or years, if ever.

According to the law, minors should be detained only as a last resort; however, in part due to the absence of juvenile justice or education centers, detention of minors was common. Many children endured pretrial detention as delinquents without seeing a judge, lawyer, or social worker; for orphaned children, pretrial detention often continued for months or years.

In March Amnesty International (AI) visited the Provincial Inspectorship of Kinshasa, one of the main police detention centers in the city. Out of 100 prisoners visited by AI, more than 20 showed signs of ill-treatment, including open—and sometimes fresh—wounds on legs, arms, and heads; cigarette burns; and friction burns on wrists. These prisoners had received no medical care. They allegedly were daily tied to pillars, beaten with sticks and bricks, and kicked. Those inflicting the abuse regularly demanded money. Prison officials refused AI access to the room where the abuses allegedly occurred. The deputy commander of the prison claimed no knowledge of the abuse.

Armed groups sometimes detained civilians, often for ransom (see Section 1.d.), but little information was available concerning the conditions of detention.

In general, the Government allowed the International Committee of the Red Cross (ICRC), MONUC, and some NGOs access to all official detention facilities; however, it did not allow these organizations access to illegal detention facilities.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, government security forces arbitrarily arrested and detained persons, including journalists (see Section 2.a.).

*Role of the Police and Security Apparatus.*—The security forces consist of the PNC, including the Rapid Intervention Police unit and the Integrated Police Unit, which has primary responsibility for law enforcement and maintaining public order and is part of the Ministry of Interior; the immigration service, also in the Ministry of the Interior; the National Intelligence Agency (ANR), which is overseen by the President's national security advisor and is responsible for internal and external security; the military intelligence service of the Ministry of Defense; the director general of migrations, responsible for border control; the GR, which reports directly to the presidency; and the FARDC, which is part of the Ministry of Defense and is generally responsible for external security, but also has limited internal security responsibilities.

The overall level of police professionalism increased noticeably during the year; for example, recently trained police showed considerable restraint during the July 27 violence in Kinshasa that resulted in the death of several members of the security forces (see Section 1.a.). However, military forces generally remained ineffective, lacked training, received little pay, and were vulnerable to corruption.

During the year members of the police, military, and other security forces attacked, detained, robbed, and extorted money from civilians. According to HRW, some police officers colluded with petty criminals and prostitutes for a share of their earnings. The transitional government prosecuted and disciplined some violators; however, the vast majority acted with impunity. Although mechanisms existed to investigate violations by police, the police used them only sporadically.

There continued to be instances where police failed to prevent or respond to societal violence (see Section 1.a.); however, during the year the transitional government continued to cooperate with MONUC and members of the international community on police training programs.

*Arrest and Detention.*—Under the law, certain police officers and senior security officers are authorized to order arrests. Offenses punishable by more than six months' imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Those arrested must be informed of their rights, must be told why they were arrested, and must not be arrested in place of a family member. They may not be arrested for nonpenal offenses, such as debt and civil offenses. Arrested individuals must also be allowed to contact their families and consult with attorneys. In practice, security officials routinely violated all of these requirements.

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members. Authorities rarely pressed charges in a timely manner and often created contrived or overly vague charges. No functioning bail system existed, and detainees had little access to legal counsel if unable to pay. Incommunicado detention was common; security forces regularly held suspects before acknowledging their detention or allowing them contact with family or counsel.

Police arrested persons during the year for criticizing the Government (see Section 2.a.).

Government security forces used the pretext of state security to arbitrarily arrest individuals. They arrested and detained individuals in the name of state security and frequently held them without charge, presentation of evidence, access to a lawyer, or due process.

A March 16 MONUC report found widespread illegal arrest and detention of minors, particularly street children and children associated with armed groups. Although the recruitment or retention of child soldiers is illegal, military authorities sometimes arrested demobilized child soldiers on charges of desertion and tried

them in military courts. Civilian courts on occasion tried child soldiers for possessing illegal arms, even though they had been illegally recruited as combatants.

In June security forces in Mbuji Mayi, Eastern Kasai Province arrested for arms possession and arbitrarily detained 12 supporters of the Union for Democracy and Social Progress (UDPS) political party (see Section 3).

PNC agents in Equateur Province allegedly arrested, beat, and wounded a civilian found with ripped up posters of the President on July 15.

GR soldiers arrested two aides to Presidential candidate Mbuyi Kalala Alfuele on July 30. The soldiers allegedly blindfolded, handcuffed, and detained the aides at an unknown location until releasing them without charge the following day.

On September 20, police apprehended 600 adults whom they accused of participating in politically inspired gang violence in Kinshasa. They also detained 180 minors, including 20 younger than five years old apprehended with their mothers. According to MONUC, the police held them without adequate shelter, food, or water. Human rights organizations arranged for children under 15 to be released to their parents. At least 130 people, including women and children, remained in custody for more than a month without charge. Authorities released all the remaining detainees by year's end on the order of a Kinshasa judge.

On November 12, police in Kinshasa detained without charge 250 homeless adults and 87 minors, all alleged street gang members, following a gun battle between security forces and Vice President Bemba's troops the day before. The adults were transported to rural areas for forced agricultural work under a national service program; the children were released to local NGOs.

Security forces arbitrarily arrested union leaders (see Section 6.a.).

Many individuals arrested experienced prolonged pretrial detention, often ranging from months to years. MONUC reported that 70 to 80 percent of detainees nationwide were in pretrial detention. Prison officials often held individuals long after their sentences had expired due to disorganization, judicial inefficiency, or corruption. In several instances when NGOs or MONUC brought cases to the attention of the Government, prison officials released them. Armed groups operating outside government control in parts of the east sometimes detained civilians, often for ransom.

*Amnesty.*—In November 2005 the National Assembly passed a law granting amnesty to individuals accused of war crimes and political offenses committed between August 1996 and June 2003. A December 2005 Supreme Court ruling excluded amnesty for individuals allegedly involved in the assassination of then President Laurent Kabila, which the ruling identified as a criminal, rather than political, act.

Annie Kalumbu, jailed since 2001 for allegedly plotting against Laurent Kabila, left prison under amnesty February 15. According to African Association for the Defense of Human Rights (ASADHO), she began receiving death threats February 22 and went into hiding. Her whereabouts were unknown. MONUC and the local NGO VSV alleged that at least one other individual accused of plotting against Laurent Kabila long before his assassination continued in detention.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, in practice the judiciary remained poorly paid, ineffective, subject to influence by government officials, and corrupt.

The civilian judicial system, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, continued to be largely dysfunctional. Corruption remained pervasive, particularly among magistrates, who were paid poorly and intermittently.

Military courts, which had broad discretion in sentencing and no appeal process, tried military as well as civilian defendants during the year. Although the Government permitted, and in some cases provided, legal counsel, lawyers often did not have free access to defendants. The public could attend trials only at the discretion of the presiding judge.

*Trial Procedures.*—Civil and criminal legal codes, based on Belgian and customary law, provide for the right to a speedy public trial, the presumption of innocence, and legal counsel. However, these rights were not respected in practice. While some judges allowed public access to trials, other judges, notably those presiding in rape trials, did not. There are no juries. Defendants have the right to appeal most cases except those involving national security, armed robbery, and smuggling, which the Court of State Security generally adjudicates. In some instances special military tribunals, whose jurisdiction is ill defined, adjudicate national security cases. The law provides for court-appointed counsel at state expense in certain cases, but the Government often did not provide such counsel.

*Political Prisoners and Detainees.*—There were reports of political prisoners and detainees but no reliable estimates of the number. The Government sometimes permitted access to political prisoners by international groups.

According to AI, on June 16, a military tribunal sentenced Fernando Kutino and two colleagues to 20 years following a brief trial. Kutino was originally charged with incitement to hatred after a May speech critical of the President; following the speech, broadcast by a radio station owned by Kutino's church, armed assailants in civilian clothes destroyed and looted the station's equipment on May 22, forcing it off the air. Press freedom NGO Committee to Protect Journalists (CPJ) alleged that the assailants were police officers. The court changed the charge to illegal possession of firearms, criminal conspiracy, and attempted murder (although the alleged victim refused to implicate Kutino). AI claimed that the court used evidence extracted from Kutino's codefendants under torture, and defense lawyers walked out nine days before the guilty verdict to protest the conduct of the trial. Kutino remained incarcerated at the end of the year.

On February 1, the Court of State Security sentenced Jeannete Abidje to 12 months in prison for offenses against the head of state. She claimed the President fathered her five-year-old daughter by raping her during his time as a soldier. Abidje remained in prison at year's end.

*Civil Judicial Procedures.*—Civil courts exist for lawsuits and other disputes, but the public widely viewed them as corrupt. Magistrates were poorly paid, and the party willing to pay them the most money was generally believed to receive decisions in its favor. Most individuals could not afford the often prohibitive fees associated with filing a civil case. No civil court exists to address human rights violations. Military courts had effective jurisdiction over most human rights violations, since government security forces were the primary violators.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary interference with privacy, family, home, or correspondence; however, security forces routinely ignored these provisions. Soldiers, deserters, and police continued to harass and rob civilians. Security forces routinely ignored legal requirements for search warrants and entered and searched homes or vehicles at will. In general those responsible for such acts remained unidentified and unpunished. Police sometimes looted homes, businesses, and schools.

FARDC soldiers occupied a school in Bulungera, North Kivu Province following a February campaign against the Allied Democratic Forces-National Army for the Liberation of Uganda. They remained at the school for three months before a visiting minister negotiated with the regional military commander to have them relocated to an integration center.

FARDC 891st Battalion soldiers who were allied with renegade General Laurent Nkunda and not under central command authority occupied a primary school, which had served 1,388 pupils in the North Kivu Province town of Mbau, on March 30 and made it their military camp. They used doors and desks as firewood, converted classrooms to toilets, and looted the school's supplies. Military authorities did not investigate. A new regional military commander promised to remove the soldiers, but they remained in place at year's end.

Unlike in 2005, there were no reports that ANR security agents monitored mail passing through private express delivery companies and the state mail service. The Government was widely believed to monitor some telephone communications.

Throughout the country authorities sometimes arrested or beat a relative or associate of a person they were seeking to arrest.

For example, on April 1, in the South Kivu Province town of Uvira, PNC officers searching unsuccessfully for a man apprehended his wife and their infant child instead. The woman claimed the officers beat her with a club. No known action was taken against the officers.

On August 12, ANR agents in Lubumbashi, Katanga Province arrested two civilians in place of their employer who was accused of theft. The agents allegedly tied up and beat one of them before a senior officer intervened.

The officer who ordered the 2005 beating by Lubumbashi police of Mimi Mbayo in place of her husband remained unpunished.

Armed groups operating outside government control in the east routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence (see Section 1.g.).

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Internal conflict continued in rural and mineral-rich parts of the east, particularly in Ituri District, northern Katanga province, and the provinces of North Kivu and South Kivu. Unlike in the previous year, there was no confirmation of reports of Rwanda or Uganda

providing material support to armed groups that operated and committed human rights abuses in the country, or of the presence of Rwandan soldiers in the country.

Security forces and numerous armed groups continued to kill abduct, torture, and rape civilians, and burn and destroy villages. The security forces and armed groups continued to use mass rape and sexual violence with impunity as weapons of war and to humiliate and punish victims, families, and communities. There were also sporadic reports of death or injury from landmines laid during the 1998–2003 war.

Fighting between the FARDC and armed groups continued to cause population displacements and limited access to conflict areas by humanitarian groups. According to the Office of the UN High Commissioner for Refugees (UNHCR), fighting between armed groups and the FARDC displaced more than 100,000 civilians in Katanga Province and at least 37,000 civilians in North Kivu Province during the year.

Security forces and armed groups continued to recruit and maintain child soldiers in their ranks. A June 13 report of the UN Secretary General on children and armed conflict in the country, which covered the period July 2005 to May, found continued recruitment and use of children in security forces and armed groups. Perpetrators included transitional government security forces, FARDC forces allied with renegade General Nkunda and not under central command authority, Mai Mai militia, and the Democratic Forces for the Liberation of Rwanda (FDLR).

At year's end more than 20,000 children, including nearly 3,000 girls, had been demobilized from government security services and armed groups. NGOs estimated that as many as 30,000 children were once associated with armed groups. Although there were no reliable statistics, most credible sources, including the UN Children's Fund (UNICEF), estimated that at least 3,000 children had yet to be demobilized and remained in the ranks of or held by armed groups. According to an October AI report, girls accounted for 15 to 40 percent of the child soldiers, but in some areas they constituted less than 2 percent of child soldiers demobilized. AI attributed the discrepancy to a belief by NGOs working with child soldiers that girls among armed groups were either dependents or "wives" of adult fighters.

Recruitment of children began as young as age six, according to AI. Some children were forcibly recruited, while others enrolled for food, protection, or to escape poverty. Child soldiers faced violence from older soldiers and armed conflict. They were also exploited as porters or sex slaves.

At times, verification of reported abuses in the east was difficult due to geographical remoteness and hazardous security conditions; however, MONUC's presence allowed observers to gather more information than would have otherwise been possible, and according to local NGOs, helped decrease human rights violations by armed groups during the year.

*Abuses by Transitional Government Security Forces.*—Government forces arbitrarily arrested, raped, tortured, and summarily executed or otherwise killed civilians and looted villages during military actions against armed groups during the year. During the year the Government conducted some trials for abuses committed in the context of internal conflicts in the east. In general, the trials were flawed, and sentences were not always enforced.

Clashes between FARDC troops and the FDLR in Nyamilima, North Kivu Province in June resulted in the deaths of eight civilians. FARDC soldiers allied with renegade General Nkunda and not under central command authority allegedly shot and killed three children at close range.

On November 4, a military court sentenced a FARDC army captain to 20 years in prison for ordering the killing of five children in Ituri District in 2005. According to MONUC he and his officers had ordered the children to carry goods looted from their village after the FARDC conducted an operation against Ituri militia. The captain then claimed the children were militiamen and ordered his men to kill them.

Rape by security forces remained a serious problem. Civilian officials prosecuted rape more frequently than military justice courts; military perpetrators enjoyed almost total impunity. Police, army and navy personnel, and ex-soldiers allegedly raped 32 women and two girls and systematically looted 120 homesteads in Waka, Equateur Province on March 19. Three suspects were arrested in June; the rest remained at large.

During the year MONUC reported increased sexual violence by FARDC soldiers near Uvira, South Kivu Province against girls as young as 10 years old. The commanding officer of the battalion refused to hand over accused soldiers, although judicial authorities had issued warrants for their arrest.

On April 12 a military court in Songo Mboyo, Equateur Province sentenced seven former MLC militia members to life in prison for crimes against humanity, including the December 2003 mass rape of more than 119 women. This ruling was the first judicial action against military personnel accused of crimes against humanity. The judge also found the transitional government responsible for the acts of the

MLC soldiers. He ordered it to pay \$10,000 (5.3 million Congolese francs) to the family of each woman who died as a result of the sexual assaults, \$5,000 (2.65 million Congolese francs) to each survivor of sexual assault, and \$3,000 (1.59 million Congolese francs) to each business owner whose shop was looted. On October 21, five of the former militia members escaped from Mbandaka military prison and had not been found by year's end.

On June 20, a military court in Mbandaka, Equateur Province convicted 42 FARDC soldiers for murders and rapes committed in 2005, which it considered crimes against humanity.

Security forces recruited children and used them as soldiers during the year although the exact number was not known. In March MONUC identified 22 children among soldiers of the Fifth Integrated FARDC Brigade in Katanga Province. It found that FARDC Captain Mulenga in South Kivu Province had eight children in his ranks. He and his troops had also allegedly abducted five girls that month. Authorities later replaced the brigade's commanding officer.

Unlike in 2005, there were no reports that local authorities attempted to recruit child soldiers for armed groups.

Security forces arbitrarily arrested former (demobilized) child soldiers (see Section 1.d.).

*Abuses by FARDC Forces Allied With Renegade General Nkunda and Not Under Central Command Authority.*—Renegade General Nkunda, a former officer of the Congolese Rally for Democracy (RCD) rebel group and later of the FARDC, remained subject to a September 2005 international arrest warrant for alleged war crimes and crimes against humanity committed since 2002. Based in a location in North Kivu Province well known to and monitored by the transitional government security forces and MONUC, General Nkunda continued to control an estimated 1,500 to 2,000 FARDC soldiers who operated outside the transitional government's central command authority, although the Government continued to pay their salaries, at least periodically.

FARDC elements allied with renegade General Nkunda and not under central command authority killed civilians during the year. Three soldiers of the FARDC 811th Battalion, under the command of Major Claude in Kauma, North Kivu Province, attacked and looted a farm and forced the residents to transport the looted possessions. The soldiers summarily executed a civilian who refused to comply.

FARDC elements allied with renegade General Nkunda and not under central command authority killed demobilized soldiers during the year. Soldiers of the 83rd Brigade beat a demobilized soldier to death on January 25 and then crucified him on a tree, allegedly for deserting the army and leaving the RCD political party.

In Bwiza, North Kivu Province, 20 demobilized soldiers died in an underground holding cell in April and May after allegedly suffering cruel, inhuman, and degrading treatment by soldiers of the 83rd Brigade allied with renegade General Nkunda and not under central command authority.

FARDC elements allied with renegade General Nkunda and not under central command authority raped civilians during the year. Soldiers of the Nkunda-allied FARDC 83rd Brigade raped up to 90 women during a conflict in Kibirizi, North Kivu Province in January. MONUC interviewed victims who claimed to have been raped by three or four soldiers, often in front of family members, including children.

FARDC elements allied with renegade General Nkunda and not under central command authority recruited children into the military.

FARDC brigades not under central command authority recruited children for General Nkunda in North Kivu Province during the year. Soldiers ordered new child recruits to recruit other children, sometimes at gunpoint. At least 70 children were recruited in this way. MONUC reported an additional 170 children present in the 84th Brigade under Colonel Akilimali and the 85th Brigade under Colonel Samy.

FARDC elements allied with renegade General Nkunda and not under central command authority also re-recruited children. For example, according to MONUC, soldiers of the 835th Battalion abducted 13 demobilized children near Kitchange in Masisi (North Kivu Province) on June 22. On July 30, these soldiers traced two ex-child soldiers to their homes and tried to persuade them to return. Child protection NGOs stopped reunifying children with families in Masisi due to the risk of re-recruitment.

*Abuses by Armed Groups Outside Government Control.*—Armed groups outside government control committed numerous serious abuses, especially in rural areas of North and South Kivu provinces, northern Katanga Province, and Ituri District.

During the year armed groups raped, tortured, and killed civilians often as retribution for alleged collaboration with government forces. They sometimes threatened and harassed humanitarian workers. Armed groups killed nine UN peace-

keepers during the year. Unlike in 2005, there were no reports of armed groups imposing travel restrictions on humanitarian aid organizations, human rights NGOs, or journalists. Unlike in 2005, there were no reports of armed groups killing or kidnapping humanitarian workers.

Armed groups continued to use mass rape and sexual violence as weapons of war. Gang rapes were common and were often committed in front of victims' families. Rapes were often extremely violent and were generally accompanied by threats and beatings. These rapes sometimes resulted in vaginal fistula, a rupture of vaginal tissue that left women unable to control bodily functions and vulnerable to ostracism.

In some cases sexual abuses committed by various armed groups in the east were limited in time or perpetrated sporadically, by multiple individuals. Other girls and women were subjected to repeated rape over longer periods by a single perpetrator; some were forcibly abducted. These girls and women were commonly referred to as war wives, who often served both as fighters and sex slaves for their commanders.

Armed groups, including Mai Mai, continued to abduct and forcibly recruit children to serve as forced laborers, porters, combatants, war wives, and sex slaves. Credible estimates of the total number of children associated with armed groups, many of whom were between the ages of 14 and 16, varied widely from 15,000 to 30,000 in 2005. Credible sources estimated that at least 3,000 child soldiers had not yet been demobilized countrywide by year's end.

Girls associated with armed groups were often assaulted, raped, and infected with HIV/AIDS.

Unlike in the previous year, there were no reports of uniformed armed men recruiting Congolese children in two Rwandan refugee camps for use as soldiers.

Armed groups continued to loot, extort, and illegally tax civilians in areas they occupied.

There were no credible attempts by armed groups to investigate abuses allegedly committed by their fighters since 2003 or to punish those responsible.

*The FDLR.*—The FDLR, largely made up of Rwandan Hutus who fled to the DRC in 1994 after the Rwandan genocide, continued to be led by individuals responsible for executing and fomenting the genocide. Between 8,000 and 10,000 FDLR fighters and their families remained in the eastern provinces of North and South Kivu. Several hundred opted to voluntarily demobilize and return to Rwanda during the year.

FDLR fighters continued to commit abuses against civilians, including killings, abductions, rapes, and recruitment of child soldiers.

On January 19, MONUC issued a report on the July 2005 attack on the South Kivu Province village of Kabingu by FDLR fighters under Commander Kyombe in reprisal for alleged collaboration by residents with the FARDC and MONUC. The report concluded that the troops killed more than 50 civilians, including more than 40 women and children burned alive or hacked to death. The troops raped 11 women and abducted four girls, killing three and compelling the fourth to become a "war wife." More than 10,000 civilians were displaced as a result of the action.

A group of FDLR fighters allegedly killed a civilian in Burugoya, South Kivu Province on May 3 and forced five local boys to transport the stolen items from his house. Only one boy returned to the village; the whereabouts of the others were unknown at year's end.

According to the Congolese Initiative for Justice and Peace, on July 23 in South Kivu Province, unidentified armed men believed to be FDLR killed and cannibalized the body of Alphonsine Nahabatabunga, one of several abductees.

The FDLR forcibly recruited children in North Kivu Province in April and allegedly gave them weapons to forcibly recruit others. One 15-year-old boy recruited in Masisi said he had recruited 20 children, and claimed 70 children already belonged to the FDLR when he joined it.

The FDLR took no known credible action to investigate or address human rights abuses by its members.

*Ituri Militia Groups.*—Militias in the Ituri District of Orientale Province, notably the Front for National Integration (FNI), the Congolese Revolutionary Movement (MRC), and the Front for Patriotic Resistance in Ituri (FPRI) continued to commit abuses against civilians, including killings, abductions, rapes, and child soldier recruitment.

Unlike the previous year, there were no reports that the Lendu-dominated FNI and other Lendu groups in Ituri District committed killings or rapes against civilians.

During the year more than 4,800 former combatants in Ituri District voluntarily disarmed and joined the UN demobilization process. The National Commission for Disarmament, Demobilization, and Reinsertion (CONADER), set up several transit



sites in Ituri but was able to fund reintegration programs for only a small number of those who had disarmed.

According to MONUC, there were reports through August that the FNI, MRC, and FPRI were continuing to recruit new militia fighters by force. On October 10, the FARDC offered colonels' commissions to militia leaders Peter Karim (FNI) and Mathieu Ngonjolo (MRC) after their surrender in July; the transitional government promised to grant their fighters amnesty, except for war crimes and crimes against humanity, and promised military command positions to Karim and Ngonjolo. On November 28, "Cobra" Matata (FPRI) signed a similar disarmament agreement in exchange for amnesty.

There were no reports of Ituri militia taking any credible actions to investigate or address human rights abuses by its members.

On March 17, the transitional government transferred custody of Thomas Lubanga of the Ituri militia Union of Congolese Patriots (UPC) to the ICC, which had indicted him in February for war crimes and crimes against humanity for conscription and recruitment of child soldiers. It did not indict him for massacres, tortures, and rapes that human rights groups alleged he ordered.

In August a military tribunal in Ituri convicted Yves Kawa Panga Mandro of the UPC for crimes against humanity committed in November 2002. These included setting fire to clinics, schools, and churches, many of which were occupied.

*Mai Mai.*—Mai Mai militia groups in the provinces of Katanga, South Kivu, and North Kivu continued to commit abuses against civilians, including killings, abductions, rapes, and child soldier recruitment.

On May 12, Kyungu Mutanga Gedeon, a Mai Mai militia leader, surrendered to MONUC in Katanga with 150 combatants, mostly child soldiers. According to MONUC, the transitional government offered Gedeon a command position and officer's rank with integration into the army. He and his forces stood accused of at least a dozen summary executions of civilians and the destruction of numerous electoral identification cards, but at year's end he remained in Lubumbashi, Katanga Province and neither he nor his forces had been charged with any crime.

On July 6, MONUC issued a special report on human rights abuses committed in the territory of Mitwaba, Katanga Province during fighting between the FARDC and Mai Mai militia. MONUC found that between January 2005 and March, the FARDC summarily executed 33 civilians, and Mai Mai militia summarily executed 31. At least 15 civilians suspected of being Mai Mai disappeared and were allegedly executed by the FARDC after detention in Mitwaba Prison in March 2005. Between 2003 and the end of December, Mai Mai militia and the FARDC had looted and burned 24 villages in the area.

According to MONUC, Mai Mai-FARDC conflicts led to the displacement of more than 150,000 persons in Katanga during the year.

Mai Mai militias took no known credible actions to investigate or address human rights abuses by their members.

*Abuses by UN Peacekeepers.*—During the year there were a few allegations of sexual abuse committed by MONUC's civilian and military personnel. MONUC reported that less than 0.1 percent of all military and fewer than 2 percent of all civilian personnel were accused of sexual exploitation and abuse during the year.

There was only one serious incident potentially involving MONUC peacekeepers during the year. In August media outlets reported the existence of a child prostitution ring in South Kivu Province involving peacekeepers and FARDC soldiers. Investigations by MONUC found that most patrons were Congolese soldiers. The MONUC force commander declared brothels off-limits and reinforced military police. The allegations were referred to the UN Office of Internal Oversight Services, and investigations were ongoing at year's end.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the transitional government restricted these rights in practice and continued to violate press freedom during the year. There were several reports of security forces attacking, arresting, detaining, threatening, or harassing journalists. Authorities ordered several radio and television stations to temporarily cease operations for violating the media code of conduct, particularly during the election campaign.

Individuals could privately criticize the transitional government, its officials, and private citizens without being subject to official reprisals, and during the year such criticism frequently appeared in the media; however, security forces arrested, detained, and harassed politicians and other high-profile figures for criticizing the

President or other members of the transitional government (see Sections 1.d., 3, and 6.a.).

Unlike in 2005 there were no reports of human rights activists self-censoring their reports of human rights abuses because of fear of arrest.

On September 25, the Kindu ANR arrested Shakodi Fazili, President of a civil society organization in Maniema Province, on the order of the province's governor, Koloso Sumaili. Sumaili had accused Fazili of exhorting the population to withhold taxes after Vice Governor Boniface Yemba claimed the governor was stealing from the provincial treasury. The ANR released Fazili 12 hours later following the personal intervention of the President.

Theodore Ngoy, charged with insulting the head of state in December 2005, remained in detention until March, when he escaped from a court hearing and found refuge in the South African Embassy. The court in which he was charged became defunct with the promulgation of the new constitution on February 18, and all charges against him were dropped by July 30. He remained free at year's end.

A large and active private press functioned throughout the country, and a large number of daily newspapers were licensed to publish. The transitional government required every newspaper to pay a \$500 (265,000 Congolese francs) license fee and complete several administrative requirements before publishing. Many journalists lacked professional training, received little if any salary, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who provided cash or other benefits to encourage certain types of articles. While many newspapers remained critical of the transitional government, many showed bias toward it or particular political parties. Although there was no official newspaper, the Government press agency published the Daily Bulletin, which included news reports, decrees, and official statements.

Radio remained the most important medium of public information due to limited literacy and the relatively high cost of newspapers and television. Numerous privately owned radio and television stations operated, in addition to two state-owned radio stations and one state-owned television station. The President's family and one vice President owned and operated their own television stations. Political parties represented in the transitional government could generally gain access to state radio and television.

Foreign journalists sometimes could not operate freely in the country due to actions by security forces or other individuals.

Security forces arrested, harassed, intimidated, and beat journalists because of their reporting. Unlike in the previous year, there were no reports of security forces killing or kidnapping journalists.

The GR in Kisangani assaulted and beat Anselme Masua of MONUC's Radio Okapi after he entered an army camp on April 24, although he had clearly identified himself as a journalist before doing so. By year's end there were no reports of authorities taking action against the GR soldiers responsible for the beating.

On June 10, a FARDC officer in the eastern town of Kabambare, Captain Kengo Lengo, destroyed the broadcast equipment of Tujenge Kabambare, a community radio station, temporarily knocking it off the air after it had alleged abuses by the FARDC. The officer later defended his action by claiming that the station's director had failed to answer a summons.

According to MONUC and Voice of the Voiceless (VSV), GR soldiers arrested a journalist in Kinshasa on June 25 and handcuffed him, beat him with cords, and subjected him to cruel, inhuman, and degrading treatment for five hours. They then detained him for three days at a military camp, Camp Tshatshi, and accused him of possessing an inflammatory photo showing President Kabila with Rwandan President Kagame. There were no reports of authorities taking any action against the soldiers.

On July 3, the transitional government expelled from the country Radio France International journalist Ghislaine Dupont. According to CPJ, Dupont was known to be critical of the President.

PNC officers detained two foreign journalists, Arnaud Zajtman of the BBC and Marlene Rabaud of Reuters, pointed a machine gun at them, and held them in a police car for three hours and then in a jail overnight on October 26 before releasing them. The journalists were covering a prison riot in Kinshasa.

Police arrested two journalists in Kinshasa between November 21 and 25 following the destruction of the Supreme Court building by a pro-Bemba mob: Clement Nku, a cameraman for Vice President Bemba's Canal Congo Television (CCTV), and Mbaka Bosange, a reporter for the weekly newspaper Mambenga. Police arrested Nku after he filmed police officers abandoning their uniforms and equipment to flee the mob. By year's end, Nku was released but Bosange remained in jail.

The trial of three FARDC soldiers accused of committing the November 2005 killings of journalist Frank Ngyke and his wife in Kinshasa was repeatedly postponed on technical grounds, and no verdict had been delivered by year's end. Two members of press freedom NGO Journalist in Danger (JED) claimed they received death threats in January after publishing the results of their investigation of the killings.

The 2005 robbing and attempted killing of Radio Okapi journalist Jean Ngandu by uniformed soldiers remained under investigation at year's end.

There was no additional information available on Jean-Marie Kanku, who was released on bail in 2005 after being charged with disseminating false information.

No action was taken against security forces who beat or harassed journalists in 2005, including the PNC officers who beat radio editor Kawanda Bakiman Nkorabishen, or in 2004.

The HAM, a quasi-governmental organization mandated by the transitional constitution, imposed sanctions on both privately owned and state-owned media during the year, particularly during the election campaign, for inciting ethnic hatred or violence and for violating media regulations intended to ensure balanced electoral reporting. The sanctions included broadcast suspensions of several days or weeks.

On July 19, the HAM suspended six television stations, including government-owned outlets, for 72 hours for violating regulations on electoral reporting.

On August 16, the HAM placed 24-hour sanctions on Vice President Bemba's CCTV, state-owned National Radio-Television (RTNC-1), and the pro-Kabila Radio TV Armée de l'Eternel (RTAE) for inciting violence. The suspensions were a result of RTAE's presentation of footage of the lynching and torture of police officers at a July 27 campaign rally for Vice President Bemba in Kinshasa (see Section 1.a.); RTNC-1's extensive coverage of the police officers' funeral, during which the minister of the interior blamed the killings on Vice President Bemba's MLC party; and CCTV's presentation of footage of a 1998 bombing by then President Laurent Kabila's forces in Equateur Province.

The HAM limited the number of print and broadcast media that could cover the official electoral campaign to those specifically accredited to do so by the HAM.

Unlike in the previous year, there were no reports of police seizing newspapers from street vendors.

The transitional government used criminal libel laws to suppress criticism of political leaders, usually the head of state, and limit press freedom.

On June 8, authorities in Tshikapa, Western Kasai Province arrested Pierre-Sosthene Kambidi, a journalist for radio station Concorde FM, after he allegedly defamed a police commander during a June 7 broadcast by accusing him of committing police brutality. On June 10, a court convicted Kambidi of defamation and sentenced him to three months in jail. Pending appeal of his conviction, the court released Kambidi on June 14 after he posted \$50 (26,500 Congolese francs) bail. Community radio stations throughout the country stopped broadcasting on June 17 to protest the conviction and other press freedom cases. No further information was available at year's end.

On May 30, the Court of State Security found Patrice Booto, the editor of *Le Journal* arrested in November 2005, guilty of insulting the head of state and sentenced him to six months in prison and a \$500 (265,000 Congolese francs) fine. The charge stemmed from an article that Booto published claiming—without evidence—that the President gave \$30 million to Tanzania for its education budget while the transitional government remained in a payment dispute with teachers. On July 27, after Booto paid the fine and spent nine months in jail, an appeals court found him guilty of reporting false information but acquitted him of insulting the head of state, resulting in his release on August 3.

During the year there were reports of unidentified persons killing a journalist; kidnapping, beating, threatening, and harassing other journalists; and forcing at least one radio station to temporarily close.

For example, Kabeya Pindi Pasi, a television journalist and President of the Congolese National Press Union, received anonymous death threats on May 16 after he reported alleged human rights abuses by Vice President Bemba and the MLC. He fled the country but returned shortly thereafter.

On July 8, unidentified armed persons killed freelance newspaper journalist Louis Bapuwa Mwamba after forcibly entering his Kinshasa home. The day before his death, daily newspaper *Le Phare* had published a commentary by Mwamba criticizing authorities and the international community for what he deemed to be the failure of the country's political transition. It was not clear whether the killing was politically motivated; local sources said the attackers took only Mwamba's cell phone. On July 25, authorities in the southwestern port city of Matadi arrested and detained a former soldier, Vungu Mbembe, and two civilians, Mangenele Lowawi

and Kunku Makwala Sekula, and charged them with Mwamba's murder. No trial date had been set by year's end.

On October 12, unidentified armed men destroyed broadcast antennas at a private television station owned by Vice President Bemba in the Katanga province town of Lubumbashi, according to JED.

*Internet Freedom.*—The transitional government did not restrict access to the Internet or monitor e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Private entrepreneurs made Internet access available at moderate prices through Internet cafes in large cities throughout the country. Poor infrastructure and high prices limited the ability of all but the wealthiest to have Internet access in their homes.

*Academic Freedom and Cultural Events.*—Unlike in the previous year, the transitional government did not restrict academic freedom or cultural events.

In October the HAM ordered radio stations not to broadcast campaign songs that called for violence; no stations were sanctioned during the year.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for the right of freedom of peaceful assembly; however, the transitional government restricted this right in practice. The transitional government treated the right to assemble as subordinate to maintenance of public order and continued to require all organizers of public events to inform local authorities before holding a public event. According to the law, organizers are authorized to hold an event unless the local government denies authorization in writing within five days of notification. Security forces often dispersed unregistered protests, marches, or meetings and sometimes dispersed authorized protests and marches.

Security forces restricted the rights of several political party members to organize, hold protests, campaign, and publicize their views (see Section 3). Some domestic human rights NGOs claimed to have been harassed and monitored by members of the security forces (see Section 4).

During the year transitional government security forces killed demonstrators while dispersing crowds. There were no reports of authorities taking action to address these killings.

On May 4, FARDC soldiers in Bukavu, South Kivu Province fired on a crowd protesting insecurity in the city. A child, Noelle Buhendwa, was killed by shots fired by a FARDC captain.

On July 11, police dispersed a peaceful demonstration in Kinshasa. Although organizers had informed local authorities as required, the governor of Kinshasa had not authorized the demonstration and ordered police to halt it. One civilian lost most of his fingers to a tear gas canister explosion, and another fell into a coma after breathing tear gas.

On June 30, heavily armed FARDC soldiers in the Bas-Congo Province town of Matadi fired indiscriminately at a demonstration by Bundu Dia Kongo (BDK) separatists after a BDK member attacked and killed a soldier. The soldiers killed 13 civilians and injured 20. The ONDH issued a report assigning responsibility for the deaths to the commander of the Second Military Region who, believing the protesters were armed, had deployed FARDC troops. ONDH also blamed the BDK for violating the law requiring advance notification of rallies.

The transitional government took no known action against security forces responsible for using excessive force against demonstrators in 2005.

During the year police occasionally arrested demonstrators.

On September 11, police arrested 10 civilians in Tshikapa, Western Kasai Province, during a peaceful demonstration about which they had informed the local administration 48 hours before. Authorities detained the 10 for 24 hours and released them the next day.

*Freedom of Association.*—The constitution provides for freedom of association; however, in practice the transitional government sometimes restricted this right. During the year the transitional government sometimes harassed political parties, including party leaders, and restricted the registration of at least one political party (see Section 3).

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice, provided that worshipers did not disturb public order or contradict commonly held morals.

The law provides for the establishment and operation of religious institutions and requires practicing religious groups to register with the Government; registration requirements were simple and implemented in a nondiscriminatory manner. In practice unregistered religious groups operated unhindered.

In June FARDC soldiers fired on a demonstration by the separatist group BDK after adherents attacked and killed a soldier (see Section 2.b.). The BDK, an eth-

nically based spiritual and political movement that continued to call for the establishment of an “ethnically pure” kingdom of the Bakongo people, remained outlawed for its separatist, political goals and its implication in acts of violence.

Unlike the previous year, there were no reports of violence against missionaries.

During the year the Government banned all religious radio and television stations from broadcasting political and news programs because these were not consistent with their licenses. In practice the stations did not comply with the ban and were not sanctioned.

Unlike in the previous year, there were no reports of the HAM suspending a religious broadcast station.

*Societal Abuses and Discrimination.*—The country has a very small Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the transitional government occasionally restricted these rights.

Security forces established barriers and checkpoints on roads, at ports, airports, and markets, ostensibly for security reasons, and routinely harassed and extorted money from civilians for supposed violations, sometimes detaining them until a relative paid. The transitional government forced travelers to pass through immigration procedures during domestic travel at airports, lake ports, and when entering and leaving towns.

Local authorities in North and South Kivu Provinces routinely required travelers to present official travel orders from an employer or transitional government official.

The significant risk of rape perpetrated by uniformed men restricted freedom of movement by women in many areas.

Armed groups in the east restricted or prevented freedom of movement during the year. They also harassed travelers and often raped women.

Passport issuance was irregular and often required payment of significant bribes. The law requires married women to have their husband’s permission in order to travel outside the country; however, there were no reports that the transitional government prevented particular groups from acquiring passports.

Dissident politician Joseph Olenghankoy, whose passport was temporarily confiscated in 2005 and who subsequently left the country, returned and ran for President and subsequently managed Vice President Bemba’s second-round Presidential campaign.

The law prohibits forced exile, and there were no reports that the transitional government used forced exile.

The Government did not restrict emigration or prohibit the return of citizens who had left the country.

Unlike in the previous year, there were no reports of mistreatment of repatriated asylum seekers.

*Internally Displaced Persons (IDPs).*—As of June 30, MONUC estimated there were approximately 1.1 million IDPs, concentrated in the east, particularly in North Kivu Province (see Section 1.g.).

Military operations conducted by the FARDC with MONUC support against armed groups outside government control led to internal displacement of many persons during the year. Attacks on local populations by armed groups also caused significant displacements (see Section 1.g.).

The transitional government did not provide protection or assistance to IDPs, who continued to rely exclusively on humanitarian organizations for assistance. The transitional government generally allowed domestic and international humanitarian organizations to provide assistance to IDPs. Fighting between the FARDC and armed groups sometimes restricted the ability of humanitarian organizations to assist IDPs (see Section 1.g.). The transitional government did not attack or target IDPs, nor did it forcibly return or resettle IDPs under dangerous conditions. However, in April MONUC reported that FARDC soldiers had subjected numerous IDPs to forced labor in cassiterite mines in Mitwaba, Katanga Province.

On several occasions, armed groups denied access to IDPs by humanitarian organizations or obstructed their ability to deliver supplies (see Section 1.g.).

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the transitional government had established a rudimentary system for providing protection to refugees. In practice, it granted refugee

and asylum status and provided protection against refoulement, the return to a country where individuals feared persecution.

The transitional government provided temporary protection to an undetermined number of individuals who may not have qualified as refugees under the 1951 Convention and its 1967 Protocol.

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

Two Sudanese claiming to be refugees accused the border patrol of arbitrarily detaining them. They were released the same day. A MONUC investigation was unable to verify their status as refugees.

Transitional government authorities did not provide adequate security to refugees.

Unlike in the previous year there were no reports that uniformed armed men recruited children in refugee camps for use as soldiers.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change their government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through credible Presidential, parliamentary, and provincial elections based on universal suffrage.

*Elections and Political Participation.*—Nearly 18 million of 25 million registered voters participated in the July 30 Presidential and parliamentary elections. More than 15 million voters participated in the October 29 Presidential run-off and provincial elections. Voters elected Kabila President on October 29 with 58 percent of the run-off vote; his opponent, Vice President Bemba, received 42 percent. The top three vote-receiving parties in the national legislative elections were the People's Party for Reconstruction and Democracy, allied with President Kabila; Vice President Bemba's MLC party; and Gizenga's United Lumumbist Party, which subsequently entered into coalition with the AMP. Parties affiliated with President Kabila's AMP coalition won majorities in eight of the 11 provincial assemblies.

The Carter Center and the European Union (EU) Observer Mission both judged the July 30 and October 29 votes credible. The Carter Center said the elections were "very well executed" and expressed confidence that the results announced by the country's Independent Electoral Commission (CEI) were "consistent with the results obtained in the polling stations." However, both organizations reported some irregularities in the July 30 and October 29 votes related to the campaign period, voting procedures, and the collection of election materials. The Carter Center noted instances of disruption or attempted manipulation of the electoral process but said that they appeared "isolated and unlikely to affect the overall success of the vote."

The Carter Center identified deficiencies in voting and ballot collection procedures in the first round of voting. The Carter Center and the EU noted substantial progress in correcting these deficiencies prior to the second round.

The Supreme Court dismissed claims by Vice President Bemba that massive fraud had occurred during the October 29 vote and subsequent count. Both the Carter Center and the EU confirmed that irregularities had occurred and involved both sides but that those irregularities were not of a magnitude to change the Presidential election's outcome.

African election observers also judged the July 30 and October 29 elections credible. The African Union found that any irregularities were not serious enough to undermine the credibility of the elections. The Southern African Development Community Parliamentary Forum said the elections conformed to regional electoral norms and standards. The Electoral Institute of Southern Africa and the Common Market for Eastern and Southern Africa both stated that voters were able to express their democratic choices without hindrance.

There were reports of isolated cases of violence, including two accidental killings by security forces, but there was no evidence to suggest that the violence was intended to prevent, or that it prevented, citizens from voting. However, there were also reports of interference with voting rights. For example, some members of the security forces in the provinces of Katanga and North Kivu allegedly confiscated electoral cards and demanded cash for their return before the July 30 elections.

In July participants in a Kinshasa campaign rally for MLC Presidential candidate Bemba killed a civilian and members of security forces, destroyed property, and committed rape (see Section 1.a.).

On October 29, a crowd burned down several polling stations in Equateur Province after security forces accidentally killed a bystander (see Section 1.a.).

MONUC reported that on October 29, FARDC soldiers stopped a group of more than 200 citizens on their way to vote and subjected them to physical abuse in Aveba, Ituri District. In Nizi, also in Ituri District, FARDC soldiers established a checkpoint and demanded money from travelers, including citizens on their way to

vote. In both cases, the FARDC regional military commander arrested several soldiers for their actions. No additional information was available at year's end.

On November 21, after Vice President Bemba's attorneys formally contested the provisional election results, Bemba's supporters set the Supreme Court building on fire. UN forces restored order after riot police fled the scene. Bemba supporters beat one police officer. The Supreme Court confirmed the election results on November 27, and Vice President Bemba agreed to abide by the results.

Some privately owned and state broadcast stations provided overtly biased, unbalanced, or false election coverage favoring certain candidates. The HAM sanctioned state and privately owned broadcast stations during the campaign for inciting ethnic hatred or violence and for violating media regulations intended to ensure balanced electoral reporting. The HAM sanctioned stations favoring Vice President Bemba more frequently than stations favoring President Kabila, and most observers said they believed that pro-Kabila stations also violated the media code of conduct and were sanctioned, but they did not commit as many infractions as pro-Bemba stations did (see Section 2.a.). On numerous occasions during the campaign, broadcast stations owned by Bemba or his supporters promoted ethnic hatred. Vice President Bemba's campaign used ethnic slurs in reference to President Kabila and alleged that Kabila, who spent part of his youth outside the country, was a foreigner.

Candidates standing for election who already held positions in the transitional government—particularly those who owned private broadcast stations—had considerably more access to media than those who did not.

*Political Parties.*—Individuals could freely declare their candidacies and stand for election as long as they legally registered. During the year the CEI disallowed the registration of five political parties for technical reasons, but registered more than 200 other political parties.

Unlike in previous years, the Government did not require political parties to apply for permits to hold press conferences.

Security forces restricted the rights of several politicians, including members of the transitional government, to organize, protest, campaign, and publicize their views.

On May 24, security forces surrounded the homes of 11 Presidential candidates prior to a planned protest, allegedly for their security. Security forces denied entry and exit of all persons throughout the day.

On June 27, the ANR arrested 12 UDPS party members for arms possession and arbitrarily detained them in a military camp in Mbuji Mayi, Eastern Kasai Province. Four were released on June 29, four on July 1, and four on July 29. No charges were ever brought against those arrested. The UDPS boycotted the electoral process and some of its members initiated and threatened violence against would-be voters in the Kasai provinces before and during the first round of voting.

MONUC reported that ANR officers in Kalemie and Lubumbashi, Katanga Province, and Uvira, South Kivu Province, made more than 30 arrests for political reasons and mistreated and tortured some of the detainees who were members or supporters of political parties. There were no reports of authorities taking action against those responsible for these actions.

A North Kivu local administrator and PNC officers allegedly prevented a delegation of the Christian Federalist Democracy-Convention of Federalists for Christian Democracy alliance from campaigning after 6 p.m. on July 18. The officers allegedly tried to extort money from the delegation and banned them from campaigning in the area of Luofu, North Kivu Province.

AMP candidates and campaigners alleged that the FARDC 83rd Brigade, which was allied with renegade General Nkunda and not under central command authority, threatened them with violence and prevented them from campaigning on July 18. A later agreement between Nkunda, MONUC, and the CEI to allow AMP campaigning for the second round of Presidential elections was not consistently respected by Nkunda's forces (see Section 1.g).

On July 30, GR soldiers reportedly arrested two aides to a Presidential candidate and kept them blindfolded at an unknown location for a day (see Section 1.d.).

Five of 36 appointed cabinet ministers and three of 24 appointed vice ministers in the transitional government were women. Women held 60 of the 620 appointed seats in the transitional parliament and 42 of 500 seats in the newly elected National Assembly.

During the year one Tutsi, from North Kivu Province, was elected to the National Assembly.

*Government Corruption and Transparency.*—Corruption remained endemic throughout the transitional government and security forces. The public perceived the transitional government to be widely corrupt at all levels. According to NGO

Transparency International (TI), both resident and nonresident experts perceived corruption among the country's public officials to be "rampant," the most severe assessment designation used by TI.

Weak financial controls and lack of a functioning judicial system encouraged officials to engage in corruption with impunity. Many civil servants, police, and soldiers had not been paid in years, received irregular salaries, or did not earn enough to support their families, all of which encouraged corruption. For example, local authorities continued to extort "taxes" and "fees" from boats traveling on many parts of the Congo River.

The mining sector lost millions of dollars to widespread theft, corruption, and fraud involving government officials. According to a July report by Global Witness, transitional government officials actively colluded with trading companies to circumvent control procedures and payment of taxes, extorting large sums of money in a system of institutionalized corruption. HRW reported that armed groups, government officials and, increasingly, military officers continued to profit from the illegal exploitation of the country's mineral resources, often in collusion with foreign interests.

The Government took some steps to combat corruption. For example, in February, the National Assembly's Lutundula Commission, named for its chairman, released a report detailing corruption in the awarding of 60 wartime mining and business contracts. The report implicated many senior politicians, some of whom were fired from high-ranking positions as a result. The report was funded by the World Bank and was widely available on the Internet, but its findings and recommendations were not debated by the Assembly. According to HRW, some commission members said they received death threats.

The law requires the post-transition President and ministers to disclose their assets. The President did so following his December inauguration.

There continued to be an Ethics and Anti-Corruption Commission, but it had little impact during the year and lacked resources, independence, and credibility.

Through the use of defamation laws that carry criminal punishments, transitional government authorities and wealthy individuals sometimes restricted the freedom of press and speech on occasions when the media investigated or made accusations of government corruption.

The law does not provide for public access to government-held information, and in practice the Government did not grant access to government documents for citizens or noncitizens, including foreign media, although there were no reports of requests for access.

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

A wide variety of domestic and international human rights organizations investigated and published findings on human rights cases. The Human Rights Ministry and the ONDH worked with NGOs and MONUC during the year and responded to their requests and recommendations. However, security forces harassed and arrested domestic human rights advocates, and prison officials sometimes obstructed NGO access to detainees.

The main Kinshasa-based domestic human rights organizations included ASADHO, VSV, Groupe Jeremie, the Committee of Human Rights Observers, and the Christian Network of Human Rights and Civic Education Organizations. Prominent organizations operating in areas outside Kinshasa included Heirs of Justice in Bukavu, South Kivu Province; Lotus Group and Justice and Liberation in Kisangani, Orientale Province; and Justice Plus in Bunia, Ituri District. The transitional government's human rights bodies met with domestic NGOs and sometimes responded to their inquiries but took no known actions.

For example, according to MONUC, armed men, who were believed to be soldiers of the FARDC 813th battalion allied with renegade General Nkunda and not under central command authority, abducted and killed a local NGO member in the North Kivu Province town of Masisi; the person was reportedly killed for calling on soldiers to join the demobilization process.

VSV President Floribert Chebeya Bahizire and Vice President Dolly Mbunga alleged that the ANR placed them under continuous surveillance after they disseminated a posters intended to persuade citizens not to vote in the general elections. VSV alleged that the ANR monitored visitors and members at the VSV office. On July 26, VSV closed its Kinshasa office, and both leaders went into hiding. By year's end, they had resumed their positions.

The case of two FARDC soldiers arrested for killing human rights activist Pascal Kabungula Kibembi in Bukavu, South Kivu Province in July 2005 remained unresolved, and neither soldier remained in custody.



There were reports that local NGOs which did not pay bribes to local officials were subjected to lengthy registration requirements.

Unlike in 2005, there were no reports of domestic NGOs censoring their own reports about human rights abuses or corruption by authorities.

During the year unidentified armed men threatened and harassed NGO members, particularly in the east.

For example, according to HRW, two domestic human rights activists in the North Kivu town of Goma, Richard Bayunda and Sheldon Hangi, received threatening telephone calls in January and February. Unidentified armed men also came to their homes at night on one occasion in February but were unable to gain entry. The two activists had returned after fleeing the country in 2005 following death threats.

On March 18, a member of the National Union of Federalists of the Congo political party threatened Hubert Tshiswaka, director of Action against Impunity for Human Rights, after he issued a press release calling on citizens not to vote for human rights violators. On April 1, he received a death threat via an anonymous phone call, according to AI.

According to MONUC, a domestic human rights activist in Ituri District received anonymous death threats between July 5 and July 10, allegedly because of his cooperation with MONUC and the ICC in the Thomas Lubanga case.

The transitional government generally cooperated with international NGOs, which published several reports on human rights and humanitarian issues, and permitted them access to conflict areas. However, there were some exceptions.

For example, in September the ANR detained the head of the Bukavu office of the International Rescue Committee, Sylvie Louchez, and demanded to see several identification and registration papers before releasing her. In October the ANR detained the head of the Bukavu office of the NGO War Child for seven hours. The NGO paid a bribe to secure her release.

During the year unidentified persons threatened members of international NGOs. For example, a senior researcher for HRW reported that she and other staff members regularly received anonymous death threats following the publication of reports on human rights violations during the year.

The transitional government cooperated with multilateral organizations and permitted international humanitarian agencies access to conflict areas. A number of senior UN officials visited the country during the year, including Under Secretary General for Peacekeeping Jean-Marie Guehenno and Under Secretary General for Political Affairs Ibrahim Gambari.

On June 13, the UN Security Council received a report of the UN Secretary General on children and armed conflict in the country (see Section 1.g.).

On March 16, MONUC issued reports on the detention of children and justice for minors (see Section 5) and on arrests and detentions in prisons (see Section 1.d.).

MONUC also issued special reports on human rights violations and abuses committed in the territory of Mitwaba, Katanga in 2005 and on the attack on Kabingu village in South Kivu Province in July 2005 (see Section 1.g.).

UN officials freely criticized actions by the transitional government during the year.

Armed groups killed nine UN peacekeepers during the year (see Section 1.g.).

Unlike in 2005, there were no reports of armed groups in the east imposing travel restrictions on humanitarian aid workers or local NGOs.

The transitional constitution mandated an independent ONDH and a Truth and Reconciliation Commission. Both entities lacked resources and were generally regarded as ineffective. Although the transitional government did not actively interfere with their investigations, neither did it cooperate with them.

On August 8, the ONDH reported its findings on two incidents: the transitional government's use of force against BDK adherents in June (see Section 2.b.) and mob violence associated with an election rally in Kinshasa on July 27 (see Section 1.a.).

During the year, the transitional government cooperated with the ICC, which continued conducting investigations into war crimes and crimes against humanity committed in the country since July 2002. In March the Government transferred to the ICC custody of an Ituri militia leader indicted for recruitment of child soldiers (see Section 1.g.).

The Government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR). ICTR investigators operated freely in areas under government control, seeking a number of individuals indicted for involvement in the 1994 Rwandan genocide whom they believed might be in the DRC.

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

The constitution prohibits discrimination based on ethnicity, sex, or religious affiliation; however, the Government did not enforce these prohibitions effectively, in part because it lacked appropriate institutions.

*Women.*—Domestic violence against women occurred throughout the country; however, there were no statistics available regarding its extent. Although the law considers assault a crime, it does not specifically address spousal abuse, and police rarely intervened in domestic disputes. Judges set the penalties for those convicted of assault, and the laws establish minimum penalties. There were no reports of judicial authorities taking action in cases of domestic or spousal abuse.

The law criminalizes rape, but the Government did not effectively enforce this law. On June 22, the transitional parliament approved a new sexual violence law, which broadened the definition of rape to include male victims, and which addressed sexual slavery, sexual harassment, forced pregnancy, and other sexual crimes not previously covered by law. It also increased penalties for sexual violence, prohibited compromise fines, allowed victims of sexual violence to waive appearance in court, and permitted closed hearings to protect confidentiality. The law neither mentions sexual violence in marriage nor prohibits spousal rape.

Rape was common throughout the country; however, there were no available statistics regarding its prevalence. The minimum penalty prescribed for rape was a prison sentence of five to 12 years. Prosecutions for rape and other types of sexual violence remained rare. It was common for family members to instruct a rape victim to keep quiet about the incident, even to health care professionals, to safeguard the reputations of the victim and her family. The press rarely reported incidents of violence against women or children; press reports of rape generally appeared only if it occurred in conjunction with another crime, or if NGOs reported on the subject.

Girls and women who had been raped often found it difficult to find husbands, and married women who were raped were often abandoned by their husbands.

Some families forced rape victims to marry the men who raped them or to forego prosecution in exchange for money or goods from the rapist.

Transitional government security forces, armed groups, and civilians perpetrated widespread rape against women and girls (see Section 1.g).

Victims and experts cited widespread impunity as the main reason sexual violence continued. A small number of sexual violence cases, mostly committed by civilians, have been brought to court. In general, however, most victims did not have sufficient confidence in the justice system to pursue formal legal action for fear of subjecting themselves to further humiliation and possible reprisal.

The law does not prohibit female genital mutilation (FGM), and FGM was rarely practiced.

The constitution prohibits forced prostitution and bans prostitution of children under age 18. Although there were no available statistics regarding its prevalence, adult and child prostitution occurred throughout the country, and there were reports of women and girls pressured or forced to engage in prostitution by their families. Security forces encouraged prostitution and used prostitutes, and there were unconfirmed reports that security forces harassed and raped prostitutes.

There were reports that women were trafficked (see Section 5, Trafficking).

Sexual harassment occurred throughout the country; however, no statistics existed regarding its prevalence. The new sexual violence law prohibits sexual harassment, and the minimum penalty prescribed by law is a prison sentence of one to 20 years; however, by year's end judicial authorities had yet to bring charges in a single case.

Women did not possess the same rights as men. The law requires a married woman to obtain her husband's consent before engaging in legal transactions, including selling or renting real estate, opening a bank account, and applying for a passport. Under the law women who committed adultery may be sentenced to up to one year in prison; male adultery is punishable only if judged to have "an injurious quality."

Women experienced economic discrimination. The law forbids women from working at night or accepting employment without their husband's consent. According to the International Labor Organization (ILO), women often received less pay in the private sector than men doing the same job and rarely occupied positions of authority or high responsibility.

*Children.*—The Government budgeted little for children's welfare and did not make it a priority. Primary school education was not compulsory, free, or universal, and very few functioning government-funded schools existed. Most schooling was provided by religious organizations. Public and private schools expected—but did not require—parents to pay fees as contributions to teachers' salaries. In practice,

parents funded 80 to 90 percent of school expenses. These expected contributions, plus the loss of labor while the child was in school, meant that many parents could not afford to enroll their children. According to the United Nations Development Program, approximately 3.5 million primary school-age children and more than six million adolescents did not attend school during the year. Attendance rates for girls were lower because many parents with meager financial resources preferred to send their sons to school. Barely half of all children reached grade five, and less than 1 percent of primary school children went on to complete secondary education.

The law prohibits all forms of child abuse. Its extent was unknown and had not been investigated. The constitution prohibits parental abandonment of children due to the children's alleged practice of sorcery; such accusations led to cases of child abandonment, child abuse, and killings (see Section 1.a.). Although authorities made a few arrests related to child abandonment and abuse during the year, no cases had been prosecuted by year's end. NGOs concluded that that 60 to 70 percent of the country's more than 50,000 homeless children were abandoned by their families after being accused of sorcery. Many churches in the capital, Kinshasa, conducted exorcisms of children involving isolation, beating and whipping, starvation, and forced ingestion of purgatives.

FGM was rarely practiced.

The law prohibits marriage of girls under age 15 and boys under 18; however, marriages of girls younger than 15 sometimes took place, some involving girls under 13. Dowry payments greatly contributed to underage marriage. In some cases parents married off a daughter against her will to collect a dowry or to finance a dowry for a son to give to his future wife. The newly enacted sexual violence law criminalizes forced marriage. It subjects parents to up to 12 years' hard labor and a fine of \$185 (98,050 Congolese francs) for forcing children to marry. The penalty doubles when the victim is a minor. There were no reports of convictions for forced marriage by year's end.

Child prostitution occurred throughout the country; however, there were no statistics available regarding its prevalence. Many homeless children engaged in prostitution without third-party involvement, although some were forced to do so (see Sections 1.g. and 5, Trafficking). In Kinshasa, police allegedly extorted sexual services from child prostitutes. Security forces and armed groups trafficked children as soldiers, porters, and for sexual services (see Section 5, Trafficking).

Security forces and armed groups continued to maintain child soldiers in their ranks (see Section 1.g.).

Child labor, including forced labor, was widespread throughout the country (see Sections 1.g. and 6.d.).

The country's more than 50,000 street children included many accused of sorcery, child refugees, and war orphans, although some would return to their families at day's end. The transitional government was ill-equipped to deal with large numbers of homeless youth and children. Citizens generally regarded them as thugs engaged in petty crime, begging, and prostitution and tolerated their marginalization. Security forces abused and arbitrarily arrested street children (see Sections 1.c. and 1.d.).

There were numerous reports of collusion between police and street children, including street children paying police officers to allow them to sleep in vacant buildings, and others turning over to police a percentage of goods they stole from large markets. In addition, there were reports that different groups and individuals regularly paid groups of homeless youths to disrupt public order.

There were several active and effective local and international NGO groups working with MONUC and UNICEF to promote children's rights throughout the country, and with CONADER, the national disarmament agency.

*Trafficking in Persons.*—No specific laws prohibited trafficking in persons, and trafficking occurred, particularly in the east. Laws that could be used by the Government to prosecute cases against traffickers include the newly enacted law on sexual violence, which includes prohibitions against forced prostitution and sexual slavery, as well as other laws prohibiting slavery, rape, and child prostitution.

The country is a source and destination country for men, women, and children trafficked internally for forced labor and sexual exploitation.

Domestic and foreign armed groups operating outside government control in the east were responsible for the majority of reported cases of trafficking. Armed groups, and to a lesser extent transitional government security forces, continued to kidnap men, women, and children and force them to serve as porters, domestic laborers, and sex slaves (see Section 1.g.). In addition, armed groups and security forces abducted children to serve as combatants in areas under their control (see Section 1.g.).

There were reports of child prostitutes working in brothels. No statistical information existed on the extent of adult or child prostitution in the country. Some families pressured or forced girls to engage in prostitution.

The Ministry of Justice was primarily responsible for combating trafficking. Local law enforcement authorities were rarely able to enforce existing laws due to lack of personnel, funding, and the inaccessibility of eastern areas of the country; however, during the year the Government prosecuted and cooperated in at least three cases against traffickers.

For example, in March judicial authorities sentenced Jean Pierre Biyoyo, a FARDC soldier not under central command authority, to five years' imprisonment for war crimes, including the recruitment and use of child soldiers, committed in South Kivu Province in April 2004.

Also in March the Government gave the ICC custody of a former Ituri militia leader accused of recruiting and using children under the age of 15 as combatants (see Section 1.g.).

The Government operated several programs to prevent trafficking. CONADER used media, posters, and brochures to campaign against child soldiering. The transitional government coordinated with other countries on trafficking issues and attended regional meetings on trafficking. However, government efforts to combat trafficking were limited by a lack of resources and information. The Government had few resources for training, although it permitted training of officials by foreign governments and NGOs. It provided no funding for protection services.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities; however, persons with disabilities experienced discrimination in employment, education, and the provision of other government services.

The law does not mandate accessibility to buildings or government services for persons with disabilities. Some schools for persons with disabilities used private funds and limited public support to provide education and vocational training, including for blind students.

*National/Racial/Ethnic Minorities.*—Societal discrimination on the basis of ethnicity was practiced by members of virtually all of the country's approximately 400 ethnic groups and was evident in hiring patterns in some cities. There were no reports of government efforts intended to address this discrimination.

The constitution allows citizens to hold only Congolese nationality. The President of the Tutsi community in Goma, North Kivu Province, Dunia Bakarani, claimed this provision was biased and discriminated against the Tutsi ethnic group, some of whom held Rwandan citizenship. However, many citizens, including senior government officials, were widely believed to hold dual nationality.

The FARDC and other security forces sometimes harassed, arbitrarily arrested, and threatened Tutsis—including the Banyamulenge, a Tutsi subgroup—in North and South Kivu provinces.

*Indigenous People.*—The country had a population of fewer than 10,000 Pygmies (Batwa), who were believed to have been the country's original inhabitants; during the year societal discrimination against them continued. Although they were citizens, most Pygmies took no part in the political process as they continued to live in remote areas. During the year fighting between armed groups and government security forces in North Kivu Province caused significant population displacement of Pygmies.

Judicial authorities did not file charges in the 2005 case of a Katanga provincial leader attempting via local media to incite discrimination against the Luba ethnic group from Western and Eastern Kasai.

*Incitement to Acts of Discrimination.*—During the election campaign, broadcast stations owned by Vice President Bemba or his supporters promoted ethnic hatred and suggested that President Kabila was not sufficiently "Congolese" (see Sections 2.a. and 3).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution provides all workers—except for magistrates, high-ranking government officials, private sector managers, and members of the security forces—the right to form and join trade unions without prior authorization. Workers formed unions in practice; however, the Ministry of Labor, which had responsibility for ensuring the right of association, conducted no inspections and exercised no oversight during the year. Of an estimated 24 million adults of working age, 128,000 (0.5 percent) belonged to unions, according to the American Center for International Labor Solidarity (Solidarity Center). The informal sector, including subsistence agriculture, constituted at least 90 percent of the economy.

The law provides for union elections every five years; however, the transitional government did not allow them in the public sector, with the exception of parastatal industries.

According to MONUC, security forces arbitrarily arrested and detained the head of the trade union Prosperity on January 27 following a meeting in which he denounced irregularities in public sector salary payments. No additional information was available by year's end.

The law prohibits discrimination against unions, although this regulation was not enforced effectively. The law also requires employers to reinstate workers fired for union activities. The Interunion Committee, composed of public and private sector unions, is not legally mandated. However, it was generally recognized by the transitional government to negotiate with it and employers on labor issues of policy and law, although the transitional government did not meet with it during the year.

Private companies often registered bogus unions to discourage real ones from organizing and create confusion among workers. According to the Solidarity Center, many of the nearly 400 unions in the private sector had no membership and had been established by management, particularly in the natural resources sector.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the right of unions to conduct activities without interference and the right to bargain collectively. However, in practice the transitional government did not protect these rights.

Collective bargaining was ineffective in practice. In the public sector, the Government set wages by decree, and unions were permitted by law to act only in an advisory capacity. Most unions in the private sector collected dues from workers but did not succeed in engaging in collective bargaining on their behalf.

The constitution provides for the right to strike, and workers sometimes exercised it. In small and medium-sized businesses, workers effectively did not have the ability to strike. With an enormous unemployed labor pool, companies could immediately replace any workers attempting to unionize, collectively bargain, or strike, and companies reportedly did so during the year. The law requires unions to have prior consent and to adhere to lengthy mandatory arbitration and appeal procedures before striking. The law prohibits employers and the Government from retaliating against strikers; however, the transitional government did not enforce this law in practice and sometimes jailed striking public sector employees.

During the year union leaders attempted to organize a strike at the diamond concession MIBA in Eastern Kasai Province; they were all fired, according to the Solidarity Center.

There were no export processing zones in the country.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, including by children; however, both were practiced throughout the country, although no statistics were available.

Security forces used forced labor during the year, including forced labor by IDPs (see Sections 2.d. and 5).

According to MONUC, in February FARDC soldiers in North Kivu Province allegedly detained five civilians at a military camp in Muhangi and forced them to build shelters, clean the camp, transport water, and cook. No additional information was available by year's end.

On August 11, FARDC soldiers abducted 20 civilians from Gethy, Ituri District, and forced them to harvest and transport manioc, according to HRW. No additional information was available by year's end.

Armed groups, and to a lesser extent transitional government security forces, continued to kidnap men, women, and children and force them to serve as porters, domestic laborers, and sex slaves. For example, HRW reported multiple incidents in August and September of soldiers in Ituri District abducting civilians for forced labor, including as personal attendants, miners, and crop harvesters and transporters.

In the mining sector, dealers who purchased raw ore from unlicensed miners provided them with tools, food, and other products in exchange for a certain amount of ore. Miners who failed to provide ore, however, accumulated significant debts and became debt slaves, forced to continue working to pay off their debts. The transitional government did not attempt to regulate this practice.

Armed groups operating outside government control subjected civilians to forced labor. Many armed groups routinely forced civilians to transport looted goods for long distances without pay, and abducted men, women, and children for forced labor. On occasion, armed groups also forced civilians to mine, particularly in Ituri District. Armed groups forced women and children to provide household labor or

sexual services for periods ranging from several days to several months (see Section 1.g.).

On July 4, Rwandan Hutu militia in the South Kivu Province town of Tshifunzi allegedly abducted four men and three children. The attackers stole livestock, utensils, and clothes and forced the men to carry the looted goods. No additional information was available at year's end.

Forced or compulsory labor by children occurred (see Sections 1.g. and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws to protect children from exploitation in the workplace; however, neither the Ministry of Labor, responsible for enforcement, nor labor unions effectively enforced child labor laws. Child labor was a problem throughout the country and was common in the informal sector, particularly in mining and subsistence agriculture, and was often the only way for a child or family to earn money.

Although the minimum age for full-time employment without parental consent is 18 years, employers may legally hire minors between the ages of 15 and 18 with the consent of a parent or guardian. Those under age 16 may work a maximum of four hours per day. All minors are restricted from transporting heavy items. There were no reports of large enterprises using child labor.

An ILO report released during the year estimated that nearly 40 percent of boys and girls between the ages of 10 and 14 were working in the informal sector.

There continued to be reports of forced child labor. There were credible reports that security forces and armed groups used forced child labor in Ituri District and South Kivu Province, including the use of girls for sexual slavery and boys and girls as soldiers (see Section 1.g.). Security forces and armed groups also used children, including re-recruited child soldiers, as forced mine workers.

Some parents forced their children to leave school and beg in the streets, hunt or fish, or engage in prostitution to earn money for their families.

FDLR soldiers forced children to perform labor after the soldiers killed a civilian (see Section 1.g.).

Prostitution, including forced child prostitution, was practiced throughout the country (see Section 1.g. and 5, Trafficking).

In several mining regions, including the provinces of Katanga, Western and Eastern Kasai, and North and South Kivu, children performed dangerous, often underground, mine work. Children in the mining sector often received less than 10 percent of the pay adults received for the same production, according to the Solidarity Center.

Parents often used children for dangerous and difficult agricultural labor. Children sent to relatives by parents who could not feed them sometimes effectively became the property of those families, who subjected them to physical and sexual abuse and required them to perform household labor.

Transitional government agencies assigned to prevent child labor included the Ministry of Labor, the Ministry of Women and Youth, and the Ministry of Social Affairs. These agencies had no budgets for inspections and conducted no investigations during the year.

*e. Acceptable Conditions of Work.*—Employers often did not respect the minimum wage law of \$1.00 per day. The average monthly wage did not provide a decent standard of living for a worker and family in the formal economy. Government salaries remained low, ranging from \$50 to \$110 (26,500 to 58,300 Congolese francs) per month, and salary arrears were common throughout the public sector. More than 90 percent of laborers worked in subsistence agriculture or informal commerce. Many relied on extended family for support. The Ministry of Labor was responsible for enforcing the minimum wage but did not do so effectively.

The law defines different standard workweeks for different jobs, ranging from 45 to 72 hours per week. The law also prescribed rest periods and premium pay for overtime, but this was often not respected in practice. The law established no monitoring or enforcement mechanism, and businesses often ignored these standards in practice.

The law specifies health and safety standards; however, the Ministry of Labor did not effectively enforce them. No provisions of the law enable workers to remove themselves from dangerous work situations without jeopardizing their employment.

According to Global Witness, workers in the formal mining sector, as well as illegal diggers, faced particular risks. Most worked with no protective clothing, equipment, or training. Scores died during the year, usually in mineshaft collapses, and companies provided no compensation upon death. It is estimated that there were more than one million miners working outside the formal sector nationwide. Many

suffered violence from guards and security forces for illegally entering mining concessions.

## REPUBLIC OF CONGO

The Republic of Congo, with a population of approximately 3.8 million, is a parliamentary republic in which most of the decision-making authority and political power is vested directly in the President, Denis Sassou-Nguesso, and his administration. Independent monitors determined that the 2002 Presidential and parliamentary elections for the Senate and National Assembly did not “contradict the will of the people”; however, there were some irregularities and manipulation in the administration of the elections. While the civilian authorities generally maintained effective control of security forces, there were instances in which members of the security forces acted independently of government authority.

The Government’s human rights record remained poor; although there were some improvements, serious problems remained. The following serious human rights problems were reported: mob violence, including killing of suspected criminals; security force beatings, physical abuse of detainees, rapes, looting, solicitation of bribes, and theft; harassment and extortion of civilians by uncontrolled and unidentified armed elements; poor prison conditions; impunity; arbitrary arrest; lengthy pretrial detention; a corrupt and ineffective judiciary; infringement on citizens’ privacy rights; limits on freedom of the press; restrictions on freedom of movement; official corruption and lack of transparency; domestic violence and societal discrimination against women; trafficking in persons; discrimination on the basis of ethnicity, particularly against Pygmies; and child labor.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings; however, there were a few reports that security forces killed civilians.

There were reports that security forces killed persons during apprehension and while in police custody. For example, in September police shot and killed a Malian businessman for refusing to stop after reportedly running a red light. By year’s end there was no reported investigation or action taken against the police involved.

There continued to be occasional deaths due to mob violence, as civilians took vigilante action against presumed criminals or settled private disputes. Police at times intervened to stop mob violence.

The three villagers arrested after they killed an Italian missionary in 2005 remained in prison awaiting trial. One of the vehicles in the missionary’s convoy had struck and killed a child.

Local inhabitants frequently took the law into their own hands to punish persons presumed or known to be police or military personnel who looted civilian residences, resulting in death or serious injury. Such incidents were most common in remote areas.

*b. Disappearance.*—There were no reports of politically motivated disappearances. There were unconfirmed reports that members of Presidential security forces kidnapped children in and around the capital city of Brazzaville. In May police foiled such a kidnapping attempt; however, by year’s end the kidnappers had not been arrested, and there had been no investigation.

By year’s end the Supreme Court refused to hear the appeals of family members stemming from the 2005 “Beach” trial acquittals; in August 2005 the lower court had acquitted high-ranking military and police officials who were accused of involvement in the disappearance and presumed deaths of 353 persons who were separated from their families by security forces in 1999 upon returning to Brazzaville from the Democratic Republic of the Congo (DRC). At year’s end the claimants were searching for other legal avenues to pursue their claims of criminal wrongdoing by individuals and the Government.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such actions, security forces frequently used beatings to coerce confessions or to punish detainees. During the year there were reports that abuses continued in the jail and prison systems.

During the year there were reports by nongovernmental organizations (NGOs) that female detainees were raped, and that members of the security forces beat citizens.

In certain areas of the Pool region, unidentified armed elements, some of whom were thought to be uncontrolled government security forces or former Ninja rebels, continued to rob trains, harass citizens and NGO workers, and extort bribes. The Government stated it could not determine the identity of the perpetrators.

There was no reported action in the August 2005 case of a police officer who reportedly beat a man for arguing with him.

During the year unorganized mobs often assisted property owners in beating and sometimes killing suspected thieves in the southern sector of Brazzaville (see section 1.a.).

*Prison and Detention Center Conditions.*—Prison and detention center/jail conditions were poor. Prisons were overcrowded and food and health care were poor. The Ministry of Justice continued to repair some prisons during the year; however, lack of funds hindered efforts to improve facilities and to provide food and medicine.

During the year there continued to be credible reports that detainees held at police stations often were subjected to beatings, rapes, overcrowding, and extortion.

Women were incarcerated with men, except in the city of Brazzaville, where separate facilities were maintained. Juveniles were held with adults, and pretrial detainees were held with convicted prisoners.

There were six prisons and numerous police jails throughout the country. The prison population was estimated at 900 for the country; 400 of these were in Brazzaville's prison. An estimate of the number of persons held in police jails was not available.

The Government continued to grant access to prisons and detention centers to domestic and international human rights groups. During the year local human rights groups, including the Congolese Observatory for Human Rights, the Association for the Human Rights of the Incarcerated, the National Council for the Promotion and Protection of the Rights of Detained Persons, and a Catholic Church organization, visited prisons and detention centers/jails. The International Committee of the Red Cross (ICRC) continued regular visits to prisons and detention centers in Brazzaville and Pointe Noire and reported that it had received appropriate cooperation from the Government on its visits during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, members of the security forces committed such acts. There were somewhat fewer reports of arbitrary arrest and detention than in previous years. Local and international NGOs reported that members of the security forces commonly used arbitrary arrest and detention to extort funds from citizens.

*Role of the Police and Security Apparatus.*—The security forces include the police, gendarmerie, and military. The police and the gendarmerie are responsible for maintaining internal order, the police primarily inside cities and the gendarmerie mainly outside. The military forces are responsible for external security, but also have domestic security responsibilities, such as protecting the President. The minister of defense oversees the military forces and gendarmerie, and the minister of security oversees the police. In practice police, gendarmerie, and military operations often overlapped and were poorly coordinated. Although improved compared to previous years, the Government did not always have full control over some members or units of the security forces. The more professional security forces tended to operate only in urban areas.

The security forces were not generally considered effective, and corruption was a significant problem. During the year there were frequent reports of arrested individuals whose families bribed police to secure a release. Traffic police extorted bribes from taxi drivers under threat of impoundment of their vehicles. Although the Human Rights Commission (HRC) was established for the public to report security force abuses (see section 4), impunity for members of the security forces was a widespread problem.

The police at times failed to prevent or to respond to societal violence (see section 1.a.).

*Arrest and Detention.*—The constitution and law require that warrants be issued by a duly authorized official before arrests are made, that a person be apprehended openly, that a lawyer be present during initial questioning, and that detainees be brought before a judge within three days and either charged or released within four months; however, the Government frequently violated these provisions. There is a system of bail, but more than 70 percent of the population had an income below the poverty level—defined as income of less than \$1 (500 CFA francs) a day—and could not afford to pay bail. Detainees generally were informed of the charges against



them at the time of arrest, but formal charges often took at least a week to be filed; police at times held persons for six months or longer due to administrative errors or delays in processing detainees. Lawyers and family members usually were given prompt access to detainees, and indigent detainees were provided lawyers at government expense. In those cases where indigent detainees were detained outside a major city, they were often transferred to the closest town or city where an attorney was available.

Arbitrary arrest was a problem. The most common cases were threats of arrest to extort bribes. These were perpetrated most often against vehicle operators (mainly taxi drivers) by police, gendarmes, or soldiers. Immigration officials also routinely stopped people and threatened them with arrest, claiming they lacked some required document, were committing espionage, or on some other pretext to extort funds. Most often, these incidents resulted in the bribe being paid; if not, the person was detained at a police station (or the airport) until either a bribe was paid or pressure was brought to bear to get the person released.

In May five individuals were detained for suspected gun trafficking near the interior city of Dolisie and then transferred to Brazzaville where, by year's end, there had been no known formal charges or progress in their cases.

In August there was an unconfirmed report that police visited a local Nigerian businessman's home, accused him of drug dealing, confiscated all his household belongings, and detained him at the local jail. After the Nigerian embassy intervened, the man was released without charge; however, when he requested return of his property, he received everything back except for approximately \$4,000 (two million CFA francs) that the police refused to return. The embassy and individual dropped the matter after it became clear that the police were threatening anyone who might step forward as a witness.

Lengthy pretrial detention due to judicial backlogs was a problem. An estimated 40 percent of the prison population were pretrial detainees. On average detainees would wait six months or longer before going to trial. They were occasionally held awaiting trial for periods longer than the sentence associated with the crime. Reportedly, bribes generally determined the length of a detention.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judiciary continued to be overburdened, underfunded, and subject to political influence, bribery, and corruption.

The judicial system consists of traditional and local courts, courts of appeal, a Court of Accounts, the High Court of Justice, the Constitutional Court, and the Supreme Court. In rural areas, traditional courts continued to handle many local disputes, particularly property and inheritance cases, and domestic conflicts that could not be resolved within the family. The Court of Accounts' function is to hear cases related to mismanagement of government funds. The Constitutional Court's responsibility is to adjudicate the constitutionality of laws and judicial decisions. The High Court of Justice's function is to review judicial decisions or crimes involving the President and other high-ranking authorities in the conduct of their official duties. Members of the High Court of Justice were appointed in 2004, but due to lack of funds the court was still not functioning by year's end. Local courts dealt with criminal and civil complaints. The Supreme Court met regularly and primarily heard cases related to the legality of land seizures by the Government during the civil war. It also reviewed administrative and penal cases from lower courts.

*Trial Procedures.*—The constitution provides for the right to a fair trial presided over by an independent judiciary; however, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials, and some cases never reached the court system. In general defendants were tried in a public court of law presided over by a state-appointed magistrate. Juries are used. Defendants have the right to be present at their trial and to consult with an attorney in a timely manner. An attorney is provided at public expense if an indigent defendant faces serious criminal charges. Defendants can confront or question accusers and witnesses against them and present witnesses and evidence on their own behalf. The defense has access to prosecution evidence. Defendants are presumed innocent and have the right of appeal. The law extends the above rights to all citizens.

The military has a tribunal system to try criminal cases involving military members, gendarmerie, or police; however, this body was thought to function poorly and was subject to influence and corruption. Civilians are not tried under this system.

*Political Prisoners and Detainees.*—There were some political prisoners and detainees. During the year the ICRC reported that it continued to monitor the condition of approximately 10 political prisoners.

In February 2005 security forces reportedly detained between 20 and 30 persons, including police, gendarmes, and civilians; in September 2005 they were charged

with the alleged theft of weapons from a gendarmerie camp and “plotting against the Government.” Four were granted provisional release in September 2005. Since then, the other individuals have not been accorded due process under the law. The remaining detainees were being held without charge at year’s end. During the year there were extended periods when they were not permitted visits by their families or NGOs.

Three exiled Democratic Republic of the Congo (DRC) military officers have remained in pretrial detention in military headquarters since March 2004, when they were arrested for political reasons following disturbances in Kinshasa; they were reportedly being held pending extradition, although an effective extradition policy between the two countries does not exist.

*Civil Judicial Procedures and Remedies.*—There is a civil court system. However, due to government influence it was not fully impartial or independent.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, security forces at times illegally entered, searched, and looted private homes (see section 1.d.). For example, in May soldiers attempted to loot commercial establishments in downtown Brazzaville because they reportedly were upset about pay discrepancies; military police intervened to prevent the looting.

In some areas of the Pool region, intimidation and harassment by uncontrolled and unidentified armed elements continued, according to reports from international NGOs and civilians (see section 1.c.).

Citizens generally believed the Government monitored telephone and mail communications of individuals it had an interest in.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, but it also criminalizes certain types of speech, such as incitement of ethnic hatred, violence, or civil war. The Government at times limited these rights. Broadcast journalists and government print media journalists practiced self-censorship for fear of reprisals. In contrast, the nongovernment print media felt fewer constraints, as long as its reporting stayed only in print form and was not broadcast.

Individuals could criticize the Government publicly or privately without reprisal on relatively minor issues. However, persons feared reprisal if they criticized government policies or high-level officials. The Government generally did not proactively attempt to impede criticism by, for example, monitoring political meetings, but sometimes punished critics after the fact.

There was one state-owned newspaper, *La Nouvelle Republique*, and several publications which were closely allied with the Government. There were 15 to 20 private weekly newspapers in Brazzaville that criticized the Government. Newspapers occasionally published open letters written by government opponents. The print media did not circulate widely beyond Brazzaville and the commercial center of Pointe Noire, although it reached approximately one-third of the population.

Most citizens obtained their news from the radio or television, and primarily from government-controlled radio in rural areas. There were three privately owned radio stations, all progovernment. There were three government-owned radio stations—Radio Congo, Radio Brazzaville, and Radio FM—and one government-owned television station, *Tele Congo*. An individual with close government ties owned three of the four privately owned television stations; none were critical of the Government. Several satellite television connections were available and permitted viewing of a range of news and entertainment programs by the relative few who could afford it.

Most journalists worked in various government ministries as press attaches or worked for the newspaper *La Nouvelle Republique* or the Congolese Information Agency, both government-owned. News coverage and editorial positions of the Government owned media reflected government priorities and views. Government journalists were not independent and were expected to report positively on government activities. There was evidence that when government journalists deviated from this guidance there were adverse consequences, especially if they were critical of the President.

A number of Brazzaville-based journalists represented international media, including the BBC, Associated Press, Reuters, Agence France Presse, Voice of America, Canal France International, and TV5. The Government continued to revoke journalists’ accreditations if their reporting reflected adversely on the country’s image. This policy affected journalists employed with both international and government controlled media.

The press law provides for monetary penalties for defamation and incitement to violence.

On April 20, security forces arrested a print journalist, Ghys Fortune Dombe Bemba, for allegedly defaming the President. In an article, he had accused the President of poisoning a high-ranking army officer. Bemba was released the following day; however, his newspaper, *Thalassa*, was fined and in June compelled to suspend publication for six months.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Estimates from 2005 indicated that only 1 percent of the population had access to the Internet, due to the lack of infrastructure, reliable power, and telephone or satellite services.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice.

Groups that wished to hold public assemblies were required to inform the Ministry of Territorial Administration and appropriate local officials, who could withhold authorization for meetings that they claimed might threaten public order. In advance of a July visit by foreign dignitaries, security forces forcibly dispersed a demonstration by former public workers who had been gathering almost daily for several months at a prominent downtown Brazzaville intersection to protest salary arrears (see section 6.a.).

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. Groups or associations—political, social, or economic were generally required to register with the Ministry of Territorial Administration. Although registration could sometimes be subject to political influence, during the year there were no reports that this occurred.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

All organizations, including religious organizations, are required to register with and be approved by the Government. There were no reports of discrimination against any religious group in this process, although it was lengthy. Penalties for failure to register could include fines, confiscation of goods, invalidation of contracts, and deportation of foreigners, but no criminal penalties are applicable.

*Societal Abuses and Discrimination.*—There were no reports of discrimination against members of religious groups. There were small communities of several dozen Jews in Brazzaville and Pointe Noire. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights; however, in practice, the Government at times imposed limitations. Unlike in previous years, checkpoints were rare and generally only established in response to short-term security concerns.

International NGOs reported serious incidents of harassment and intimidation by unidentified armed elements, which resulted in the curtailment of NGO movement in certain areas of the Pool region (see section 4).

The law prohibits forced exile. Unlike in previous years, the Government did not prevent the return of citizens, including political opponents of the President.

*Internally Displaced Persons (IDPs).*—NGOs working in the Pool region reported that by the end of 2005 the vast majority of the estimated 150,000 persons internally displaced by the civil war had either returned to their home areas or had chosen to resettle in other regions of the country. The Ministry of Social Affairs reported that all IDPs who wished to return to their villages had done so by the end of 2005.

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

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

The Government also provides temporary protection to individuals who may not qualify as refugees under the 1951 Convention or its 1967 Protocol; however, the Government was not generally effective in dealing with such cases. During the previous year, 557 of an estimated 800 to 900 Mobutu-era soldiers were repatriated to the DRC. The remaining soldiers remained in an indeterminate status.

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

The constitution and law provide citizens with the right to peacefully change their government; however, during the 2002 elections significant irregularities occurred, and the entire Pool region was unable to vote.

*Elections and Political Participation.*—Independent observers determined that the national elections in 2002 did “not contradict the will of the people”; however, they noted obvious flaws such as insufficient ballots at certain polling stations, confusion over voting locations, and the boycott by some opposition members who claimed the elections were biased. The European Union and other observers stated that the electoral process was manipulated. Most key Presidential candidates were banned or withdrew at the last minute, and the legislative elections were almost totally boycotted by the opposition. In addition some international NGOs and foreign observers viewed the constitution and the electoral system as designed to protect the status quo. The 2002 elections remained incomplete at year’s end because of continued lack of security in some areas of the Pool region, causing eight of the region’s 12 parliamentary seats to remain vacant. There is no independent national electoral commission.

Major political parties included the ruling Congolese Labor Party, the Pan-African Union for Social Development, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, the Rally for Democracy and Social Progress, and the Union for Progress. Some opposition party leaders remained in exile. There was no cohesive opposition, and many of the smaller political parties were more personality centered than representative of a significant constituency. Northern ethnic groups, such as the President’s Mbochi group and related clans, dominated the political system.

There were eight women in the 66-seat Senate and 11 women in the 136-seat National Assembly (although only 128 seats were filled, since eight seats from areas of the Pool region remained vacant). There were five women in the 35-member cabinet.

There were 14 members in the 66-seat senate, 36 in the 136-seat National Assembly, and 11 in the 35-member cabinet who were not members of the dominant northern tribes. Pygmies were excluded from the political process, due to their isolation in remote forested areas, their culture, and their stigmatization by the majority Bantu population. However, during the year a law was passed reaffirming the Pygmies’ right to vote.

*Government Corruption and Transparency.*—There was a widespread perception of corruption throughout government, including misuse of revenues from the oil and forestry sectors. According to the International Monetary Fund (IMF), World Bank, and local and international NGOs, official corruption was widespread; the most serious was reflected in the mismanagement of natural resources. The IMF and World Bank expressed concern about problems with governance and lack of financial transparency, inadequate internal controls and accounting systems, and conflicts of interest in the marketing of oil by the state-owned oil company. Government officials, through bribes or fraud, regularly siphoned off the bulk of revenues from these industries into private overseas accounts. Pervasive lower-level corruption included security personnel and customs and immigrations officials demanding bribes.

On April 6, two prominent anticorruption activists investigating the lack of transparency in the petroleum sector, Christian Mounzeo and Brice Mackosso, were arrested on charges of embezzlement, and later released to stand trial. During the year both were illegally detained at various times. After an eight-month trial, on December 27 a court sentenced the two to 12-month suspended prison sentences and ordered each to pay fines of approximately \$600 (300,000 CFA francs) on charges of forgery and breaching public trust (misappropriating funds belonging to their human rights NGO). At year’s end the two were appealing their convictions. International supporters of the activists’ NGO denied the two had engaged in any mismanagement of funds, and they helped to fund their legal defense. Several international organizations and foreign governments criticized the trial for systematic violations of due process and blatant political interference. They called the trial an

attempt by the Government to silence critics of widespread official corruption and lack of transparent management of the country's oil wealth. Mounzeo was also a member of the Extractive Industries Transparency Initiative's board. Formal charges were not filed by year's end regarding November charges against Mounzeo of defaming the President when he was abroad.

The law provides for public access to government information for citizens, noncitizens, and the foreign media; however, in practice there were lengthy delays before the Government released information.

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

A number of domestic and international human rights groups generally operated, with some exceptions, without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were uncooperative and unresponsive to local human rights groups; however, they were generally cooperative and responsive to international organizations.

During the year unidentified armed groups harassed and intimidated members of humanitarian organizations, which resulted in the curtailment of their activities. Between January and March the ICRC and the NGO Doctors Without Borders-Holland froze staff movement in the Pool region due to incidents during which bandits robbed NGO vehicles at gunpoint. In one incident the lead gunman put a grenade in one of the NGO member's hands while the gunmen robbed the organization's members and looted their vehicle. Movement gradually resumed when attacks ceased (see section 1.c.).

The government-sponsored Human Rights Commission is charged with acting as a government watchdog and addressing public concerns on human rights issues. Observers claimed that the commission was completely ineffective and was not independent. The President appointed most, if not all, of its members. The commission had not met or taken any significant action since its creation in August 2003.

The ICRC maintained an office in Brazzaville. During the year access to government officials and to detainees remained good for international humanitarian officials; however, local NGOs had poor access.

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

The law and constitution prohibit discrimination on the basis of race, gender, language, or social status; however, the Government did not effectively enforce these prohibitions. Societal discrimination and violence against women, trafficking in persons, regional ethnic discrimination, and discrimination against indigenous people were problems.

*Women.*—Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions under the law outlawing spousal battery, other than general statutes prohibiting assault. Domestic violence usually was handled within the extended family, and only the more extreme incidents were reported to the police. This was primarily due to the social stigma for the victim, and because such matters traditionally were dealt with in the family or village. According to a local NGO, the Congolese Association to Combat Violence Against Women and Girls, there were no official statistics on domestic violence against women; however, during 2005 more than 500 women and children who were victims of sexual violence sought its medical assistance. The NGO reported it provided hundreds of HIV tests. The NGO also organized public awareness workshops and offered training for community chiefs, police officers, health workers, magistrates, journalists, and others from the public and private sectors. NGOs, such as the local Human Rights Center, the Congolese Association to Combat Violence Against Women and Girls, the International Rescue Committee, and Doctors Without Borders continued to draw attention to the issue and provided counseling and assistance to victims.

Rape, including spousal rape, is illegal; however, the Government did not effectively enforce the law. The law prescribes five to 10 years in prison for violators. Rape was common, although the extent of rape was unknown because the crime was seldom reported. Depending on the severity of the circumstances, the penalties for rape, despite what the law requires, in practice could be as few as several months but rarely more than three years' imprisonment. There were no statistics available on the incidence of rape.

Female genital mutilation (FGM) was not practiced indigenously and is against the law; however, it may have occurred in some of the immigrant communities from West African countries where it was common. There were no known government or other efforts to investigate or combat FGM.

Prostitution is illegal, but the Government did not effectively enforce this prohibition. Prostitution was common, and police often accepted services in lieu of arresting prostitutes.

Sexual harassment is illegal. Generally the penalty would be two to five years in prison. In particularly egregious cases, the penalties would equal those for rape—five to 10 years in prison. However, the Government did not effectively enforce the law. Sexual harassment was very common but rarely reported; there were no available statistics on its incidence. Successful prosecutions were only achieved when a victim with good legal representation or connections actively pursued a case; however, during the year no such cases were reported.

Marriage and family laws overtly discriminate against women. Adultery is illegal for women but not for men. Polygyny is legal; polyandry (having multiple husbands) is not. The law provides that a wife shall inherit 30 percent of her husband's estate; however, in practice the wife often lost all inheritance upon the death of her spouse, particularly under traditional or common-law marriage. The symbolic nature of the dowry is set in the law; however, this often was not respected, and men were forced to pay excessive bride prices to the woman's family. As a result, the right to divorce was circumscribed for some women because they lacked the means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in urban centers. The Ministry of Social Affairs was in charge of protecting and promoting the legal rights of women; however, it did not effectively perform its function.

The law prohibits discrimination based on gender and stipulates that women have the right to equal pay for equal work; however, women were underrepresented in the formal sector. Women experienced economic discrimination in access to employment, credit, pay for similar work, and owning or managing businesses. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas were especially disadvantaged in terms of education and wage employment and were confined largely to family farming, petty commerce, and child-rearing responsibilities. Many local and international NGOs have developed micro-credit programs to address this problem, and government ministries such as those of social affairs and agriculture were also active in addressing them. For example, women received assistance to set up dressmaking and beauty salons as well as in gardening and manioc flour-making to provide income for their families.

*Children.*—The Government was committed to protecting the rights and welfare of children. Education was compulsory, tuition-free, and universal until the age of 16, but families were required to pay for books, uniforms, and school fees. In the cities, approximately 95 percent of school-age children attended school, and in rural areas an estimated 90 percent attended. Girls and boys attended primary school in equal numbers; however, the proportion of girls who continued on to the high school and university levels was significantly lower. Girls generally quit school by age 15 or 16. In addition teenage girls often were pressured to exchange sex for better grades, which resulted in both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

Child abuse was not common and was predominantly found among the West African communities.

FGM may have been performed on girls in some West African immigrant communities (see section 5, Women).

There were isolated cases of child prostitution among street children. The prevalence of the problem remained unclear. According to reports from international and local NGOs and other observers, these cases were not linked to trafficking but were efforts by some street children to survive. International organizations assisted with programs to feed and shelter street children.

There continued to be a few unconfirmed reports that children were trafficked for labor (see section 5, Trafficking).

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

During the year the number of street children remained approximately the same. In 2004 the United Nations Children's Fund estimated that most of the street children in Brazzaville were from the DRC, as were some of those in Pointe Noire. Street children were not known to suffer from targeted abuse by government authorities or vigilante groups, but they were vulnerable to sexual exploitation and often fell prey to criminal elements such as drug smugglers. Many street children begged or sold cheap or stolen goods to support themselves.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were unconfirmed reports of trafficking of children by West African immigrants living in the country. Trafficking could be prosecuted under existing

laws against slavery, prostitution, rape, illegal immigration, forced labor, and regulations regarding employer employee relations; however, there were no known cases of the Government prosecuting any trafficker under these laws. The ministries of security, labor, and social affairs, as well as the gendarmerie, have responsibility for trafficking issues.

There were unconfirmed reports that the country was a country of destination for trafficked persons. It was not known to be a country of transit or origin. There were unconfirmed reports that minor relatives of immigrants from West Africa could be victims of trafficking. There was no evidence of trafficking in adults. Children from West Africa worked as fishermen, shop workers, street sellers, or domestic servants. There were reports that some were physically abused. There were reports of isolated cases of child prostitution, which according to international and local NGOs were not linked to trafficking or forced labor (see section 5, Children).

There were no known cases of the Government assisting with international investigations or extraditing citizens who were accused of trafficking in other countries.

There was no evidence of involvement of government officials in trafficking, although bribery and corruption were problems.

The Government did not provide any protection or assistance to trafficking victims since there were no confirmed cases of trafficking.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although the Government generally did not enforce the law. There were no laws mandating access for persons with disabilities. The Ministry of Social Affairs is the lead ministry responsible for these issues.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination based on ethnicity; however, the Government did not effectively enforce this prohibition.

Regional ethnic discrimination was prevalent among all ethnic groups, was evident in government and private sector hiring and buying patterns, and apparent in the effective “north-south” regional segregation of many urban neighborhoods. The relationship between ethnic, regional, and political cleavages was inexact; however, supporters of the Government included persons mostly from northern ethnic groups, such as the President’s Mbochi group and related clans.

*Indigenous People.*—The indigenous Pygmy ethnic group, who numbered in the tens of thousands and lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. The Government did not effectively protect their civil and political rights. Pygmies were severely marginalized in regard to employment, health services, and education, in part due to their isolation in remote forested areas of the country and their different cultural norms. Pygmies usually were considered socially inferior and had little political voice; however, in recent years several Pygmy rights groups have developed programs and were actively focusing on these issues. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests. In August a law was passed affirming the right of Pygmies to vote.

Bantu ethnic groups have exploited Pygmies, possibly including children, as cheap labor; however, there was little information regarding the extent of the problem.

*Other Societal Abuses and Discrimination.*—The social stigma associated with homosexuality was significant. There was no open homosexuality in the country.

In contrast, persons with HIV/AIDS were fairly well-organized and sought fair treatment, especially regarding employment. NGOs worked widely on HIV/AIDS issues, including raising public awareness that those living with HIV/AIDS were still able to contribute to society. The law provides avenues for wronged persons to file lawsuits if they were, for example, terminated from employment due to their HIV/AIDS status.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right; however, members of the security forces and other essential services do not have this right. Almost 100 percent of workers in the public sector and approximately 25 percent of workers in the formal private sector were union members. The law prohibits antiunion discrimination; however, there were a few reports that it occurred.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law also provides for the right to bargain collectively, and workers freely exercised this right, although collective bargaining was not widespread due to severe economic conditions. In the 1980s the Government established

wage floors on a sector-by-sector basis (and within them, according to job category). These wage floors have remained largely unchanged for the past 20 years; as a result they are not now relevant, since wages are paid above the minimum levels.

The law provides for the right to strike, except by public sector unions, subject to conditions established by law. Workers exercised this right by conducting legal strikes. Unions were free to strike after filing a letter of intent with the Ministry of Labor, which began a process of nonbinding arbitration under the auspices of a regional labor inspector from the ministry. The letter of intent had to include the planned strike date, at which time the strike legally could begin, even if arbitration was not complete. Employers have the right to fire workers if they do not give advance notice of a strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were unconfirmed reports that such practices occurred (see section 5).

According to the International Labor Organization, by year's end the Government had not repealed a 1960 law which allows persons to be requisitioned for work of public interest and provides for their possible imprisonment if they refuse.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although there are laws and policies designed to protect children from exploitation in the workplace, child labor was a problem. Under the law, children under age 16 are not permitted to work, but this law generally was not enforced, particularly in rural areas and in the informal sector. Children worked with their families on farms or in small businesses in the informal sector without government monitoring.

There were unconfirmed reports that children were trafficked for labor, and child prostitution occurred (see section 5, Children).

The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector, where its efforts generally were effective. Only two inspection trips were made during the year, due to limited resources.

*e. Acceptable Conditions of Work.*—The national minimum wage, which was approximately \$100 (54,000 CFA francs) per month in the formal sector, did not provide a decent standard of living for a worker and family. In practice none of the minimum wages, including the minimum wages for the various sectors' wage ladders (see section 6.b.) were controlling, since wages paid in the formal sector were all higher than the minimum, although often not by much. There was no official minimum wage for the informal and agricultural sectors. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment, mainly in the informal sector. During the year the Government paid three months of back pay to government workers, leaving 19 months of back salary (from the late 1990s civil conflict period) unpaid at year's end.

The law provides for a standard workweek of seven hours per day, six days a week with a one-hour lunch break. There was no legal limit on the number of hours worked per week. The law stipulates that overtime must be paid for all work in excess of 42 hours per week; however, there is no legal prohibition against excessive compulsory overtime. Overtime was subject to agreement between employer and employee.

Although health and safety regulations require biannual visits by inspectors from the Ministry of Labor, such visits occurred much less frequently. Unions generally were vigilant in calling attention to dangerous working conditions; however, the observance of safety standards often was lax. Workers have no specific right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment.

## COTE D'IVOIRE

Cote d'Ivoire is a democratic republic with an estimated population of 18 million. Laurent Gbagbo, candidate of the Ivorian People's Front (FPI), became the country's third elected President in 2000. The election, which excluded two of the major parties, the Democratic Party of Cote d'Ivoire (PDCI) and the Rally for Republicans (RDR), was marred by significant violence and irregularities. In 2000 the Supreme Court declared Gbagbo the victor with 53 percent of the vote. In 2002 exiled military members and coconspirators simultaneously attacked government ministers and military and security facilities in Abidjan, Bouake, and Korhogo. The failed coup attempt evolved into a rebellion and split the country in two. Rebel "New Forces" (NF)



retained control of the northern 60 percent of the country, while the Government controlled the slightly smaller but more populous south.

In 2003 the political parties signed the French-brokered Linas-Marcoussis Accord (Marcoussis Accord), agreeing to a power-sharing government with rebel representatives. The Government made little progress on the implementation of the Marcoussis Accord, and in March 2004 the NF suspended its participation in the Disarmament, Demobilization, and Reintegration (DDR) program. In February 2004 UN Resolution 1528 approved the UN Operation in Cote d'Ivoire (ONUCI) deployment of 6,000 peacekeeping troops, joining the 4,000-member French Operation Licorne peacekeeping force. ONUCI was created from an existing force of Economic Community of West African States (ECOWAS) troops that had been deployed since 2003 to separate the combatants in conjunction with Licorne. President Gbagbo and opposition political leaders signed subsequent peace accords, including Accra III (July 2004), the Pretoria Agreement (April 2005), and Pretoria II (June 2005), but the political process remained stalled. Neither Presidential elections (scheduled for no later than October 31, 2005) nor parliamentary elections (scheduled for December 2005) were held due to the lack of political reconciliation and progress in the DDR program. UN Security Council (US) resolution 1633, passed in October 2005, endorsed a proposal by the African Union (AU) to extend Gbagbo's term in office for up to one year and to appoint a new prime minister with enhanced executive powers. On December 4, the AU and ECOWAS designated Charles Konan Banny, a PDCI member and governor of the West African Central Bank, as the new prime minister.

Since October 2005 very little progress has been made toward holding elections or disarming and reunifying the country. On September 20, a meeting chaired by the UN Secretary General and attended by regional African leaders and all principal Ivorian political leaders except President Gbagbo resulted in a formal declaration that Presidential elections could not be held before the end of the one-year extension of Gbagbo's mandate. Both ECOWAS and AU leaders met in October to discuss how to put the peace process on track. Their recommendations were closely followed by the U.S. which adopted Resolution 1721 on November 1 to extend the mandates of President Gbagbo and Prime Minister Banny until October 31, 2007 and to enhance the authorities of both the Prime Minister's office and that of the UN High Representative for Elections.

Civilian authorities in government- and NF-controlled zones generally did not maintain effective control of the security forces.

The Government's human rights record remained poor. Continuing political instability and uncertainty kept tensions high throughout the country. The following human rights abuses were reported: restriction of citizens' right to change their government; arbitrary and unlawful killings, including summary executions, by security forces, progovernment militias, and student groups; disappearances; torture and other cruel, inhuman, or degrading treatment and punishment by security forces, progovernment militias, and a student group; deplorable prison and detention center conditions; security force impunity; arbitrary arrest and detention; denial of a fair public trial; arbitrary interference with privacy, family, home, and correspondence; police harassment and abuse of noncitizen Africans; use of excessive force and other abuses in internal conflicts; restrictions on freedoms of speech, press, peaceful assembly, association, and movement; corruption; discrimination and violence against women; female genital mutilation (FGM); child abuse and exploitation; trafficking in persons; forced labor, including by children; and child labor, including hazardous labor.

The NF's human rights record continued to be poor. ONUCI reported the killing and disappearance of civilians in NF-held territories. The NF arbitrarily arrested and detained persons and conducted arbitrary ad hoc justice. ONUCI's human rights office reported fewer child soldiers in NF ranks and the release of many during the year.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces continued to commit extrajudicial killings with impunity, and progovernment militia groups were responsible for harassment, killings, and disappearances. These crimes often went unreported or underreported due to fear of reprisals. Unlike in the previous year, there were no reports that government-linked "death squads" and irregular forces (Liberian fighters, Liberian refugees, and civilians with ethnic ties to Liberia) committed extrajudicial killings. Security forces frequently resorted to lethal force to combat

widespread crime and often committed crimes themselves with impunity. Rebel forces in the north also committed extrajudicial killings (see Section 1.g.).

There continued to be credible reports of numerous cases in which the use of excessive force by security forces resulted in deaths. Such cases often occurred when security forces apprehended suspects or tried to extort money from taxi drivers and merchants. For example, the UN reported that on January 2, several summary executions were committed by security forces and Jeunes Patriotes (Young Patriots), a youth group with close ties to the ruling FPI Party.

On the same day, an unidentified armed group attacked the military camp of Akouedo, located on the outskirts of Abidjan. According to an Ivorian military communique, two Akouedo camps were simultaneously attacked with light and heavy weaponry, and ten persons were killed during the attack, including three government soldiers and seven attackers. Paramilitary gendarmes subsequently detained between 15 and 30 Burkinabe men alleged to be responsible for the January 2 attack in a barracks in Abidjan. On January 6, the bodies of three of the Burkinabe detainees were found shot dead; observers suspected the involvement of persons working for the Security Operations Command Center (CECOS), an anticrime organization formed in July 2005 and staffed by police, gendarmerie, and National Armed Forces (FANCI) officers. Newspapers printed photographs of the detainees, most of whom were naked and bloodied.

Also on January 2, Kone Basseriba, a 46-year-old security guard at the Cocody headquarters of the opposition party Rally of Republicans (RDR), was detained by a group of persons armed with machetes in the Riviera section of Abidjan. Accusing Basseriba of involvement in the attack in Akouedo, the group beat him so severely that he later died from his injuries. The RDR accused the military of summarily executing Basseriba.

Of the 60 persons arrested during the attacks on the two Akouedo military camps on January 2, 21 were indicted by the military investigating judge on February 1 on charges including assassination and breach of state security. Those indicted included nine soldiers and 12 civilians who admitted their involvement in the Akouedo attacks before the military prosecutor. In December a military court discharged two soldiers from the army and sentenced them to five years' imprisonment for their role in the deaths. The remaining investigations were ongoing at year's end.

In July the military prosecutor launched an investigation into the June 2005 death of Major Colonel Bakassa Traore, who died after security forces arrested and beat him, Colonel Jules Yao Yao, and retired General Laurent M'Bahia Kouadio after they attended a dinner hosted by the French Ambassador. FANCI's chief of staff claimed that Traore died as a result of a preexisting medical condition, while relatives and colleagues alleged that his death was the result of his injuries. The results of the investigation had not been made public by year's end.

There were no developments in the January 2005 case in which security forces shot and killed two taxi drivers in Adjame for refusing to stop at a roadblock.

There were no developments in the February 2005 case in which the Government brought 32 officials before judicial authorities for their role in a violent effort to evict persons illegally occupying the National Marahoue Park in Bouaffle. More than 100 villagers were arrested with excessive force. Thirteen persons died from their injuries. No trial was held, and no sanctions were imposed on forestry officials involved in the incident.

During the year there were a number of killings attributed to members of CECOS, whose personnel also were accused of human rights violations, racketeering, extortion, and harassment. There continued to be reports that members of CECOS carried out summary executions of thieves in Abidjan, although the interior minister said all victims were criminals killed in the course of police anticrime activities.

For example, during the nights of February 10 and 11, in the Koumassi Bia Sud district in Abidjan, CECOS members shot and killed two cell phone vendors (see Section 2.b.).

In April a CECOS member shot at a car in the Riviera district in Abidjan and killed one of the passengers, a local singer known as Dally Luc. CECOS authorities admitted that the killing had been unjustified, and the CECOS member implicated was arrested and jailed. A trial had not been initiated by year's end.

At year's end 17 of the 61 persons arrested for attacking gendarmerie and police in Anyama in July 2005 had been released, and 36 of the 44 who stood trial received heavy sentences.

In late August a violent confrontation broke out between the police and members of the progovernment and pro-FPI Union of Secondary School and University Students (FESCI) at the Cocody campus of the University of Cote d'Ivoire. The clash

erupted in the aftermath of an August 28 incident in which FESCI members at a bus station in the Adjame district of Abidjan beat a police cadet, reportedly for refusing to pay FESCI a bribe to be allowed to board a bus. On August 31, several police cadets attempted to confront FESCI members at a different bus stop in front of the Cocody campus. The cadets were restrained by regular police forces, but FESCI members then reportedly attacked those police forces. The police cadets opened fire, killing between one and three FESCI members, then entered the campus, and sought out and beat suspected FESCI members. On September 2, the Government suspended the director of the National Police Academy, Bernard Lago Daleba, in response to the Cocody campus incident. The Government opened an inquiry into the clashes, but a military trial of the police cadets had not begun by year's end.

There were no known developments in the parliamentary committee investigation into the 2004 killing by security forces of more than 100 demonstrators.

There were no developments in other 2005 or 2004 security force killings.

The collaboration of government forces and irregular forces created a climate of fear and impunity. There also were credible reports of serious abuses committed by armed forces working in complicity or in coordination with youth groups in the central and western parts of the country. As in the previous year, local villagers from ethnic groups close to the Government allegedly provided the names of foreigners, RDR members, northerners, and other suspected rebel supporters to security forces. There continued to be reports that the Government recruited Liberian mercenaries in the west.

Abidjan police and security forces in search of rebel sympathizers, infiltrators, and arms caches continued to use lethal force in neighborhood sweeps against citizens with northern origins and African immigrants (see Section 1.f.). Progovernment militias and rebels continued to use child soldiers, although to a lesser degree than in previous years (see Section 5).

Rebel groups were also responsible for indiscriminate killings. ONUCI's human rights division described numerous extrajudicial killings by rebels, although fewer than in the previous year. The rebels in the west targeted, beat, and sometimes killed gendarmes, government officials, and suspected FPI sympathizers. They also committed sexual violence against girls and women, including rape and sexual slavery. The NF and their allies, the dozos (traditional hunters that maintain an informal militia), were responsible for killings and disappearances. There were fewer reports of such incidents than in the previous year, although rebel arrests of suspected loyalist infiltrators continued during the year.

On June 29, seven persons were killed in Dieouzon Region, located in the "Zone of Confidence," the area separating FANCI and NF troops in which ONUCI troops maintain peace. Similar to earlier attacks, local authorities accused the dozos of the killings. As in the past, the killings reportedly resulted from tensions over control of land.

In July there were credible reports of repeated attacks by members of the progovernment militia Groupe de Patriotes pour la Paix (GPP) on residents of Yopougon, resulting in the death of at least one civilian and the injury of several others. Despite the Government's 2003 announcement that the GPP had disbanded, FPI members readily acknowledged the group's continued existence and operations. In response to the attacks, the Government offered GPP members food, lodging, and medical care.

There were no known developments in the case of the rebel soldier accused of killing a French peacekeeper in 2004. The office of the military prosecutor stated that the soldier remained in detention awaiting trial.

No investigations were conducted into numerous abuses committed by rebels in previous years, including summary executions, killings, rape, beatings, and looting.

Neither ONUCI nor French forces publicly released the results of their investigations into the killings of an undetermined number of Ivorian progovernment demonstrators by French forces during 2004 riots. The riots broke out following France's destruction of the Ivorian air force after FANCI bombed a Licorne base in Bouake. Radio France International (RFI) announced in January that the Government had issued a warrant for the arrest of French General Henri Poncet for his role in the killings of the rioters, but the Ivorian minister of justice and the minister of defense denied this report. In September Amnesty International (AI) published a report criticizing French forces for using excessive force in 2004, specifically noting their lack of non-lethal weapons for crowd control. AI's report noted that the French acknowledged that most demonstrators had not been armed.

In Abidjan and the western part of the country, there were reports of atrocities including killings, rapes, and looting, by progovernment militias and others.

There were numerous reports of conflict between the local population and Burkinabe and Lobi farmers, whom the locals expelled from their farms (see Section 5). Dozens of persons were reportedly killed in the clashes.

There were numerous incidents of ethnic violence that resulted in deaths (see Section 5).

*b. Disappearance.*—There were reports of disappearances, although fewer than in the previous year. Several members of the opposition (particularly the RDR), journalists, and ordinary citizens remained missing at year's end. Unlike in previous years, there were no reports that security forces abducted citizens and foreigners and forced them to work.

In January two men disappeared following their arrest by NF units in Korhogo. The two men were still missing at year's end. No charges were filed in the disappearances by year's end (see Section 1.d.).

In February nearly two years after the 2004 disappearance of Guy Andre Kieffer, a Franco-Canadian freelance journalist, an Ivorian officer, Tony Oulai, was placed under formal investigation and remanded in custody to Paris to be prosecuted by French authorities for abduction and illegal detention. The trial had not begun by year's end.

On March 1, ONUCI received credible information that Kone Lacina Nanourougou, who disappeared in 2004 following his arrest by the NF, had been moved to Korhogo and handed over to Commander Martin Fofie Kouakou. Despite NF claims that Kone was released on June 25, his whereabouts were unknown at year's end.

There were no developments in other 2005 or 2004 disappearances.

Most of the persons reported missing in previous years remained missing at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, security forces beat and abused detainees and prisoners to punish them or to extract confessions. There also were reports of rape and torture. Police officers forced detainees to perform degrading tasks under threat of physical harm. Police often detained persons overnight in police stations where they beat them and forced them to pay bribes (see Sections 1.d., 1.f., and 2.d.). Police also harassed and extorted bribes from persons of northern origin or with northern names (see Section 1.f.).

On February 13, ONUCI reported that the gendarmerie commander in the western town of Zuenoula ordered his forces to detain and beat at least 16 persons employed by local bakeries to compel them to continue contributing bread to the "war effort." The victims were taken to the gendarmerie headquarters, forced to lie down, and then flogged with sticks. Officers reportedly forced the detainees to eat mud and perform manual labor before releasing them four hours later. As a result of the beatings of the 16 employees, the bakeries in Zuenoula were closed for three days.

There were credible reports that on January 21, members of CECOS arrested Malian immigrants Daouda Diallo and his nephew, Ouateni Diallo. CECOS accused Diallo of financing the rebellion and mobilizing local youth to oppose the establishment of barricades by the Young Patriots. Diallo was released on January 26, but his nephew reportedly died as a result of torture at the Gendarmerie Academy.

Violent actions and threats against political opposition figures and human rights activists continued during the year. There were numerous reports that opposition leaders received death threats over the telephone and from armed men dressed in fatigues, and that armed men harassed family members.

For example, on August 11, gendarmes allegedly attempted to extort bribes from taxi trade union activists in the Cocody district of Abidjan. When the Ivorian Movement for Human Rights (MIDH) used a hot line established by the military prosecutor for citizens to report such incidents, the gendarmes reportedly threatened to kill MIDH-member workers.

In September the President of the Rally for Young Republicans, Karamoko Yayoro, claimed that Republican Guard Commander Brunot Ble Dogbo threatened him with death if he organized street demonstrations against President Gbagbo's government. When the story made the headlines of several opposition newspapers, Yayoro filed a complaint against Ble Dogbo with ONUCI's Human Rights Division, which was reviewing the case at year's end.

Police and security forces used excessive or lethal force to disperse demonstrations (see Section 2.b.).

Members of the security forces continued to harass journalists (see Section 2.a.).

There were credible reports that members of the security forces raped women and girls.

On March 5, members of the CECOS in Alepe allegedly raped a 15-year-old secondary school student after encouraging her to drink heavily with them at a local bar. A doctor at a local hospital found evidence of trauma when he conducted a physical examination of the girl the next day, and the girl's family lodged a complaint at the Alepe gendarmerie. Despite student demonstrations demanding that members of CECOS leave Alepe, the CECOS chief commander eventually claimed that his men were not at fault and that a physical examination of the girl did not indicate that a rape had occurred.

On September 13, Sergeant Gbessi Bah Melain was jailed for rape at the military prison in Abidjan.

There were no known developments in the June 2005 case in which a lance corporal was charged with raping a secondary school girl.

There were fewer reports than in the previous year that security forces conducted widespread neighborhood searches during which they beat and robbed residents (see Section 1.f.).

Security forces remained on heightened alert for potential rebel infiltrators or active sympathizers, erected numerous roadblocks, and searched Abidjan neighborhoods. Individuals who were associated with opposition parties or rebellion leaders or believed to be sympathizers were subjected to increased harassment and abuse (see Sections 1.d. and 1.g.).

Noncitizen Africans, mostly from neighboring countries, continued to complain that they were subject to harassment by security forces and "self-defense" committees, including repeated document checks, security force extortion and racketeering, violence, and frequent neighborhood searches (see Sections 1.f. and 2.d.).

There were no developments in cases dating to 2005.

Loyalists of President Gbagbo's FPI party organized youth patriot groups with thousands of members in Abidjan neighborhoods and in towns and cities throughout southern, central, and western regions. Gendarmerie and army officers led some groups in physical training. Belligerent patriot groups aligned with the ruling FPI rallied in neighborhoods, called for armed resistance, and harassed and intimidated residents and merchants. Youth groups who supported President Gbagbo attacked opposition newspapers, several ONUCI convoys, and persons under ONUCI protection during the year (see Sections 2.a and 4).

There were persistent reports that some patriot groups had arms or had ready access to arms supplied by the Government. The presidency sponsored some of these groups and tolerated others, but it did not have complete control over them.

There continued to be reports that progovernment militias harassed and assaulted farmers, many of whom were migrants from other West African countries.

In November the Republican Guard prevented ONUCI guards protecting NF Minister Louis-Andre Dacoury-Tabley from entering the Prime Minister's headquarters. The action prompted ONUCI to draft a written complaint to the U.S.

There were no known developments in the September 2005 case in which NF Minister of Territorial Administration Colonel Issa Diakite, then under the protection of ONUCI, was attacked at the home of an associate by FESCI-aligned groups in Cocody.

The GPP, which was banned in 2003, continued to exist and carry out attacks despite a March 2005 announcement by FANCI Chief of Staff Mangou and the DDR commission that the group would be disbanded. The group was tolerated and tacitly encouraged by members of the ruling party elite, who argued that the GPP defended the country.

For example, on July 31, several persons were injured when the GPP attacked naval police agents who were organizing a peaceful demonstration in Plateau to demand the payment of bonuses and the dismissal of their director. Defense and security forces finally drove out the militiamen.

In the NF-held part of the country, rebel military police operated with impunity in administering justice without legally constituted executive or judicial oversight (see Section 1.g.). Rebels often harassed and abused local citizens, often on the basis of ethnic or political background. There continued to be reports that rebel forces beat persons who supported President Gbagbo and the ruling FPI. During the year the NF reportedly beat a journalist (see Section 1.a.). There were reports that NF members raped women and girls in the north and that rebel soldiers arrested, tortured, or killed suspected government loyalists or allies of rival rebel leader Ibrahim Coulibaly in the zones under their control, regardless of their ethnic background (see Section 1.g.).

On January 13, NF member Toure Aboubacar Sidik was reportedly subjected to a mock execution by other members of the NF after he requested ONUCI protection from those forces. He was later released and accompanied back to the Guepard Camp in Bouake.

Incidents of ethnic violence resulted in injuries, especially in the west and the southwest (see Section 5).

*Prison and Detention Center Conditions.*—Conditions were poor and in some cases life threatening in the country's 33 prisons. In the 22 prisons located in the area under control of the Government, this situation was primarily due to inadequate budgets and overcrowding. For example, the country's main prison, MACA, was built for 1,500 persons but held 4,034 detainees as of September 30; the other 21 prisons in the government-controlled area collectively held 9,351 detainees despite their 3,371-person capacity. Conditions in MACA were notoriously bad, especially for the poor. Wealthy prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. The Government spent \$0.24 (120 FCFA) per prisoner on the daily food ration, which was not sufficient to prevent cases of severe malnutrition in prisoners whose families did not bring them additional food. Inmates at some prisons grew vegetables to feed themselves. ONUCI reported that most deaths in prison were due to malnutrition. There were credible reports that prisoners frequently brutalized other prisoners for sleeping space and rations. There were press reports of prostitution and a flourishing drug trade in MACA. Due to the worsening security situation, in December 2005, Doctors Without Borders discontinued supplementing the prison system's inadequate medical facilities and contributing to the prison budget. Several small national and international charities such as the Ivorian Islamic Medical Rescue Association continued to provide food, clothing, legal and medical assistance to prisoners. The International Committee of the Red Cross (ICRC) helped feed prisoners with no family in the towns of Bondoukou, Bouafle, Dimbokro, Sassandra, and Divo.

Pretrial detainees were held with convicted prisoners.

Male minors were held separately from adult men, but the physical barriers at the main MACA prison were inadequate to enforce complete separation. Minors were not held separately in detention centers. The International Catholic Office for Children continued its efforts to assist imprisoned children by helping to locate their families and by maintaining a separate facility for them at the Divo prison.

Prison conditions for women remained particularly difficult, and their children often lived with them in prison. Female prisoners at MACA were segregated in a separate building under female guard. There were continued reports that female prisoners engaged in sexual relations with wardens to get food and privileges. There also were reports that female prisoners engaged in sexual relationships with male prisoners. There continued to be inadequate healthcare facilities for women. Pregnant prisoners went to hospitals to give birth and then returned to prison with their babies. The penitentiary accepted no responsibility for the care or feeding of the infants, although the inmate mothers received help from local nongovernmental organizations (NGOs).

In September, following the dumping of toxic wastes in several parts of Abidjan, which caused the death of 10 persons in Abidjan and which reportedly affected MACA, the Prison Administration belatedly acted to transfer 150 prisoners (minors, pregnant women and women living with their babies in jail) from MACA to various prisons. In spite of those measures, a 15-year-old prisoner died at MACA allegedly due to exposure to toxic waste fumes.

The Government permitted access to prisons by local and international NGOs including the ICRC, World Doctors, International Prisons' Friendship, Love Amour, and the Ivorian Islamic Medical Rescue Association.

The NF maintained detention centers, and during the year the ICRC and ONUCI human rights division local teams were granted full access. ONUCI reported that the NF was detaining 295 persons, usually without due process. The NF allegedly freed prisoners to serve as combatants against the Government.

There were credible reports that rebels killed prisoners or that prisoners died in jail, although less frequently due to improved conditions.

There were no developments in the 2005 case of New Zealander Brian Sands, who died from asphyxiation in NF custody in April 2005.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, both occurred frequently.

*Role of the Police and Security Apparatus.*—Security forces under the ministries of defense and territorial administration include the army, navy, air force, republican guard, Presidential security force, and the gendarmerie, a branch of the armed forces with responsibility for general law enforcement. The police forces are under the jurisdiction of the Ministry of Interior. There were reportedly major divisions within the military based on ethnic and political loyalties. Police forces include paramilitary rapid intervention units such as the Anti-Riot Brigade and the Republican Security Company, and the plain-clothes investigating unit, Directorate for Terri-

torial Security (DST). In July 2005 the Government formed CECOS to combat rising crime in Abidjan (see Section 1.a.). A central security staff collected and distributed information regarding crime and coordinated the activities of the security forces. Security forces frequently resorted to excessive force (see Sections 1.a., 1.c., and 2.b.).

Poor training and supervision of security forces, corruption, the public's fear of pressing charges, and investigations conducted by security forces who themselves were abusers contributed to widespread impunity and lawlessness in the country. Racketeering at roadblocks was a serious problem, and security forces often were seen forcing persons stopped at roadblocks to do push-ups while being beaten or subjected to other abuses. Police solicited sexual favors from prostitutes in exchange for not being arrested. There also were credible reports that police kidnapped private citizens and either killed them or released them, sometimes demanding a bribe for their release. Security forces often were accused of causing rising crime in Abidjan, and there were credible reports that security forces rented their uniforms and weapons to persons wanting to engage in criminal activity. Security forces on occasion also failed to prevent violence (see Section 2.b.). Security forces faced no sanctions for confiscating or destroying noncitizens' identification papers.

The Government sometimes took action against police officers who committed abuses; however, it generally did not investigate or punish effectively those who committed abuses, nor did it prosecute persons responsible in previous years for unlawful killings and disappearances. During the year the military prosecutor established a telephone help line to report racketeering incidents.

The Government took steps to combat malfeasance in the ranks of the security forces. In January security minister Joseph Dja Ble visited the police academy, where he pledged to fight racketeering.

On August 23, police officer Zie Guillaume was arrested when he attempted to bribe the minister of security with \$240,000 (117 million FCFA) after allegedly attempting to enroll Police Academy candidates who had not completed the required exam. While awaiting trial in jail, Zie allegedly tried to bribe the military prosecutor to be granted bail. Prosecution of the case was ongoing at year's end, and Zie remained in detention at the Military Prison of Abidjan (MAMA).

During the year the Government launched a television campaign urging citizens not to pay bribes to security forces at checkpoints. However, citizens who did not pay bribes continued to face the confiscation of their official documents, harassment, intimidation, or physical abuse.

In March the Abidjan military tribunal sentenced three gendarmes charged with racketeering to fines and prison sentences of up to one year.

In April CECOS Chief Commander Colonel Guiai Bi Poin reported that heavy punishments had been meted out to 19 CECOS members, eight of whom had participated in robberies. The officers were dismissed from the security forces.

The military tribunal reported that as of October, 56 members of the defense and security forces, including police officers, gendarmes, and military personnel, were being held at MAMA. Thirty-six of the 56 were arrested during the year and transferred to jail for murder, rape, corruption, violation of orders, theft, embezzlement, and other abuses. In March six of these persons were convicted of theft of citizens' money and were sentenced to five years in prison at MAMA.

*Arrest and Detention.*—Under the law officials must have warrants to conduct searches, although police sometimes used a general search warrant without a name or address. A bail system existed solely at the discretion of the judge trying the case. Detainees were generally allowed access to lawyers; however, in cases of accusations of complicity with the rebels or other matters of national security, detainees were frequently denied access to their lawyers and family members. For more serious crimes, those who could not afford to pay for lawyers were given lawyers by the state, but less serious alleged offenders were often without representation. A public prosecutor may order the detention of a suspect for 48 hours without bringing charges, and in special cases such as suspected actions against state security, the law permits an additional 48-hour period. According to members of the jurists' union, police often held persons for more than the 48-hour legal limit without bringing charges, and magistrates often were unable to verify that detainees who were not charged were released. Defendants do not have the right to a judicial determination of the legality of their detention. A magistrate could order pretrial detention for up to four months but also had to provide the minister of justice with a written justification on a monthly basis for continued detention.

DST was charged with collecting and analyzing information relating to national security. DST has the authority to hold persons for up to four days without charges; however, human rights groups stated there were numerous cases of detentions exceeding the statutory limit.

There were many instances during the year in which gendarmes or other security forces arbitrarily arrested persons. According to ONUCI, forest rangers continued to detain villagers and demand up to \$200 (100,000 FCFA) for their release (see Section 1.a.). However, unlike in the previous year, there were no reports that forest rangers tortured villagers.

Security forces continued to arbitrarily arrest merchants and transporters, often in conjunction with harassment and requests for bribes.

Police also detained journalists during the year (see Section 2.a.).

During the year security forces continued to arrest and usually release RDR party members and officials and persons of northern origins thought to be close to the rebellion (see Section 2.b.).

Local and international human rights organizations continued to report that security forces frequently made arrests without warrants and frequently held persons beyond the statutory limits without bringing charges. There were credible reports that the police and gendarmes detained persons in various military camps in Abidjan. Few of these detainees entered the civil justice system. For example, security forces arrested and detained several hundred RDR members in the wake of the July 2005 violence in Anyama and Agboville; however, according to an RDR lawyer, only 61 of these persons were charged (see Section 1.e.).

On February 21, several persons affiliated with General Mathias Doue, the former chief of the General Staff of the FANCI, including his nephew, two bodyguards, and the wife of a former bodyguard, were arrested and detained in the DST jail for allegedly having committed a breach of state security by recruiting assailants to attack the republic and being the organizers of the attack on the Akouedo camp on January 15. The arrests were widely believed to be a politically motivated attempt to intimidate the general's supporters into disclosing his whereabouts.

Many inmates continued to suffer long detention periods in MACA and other prisons while awaiting trial. Despite the legal limit of 10 months of pretrial detention in civil cases and 22 months in criminal cases, some pretrial detainees were held in detention for years.

In September the National Prison Administration reported that 26 percent of the 9,351 prisoners held in the 22 government-controlled prisons were pretrial detainees.

ONUCI, AI, and other human rights organizations reported that in rebel-controlled territory, the NF also arbitrarily arrested, mistreated, ransomed, and detained many persons thought to be loyal to President Gbagbo or Sergeant Ibrahim Coulibaly. For example, on March 20, FANCI Sergeant Moussa Guire was arrested and accused of being a spy by the NF in Dioulabougou. Guire remained in detention in Bouake at year's end.

In January NF units in Korhogo arrested Ibrahim Kalil Coulibaly and his driver. The two men disappeared following the arrest and were still missing at year's end. No charges were filed regarding the disappearances by year's end.

On May 22, NF arrested 16 FPI officials on allegations of trafficking arms from the government-controlled zone. The prisoners were released following visits by the ICRC and ONUCI.

In July, 11 persons in Bouna, an NF-held city in the north, were arrested for inquiring into the cause of the lack of electricity supply in their areas. They were arrested, beaten, and detained before being released without charge several days later.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, in practice the judiciary was subject to influence from the executive branch, the military, and other outside forces. Although the judiciary was independent in ordinary criminal cases, it followed the lead of the executive in national security or politically sensitive cases. There also were credible reports that judges were subject to corruption. The judiciary was slow and inefficient.

The formal judicial system is headed by a Supreme Court and includes the court of appeals, lower courts, and a constitutional council. The law grants the President the power to replace the head of the Supreme Court after a new parliament is convened. In 2003 President Gbagbo appointed the seven members of the Constitutional Council, without consultation with the Government. President Gbagbo tasked the council with, among other things, the determination of candidate eligibility in Presidential and legislative elections, the announcement of final election results, the conduct of a referendum, and the constitutionality of legislation. President Gbagbo named three advisors to the Constitutional Council for three-year terms, three other advisors to six-year terms, and a President. On September 27, three new advisors were sworn into the Constitutional Council for six-year terms, replacing the three members whose original three-year terms had expired. The council did not issue any significant rulings during the year.



*Trial Procedures.*—The law provides for the right to public trial, although key evidence sometimes was given secretly. The Government did not always respect the presumption of innocence. Those convicted have the right of appeal, although higher courts rarely overturned verdicts and did not do so during the year. Defendants accused of felonies or capital crimes have the right to legal counsel. The judicial system provides for court-appointed attorneys; however, no free legal assistance was available, aside from infrequent instances in which members of the bar provided pro bono advice to defendants for limited periods.

In rural areas traditional institutions often administered justice at the village level, handling domestic disputes and minor land questions in accordance with customary law. Dispute resolution was by extended debate, with no known instance of resort to physical punishment. The formal court system increasingly was superseding these traditional mechanisms. The law specifically provides for a grand mediator, appointed by the President, to bridge traditional and modern methods of dispute resolution.

Military courts did not try civilians. Although there were no appellate courts within the military court system, persons convicted by a military tribunal may petition the Supreme Court to set aside the tribunal's verdict and order a retrial.

There was little available information on the judicial system used by the NF in the northern and western regions; however, there continued to be credible reports of summary executions for various crimes in the NF-controlled zone.

Of the 61 persons arrested for attacking gendarmerie and police in Anyama and Agboville in July 2005, 17 were released and 44 were tried; 36 of the 44 were sentenced to between two and 15 years' imprisonment. Appeals submitted by defense attorneys and the NGO Lawyers Without Borders had not been heard by year's end.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent judiciary in civil matters; however, the judiciary was subject to corruption, outside influence, and favoritism based on family and ethnic ties. Citizens did not often access the court system to bring lawsuits seeking damages for, or cessation of, a human rights violation. The judiciary was slow and inefficient, and there were problems enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law provide for these rights; however, the events of 2002 triggered a widespread suspension of privacy rights. Officials must have warrants to conduct searches, must have the prosecutor's agreement to retain any evidence seized in the search, and are required to have witnesses to the search, which may take place at any time; however, in practice police sometimes used a general search warrant without a name or address. Police frequently entered the homes of northern citizens and noncitizen Africans (or apprehended them at large), took them to local police stations, and extorted small amounts of money for alleged minor offenses.

There were credible reports that security forces conducted warrantless searches of opposition party officials' residences, allegedly in search of weapons. During the year security forces continued to conduct neighborhood searches in which they entered several homes at the same time, usually at night looking for arms. There continued to be reports that security forces harassed opposition forces.

For example, on May 5, three police officers arrested Mariam Sangare-Traore, the wife of an RDR local leader for the district of Yopougon in Abidjan, alleging that she held forged Ivorian identity papers. Police released Traore later that day after verifying her parents' national identity papers.

On May 8, security forces in the district of Yopougon Niangon entered the homes of RDR members to search for weapons that the RDR had allegedly distributed to its followers. When no weapons were found, the security forces went to the neighborhood mosque, where they arrested and questioned eight men for 14 hours before releasing them without charge.

On July 19, a gendarmerie commando unit reportedly conducted an illegal search of the Abobo mayor's office at city hall, which was the officially designated site for the public identification hearings (audiences foraines) being held as part of the voter registration effort. The gendarmes were reportedly searching for illicit arms.

No action was taken against security forces that forcibly entered residences in previous years.

Security forces monitored private telephone conversations, but the extent of the practice was unknown. The Government admitted that it listened to fixed line and cellular telephone calls. Authorities monitored letters and parcels at the post office for potential criminal activity, and they were believed to monitor private correspond-

ence, although there was no evidence of this. Members of the Government reportedly continued to use students as informants.

The NF continued to confiscate the property and vehicles of civil servants and those believed to be loyal to President Gbagbo or of persons who had abandoned their houses following the rebellion. However, the minister of solidarity and war victims, who was also the deputy secretary general of the Patriotic Movement of Cote d'Ivoire, the principal political arm of the NF, created a commission in charge of returning confiscated properties to those who could prove ownership. The minister also urged victims to return to their homes.

Rebels in the northern towns of Bouake and Katiola continued to monitor mail, looking for potential government loyalist infiltrators.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and the press, but the Government restricted these rights in practice. Journalists continued to practice self-censorship for fear of retribution. Government officials aggressively used the court system to punish critics.

At year's end the trial had not yet begun in the defamation complaint brought by President Gbagbo in July 2005 against PDCI-affiliated former minister of animal production and fisheries, Kobenan Adjoumani, who in June 2005 accused the President of masterminding the 2002 rebellion.

The only remaining government-owned daily newspaper, *Fraternite Matin*, which had the greatest circulation of any daily, rarely criticized government policy. There were a number of private newspapers that frequently criticized government policy, the President, and the ruling party. Newspapers often ceased publication and were supplanted by others due to strong competition, a limited audience, and financial constraints. Most newspapers were politicized and sometimes resorted to fabricated stories to defame political opponents. The law requires the "right of response" in the same newspaper, thus newspapers often printed responses in opposition to earlier articles, although often not with the prominence accorded to the original story.

Because of low literacy rates, radio was the most important medium of mass communication. Newspapers and television were relatively expensive. The government-owned broadcast media company, Ivorian Radio and Television (RTI) owned two major radio stations; only the primary government radio station broadcast nationwide. Neither station criticized the Government.

The private radio stations did not have complete control over their editorial content. The Government used the Audiovisual Communication Council (CNCA), which was controlled by the ruling party, to closely monitor Radio Nostalgie because the major shareholders of the company were close to RDR President Alassane Ouattara. National broadcast regulations prohibit the transmission of any political commentary.

Since the 2002 rebellion, the Government continued to reduce press freedoms in the name of patriotism and national unity. The Government and the ruling FPI continued to exercise considerable influence over the official media's program content and news coverage, using them to promote government policies and criticize the opposition. NF leader and then Minister of Communications Guillaume Soro frequently complained that the official media did not fairly accord television airtime to opposition party members.

In November a series of events contributed to the development of an environment hostile to media. On November 26, President Gbagbo signed a decree to dismiss the director of *Fraternite Matin* and replaced him with a known supporter after the newspaper reported on a meeting between the President and prime minister regarding the implementation of U.S. Resolution 1721. On November 27, government soldiers reportedly accompanied by members of President Gbagbo's entourage went to the RTI station to order that a "seditious" statement by the Prime Minister that had been broadcast earlier that evening not be rebroadcast and that further messages contradicting the President be banned. The army seized the tape of the broadcast. On November 28, the President fired the director of RTI and dissolved its entire board of directors, which had been appointed by NF leader and current Minister of State for Reconstruction and Reintegration Guillaume Soro when he was Minister of Communication, for broadcasting Prime Minister Banny's statement.

The media played a critical role in inflaming tensions, and newspapers backed by political parties published inflammatory editorials and created a climate of hostility toward perceived political opponents. The Ivorian Observatory on Press Freedom and Ethics and the National Press Commission, which enforced regulations regarding creation, ownership, and freedom of the press, regularly published press releases urging journalists to be more moderate.

Members of the security forces continued to harass and beat journalists. Outspoken members of the press received death threats and suffered physical intimidation from groups aligned with the ruling FPI party.

For example, on January 14, a group of Young Patriots attacked Frank Konate and Basile Zoma, a reporter and cameraman for opposition daily newspaper 24 Heures, who were forced to stop at a roadblock erected by the group. A leading member of the Young Patriots prevented the group from carrying out their threats to douse the car with petrol and set it ablaze.

On January 16, members of Young Patriots who were invading the RTI in Abidjan attacked journalist David Mobio as he was presenting the 1:00 pm news. Mobio did not require hospitalization and did not file charges.

On January 16, Young Patriots and FESCI students, led by the army chief of staff General Philippe Mangou, forcefully took control of the RTI television studio and installed journalist Ben Zahui to manage the television station. On January 19, Minister Delegate of Communications Martine Studer-Coffi reported being assaulted by Young Patriots and Zahui at RTI headquarters. She later lodged a complaint with RTI against Zahui. In February the RTI internal trial committee found Zahui guilty of verbal, but not physical, assault and ruled that he be suspended without pay for three months and that he apologize publicly to Studer-Coffi. On January 24, the CNCA strongly condemned the events at RTI headquarters.

On December 21, the managing director of opposition newspaper Le Nouveau Reveil, Denis Kah Zion, issued a public statement describing repeated death threats against his family and colleagues. Kah Zion reported that the police station in Cocody provided four officers to protect his family for several days in December.

There also continued to be reports that foreign journalists were subjected to government harassment and intimidation.

There were no developments in the 2005 cases of Honore Sepe, a journalist for the opposition newspaper Le Front who was briefly detained and interrogated regarding his association with the NF, or of Brahim Golle, a journalist for the opposition newspaper Dernieres Nouvelles, who was beaten by uniformed men.

On some occasions, the opposition also attacked journalists whom they accused of spying on them on behalf of the FPI. For example, on October 15, a journalist working for pro-Gbagbo newspaper Le Verdict Populaire was attacked by participants in a rally held by the opposition political party Rally of Houphouetists for Democracy and for Peace (RHDP).

The Young Patriots continued to attack journalists, destroy issues of independent and opposition newspapers, and to threaten newspaper vendors.

No action was taken against progovernment youth groups who attacked, threatened, arrested, or harassed journalists in previous years.

On May 12, the CNCA authorized RFI to resume FM and satellite broadcasting following its July 2005 suspension, in which the CNCA alleged that the station had been unprofessional in its coverage of Colonel Bakassa Traore's death.

The law authorizes the Government to initiate criminal libel prosecutions against officials. In addition the state may criminalize a civil libel suit at its discretion or at the request of the plaintiff. Criminal libel was punishable by three months to two years in prison.

While there was self-censorship in the press, independent daily newspapers and opposition party dailies often examined and called into question the Government's policies and decisions.

In NF-held territory rebels broadcast their own programming from Bouake, which included radio and television shows that were heard in towns and villages around Bouake and, according to some reports, in the political capital, Yamoussoukro. In the western part of the country, rebels also broadcast on a local radio station around Man. The NF continued to allow broadcast of government television or radio programs in their zones. The NF also allowed distribution of all progovernment newspapers and most independent newspapers in their territory. However, at checkpoints in Yamoussoukro, FANCI soldiers frequently prevented opposition newspapers from entering the NF zone.

In the rebel-held zones, rebel forces also beat and harassed journalists.

For example, on February 9, an independent journalist alleged he was beaten by NF security personnel after leaving an interview with the NF spokesman in the compound of the NF general secretariat in Bouake.

No action was taken against rebel forces who beat, harassed, and killed journalists in previous years.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored email or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet,

including by electronic mail. Citizens had access to the Internet at Internet cafes, but home access was prohibitively expensive for most persons.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom. FESCI, the pro-Gbagbo student group created in the early 1990's, generated a climate of fear and intimidation at the universities and regularly stopped classes, forced students to attend meetings, and threatened professors who interfered in their activities. The Government controlled most educational facilities, even at the post-secondary level, and a Presidential decree required authorization for all meetings on campuses.

Many prominent scholars active in opposition politics retained their positions at state educational facilities; however, some teachers and professors suggested that they had been transferred, or feared that they could be transferred, to less desirable positions because of their political activities. According to student union statements, security forces continued to use students as informants to monitor political activities at the University of Abidjan.

FESCI continued to use violent tactics to maintain its hold on student government, disrupt the work of officials appointed by opposition ministers, and intimidate other students. For example, on April 27, members of FESCI disrupted exams at the Catholic University of West Africa (UCAO) in Abidjan, resulting in the injury of several UCAO students.

On July 14, FESCI members stormed the RTI television station following the broadcast of a statement by the Collective of Teachers' Unions concerning the boycott of the school examinations at the end of the academic year. Several RTI employees were injured, the administrative building was ransacked, and six vehicles were damaged.

FESCI members continued to target the General Association of Students of Cote d'Ivoire, a rival student group founded in 2004 as an alternative form of student governance.

No action was taken against FESCI members responsible for an alleged incident of kidnapping and rape in 2005 or for similar incidents reported in previous years.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law allows for freedom of assembly; however, the Government sometimes restricted this right in practice. Groups that wished to hold demonstrations or rallies in stadiums or other enclosed spaces were required by law to submit a written notice of their intent to the Ministry of Security or the Ministry of Interior three days before the proposed event. No law expressly authorizes the Government to ban public meetings or events for which advance notice has been given in the required manner, but the Government prohibited specific events deemed prejudicial to the public order. Even if authorization for an event was granted, the Government could later revoke it. On December 13, President Gbagbo renewed a ban on all forms of outdoor public demonstrations in Abidjan until June 15, 2007.

RDR members occasionally had difficulties associating freely, and there were reports that security forces harassed and detained RDR members who tried to meet.

On July 2, members of the Young Patriots attacked a delegation of RDR activists in Bolequin as they prepared to hold a meeting on mobile courts, and several RDR members were injured. Although the activists had informed the prefect and military authorities of the meeting and requested protection, authorities did not attempt to assist or protect them.

Police forcibly dispersed antigovernment demonstrations, which resulted in injuries.

On February 12, youths erected roadblocks at the Giscard d'Estaing Boulevard to protest the killings of Arthur Vincent Dahie and Moustapha Tounkara, two cellular phone vendors. Dahie and Tounkara, were reportedly killed by a brigade of CECOS on patrol. The police used tear gas to disperse the protesters. CECOS Chief Commander, Colonel Guai Bi Poin, declined to investigate the matter.

On June 2, police allegedly used belts and tear gas to disperse members of the Union for Democracy and Peace youth wing associated with the late General Robert Guei who had gathered at the general's house.

On July 15, FESCI staged a violent protest in front of RTI headquarters to demand that their message be broadcast live. Three of the approximately 200 protesters were injured when security forces opened fire.

There were no known developments in the July 2005 case in which progovernment supporters and FESCI students attacked participants in a press conference organized by youth opposition leaders at the PDCI headquarters.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right; however, the law prohibits the formation

of political parties along ethnic or religious lines, both of which were key factors in some parties' membership (see Sections 2.c. and 5).

The GPP, which was banned in 2003, continued to exist and attack government installations and personnel (see Section 1.c.).

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right. However, after 2002 the Government targeted persons perceived to be perpetrators or supporters of the rebellion, many of whom were Muslim and from the north. Strong efforts by religious and civil society groups have helped prevent the crisis from becoming a religious conflict. The targeting of Muslims suspected of rebel ties continued to diminish during the year.

There was no state religion; however, for historical as well as ethnic reasons, government officials informally favored Christianity, in particular the Roman Catholic Church. Catholic schools received government subsidies, and Catholic Church leaders had a stronger voice in government affairs than their Islamic counterparts, which resulted in feelings of disenfranchisement among some Muslims.

The law requires religious groups desiring to operate in the country to register; however, registration was granted routinely.

Although nontraditional religious groups, like all public secular associations, were required to register with the Government, no penalties were imposed on groups that failed to register.

*Societal Abuses and Discrimination.*—Members of the country's largely Christian or Islamic urban elites, who effectively controlled the Government, generally were disinclined to accord to traditional indigenous religions the same social status as accorded to Christianity and Islam.

Some Muslims believed that their religious or ethnic affiliation made them targets of discrimination by the Government with regard to both employment and the renewal of national identity cards. As northern Muslims shared names, style of dress, and customs with several predominantly Muslim neighboring countries, they sometimes were accused wrongly of attempting to obtain nationality cards illegally to vote or otherwise take advantage of citizenship (see Section 5). This created a hardship for a disproportionate number of Muslim citizens.

Government officials, including the President and his religious advisers, appeared at major religious celebrations and events organized by a wide variety of faiths and groups. The Government often invited leaders of various religious communities, including the Mediation Committee for National Reconciliation, to attend official ceremonies and to sit on deliberative and advisory committees.

There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law do not provide specifically for these rights, and the Government restricted freedom of movement during the year. There were frequent restrictions on internal travel. A curfew remained in place prohibiting citizens from entering and leaving Yamoussoukro and Abidjan city limits between 11:00 p.m. and 6:00 a.m. Security forces, local civilian "self-defense" committees, and water, forestry, and customs officials frequently erected and operated roadblocks on major roads, where they demanded that motorists or passengers produce identity and vehicle papers and regularly extorted travelers, commercial traffic and truckers, foreigners, refugees, and others (see Sections 1.a. and 1.d.).

From January 16 to 20, pro-Gbagbo youth militias erected roadblocks throughout Abidjan and attacked UN installations in Abidjan and in other parts of the government-controlled zone in protest against an International Working Group (IWG) announcement that the mandate of the National Assembly had expired. Security forces took no action to remove the roadblocks or to protect UN installations.

On August 21, the Young Patriots blocked the vehicle of NF Minister of Solidarity and War Victims Louis-Andre Dacoury-Tabley, who was traveling to Daloa on ministry business. The NF issued a statement protesting the incident and accusing the Government's defense and security forces of failing to perform their duties.

Police harassed opposition members at the airport and sometimes prevented foreigners from traveling overland between the north and the south.

Persons living under NF authority regularly faced harassment and extortion when trying to travel between towns and to the government-controlled south. Local military authorities regularly sold passes required of travelers. Security and defense forces also victimized northerners when they tried to cross into the zone under government control. Due to the closure of banks in the north at the onset of the crisis, northerners were forced to cross into the south and back to conduct all banking business, including collecting remittances (upon which many northerners depend).

Government workers in the north also had to travel into the south to collect their salaries. The cost of either paying their way through the various barricades or hiring a money runner to do so was substantial. Government officials reported the roundtrip cost for citizens in the north to travel from Bouake and other cities to Yamoussoukro to cash paychecks to be between \$40 and \$60 (20,000 to 30,000 FCFA). A money courier or informal banking service cost either \$10 (5000 FCFA) to a flat percentage of the amount transferred.

On March 16, the NF cited security concerns when it prevented Laurent Dono Fologo, President of the Social and Economic Council, and his entourage of over 300 persons from driving through the NF-controlled zone to attend the funeral of Fologo's brother in Korhogo.

The law specifically prohibits forced exile, and no persons were exiled forcibly during the year. However, due to numerous death threats, a number of persons remained in self-imposed exile, including several members of the RDR, members of other opposition parties, and senior army officers such as General Mathias Doue and Colonel Jules Yao Yao.

*Internally Displaced Persons (IDPs).*—During the year there were large numbers of IDPs in the country as a result of the 2002 crisis. The UN Office for the Coordination of Humanitarian Affairs estimated that as many as one million persons were displaced at the beginning of the crisis, of whom perhaps half (300,000 Burkinabe, 150,000 Malians, and 50,000 Guineans) were foreign nationals. The UN Population Fund (UNPFA) conducted a survey in late 2005 that estimated the total number of IDPs in five government-held areas to be 750,000. The survey concluded that more than 90 percent of IDPs lived with host families, and almost 70 percent were located in Abidjan. However, other humanitarian organizations and donors noted that these statistics included IDPs who maintained access to their government salaries even after their displacement.

Progovernment and rebel forces did not generally target civilians, but ethnic conflict and fighting forced many persons to flee the zones of conflict, and others simply felt uncomfortable in the side of the divided country that they found themselves in initially. Roadblocks and toll collection points made it difficult for civilians to move in both sides of the country. These IDPs were invisible but placed heavy burdens on host communities, especially given the prolonged nature of the crisis. Government assistance, especially in the north where civil servants and infrastructure were not in place, did not meet the needs of these IDPs. International and local NGOs were working to fill the gap.

In October 2005 the Government appointed a point of contact within the Ministry of Foreign Affairs to address IDP problems; however, the Government did not provide funding for the appointee's office and abolished the position during the year. In the middle of the year, the Ministry of Solidarity and War Victims took the lead on IDP issues at the national level. The ministry drafted an IDP return program that was presented at a roundtable with international humanitarian agencies at the end of August. Observers noted that the ministry did not have either the funding or the expertise to carry out the proposed plan, which consisted of projects to raise awareness of problems facing IDPs, to analyze conditions for returning IDPs to their place of origin, and to reintegrate returned IDPs. Most humanitarian agencies agreed during a protection conference in October that the situation remained too precarious to promote the safe return of displaced populations.

The ministries of foreign affairs and solidarity and war victims worked closely with UN agencies on IDP issues. In December the Ministry of Foreign Affairs and the UN High Commissioner for Refugees (UNHCR) signed agreements to cooperate on IDP issues.

In August the UN established an IDP protection cluster, a working group led by the UNHCR to address IDP protection issues. In December the IDP Protection Cluster initiated a profiling operation in Abidjan and Grand-Bassam to complement the 2005 UNPFA survey and to develop durable solutions for displaced communities.

During the year an estimated 40,000 IDPs returned to their areas of origin, some without external assistance. UN agencies and local authorities also facilitated the small-scale return of IDPs to several locations in the west of the country with varying degrees of success. The displacement patterns often complicated the return of IDPs. For example, the displaced Burkinabe and other settlers living in the Guiglo IDP camp said that their plantations around the western town of Bolequin, south of the Zone of Confidence, were being occupied by indigenous Guere populations, who themselves had been displaced from their land in the Zone of Confidence at the beginning of the crisis. The Government had not addressed this situation by year's end.

In January groups from the north conducted a series of attacks on several small villages in the region of Tabou, the traditional home of the Kroumen. The third at-

tack resulted in the displacement of 153 persons and the deaths of between nine and 13 persons, most of whom were Koulango and Baoule. In February these IDPs returned to their villages but found them occupied by armed men reportedly from the Lobi ethnic group. In February the minister of national reconciliation and relations with institutions visited the Tabou area and gave approximately \$2,000 (1 million FCFA) to the Kroumen community and approximately \$800 (400,000 FCFA) to the 153 persons who fled.

New population displacements continued on a regular basis in the western region, particularly in the area around Guiglo and in the Zone of Confidence, although on a much smaller scale than had occurred in previous years. Although the origin of most disputes appeared to be economic, generally resulting from issues of land tenure and access to arable farmland, most of these conflicts also cut along ethnic lines.

In late 2005 the Government attempted to forcibly expel approximately 200 IDPs from a Catholic mission in the western town of Duekoue to compel them to return to their villages. Some of the IDPs cited security concerns and refused to return. The subprefect of Guehieby, located in the Zone of Confidence, used limited local funds to rent private homes for the IDP families, and families were forced to share overcrowded houses or take up residence in abandoned houses. The Catholic Mission permitted a number of IDPs to remain until alternative arrangements were made.

*Protection of Refugees.*—The constitution and law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protections to refugees. The Government is signatory to the 1969 Organization of African Unity Convention governing specific aspects of refugee problems in Africa, and the law provides for asylum status to be granted in accordance with this convention.

In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status and asylum. A law that went into effect in 2004 provides refugees with legal status, including the right to work. The Government also cooperated with the UNHCR and other humanitarian organizations in assisting refugees and maintained an office charged with aiding refugees and other stateless persons.

The Government also provided temporary protection for individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol.

Various West African governments complained that their citizens were harassed in the country. The UN and other international organizations documented such abuses against foreigners, which included arbitrary arrest, beating, and theft (see Sections 1.a, 1.c., 1.d., and 1.f.). These complaints diminished somewhat during the year, and there were no large-scale departures by foreigners due to harassment.

Individual security officers occasionally did not honor identity documents issued to refugees either by the Government or by the UNHCR. There were fewer reports than in the previous year that security forces destroyed refugees' identity documents, arbitrarily detained, verbally harassed, and beat refugees at checkpoints. During the year the national agency in charge of refugees and stateless persons conducted a series of information sessions on refugee identification papers for members of the armed forces. The identity card law includes a provision for identity cards to be issued to non-Liberian individuals over 14 years of age whose refugee status has been granted by the National Eligibility Commission. Liberians who arrived in the country before the 2003 peace agreement in Liberia benefited from *prima facie* (group determination) and received temporary refugee cards. Liberians who arrived in the country after the peace agreement did not receive temporary cards. Under certain circumstances, some asylum seekers who were not granted refugee status by the Government were provided refugee certificates by the UNHCR.

During the year the UNHCR assisted the voluntary repatriation of refugees at the Guiglo camp, which was scheduled to remain open until June 2007. The UNHCR closed the transit center for Liberian refugees in Tabou in preparation to end its official repatriation process in June 2007.

There were reports that refugees were raped, but little additional information was available.

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

The constitution and law provide for the right of citizens to change their government peacefully through democratic means. However, significant violence and irregularities marred the last Presidential and legislative elections held in 2000.

*Elections and Political Participation.*—The 2000 Presidential elections followed several postponements and a controversial Supreme Court decision disqualifying 14 of the 19 candidates, including PDCI and RDR candidates. RDR leader Ouattara

was excluded from running in the Presidential and legislative elections following the Supreme Court's ruling that he had not demonstrated conclusively that he was of Ivorian parentage. The court also disqualified former President Bedie, President of the PDCI party, because he did not submit the required medical certificate.

As a result of the Supreme Court rulings, most international election observers declined to monitor the election. The nationwide participation rate was 37 percent, and some polling places, especially in the north, closed early because of the lack of voters. Preliminary results showed that Gbagbo was leading by a significant margin. However, in October 2000, Daniel Cheick Bamba, an interior ministry and national elections commission (CNE) official, announced on national radio and television that the CNE had been dissolved and declared General Guei the victor with 56 percent of the vote. Thousands of Gbagbo supporters protested, demanding a full vote count. Mass demonstrations resulted in numerous deaths and injuries, and the next day, national radio and television reported that General Guei had stepped down and that Laurent Gbagbo had assumed the presidency.

The 2000 National Assembly election was marred by violence, irregularities, and a very low participation rate. Largely because of the RDR boycott of the elections to protest the invalidation of Ouattara's candidacy, the participation rate in the legislative election was only 33 percent. In addition the election could not take place in 26 electoral districts in the north because RDR activists disrupted polling places, burned ballots, and threatened the security of election officials. Following the legislative by-elections in 2001, 223 of the 225 seats of the National Assembly were filled: the FPI won 96 seats, the PDCI 94 seats, the Ivorian Worker's Party 4 seats, very small parties 2 seats, independent candidates 22 seats, and the RDR 5 seats, in spite of its boycott of all of the legislative elections. The two seats from Kong, where Ouattara planned to run, remained unfilled as the RDR, the only party running in that electoral district, boycotted the elections. Citizens' ability to elect sub-national governments was limited.

The country remained divided at year's end. Despite the numerous peace accords signed since 2003, little progress was made towards either elections or disarmament and reunification of the country. President Gbagbo remained in office despite the expiration of his term in October, and Charles Konan Banny remained as interim prime minister after having been designated by the AU and ECOWAS in December 2005.

The youth wings of political parties were allowed to organize and were active. Activity of the Young FPI (JFPI) was ongoing; however, youth patriot groups who were not formally affiliated with the FPI conducted most activities during the year (see Section 2.b.). Many of the members of the JFPI were likely members of some of these patriot groups. During the year militia groups such as the Young Patriots drew smaller crowds at demonstrations in Abidjan and elsewhere than when the rebellion broke out (see Section 2.b.). For the first time since March 2004, when security forces violently repressed a demonstration by the unarmed opposition, the youth wings of the PDCI and RDR became more active.

On January 17, Young Patriots, FESCI students, and FPI members attacked the UN camp in Guiglo to protest the declaration by the IWG that the mandate of the National Assembly would expire in December. Besieged peacekeepers were forced to flee. Four to five protesters were killed, and the camp was looted and destroyed. The protests continued for four days during which protesters attacked UN headquarters in the Sebroko area of Abidjan, as well as offices, camps, and personnel in Daloa and San Pedro. On January 20, after a request from their leaders to leave the streets, the Young Patriots dismantled the roadblocks.

On October 15, the RHDP opposition alliance held a rally at an Abidjan stadium that reportedly drew between 5,000 and 10,000 persons.

In December youth members of the opposition held demonstrations in Abidjan and other parts of the country to protest the President's decree replacing the managing directors of RTI and Fraternite Matin and reinstating the managing directors of the port and the customs service and the governor of the district of Abidjan. Three members of the opposition were killed and several injured by security forces.

Women held 19 of 225 seats in the last elected National Assembly, which was suspended at the end of 2005. The first vice President of the National Assembly was a woman. Women held five of the 36 ministerial positions in Prime Minister Banny's cabinet. Of the 41 Supreme Court justices, four were women. Henriette Dagri Diabate served as Secretary General of the RDR, the party's second ranking position.

In the last elected National Assembly, 44 out of 223 members of parliament were Muslim.

*Government Corruption and Transparency.*—Government corruption and lack of transparency remained a serious problem during the year. It was common for judges



open to bribery to distort the merits of a case. Corruption had the greatest impact on judicial proceedings, contract awards, customs, and tax issues, and accountability of the security forces.

On August 23, police officer Zie Guillaume was arrested when he attempted to bribe the minister of security with \$240,000 (117 million FCFA) after allegedly attempting to enroll Police Academy candidates who had not completed the required exam (see Section 1.d.).

The Prime Minister dissolved the cabinet following reports that corruption and mismanagement within the port authorities and customs agency had contributed to the dumping of toxic wastes in several areas of Abidjan, resulting in the deaths of 10 persons. When he formed a new cabinet in September, he replaced the transportation minister and created a new Ministry of Good Governance to address corruption issues.

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

A number of domestic and international human rights groups, including the Ivorian League for Human Rights (LIDHO) and MIDH, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The Government occasionally met with some of these groups.

The Government took no action against Young Patriots leader Charles Ble Goude when the U.S. sanctioned him in February for his role in promoting ongoing tensions in the country. The Government also took no action against prominent loyalist leaders in Abidjan such as Women Patriots leader Genevieve Bro Grebe and others who in 2004 helped orchestrate attacks on unarmed UN personnel and vehicles, opposition newspapers, opposition party headquarters, the homes of opposition party members, and the homes, businesses, and schools of French citizens and other expatriates. The violence, which was triggered in part by the retaliation of French Operation Licorne peacekeeping troops for the Government's bombing of the French military base in Bouake, resulted in numerous civilian deaths and injuries.

During the year ONUCI, LIDHO, MIDH, Action for the Defense of Human Rights, and other human rights groups gathered evidence and testimony, published in independent local daily newspapers, and often criticized government security forces.

During the year members of MIDH continued to receive death threats, and progovernment militia groups targeted and harassed ONUCI.

No investigations were conducted into incidents from previous years of threats and harassment of MIDH members.

During the year progovernment militia, unhindered by government security forces, frequently blocked UN and French peacekeeping forces from conducting activities in government-controlled areas. The IWG frequently protested such interference, which did not abate.

For example, during demonstrations in January against the IWG (see Section 2.a), progovernment demonstrators attacked the vehicle of Prime Minister Banny, smashing several windows. A French Embassy official reported being attacked in his vehicle in the same vicinity during that incident. In a related incident, demonstrators destroyed a UN vehicle in the parking lot of the Hotel Ivoire. Pierre Schori, the UN Secretary General's Special Representative in Cote d'Ivoire, protested the attacks on ONUCI staff, buildings, and vehicles, and deplored the restrictions on the freedom of movement of UN employees.

Beginning in October, UN troops operated patrols to reinforce security along the country's border with Liberia.

There were no reports that the Government suppressed international human rights groups or denied them visas; however, the Government on occasion restricted their access to certain areas deemed sensitive and often denigrated their work.

During the year the Government regularly permitted the World Food Program (WFP), the ICRC, and other international organizations to conduct humanitarian operations. Eleven UN agencies, including the International Labor Organization (ILO) and the World Health Organization, were resident and active throughout the year. Local newspapers covered reports by several international human rights organizations that were critical of both the Government's and the rebels' human rights records.

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

The law prohibits discrimination based on race, ethnicity, national origin, sex, or religion; however, the Government did not effectively enforce the law.

*Women.*—The law does not define domestic violence, which was a serious problem. Female victims of domestic violence suffered severe social stigma and as a result

often did not report or discuss domestic violence. The courts and police viewed domestic violence as a problem to be addressed within the family unless serious bodily harm was inflicted or the victim lodged a complaint, in which case criminal proceedings could be initiated. However, a victim's own parents often urged withdrawal of a complaint because of the effect of social stigma on the entire family.

The law prohibits rape and provides for prison terms of five to 10 years, and the Government enforced this law. Claims were most frequently brought against child rapists. A life sentence can be imposed in cases of gang rape if the rapists are related to or hold positions of authority over the victim, or if the victim is under 15 years of age. The law does not specifically penalize spousal rape. Rape was a problem, although its extent was unknown because the Government did not collect statistics on rape or other physical abuse of women. Women's advocacy groups continued to protest the indifference of authorities to female victims of violence; however, women who reported rape or domestic violence to the police were often ignored. Many female victims were convinced by their relatives and police to seek an amicable resolution with the rapist rather than pursue a legal case. The Ministry of Human Rights, the Association of Women Lawyers, and MIDH continued to seek justice on behalf of rape victims but had not made much progress by year's end because of the reluctance of victims to file formal complaints. During the year the MIDH conducted a project called SOS Rape to provide rape victims with legal, social, psychological, and medical assistance.

During the year the Ministry of Women, Family, and Children's Affairs continued to provide limited assistance to victims of domestic violence. The ministry's support included providing government-run counseling centers with computers, printers, and other equipment for record-keeping and visiting a few victims in their homes to attempt to reconcile troubled couples and to remove domestic servants from homes in which they had been sexually abused.

The National Committee in Charge of Fighting against Violence against Women and Children, under the Ministry of Women, Family and Children's Affairs, maintained a hot line for abused women, helped provide shelters for victims of abuse, and counseled abusive husbands. The committee also monitored abusive situations through frequent home visits. Young girls who feared becoming victims of abuse, FGM, or forced marriage could appeal to the committee, which arranged for shelter in facilities run by the Government or NGOs. The committee often stopped abuse by threatening legal action against offending parents or husbands.

FGM was a serious problem. The law specifically forbids FGM and provides penalties for practitioners of up to five years' imprisonment and fines of approximately \$720 to \$4,000 (360,000 to two million FCFA). Double penalties apply to medical practitioners. The incidence of FGM did not continue to decrease from the previous year, and an estimated 60 percent of women had undergone the procedure. FGM was practiced most frequently among rural populations in the north and west and to a lesser extent in the center and south. FGM usually was performed on girls before or at puberty as a rite of passage, with techniques and hygiene that did not meet modern medical standards. Local NGOs, such as the Djigui Foundation, Animation Rurale de Korhogo, and the National Organization for Child, Woman, and Family, continued to work to persuade FGM practitioners to turn in their instruments. Unlike in the previous year, arrests related to FGM were made. For example, on March 8, a three-year-old girl required medical attention after undergoing FGM. The NF arrested and detained the girl's mother and the FGM practitioners at the police station in Marabadiassa. They were later released without charge.

Prostitution is not illegal as long as it occurs between consenting adults in private, and the practice appeared to be increasing due to economic difficulty. Soliciting and pandering are illegal, and the police sometimes enforced the law. Women from nearby countries sometimes were trafficked into the country, including for forced prostitution (see Section 5, Trafficking).

The law prohibits sexual harassment; however, such harassment was widespread and routinely accepted as a cultural norm. The Government did not initiate any investigations or prosecutions during the year. The penalties for sexual harassment are between one and three years' imprisonment and a fine ranging between \$720 and \$2,000 (360,000 and one million CFA).

The law prohibits discrimination on the basis of gender; however, women occupied a subordinate role in society. Government policy encouraged full participation by women in social and economic life; however, there was considerable resistance among employers in the formal sector to hiring women, who were considered less dependable because of their potential for pregnancy. Some women also encountered difficulty in obtaining loans, as they could not meet the lending criteria established by banks, such as a title to a house and production of a profitable cash crop. NGOs supervised efforts to create economic cooperatives to provide poor women access to

small loans from the Government or private microfinance banks. Women in the formal sector usually were paid at the same rate as men (see Section 6.e.); however, because the tax code did not recognize women as heads of households, female workers frequently were required to pay income tax at a higher rate than their male counterparts when they could not prove that they were family heads. Women's organizations began a campaign against the practice during the year, but the Government had not revised the tax code by year's end. Inheritance law also discriminated against women.

Women's advocacy organizations continued to sponsor campaigns against forced marriage, marriage of minors, patterns of inheritance that excluded women, and other practices considered harmful to women and girls. Women's organizations also campaigned against the legal texts and procedures that discriminated against women. The Coalition of Women Leaders continued its efforts to promote greater participation of women in political decision-making and in presenting themselves as candidates in legislative and municipal elections.

*Children.*—The ministries of public health and of employment, public service, and social security sought to safeguard the welfare of children, and the Government also encouraged the formation of NGOs to promote children's interests, such as the National Organization for Children and Family.

The Government strongly encouraged children to attend school in the government-controlled south; however, primary education was not compulsory. Primary education was tuition-free but usually ended at age 13. In principle students did not have to pay for books or fees; however, some still did so or rented books from stalls on the street because the Government did not provide for school fees and books for every school. Poverty led many children between the ages of 12 and 14 to leave school. Research in 2002 showed that 67 percent of children six to 17 years old attended school, including 73 percent of boys and 61 percent of girls. However, Ministry of Education statistics for the 2004–2005 school year indicated that the de facto partition of the country had resulted in a drop in the schooling rate to 54.3 percent in primary school, with 52.1 percent of boys and 43.5 percent of girls attending school.

The schooling rate was much lower in the zone controlled by the NF. According to the NGO *Ecole pour Tous*, the lower enrollment rate was due both to lack of government teachers working in NF-controlled zones and to the migration of families out of these areas.

The WFP continued to work with the Government to establish a countrywide system of school canteens that provided subsidized lunches for \$.05 (25 FCFA).

Students who failed the secondary school entrance exams did not qualify for free secondary education, and many families could not afford to pay for schooling. Parental preference for educating boys rather than girls persisted, particularly in rural areas. The minister of national education stated in 2005 that almost one-third of the female primary and secondary school dropout rate of 66 percent was attributable to pregnancies. For the first time since 2004, the Government allowed exams to be administered in September in the rebel-controlled north, thereby permitting thousands of students in that region to seek advanced study.

Teachers sometimes gave good grades and money to students in exchange for sexual favors. The penalty for statutory rape or attempted rape of either a child aged 15 years or younger was a prison sentence of one to three years and a fine of \$200 to \$2,000 (100,000 to one million FCFA).

The Ministry of Health and Public Hygiene continued to operate a nationwide network of clinics for children, infants, and prenatal care staffed with nurses and doctors who served the local residents, whether citizens or non-citizens, free or at low cost; however, many doctors and nurses left the zones under control of the NF after September 2002. Girls and boys had equal access to health care.

A 2004 NGO survey of 500 schoolchildren in Abidjan and its suburbs found that 27 percent of children had been victims of sexual abuse; 74 percent of the victims were girls and 26 percent boys. Approximately 33 percent had been raped, 15 percent had been the victims of attempted rape; 42 percent had been fondled, and 11 percent were victims of sexual harassment. When the sexual abuse occurred in the family, 54 percent of the assailants were male cousins, 11 percent were female cousins, five percent were guardians, and three percent were brothers and sisters.

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

The law prohibits and provides criminal penalties for forced or early marriage; however, it occurred throughout the country, particularly in rural areas. The law prohibits the marriage of men under the age of 20, women under the age of 18, and persons under the age of 21 without the consent of their parents. However, traditional marriages were commonly performed with girls as young as 14 in the conservative communities in the north. The law specifically penalizes anyone who forces a

minor under 18 years of age to enter a religious or customary matrimonial union. There is no data on child marriage because these marriages are done traditionally and are not registered.

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

Both progovernment militias and rebel forces continued to recruit and use children as soldiers, both on a voluntary and a forced basis.

Child labor remained a problem (see Sections 5, Trafficking, and 6.d.).

There were many thousands of street children in the country, including approximately 5,000 in Abidjan; even NGOs dedicated to the problem found it difficult to estimate its extent. Some children were employed as domestics and were subject to sexual abuse, harassment, and other mistreatment by their employers (see Section 6.d.). Because of the political-military crisis, many families, including displaced families, relied on their children to work as street vendors and bring money home. A forum of 15 NGOs worked with street children in training centers that were similar to halfway houses. The NGOs paid the children a small subsistence sum while teaching them vocational and budgeting skills. Many street children, however, were reluctant to stay in training centers where they earned no money and were subject to strict discipline.

*Trafficking in Persons.*—The constitution and law do not prohibit trafficking in persons, and although the Government continued its antitrafficking efforts, trafficking in persons remained a problem. With the continuing crisis and the difficulty in identifying trafficked children, UN agencies and international humanitarian agencies such as the UN Children's Fund (UNICEF) concentrated on child soldiers and children displaced because of the war. The Government, other UN and international agencies such as ILO, International Cocoa Foundation (ICI), and the German Cooperation Agency (GTZ) continued efforts to combat trafficking in persons.

The country was a source and destination country for trafficking in women and children. Women and children were trafficked from Mali, Burkina Faso, Ghana, Togo, and Benin for the purposes of prostitution, sexual exploitation, and forced commercial, agricultural, and domestic servitude. The full extent and nature of the problem was unknown despite efforts to document the trafficking of persons in the country. There was no reliable estimate on the number of children intercepted or repatriated during the year. Trafficking in persons appeared to decrease during the year due to increased police checkpoints and fewer economic opportunities in the country. Unlike in the previous year, officials at the country's border with Ghana near Aboisso did not report an increase in the number of unaccompanied child travelers.

The country's cities and farms provided ample opportunities for traffickers, especially of children and women. The informal labor sectors were not regulated under existing labor laws; as a result domestics, most nonindustrial farm laborers, and those who worked in the country's broad range of street shops and restaurants remained outside formal government protection. Internal trafficking of girls ages nine to 15 to work as household domestics in Abidjan, and elsewhere in the more prosperous south, remained a problem. Traffickers of local children often were relatives or friends of the victim's parents. Traffickers sometimes promised parents that the children would learn a trade, but they often ended up on the streets as vendors or working as domestic servants. Due to the economic crisis, many parents allowed their children to be exploited to minimize the financial burden on the family. Because security forces were trained to search buses for trafficked children, traffickers changed their methods during the year. Instead of moving large groups of children into the country by bus, traffickers relocated between one and three children at a time by bicycle or train or on foot.

Women principally were trafficked to the country from Nigeria and Ghana. A local NGO estimated during the year that 58 percent of the female prostitutes in Abidjan were not citizens. Organized trafficking rings promised Nigerian women and girls that they would have jobs in restaurants and beauty salons in Abidjan; however, many ended up in brothels.

Women and children were trafficked from the country to African, European, and Middle Eastern countries for prostitution and sexual exploitation, and agricultural and domestic labor.

The regular trafficking of children into the country from neighboring countries to work in the informal sector in exchange for finder's fees generally was accepted. Children were trafficked into the country from Mali, Burkina Faso, Ghana, Togo, Benin, and Mauritania for indentured or domestic servitude, farm labor, and sexual exploitation.

The controversy over child labor in the local cocoa sector continued, and the Government, the ILO, the Institute of Tropical Agriculture, and the Chocolate Manufacturers Association continued to document the problem and search for ways to handle

the issue. A 2002 survey conducted by the International Institute of Tropical Agriculture revealed that most children in the cocoa sector worked on the family's farm (approximately 70 percent) or beside their parents. Of the 625,000 working children, 96.7 percent had a kinship relation to the farmer. Others, most frequently the children of extended family members or persons well known to them, cited their or their family's agreement to leave their respective countries to work on farms in the country to earn money or to pursue a better life.

The research suggested that perhaps 5,000 to 10,000 children were trafficked to or within the country to work full- or part-time in the cocoa sector. It also showed an estimated 5,100 children employed as full-time permanent workers, approximately 3,000 of whom were from Burkina Faso. The survey found another 12,000 children working part-time on cocoa farms who had no family ties with the farmer. The research showed that approximately 109,000 child laborers worked in hazardous conditions on cocoa farms in the country in what the study described as the worst forms of child labor. The studies estimated that 59 percent were from Burkina Faso, 24 percent were citizens, and the others were from Mali or other countries to the north. Compared with previous years, there were significantly fewer reports of children from neighboring countries being imported for fieldwork on plantations under abusive conditions.

Traffickers can be prosecuted under laws prohibiting kidnapping, forced labor, and mistreatment; however, there was minimal law enforcement in government-held territories, and only five traffickers were arrested, prosecuted, and sentenced to prison terms during the year. The National Committee for the Fight Against Trafficking and Child Exploitation coordinated the Government's antitrafficking efforts; it included representatives from the ministries of family and social affairs, security, labor, foreign affairs, economy and finance, and health and public hygiene.

The Government cooperated with international investigations of trafficking. The ministries of employment and of family and social affairs continued to work with authorities in neighboring countries to prevent cross-border child trafficking and to repatriate children. In July 2005 the Ministry of Family and Social Affairs held a ministerial meeting on trafficking in persons that was attended by 10 West African countries that signed a multilateral accord to fight trafficking collectively. In July the Government set up a committee with national reach to coordinate its implementation of the multilateral cooperative agreement, which includes a provision to establish a child trafficking monitoring system.

The Government worked with NGOs and international organizations to combat trafficking in persons. The National Committee for the Fight Against Child Trafficking continued its work during the year and included representatives from numerous government ministries; representatives from several national and international organizations and NGOs, such as UNICEF, ILO, Save the Children, and the Network of African Women Ministers and Parliamentarians—Cote d'Ivoire (REFAMP-CI); and the BICE. In Abgenville, in the heart of the cocoa-producing zone, Winrock International continued its project Alternatives to Child Labor through Improved Education. The project offers agricultural classes for farmers' children to provide them with practical cocoa-farming skills in the context of their continuing education. The development agencies of two foreign governments, in cooperation with NGOs and industry-sponsored consortiums, continued a campaign against the worst forms of child labor in cocoa-growing belts.

*Persons With Disabilities.*—The law requires the Government to educate and train persons with physical, mental, visual, auditory, and cerebral motor disabilities, to hire them or help them find jobs, to design houses and public facilities for wheelchair access, and to adapt machines, tools, and work spaces for access and use by persons with disabilities; however, wheelchair accessible facilities for persons with disabilities were not common, and there were few training and job assistance programs for persons with disabilities. The law also prohibits acts of violence against persons with disabilities and the abandonment of such persons; however, there were no reports that the Government enforced these laws during the year.

There were no developments during the year in the November 2005 case in which more than 200 members of the National Federation of the Handicapped of Cote d'Ivoire (FAH-CI) organized a sit-in in front of the Ministry of Solidarity, Social Security, and the Handicapped to protest the Government's failure to recruit persons with disabilities during the last three years. The head of FAH-CI was subsequently fired. Although the Government in 1996 announced a program to recruit persons with disabilities for government service, FAH-CI announced in December that only 435 persons with disabilities had been recruited into the civil service since the program began.

Adults with disabilities were not specific targets of abuse, but they encountered serious discrimination in employment and education. The Government financially

supported special schools, associations, and artisans' cooperatives for persons with disabilities, but many persons with physical disabilities begged on urban streets and in commercial zones for lack of other economic opportunities. Persons with mental disabilities often lived on the street.

Traditional practices, beliefs, and superstitions varied, but infanticide in cases of serious birth defects continued to decline from the previous year. Many parents no longer believed that children with disabilities were sorcerers or the signs of a curse.

The Ministry of Family and Social Affairs and the Federation of the Handicapped were responsible for protecting the rights of persons with disabilities.

One person with disabilities, the vice President of the Movement of Forces of the Future, was appointed minister of human rights in September.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically diverse. Citizens born in the country derived from five major families of ethnic groups: the Akan; the northern Mande; the Krou; the Voltaic; and the southern Mande. Major ethnic groups generally had their own primary languages, and their non-urban populations tended to be concentrated regionally.

All ethnic groups sometimes practiced societal discrimination on the basis of ethnicity. Urban neighborhoods had identifiable ethnic characteristics, and major political parties tended to have identifiable ethnic and regional bases, although inter-ethnic marriage increasingly was common in urban areas.

At least one-quarter of the population was foreign, and of that group, 95 percent were other Africans. There were more than five million West African immigrants living in the country. Most of the Africans were from neighboring countries, with half from Burkina Faso. Birth in the country did not automatically confer citizenship. Outdated or inadequate land ownership laws resulted in conflicts with ethnic and xenophobic overtones.

National identification remained at the heart of the ongoing political crisis. In May Prime Minister Banny initiated a program to register the approximately 2.5 to three million undocumented Ivorians and foreigners born in the country. However, this effort aroused fierce protests by pro-Gbagbo militias and President Gbagbo's FPI party, which alleged that the procedures being used were vulnerable to fraud. The Prime Minister's office amended the procedures by adopting guidelines to separate the registration of birth certificates from the registration of certificates of nationality. Only the birth certificates continued to be delivered on the spot during the mobile court fairs.

In 2004 the National Assembly made changes to the nationality code and adopted a Special Law on Naturalization, legislation that was envisioned by the Linas-Marcoussis Accord to resolve the dispute over which persons born of foreign parents before 1972 should be entitled to citizenship and to simplify procedures to obtain citizenship for this group and for foreigners married to citizens. The legislation that was eventually passed resolved the citizenship question for those born before 1960 but not for those born between 1960 and 1972. In July and August 2005 the President signed new drafts of laws on nationality and naturalization in an effort to address the concerns of the opposition parties; however, nationality and citizenship remained contentious issues.

Some resident ethnic groups included many noncitizens, while others included few noncitizens. Societal and political tensions between these two sets of ethnic groups resulted in a cleavage corresponding to some extent to regional differences. Members of northern ethnic groups that were found both domestically and in neighboring countries often were required to document their citizenship, whereas members of formerly or presently politically powerful ethnic groups of the west, south, and center reportedly were not required to do so.

Police routinely abused and harassed noncitizen Africans residing in the country (see Section 1.f.). Harassment by officials reflected the common belief that foreigners were responsible for high crime rates and instances of identity card fraud. Harassment of northerners, which increased markedly after the 2002 rebellion, declined from 2005 levels.

Unlike in the previous year, there were no reports that police bulldozed the homes of persons living in shantytowns in Abidjan.

The French and the Burkinabe continued to minimize their public exposure as harassment against them by security forces at checkpoints continued during the year (see Section 2.d.).

Unlike in previous years, there were no reported clashes between the native Guere populations and the Burkinabe; however, there were clashes between the Guere and other groups.

Ethnic tensions led to fighting and deaths, especially in Alepe, in the southeast, and in the western areas of the country. Unlike in the previous year, there were no reports that fighting continued between the We and Yacouba ethnic groups in

the west. In the west, and in Duekoue and Bangolo in particular, there continued to be violent clashes between the native We population and members of the foreign community, particularly Burkinabe farmers.

At year's end the Government had taken no action against perpetrators of violent clashes in 2005.

*Other Societal Abuses and Discrimination.*—The law did not provide for the protection of homosexuals or persons living with HIV/AIDS from societal and other forms of discrimination. Societal stigmatization of these groups was widespread, and the Government did not act to counter it during the year.

*Incitement to Acts of Discrimination.*—Progovernment newspapers, militias, and youth groups, often encouraged by leaders of the Young Patriots and FESCI, continued to use the media, including radio programs and newspaper columns, to promote hatred against northerners, loosely described as “assailants,” the French, and foreigners, especially those from Mali and Burkina Faso. Charles Ble Goude, leader of the Young Patriots, used less violent rhetoric after sanctions were imposed on him in February.

#### Section 6. Worker Rights

*a. The Right of Association.*—The law allows all citizens, except members of the police and military services, to form or join unions of their choice without excessive requirements, and workers exercised these rights in practice. Registration of a new union required three months and was granted routinely.

Only a small percentage of the workforce was organized, and most laborers worked in the informal sector, which included small farms, small roadside and street side shops, and urban workshops. However, large industrial farms and some trades were organized, and there was an agricultural workers union. Of the 15 percent of workers in the formal sector, approximately 60 percent were unionized.

The law does not prohibit antiunion discrimination by employers or others against union members or organizers.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions in the formal sector, which comprised approximately 1.5 million workers or 15 percent of the workforce, to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining and grants all citizens, except members of the police and military services, the right to bargain collectively. Collective bargaining agreements were in effect in many major business enterprises and sectors of the civil service. The law provides for the right to strike, and workers generally exercised this right. During 2005 and 2006, cocoa farmers, police trainees, customs workers, bank employees, air traffic controllers, and teachers at both the primary and higher education levels conducted strikes against a variety of grievances. However, the law requires a protracted series of negotiations and a six-day notification period before a strike may take place, making legal strikes difficult to organize and maintain.

In August the medical corps of the Cocody University Teaching Hospital began a three-day strike after a gendarme used his gun to threaten the hospital staff to treat his family member before patients who had been waiting longer. During the strike, which was considered illegal because the staff did not provide six days' prior notice, the hospital maintained a skeleton staff and asked the Government to ensure their protection. The Ministry of Health negotiated with employees to convince them to return to work. However, the Government did not provide physical protection to the staff as it had agreed, and no action was taken against the gendarme.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and the Government made efforts to enforce the law during the year. However, there were reports such practices occurred (see Section 5).

Compulsory labor by children occurred (see Section 6.d.)

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws against forced labor and the exploitation of children in the workplace; however, child labor remained a problem. In most instances the legal minimum working age is 14; however, the Ministry of Civil Service, Employment, and Administrative Reform enforced this provision effectively only in the civil service and in large multinational companies. The law limits the hours worked by young workers, defined as those younger than 18 years old. However, children often worked on family farms, and some children routinely acted as vendors, shoe shiners, errand boys, domestic helpers, street restaurant vendors, and car watchers and washers in the informal sector in cities. Some girls as young as nine years old began work as domestics, often within their extended family networks. There were reliable reports of children

laboring in “sweatshop” conditions in small workshops. Children also worked in family-operated, small-scale gold and diamond mines.

According to a 2003 study, 28 percent of all children worked, with 20 percent working full-time. About 23 percent of the children ages 10 to 14 and 55 percent of the children ages five to 17 carried out an economic activity. According to a 2002 study conducted by the Sustainable Tree Crop Program and the International Institute of Tropical Agriculture, approximately 109,000 child laborers worked in hazardous conditions on cocoa farms (see Section 5); some of these children were forced or indentured workers, but 70 percent worked on family farms or with their parents. Government militias and rebels continued to use child soldiers (see Section 5.)

The Government continued its 2004 pilot program to certify that cocoa was produced free of child labor and that children in cocoa producing areas attended school. The Ministry of Labor also continued the work of the Prime Minister’s Task Force on Child Labor and worked in conjunction with the World Chocolate Foundation to develop a list of benchmarks and deadlines to be achieved by 2008.

As part of a national action plan adopted in 2005 to eliminate child labor and trafficking, the Ministry of Civil Service, Employment, and Administrative Reform, in coordination with other ministries, developed a list of prohibited worst forms of child labor, which was published in the official registry in March 2005. During the year NGOs used this list in ongoing campaigns to sensitize farm families about the worst forms of child labor.

The Association of Domestic Worker Placement in Cote d’Ivoire worked to prevent the exploitation of children in domestic work. Other NGOs campaigned against child trafficking, child labor, and the sexual abuse of children.

*e. Acceptable Conditions of Work.*—Minimum wages varied according to occupation, with the lowest set at approximately \$73 (36,607 FCFA) per month for the industrial sector; this wage did not provide a decent standard of living for a worker and family. A slightly higher minimum wage rate applied for construction workers. The Government enforced the minimum wage rates only for salaried workers employed by the Government or registered with the social security office.

Labor federations attempted to fight for just treatment under the law for workers when companies failed to meet minimum salary requirements or discriminated among classes of workers, such as local and foreign workers. For example, the sanitary services company Ash International continued to pay wages as low as \$24 (12,000 FCFA) per month to female employees who swept the streets of Abidjan. According to their labor federation, labor inspectors continued to ignore this violation of the law.

The shipbuilding company Carena continued to discriminate between European engineers who were paid on average \$15,600 (eight million FCFA) a month and their African colleagues who received approximately \$1,500 (800,000 FCFA) a month. Government labor and employment authorities did not take action in these cases.

The standard legal workweek was 40 hours. The law requires overtime pay for additional hours and provides for at least one 24-hour rest period per week. The law did not prohibit compulsory overtime. The Government did not actively enforce the law during the year.

The law provides for occupational safety and health standards in the formal sector; however, in the large informal sector of the economy, the Government enforced occupational health and safety regulations erratically, if at all. Labor inspectors frequently accepted bribes. Workers in the formal sector had the right to remove themselves from dangerous work without jeopardy to continued employment by utilizing the Ministry of Labor’s inspection system to document dangerous working conditions. However, workers in both the formal and informal sectors could not absent themselves from such labor without risking the loss of their employment.

Several million foreign workers, mostly from neighboring countries, typically worked in the informal labor sector, where labor laws were not enforced.

## DJIBOUTI

Djibouti is a republic with a strong presidency and a weak legislature. It has an estimated population of 660,000. In April 2005 President Ismail Omar Guelleh, candidate of the ruling People’s Rally for Progress (RPP), won reelection unopposed amid an opposition boycott. International observers considered the election generally free and fair. The civilian authorities generally maintained control of the security forces.



The Government's human rights record remained poor, and it continued to commit serious abuses. Human rights problems included the abridgement of citizens' rights to change their government; abuse of prisoners and detainees; harsh prison conditions; official impunity; arbitrary arrest and detention; prolonged pretrial detention; interference with privacy rights and restrictions on freedoms of press, assembly, and association. Other abuses included the use of force to disperse demonstrators and strikers, violence and discrimination against women, female genital mutilation (FGM), discrimination on the basis of ethnicity, nationality, and clan background, and restrictions on unions and harassment of union leaders were also observed.

#### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and the law prohibit such practices; however, there continued to be reports that police and gendarmes beat and physically abused prisoners and detainees.

On September 12, police beat and arrested protesters demonstrating against power shortages (see Section 2.b.).

Members of police vice squads targeted prostitutes on the streets and reportedly raped them as a precondition for their release. During the year government officials acknowledged this problem but took no action.

*Prison and Detention Center Conditions.*—Prison conditions were harsh, and overcrowding was a serious problem. Conditions at Nagad detention center, where foreigners were held prior to deportation, were unsanitary, and detainees often were not fed for several days before their deportation. Medical care was inadequate, and several prisoners reportedly suffered from untreated illnesses or injuries received during arrest.

In principle juveniles were held separately from adult prisoners; however, this was not always the case. Children under the age of five sometimes were allowed to stay with their mothers. Pretrial detainees usually were not held separately from convicted prisoners due to the lack of facilities.

The Government granted prison access to the International Committee of the Red Cross (ICRC) for annual inspections.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government did not respect these prohibitions.

*Role of the Police and Security Apparatus.*—Security forces include the National Police Force (FNP) under the Ministry of Interior, the army and Gendarmerie Nationale under the Ministry of Defense, and an elite Republican Guard under the presidency. The FNP is responsible for internal security, border control, and prisons. The Gendarmerie Nationale is responsible for external security but also has some domestic security responsibilities. The Republican Guard is responsible for the protection of the President.

Police were generally effective; however, there were reports of corruption, particularly in the lower ranks where wages were low. Official impunity was a problem. There is no mechanism available to investigate police abuses.

On May 12, large-scale military operations were undertaken in the northern part of the country by the armed forces with police forces and gendarmerie. The Government claimed that these operations were meant to deal with bandits and criminals that have been terrorizing the northern populations. According to opposition parties and the Human Rights League, these operations were conducted against an armed splinter group of the Front for the Restoration of Unity and Democracy, a party that is now a member of the ruling coalition.

*Arrest and Detention.*—The law requires arrest warrants and stipulates that the Government may not detain a person beyond 48 hours without an examining magistrate's formal charge; however, the law was not always enforced in practice. Detainees may be held another 24 hours with the prior approval of the public prosecutor. All persons, including those accused of political or national security offenses, must be tried within eight months of arraignment. The law also provides for bail and expeditious trial; however, police occasionally disregarded these procedures. Detainees have the right to prompt access to an attorney of their choice; in criminal cases, the state provides attorneys for detainees without legal representation.

Security forces arbitrarily arrested and detained numerous persons, some of whom were beaten (see Section 1.c.). Security forces also arrested demonstrators and strikers during the year (see Sections 2.b. and 6.b.).

Lengthy pretrial detention was a problem; however, no statistics were available.

*Amnesty.*—On June 26, the Government released or reduced sentences of prisoners as part of the annual Independence Day amnesty. Prisoners serving one year or less were released; prisoners with longer terms received reductions in their sentences. The amnesty excluded drug dealers, those held for misuse of public funds, those who committed violence against their families, and rapists. In celebration of the Eid al-Adha holiday, another amnesty decree was signed on December 29 releasing 113 prisoners from jail.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, in practice the judiciary was not independent of the executive. Constitutional provisions for a fair trial were not universally respected. The judiciary was subject to inefficiency and corruption.

The judiciary, based on the French Napoleonic code, was composed of a lower court, an appeals court, and a Supreme Court. The Supreme Court may overrule lower court decisions. Magistrates are appointed for life terms. The constitutional council rules on the constitutionality of laws, including those related to the protection of human rights and civil liberties; however, its rulings did not always protect these rights.

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Islamic law (Shari'a), and nomadic traditions. Urban crime was dealt with in the regular courts in accordance with French-inspired law and judicial practice. Civil actions may be brought in regular or traditional courts. In 2004 the Government published and began implementing the 2002 Family Code, which replaces Shari'a in governing the majority of laws pertaining to family and personal matters, including marriage, divorce, child custody, and inheritance matters. Issues that fall under the Family Code are brought to civil court, and both parties can present their case to a judge; the court then tries to reach a reconciliation agreement between the two parties. If no solution can be found, the judge decides the case based on the appropriate statutes in the Family Code.

*Trial Procedures.*—Trials generally were public, except in politically sensitive cases when security measures effectively prevented public access. Legal counsel was supposed to be available to the indigent in criminal and civil matters, but defendants often did not have legal representation. The law states that the accused is innocent until proven guilty; however, defendants were not always presumed innocent. A presiding judge and two accompanying judges heard court cases. The latter received assistance from two lay assessors who were not members of the bench but who were considered to possess sufficient legal knowledge to comprehend court proceedings. The Government chose lay assessors from the public, but reports indicated that political and ethnic affiliations played a role in the selection. Defendants have the right to be present, confront witnesses, have access to government-held evidence, have a right of appeal, and enjoy a presumption of innocence.

Traditional law often applied in conflict resolution and victim compensation. For example, traditional law often stipulated that a price be paid to the victim's clan for crimes such as murder and rape.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—A civil court deals with all matters related to the Civil Code. The Administrative Chamber does exist, but does not function. Court decisions are not always enforced.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and the law prohibit such actions; however, the Government did not respect these prohibitions in practice. The law requires that authorities obtain a warrant before conducting searches on private property, but in practice the Government did not always obtain such warrants. The Government reportedly monitored and sometimes disrupted the communications of government opponents by cutting their telephone or electricity service. Police reportedly frequently followed persons who attended opposition rallies.

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

*a. Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and of the press; however, the Government restricted these rights in practice. The Government intimidated journalists into practicing self-censorship.

On May 30, the Government suspended Kaltoum Ali, a journalist for the Radio and Television of Djibouti and correspondent of BBC Somali, for broadcasting an antigovernment report on BBC Somali. Ali had interviewed the mother of an eight-year-old child suspected of avian influenza who denied her daughter's illness and accused the Ministry of Health of inventing the disease to obtain foreign aid. One case of avian influenza was confirmed in the country in 2006. After a three month suspension, Kaltoum Ali resumed work in September.

The law prohibits the dissemination of false information and regulates the publication of newspapers. The Government owned the principal newspaper, *La Nation*, which published three times a week. In addition each registered political party is permitted to publish a public journal. There were several opposition-run weekly and monthly publications that circulated freely and openly criticized the Government.

The Government also owned the radio and television stations. The official media generally did not criticize government leaders and government policy. Radio-Television Djibouti, the official government station, broadcast 24 hours a day in four languages on the radio. Foreign media also broadcast throughout the country.

The Government used several tactics to intimidate journalists, including surveillance and the removal from newsstands of publications that criticized the Government. In January 2005 officials cut off Radio France Internationale's FM broadcasts in the country because of its reporting of an on-going French legal inquiry into the 1995 death of Bernard Borrel, a French judge. The broadcasts remained off the air during the year.

*Internet Freedom.*—The Government did not monitor e-mail or Internet chat rooms. In January government authorities blocked the Web site of the Association for Respect of Human Rights in Djibouti (ARDHD), an association that is often critical of the Government. Access to ARDHD's website was blocked by the local Internet provider, although surfers with satellite connections were able to enter the site. The Government denied that it was blocking the site.

*Academic Freedom and Cultural Events.*—The Government generally did not restrict academic freedom, and teachers could speak and conduct research without restriction, provided that they did not violate sedition laws.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—Although the constitution and the law provide for freedom of assembly, the Government limited this right in practice. The Ministry of Interior requires permits for peaceful assembly and monitors opposition activities. Some opposition leaders effectively practiced self-censorship and refrained from organizing popular demonstrations to avoid provoking a government crackdown.

Police forcibly dispersed demonstrations during the year, resulting in several injuries.

On September 12, police beat and arrested demonstrators, mainly teenagers and women, who had burned tires and blocked roads to protest power shortages. Those arrested were detained for several weeks and released.

No action was taken against police officers responsible for the following 2005 cases of forcible dispersion of demonstrators: the April firing of tear gas into a crowd of demonstrators, resulting in several injuries and the November shooting of demonstrators, resulting in four deaths and numerous injuries.

In the case of an October 2005 incident in which shots were fired into a violent crowd of demonstrators killing one person, the director general of police was dismissed due to his refusal to acknowledge any responsibility by his men in the killing.

Unlike in the previous year, there were no reports that police forcibly dispersed violent labor demonstrations during the year.

*Freedom of Association.*—The law provides for freedom of association provided that certain legal requirements are met; however, the Government restricted this right in practice. The Government continued to harass and intimidate members of opposition groups (see Section 1.f.).

*c. Freedom of Religion.*—The constitution, while declaring Islam to be the state religion, provides for freedom of religion, and the Government generally respected this right in practice. The Government did not sanction those who ignored Islamic teachings or practiced other faiths. More than 99 percent of the population was Sunni Muslim.

The Government requires that religious groups register. Unlike in previous years, there were no reports that groups were denied the right to register.

There is no legal prohibition against proselytizing; however, it was discouraged.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and the law provide for these rights; however, the Government at times limited them in practice.

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution, however, there were unconfirmed reports during the year of refoulement specifically to Ethiopia and Eritrea.

The Government did not routinely grant refugee or asylum status, and the Government did not accept refugees for resettlement during the year. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in providing assistance to refugees and asylum seekers.

In June 2005 two of three Ethiopian Air Force personnel who flew an Ethiopian military helicopter into Djibouti reportedly requested asylum. The Government contacted Ethiopia and an Ethiopian military delegation came and reportedly convinced the three men to return to Ethiopia. Amnesty International and the UNHCR were not granted access to the men. Family members told the local press in 2005 that the pilots were being held incommunicado at an air force base in Ethiopia. At year's end, there were no updates on their case.

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

The constitution and the law provide citizens with the right to change their government; however, the Government limited this right in practice.

*Elections and Political Participation.*—In April 2005 President Guelleh of the RPP, which has ruled the country since independence, won reelection with 95 percent of the vote. Guelleh ran unopposed as the opposition boycotted the election, charging that the Government ignored its demands for electoral reform. International observers considered the election generally free and fair; however, there were irregularities, including double voting, the presence of campaigners in and around polling stations, and the absence of blank ballots for those who did not want to vote for President Guelleh. The opposition again boycotted local elections held on March 10.

There were seven women in the 65-seat legislature; these seats were reserved for women by Presidential decree. In July 2005 the Ministry of Foreign Affairs promoted Hawa Ahmed Yousseuf to delegate minister of international cooperation. Aicha Mohamed Robleh replaced Yousseuf as minister of state for the promotion of women, family, and social affairs. Khadija Abeba is President of the Supreme Court and the highest-ranking female official.

There were nine members of minorities—non-Issa Somali clans (Issaks, Gadaboursis, and Darood) and Arabs—in the 65-seat legislature. There were three members of minorities in the 20-seat cabinet. The President's subclan, the Issa Mamassans, wielded disproportionate power in affairs of state. Afars held a number of senior ministerial posts, but they were not well represented at lower levels. Somali clans other than the Issa, and citizens of Yemeni origin, were limited unofficially to one ministerial post each. There also were informal limits on the number of seats for each group to preserve balance in the parliament.

*Government Corruption and Transparency.*—The Government continued to take significant steps to combat corruption, which was a problem. In 2005 the Ministry of Finance arrested two officials suspected of corruption and suspended several others while their cases were under investigation. In December 2005 the two officials were released, but were still under judicial control and banned from traveling outside the country at year's end. The director of Gabode Prison was arrested in 2005 for alleged corruption.

There were no laws to provide public access to government information, and it was unclear whether persons would be granted such access if they asked. During the year the Chamber of Public Accounts and Fiscal Discipline, a public expenditures audit board established to fight corruption and promote transparency, released the results of its second annual report on government expenditures to the public.

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

A few domestic human rights groups generally operated without serious government restriction, conducting limited investigations and sometimes publishing their findings on human rights cases. Government officials generally disregarded their views. The local human rights group *Ligue Djiboutienne des Droits de l'Homme* operated without government interference during the year. The Union of Djiboutian Women and the Djiboutian Association for the Promotion of the Family promoted the rights of women and children.

The ICRC maintained a small office staffed with locally hired personnel. The ICRC regional representative, based in Nairobi, visited the country monthly.

There was a government ombudsman, who also served as a legislator in the parliament and whose specific responsibilities included mediation between the Government and NGOs. According to the 2004 ombudsman report (most recent available), less than half the cases submitted were successfully mediated.

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

The constitution and the law prohibit discrimination on the basis of language, race, or sex; however, discrimination against women and ethnic minorities persisted. The Government's enforcement of laws to protect women and children was ineffective.

*Women.*—Domestic violence against women existed, but few cases were reported. The law prohibits "torture and barbaric acts against a spouse," which are punishable by 20 years' imprisonment. Violence against women generally was addressed within the family or clan structure rather than in the courts. Police rarely intervened in domestic violence incidents, and the media reported only the most extreme examples, such as murder. The law includes sentences of up to 20 years' imprisonment for rapists. The number of such cases prosecuted during the year was unknown. There is no law against spousal rape.

An estimated 98 percent of females in the country have undergone FGM, which traditionally was performed on girls between the ages of seven and 10. During 2005 the Government launched a campaign against FGM, which culminated with the country's ratification of the Maputo Protocol outlawing FGM. The efforts of the Union of Djiboutian Women and other groups to educate women against the practice were having some effect in the capital city; however, infibulation, the most extreme form of FGM, continued to be widely practiced in rural areas. The law states that "violence causing genital mutilation" is punishable by five years' imprisonment and a fine of \$5,650 (one million DF); the Government had not yet convicted anyone under this statute.

Prostitution is illegal, but it was a significant problem. In general there were two categories of prostitutes: those with apartments and those on the streets. The first group was largely tolerated and catered to the foreign (particularly military) community, while police sometimes targeted and raped those on the streets. Refugees and girls from poor families were at greater risk of becoming street prostitutes.

The law does not prohibit sexual harassment, and it was a problem.

Women legally possess full civil rights; however, custom and traditional societal discrimination in education resulted in a secondary role for women in public life and fewer employment opportunities. Women largely were confined to trade and secretarial fields. In 2004 the Government began implementing the 2002 Family Code, which replaces Shari'a in governing the majority of laws pertaining to family and personal matters (see Section 1.e.). Male children inherited larger percentages of estates than did female children. The few women who were educated increasingly turned to the regular courts to defend their interests.

*Children.*—The Government devoted almost no public funds to the advancement of children's rights and welfare. A few charitable organizations worked with children.

Primary education was compulsory; however, the Government did not monitor compliance. The highest level of education reached by most students was completion of primary school. The Government provided tuition-free public education, but extra expenses, such as transportation, book fees, and chalk, could be prohibitive to poorer families. School facilities continued to be inadequate. Teacher salaries continued to be in arrears, and a large percentage of highly qualified teachers have left the profession (see Section 6.e.). Approximately 20 percent of children who started secondary school completed their education.

The educational system did not discriminate against girls, but societal attitudes resulted in differences in the attendance and treatment of girls in school. Girls' enrollments were rising. According to the Ministry of Education, 52 percent of girls

were enrolled in primary school during the year, compared with 61 percent of boys; during the previous year primary school enrollment rates were 43 percent for girls and 59 percent for boys. In rural areas limited access to schools, a shortage of educational materials, and cultural attitudes led to significantly lower enrollment and greater disparities in enrollment between boys and girls. Boys and girls had equal access to state medical care, however medical care in rural areas was poor.

Child abuse existed; however, the Government has not used existing provisions of the law to deal seriously with child abuse, and punishments generally were light. For example, perpetrators of rape or abuse generally were fined only an amount sufficient to cover the child's medical care.

FGM was performed on as many as 98 percent of young girls (see Section 5, Women).

Child marriage occurred in rural areas and among some tribal groups; however, it was not considered a significant problem. The Government worked together with several NGOs to increase school enrollment for girls, in part to reduce the likelihood that parents would force their young girls into marriage. The Ministry for the Promotion of Women, Family Well-Being/Welfare, and Social Affairs also worked actively with women's groups throughout the country to protect the rights of girls, including the right to decide when and whom to marry.

Child prostitution occurred on the streets and in brothels. Individuals acting as pimps or protectors frequently set up transactions; older children reportedly forced younger children to engage in prostitution and then collected the earnings.

Child labor existed (see Section 6.d.).

*Trafficking in Persons.*—The law does not prohibit trafficking in persons in general, but does prohibit trafficking for the purpose of prostitution. The Penal Code states that increased penalties apply in cases of trafficking “with respect to a person who is enticed to engage in prostitution either outside the territory of the Republic of Djibouti upon the person's arrival within the territory of the Republic.” Despite that prohibition, there were credible reports of child prostitution during the year and some of those involved reportedly came from neighboring countries including Ethiopia. Although there were no known other reports of persons being trafficked to, from, or within the country, there was continued speculation that the country was a destination and transit country for small numbers of individuals trafficked from Ethiopia and Somalia to the Middle East.

In February 2005 the Government ratified the UN Convention Against Corruption and the UN Convention Against Transnational Organized Crime, including antitrafficking protocols.

*Persons With Disabilities.*—Although persons with disabilities have access to education and public health facilities, there is no specific law that addresses the needs of persons with disabilities, and there are no laws or regulations that prevent job discrimination against persons with disabilities. There was societal discrimination against persons with disabilities. The Government did not mandate accessibility to buildings or government services for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Government continued to discriminate against citizens on the basis of ethnicity in employment and job advancement. Somali Issas were the majority ethnic group and controlled the ruling party, civil and security services, and military forces. Discrimination based on ethnicity and clan affiliation limited the role of members of minority groups and clans in government and politics.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law and the constitution provide for the right to join unions; however, the Government restricted these rights. Under the Labor Code, a union must have government sanction to exist. The Government continued to suppress independent, representative unions by firing their leaders, preventing them from holding congresses, and creating government sponsored shadow unions to replace them.

During the year the Government arbitrarily arrested union leaders. On March 8, Aden Mohamed Abdou and Hassan cher Hared, respectively President and vice-President of the Djiboutian workers' Union, were arrested for facilitating the departure for Israel of two of their colleagues. On February 20, Mohamed Ahmed Mohamed and Djibril Ismail Egueh were charged with sharing classified information with a foreign government during their January 23-Feb 16 visit to Israel. They participated in a conference sponsored by Mashav (the Center for International Cooperation of the Israeli Ministry of Foreign Affairs). After their return they were sentenced to one-month's imprisonment and released on April 4. The Government confiscated their passports and required that they report to the police every Mon-

day. That same month the Government also refused to allow entry to three International Labor Organization representatives who tried to visit the country to investigate the incident.

The law prohibits antiunion discrimination, and employers found guilty of discrimination were required to reinstate workers fired for union activities; however, the Government neither enforced nor complied with the law.

*b. The Right To Organize and Bargain Collectively.*—Although the law allows unions to conduct their activities without interference, the Government did not protect this right in practice. Collective bargaining did not occur.

Relations between employers and workers were informal and paternalistic. The Government could and did select labor representatives. Employers generally established wage rates based on labor ministry guidelines. In disputes over wages or health and safety problems, the Ministry of Labor encouraged direct resolution by labor representatives and employers. Workers or employers may request formal administrative hearings before the ministry's inspection service. Critics claimed that inspection and dispute settlement suffered from poor enforcement due to their low priority and inadequate funding.

The law provides for the right to strike and requires representatives of employees who plan to strike to notify the Ministry of Interior 48 hours in advance; workers exercised this right in practice. However, several union members were jailed and fired following a strike at the port of Djibouti in September 2005.

The law confers upon the President broad powers to requisition public servants who are considered indispensable to the operation of essential public services.

A special labor law, which is reportedly more flexible, applies in the export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits all labor by children under the age of 16, but the Government did not always enforce this prohibition effectively, and child labor, although not common, existed. Children generally were not employed in hazardous work but worked in family-owned businesses, such as restaurants and small shops, at all hours of the day and night. Children were also involved in a variety of informal activities, such as shining shoes, washing and guarding cars, and selling items. Children also work as domestic servants, and work in agriculture and with livestock. A shortage of labor inspectors reduced the likelihood that reports of child labor would be investigated.

*e. Acceptable Conditions of Work.*—Only a small minority of the population was engaged in wage employment. The Labor Code, ratified by the National Assembly in January, canceled the minimum wage rates for occupational categories and provides that wages be set after common agreement between employers and employees. The former national minimum wage did not provide a decent standard of living for a worker and family and it was unlikely that such common agreements would provide a minimum standard of living. The Government still owed three months of salary arrears from 1995 and 1997 to teachers, security forces, and civil servants. Teachers were also not paid their salaries in June and July. However, in August the Government paid both months' salaries in full.

By law the workweek has been augmented to 48 hours, normally spread over six days. The law mandates a weekly rest period of 24 consecutive hours and the provision of overtime pay. The Ministry of Labor is responsible for enforcing occupational health and safety standards, wages, and work hours. Because enforcement was ineffective, workers sometimes faced hazardous working conditions. Workers rarely protested, mainly due to fear that others willing to accept the risks would replace them. There were no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardizing their continued employment.

Foreign workers in the country illegally were not protected under the law.

## EQUATORIAL GUINEA

Equatorial Guinea is nominally a multiparty constitutional republic, with a population estimated at between 540,000 and over one million. All branches of government are dominated by President Teodoro Obiang Nguema Mbasogo and his inner circle, mostly of the Fang ethnic group. The international community judged the most recent elections, in 2002 (Presidential) and 2004 (parliamentary), to be seriously flawed. While civilian authorities generally maintained effective control of se-

curity forces, there were instances in which elements of the security forces acted independently of government authority. The Government's human rights record remained poor, and the Government continued to commit and condone serious abuses.

The following human rights problems were reported: abridgement of citizens' right to change their government; torture, beating, and other physical abuse of prisoners and detainees by security forces; harsh and life-threatening prison conditions; impunity; arbitrary arrest, detention, and incommunicado detention; harassment and deportation of foreign residents; judicial corruption and lack of due process; restrictions on the right to privacy; severe restrictions on freedom of speech and of the press; restrictions on the right of assembly, association, and movement; government corruption; violence and discrimination against women; trafficking in persons; discrimination against ethnic minorities; restrictions on labor rights and child labor; and forced child labor.

Improvements were noted in some areas. A law criminalizing torture was passed, and reports of abuses decreased compared to previous years. In addition the first groups of mid-level police officers were trained on professional subjects, including human rights.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There was some evidence that the Government or its agents may have committed arbitrary or unlawful killings.

On February 4, unknown assailants near Abidjan, Cote d'Ivoire abducted and killed Laesa Atanasio Bita Rope, leader of the Movement for the Self-determination of Bioko Island (MAIB). MAIB members claimed that Ivoirian government security agents collaborated with officials in Equatorial Guinea to kill Bita Rope. Ivoirian authorities denied involvement, and no arrests were made.

An inmate in the Cogo jail, Jose Meviane Ngua, died on August 18, and officials reported the death as a suicide by hanging. Undocumented reports appearing on foreign Web sites stated that his body showed hematomas (bruised swellings), either from the hanging or possibly caused by strangling and blows to the back. A police team reportedly investigated, but results were not made public, and there were no reported actions taken against the gendarmes on duty.

During April and May authorities found at least six mutilated bodies in the Malabo area; the killings were attributed to a group called the Plateados. The bodies showed signs of having been victims of ritual practices. On May 25, security forces arrested approximately 20 persons, including some members of the security forces, reportedly among them Jose Ela Ebang, brother of a former ambassador to Spain. In November the prosecution of those arrested began in a military tribunal, but by year's end the Government had not announced any verdicts.

The opposition in exile continued to accuse the Government of attempted assassinations. Spanish prosecutors of individuals accused of the attempted killing in Madrid in June 2005 of Manuel Moto Tomo, brother of exiled Republican Democratic Forces (FDR) party activist German Pedro Tomo Mangué, stated that the motivation was commercial, not political, but some FDR activists believed that Mangué was the intended target.

A soldier convicted of negligent homicide in the death of a Spanish worker at a checkpoint in 2003 (allegedly by mistake, but perhaps because of family influence) was among those pardoned by President Obiang in June.

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

There were no developments in the early 2005 disappearances of Juan Ondo Abaga, Florencio Ela Bibang, Antimo Edu Nchama, and Felipe Esono Ntutumu. They reportedly had been forcibly repatriated from Benin and Nigeria and incarcerated in Black Beach prison without charge, severely tortured, and not allowed a lawyer, outside communication, or family notification. There was no government confirmation of their presence, and when the International Committee of the Red Cross (ICRC) and the National Human Rights Commission (CNDH) visited Black Beach prison, these inmates reportedly were moved to other locations so the representatives could not see or talk to them.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—On November 2, a law criminalizing torture and other cruel, inhuman, or degrading acts went into effect, in compliance with the Government's obligations as a party to the UN Convention Against Torture. The law was publicized, and "sensitization" sessions began in November for security forces.



However, during the year torture and cruel treatment continued in the country's jails and prisons. Beatings and threats with loaded weapons were most frequently reported. In addition to the incident in Cogo (see Section 1.a.), there were numerous reports that security forces beat opposition party activists, often on the orders of local officials, who apparently had support at higher levels and acted with impunity.

On October 5 in Bata, police arrested Florencio Ondo, Jose Antonio Mguema, Filemon Ondo, and Bacilio Meye, who were associated with the banned Popular Party (PP). Foreign governments and the nongovernmental organization (NGO) Amnesty International (AI) appealed to the Government on their behalf. The four were released more than a month later after beatings, deprivation of food and water for several days, and threats to their lives if they would not confess to illegal association and possession of documents "harmful to the state" (e-mails, brochures, and pictures of PP leader Severo Moto). They did not confess and the charges were conditionally dropped. Possessions taken by police were not returned.

Foreigners, especially West Africans, continued to experience harassment, intimidation, and arbitrary arrest. Due to government corruption and concern over potential mercenaries, securing residence and work permits was difficult, time consuming, and very expensive. Police periodically raided immigrant ghettos and used excessive force, including beatings. They also looted property, set up roadblocks to check documents, and visited homes to inspect identity cards and residence documents. Some claimed these were extortion attempts.

No persons responsible for widely occurring torture in prior years or during the reporting period were charged with a crime. In September 2005 AI reported that torture was widespread in places of detention. In 2004 senior government officials told foreign diplomats that human rights did not apply to criminals and claimed that torture of known criminals was not a human rights abuse. Current officials state that whoever said this was not representing government policy.

The South African prisoners convicted of a 2004 coup attempt were still forced to wear ankle shackles 24 hours a day, restricting even simple movements such as proper bathing. They reportedly were not allowed to appeal their convictions or to read letters from their families. As part of the President's June birthday pardons, one South African was released to his country's authorities for critical medical treatment after local authorities had refused for months to acknowledge the seriousness of his condition.

In May 2005 police attacked 15 members of the opposition party Convergence for Social Democracy (CPDS) at the Malabo airport, causing substantial injury to several, and forcibly disrobed some girls in public. At least 10 persons were detained, including one who suffered serious injuries and was given no medical treatment; they were released a week later.

In September 2005 authorities reportedly tortured approximately 70 persons charged with offenses related to an alleged coup attempt in October 2004, before and during their secret military trial. The group consisted of former military officers and relatives of the alleged leader of the attempted coup, Lieutenant Colonel Cipriano Nguema Mba. All but two reportedly stated they had been tortured and some bore visible marks of abuse. AI reported that authorities extracted statements using torture during incommunicado detention and used them as evidence (see Section 1.d.). The alleged coup plotters remained incarcerated at year's end.

No action was taken against those responsible for the following 2004 cases: the torture of five persons arrested on Corisco Island; the shooting of PP leader Marcelino Manuel Nguema Esono; the torture of Weja Chicampo; and the torture of Lieutenant Colonel Maximiliano Owono Nguema. Marcelino Esono was released in the June amnesty. Maximiliano Nguema (aka Maximo Ovono Nguema) remained incarcerated at year's end.

*Prison and Detention Center Conditions.*—The conditions of many jails and prisons in the country remained harsh and life threatening; inmates frequently were not provided with sufficient food, potable water, or sufficient clean living space. During the year, however, inmates at Black Beach prison occupied new facilities that reportedly met acceptable international standards. A new prison in Bata was under construction. Training for guards remained deficient.

There were credible reports that jail and prison authorities tortured prisoners (see Section 1.c.).

Medical attention was often denied or unavailable to prisoners with gangrene, broken bones, infections, and potentially fatal but curable illnesses. Some prisoners received medical treatment, but this was irregular and undependable. Prisoners needing medication almost never received it, unless family members had connections, or there was international attention regarding a case. Rehabilitation was nonexistent. In December diplomats inquired about the health of prisoner Donato Ondo

Ondo, who was reported by citizens in exile and AI to be very ill; the Government provided no response.

In April 2005 AI charged that Black Beach prison officials had stopped providing at least 70 prisoners with meals and blocked all contact with their families, lawyers, and consular officials, and that the prisoners were in danger of death from starvation and torture. AI also reported that all prisoners were kept in their cells 24 hours a day. Prisoners frequently were not allowed to communicate with lawyers or relatives. However, foreign diplomats who visited the facility in the second half of 2005 found improvements regarding contact with outsiders, permission for prisoners to be outside most of the day, reduced reports of torture, and provision of minimal food. Nevertheless, families were still the main source of food for inmates.

Male and female prisoners were not held in separate facilities. Unlike in previous years, there were no reports of prison authorities and male prisoners sexually assaulting female prisoners, nor were there credible reports that police gang-raped female prisoners in Malabo.

Juveniles were not held separately from adult prisoners. According to available information, juveniles generally were not sent to prisons during the year, an acknowledgment that they could not be adequately protected. Rather, they were held in local jails, watched, and sent home with warnings.

Unlike in previous years, no reports were received that prisoners habitually were used as workers on construction projects for some officials, without pay or other compensation, nor that judges used prisoners as domestic workers.

Prisons were under military management, although the Ministry of Justice, Religion, and Penal Institutions was legally responsible for them. Military personnel who worked in prisons had no special training.

The Government permitted limited independent monitoring of prison conditions. There were three prisons and approximately 12 jails and holding cells in smaller localities. The ICRC was permitted to make periodic visits to all jails and prisons, and it met privately with prisoners. ICRC visits during the year were conducted according to standard ICRC procedures. However, it was reported in messages from former prisoners and relatives of prisoners that several political prisoners did not show up on prison rosters, that they had been detained without hearings, and that the ICRC representatives were prevented from seeing them (see Section 1.b.). These prisoners included Florencio Ela Bibang, Antimo Edu Nchama, Felipe Esono Ntutumu, and Juan Ondo Abaha, among others. The Government also refused diplomatic mission requests to resume prison visits.

The UN Development Program (UNDP) and the National Commission on Human Rights (CNDH) reported after short visits during the year that they found significant improvements in jails and prisons, particularly at the infamous Black Beach prison that occupied a new building. The NCHR, however, is government-controlled, not independent, and does not investigate or report human rights violations.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but the Government did not enforce these prohibitions. There were nominal procedural safeguards for the protection of citizens' rights, including provisions concerning detention and the requirement for search warrants; however, security forces systematically ignored these safeguards and continued to arrest and detain persons arbitrarily and with impunity. Security forces often detained individuals "on orders from superiors" without any further formality. Many times charges were filed only after intervention by the international community, and political activists frequently continued to be held in preventive detention, which meant their cases were indefinitely under investigation. Government figures and some of their business partners involved in arranging illicit detentions enjoyed total impunity for such actions.

*Role of the Police and Security Apparatus.*—The police were responsible for security in the cities, and the gendarmes responsible outside the cities and for special events. Both reported to the civilian minister of national security. Division of authority between the two-year-old Ministry of National Security and the Ministry of National Defense was still being clarified. Previously, both internal and external security were military responsibilities.

Impunity for police officers and gendarmes was a serious problem. There were no known mechanisms to investigate allegations of abuse. The police were misused by other ministries and local officials to harass and threaten persons and to confiscate property.

Corruption was endemic within the security forces. Officers who extorted money from citizens were not punished.

Unlike in previous years, there were no reports that citizens who were not police officers were allowed to arrest persons suspected of being illegal residents, increasing the frequency of arbitrary arrests.

The Government recognized the need for professional improvement of the police and began funding corrective training. A contracted private foreign group trained the first cohort of mid-level police officers on professional subjects including human rights of citizens, particularly of those arrested.

*Arrest and Detention.*—Many persons were taken into custody on the verbal orders of officials. Arrest warrants are not required. Within 72 hours, excluding weekends and holidays, a detainee has the right to a judicial determination of the legality of the detention; however, in practice the length of such detentions was usually much longer, even years. Although a bail system and public defenders were available upon request, this was not known by the general public, and these systems did not operate in practice. The percentage of those incarcerated who were pretrial detainees was estimated to be at least 80 percent. When cases of arbitrarily lengthy pretrial detention were brought to the attention of high-level authorities, some action generally was taken. Trial delays were also caused by inefficient judicial procedures, corruption, lack of monitoring, and staffing constraints.

Defense lawyers did not receive a full list of indictments against their clients. Detainees were not promptly informed of charges against them. Legal access depended on the nature of the crime and bribes. Some limited visitation by family members was permitted at all jails and prisons.

Unlike in previous years, police did not routinely hold detainees incommunicado, although this sometimes occurred, especially with political prisoners (see Section 1.c.). Reliable files were not kept on those imprisoned.

In 2005 the Government provided responses on the status of 39 persons previously detained for “crimes against the state.” Several had been detained for months or years without being brought to trial. Seventeen were brought before a judge in December 2005 for brief hearings and remanded to prison for unspecified “crimes against the state,” rebellion, or terrorism, and ordered to be held in “preventive detention” until trial. In at least three other cases, a previous judgment of completion of sentence was overruled by the Government’s fiscal (attorney general) for unexplained reasons. For 20 persons, the Government said that it had no information, although many sources have reported their continuing detention.

The Government used arrest, beatings, and various forms of harassment to intimidate opposition party officials and members.

Arbitrary arrest was a serious problem. Local authorities singled out foreigners for arbitrary arrest, harassment, and deportation (see Section 1.c.). Security forces detained relatives of prisoners and criminal suspects in an attempt to force the prisoners or suspects to cooperate (see Section 1.f.).

AI and other observers reported that the secret September 2005 trial of approximately 70 military officers, former military officers, and relatives of the alleged leader of the October 2004 attempted coup did not conform to international legal standards for fair trials. A military court sentenced 22 men and a woman to lengthy prison terms. At least six persons were tried without being present, in contravention of national law. In all cases defense lawyers did not have access to government-held evidence and only had their clients’ statements. The court denied defense attorneys’ requests to cross-examine accusers. Those convicted had no right of appeal. The court ignored allegations and evidence of torture in the course of the trial and did not conduct an investigation (see Section 1.c.).

Nine persons, including those tried without being present, were sentenced to 30 years in prison on charges of undermining the security of the state and attempting to overthrow the Government. The court convicted 11 others, including Florencia Nchama Mba, of the same offenses as accessories and sentenced them to 21 years’ imprisonment. The court convicted Francisco Mba Mendama (who was also convicted of undermining the security of the state and received a 30-year prison sentence) and two others of treason; they received 25-year sentences. One person received a 12-year prison sentence. Statements obtained under torture during incommunicado detention were used as evidence.

*Amnesty.*—On his birthday in June, President Obiang issued a conditional pardon to youth, women, and approximately 40 others. Many—at least 12, possibly as many as 32—had been detained, but not prosecuted, for “crimes against the state”; they were generally prisoners of conscience. Weja Chicampo, a former leader of the MAIB, was one of the high-profile cases. Chicampo was released but was immediately forced to fly to Madrid in exile, without being allowed to notify his family.

Immediately prior to the President’s official visit to Spain in November, the four former members of the banned PP party detained in October were conditionally released in Bata (see Section 1.c.).

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the Government did not respect this provision in prac-

tice. All branches of government are dominated by the executive. Judges served at the pleasure of the President, and they were appointed, transferred, and dismissed for political as well as competency reasons. Judicial corruption was widespread.

During the year the Government codified laws for the first time and taught them as part of an ongoing judicial reform effort.

The court system is composed of lower provincial courts, two appeals courts, a military tribunal, and the Supreme Court. The President appoints members of the Supreme Court, who reportedly took instructions from him. One general, not a lawyer, served on the Supreme Court to advise on military-related cases. The Supreme Council of the Judicial Power appoints and controls judges. President Obiang is President of that entity, and the President of the Supreme Court is its vice President. In late 2004 the President of the Supreme Court began a mandatory training system and program to replace incompetent judges. Of approximately 60 judges, only an estimated 12 were lawyers.

*Trial Procedures.*—Many trials for ordinary crimes are public, but juries are not used. Law is based on the colonial Spanish system. Defendants have the right to be present at their trials but rarely were able to consult promptly with attorneys. If an accused cannot afford his own lawyer, he is entitled to ask for one from the Government; unfortunately, defendants are not routinely advised of this right. Defendants can confront and question witnesses, and they can present their own witnesses and evidence, although in practice this was rarely done. There is limited access to evidence. By law the accused has the presumption of innocence and the right to appeal; however, legal appeals are rarely allowed in practice. By law the above-listed rights are extended to all groups. Experience at defense is limited, and it was reported that defense lawyers do not necessarily represent the wishes of the person being defended.

The code of military justice states that people who disobey a military authority, or allegedly commit an offense considered to be a “crime against the state,” should be judged by a military tribunal, with no due process or procedural guarantees, regardless of whether the accused is civilian or military. Some military cases were essentially political in nature. A defendant may be tried without being present, and the defense does not have a guaranteed right to cross-examine an accuser. Such proceedings are not public.

Tribal elders adjudicated civil claims and minor criminal matters in traditional courts in the countryside.

*Political Prisoners and Detainees.*—Approximately 60 identified “prisoners of conscience,” or political prisoners, remained detained at year’s end, many without having been tried; others had been convicted of “crimes against the state” without adequate representation or right to appeal (see Section 1.c.). These prisoners were all members of opposition parties or persons the Government accused of involvement in coup attempts. During 2005 the ICRC and some foreign diplomats were permitted to visit them, but individual visits during the year were restricted to the ICRC.

Prominent members of the “illegal” opposition Republican Democratic Forces (FDR), the PP, and the NPU remained detained at Black Beach prison for their political activities. FDR leader Felipe Ondo Obiang, arrested in March 2002 in connection with an alleged coup plot, was reportedly tortured and remained in Evinayong Prison at year’s end. He was chained to the wall by his leg and held in solitary confinement for several months. Six of the 30 other prisoners arrested with Ondo Obiang were reportedly released with others in the June amnesty. FDR leader Guillermo Nguema Ela remained in prison, despite having been granted partial amnesty. The Government restricted access to political detainees to the ICRC, spouses, and occasionally lawyers.

In 2004 police arrested Air Force Captain Felipe Obama. There were no reports that charges had been filed against him or that he had been released.

According to the CPDS, in connection with the November 2004 arrest of 50 military officers, in January 2005 the Government arrested 100 additional persons. It appeared that these were the same individuals tried in a secret military court in September 2005. All received long sentences and had no access to a defense attorney.

*Civil Judicial Procedures and Remedies.*—Matters can be settled out of court, but there is no known official arbitration or mediation. Civil cases rarely came to trial, reportedly because of lack of faith that judgment would be fair and transparent.

*Property Restitution.*—The law provides for restitution or compensation for the taking of private property, but in practice people forced from their homes or land seldom received adequate compensation, if any. The civil code Law of State Patrimony, Law of the Soil, states that all land ultimately belongs to the state, thus, the Government could take possession when it determined it was “in the state’s in-

terest.” Individuals may hold property title to pieces of land, but the state in the last instance is owner.

During the year the Government leveled many residential areas, ostensibly in the interest of urban renewal; however, government officials reportedly had personal financial interests in the redevelopment. According to AI, officials often stated the seized land was for public utility development, but the land was not used for that purpose; instead, the land was usurped by the President, his family, and other members of the Government to build luxury homes, supermarkets, or other businesses for themselves.

New social housing projects were underway, but they did not benefit the poor. High government officials and their relatives reportedly bought new social housing that was completed in “Bata 2” (a suburb of Bata).

According to AI, typically the Government allowed no consultation with the communities affected, provided little or no prior notice, and allowed no right to contest the evictions. Hundreds of homes and businesses were destroyed; many were solid structures in well-established neighborhoods, and residents had no other place to go and no money to relocate. For example, more than 600 persons were made homeless in Malabo’s Atepa district on July 22 when the Government destroyed their homes without warning. The next day homes were similarly demolished in Malabo’s Camaremy district. In both cases soldiers shoved, slapped, and intimidated residents who protested.

The Government sometimes offered partial payment to those who proved title and expenses of purchase or construction. In many cases written title was nonexistent, although land had been in the hands of a family for generations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, but the Government did not respect these prohibitions in practice. Security forces violated homes and arrested suspected dissidents, criminals, foreign nationals, and others, often without judicial orders, and confiscated their property with impunity. When prisoners were released, their property was not returned. Family members were intimidated, sometimes detained, or evicted. After their release, arrested persons had no recourse for recovery of property and were often blacklisted for employment, reportedly under orders from members of the President’s family.

Informers reportedly monitored opposition members, NGOs, journalists, and foreign diplomats. Most residents and journalists believed that the Government monitored telephone calls and Internet use (see Section 2.a.).

Security forces detained relatives of prisoners and criminal suspects to force the prisoners or suspects to cooperate (see Section 1.c.).

The Government pressured its employees to join the ruling Democratic Party of Equatorial Guinea (PDGE). Reportedly they were forced to allow automatic deductions from their paychecks with proceeds going to the party whether or not they were members. Opposition party members were discriminated against in hiring, job retention, scholarships, and obtaining business licenses. A business found to have hired someone on a political blacklist had to dismiss the person or face the threat of closure (see Section 3).

Authorities harassed, arrested, deported, and robbed foreign nationals, particularly west Africans (see Section 1.c.).

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and press; however, the Government severely restricted these rights. During the year the Government monitored journalists; the media remained firmly under government control; and journalists practiced self censorship.

Criticism of the President, his family, or the security forces was considered “attacks against the nation.” Recently some officials began to discuss societal problems in the media—public corruption, trafficked children, rioting by students, excessive drinking, absent teachers, government revenues, and demands for transparency in public administration; however, only government-approved messages on these themes were broadcast. Citizens believed that if they called in to the rare talk-show and criticized the Government, security forces would find them and demand bribes or detain them for “crimes against the state.”

Even so, citizens reported that, compared to past decades, there was more freedom to talk openly about the society’s problems.

The law authorizes government censorship of all publications.

Seven periodicals with varying degrees of government involvement were published irregularly (Ebano, Bantu Africa, El Correo, La Opinion, Realite, Horizontes, Ecos de Mongomo), and also one monthly, La Gaceta. All practiced self-censorship. International newspapers or news magazines could not be sold or distributed without

government permission. Political party publications could not be distributed to the general public. News kiosks did not exist, and the only bookstores were affiliated with religious congregations. Starting a new publication was governed by a very complicated and ambiguous law.

Local journalists often suspected each other of being government informants. The press association (ASOPGE) and a diplomatic mission planned to bring an international journalist to conduct a workshop in July; however, government officials denied permission because the Government had not been directly involved in the planning. The program was finally permitted, and the Government sent a representative.

International media did not try to operate in the country; only one international news agency had a regular stringer present. Unlike in the past, there were no known cases of foreign journalists deported or directly harassed during the year, although some were followed and intimidated.

The Government generally withheld access to domestic broadcast facilities from opposition parties and rarely referred to the opposition in anything but negative terms when broadcasting the news.

On radio and television there was no analysis of issues and no expression of differing views. Previously available live coverage of parliament was censored before broadcast during the spring session, and the fall session only had rare, selective recorded coverage. The President's eldest son owned the only private broadcast media.

International electronic media was available and included Radio France International, which broadcast from Malabo, and Radio Exterior, the international short-wave service from Spain.

Satellite broadcasts increasingly were available. Foreign channels that reported news were broadcast and were not censored.

Although satellite or cable programming was too expensive for the average citizen to subscribe, cable television expanded greatly. Television Asonga, operated by the President's son, was broadcast only in Bata. Foreign cable television was available and provided news in French, Spanish, and English. Spanish TVE, an official Spanish government broadcaster, had a large audience in the country. After it broadcast a clandestinely filmed documentary, *El Mundo a Cada Rato*, showing a baby dying in its mother's arms in a Malabo public hospital, the Prime Minister reportedly visited the hospital, criticized unprofessional attitudes, and forced some changes in hospital procedure.

*Internet Freedom.*—There were no government restrictions on access to the Internet or verifiable reports that the Government monitored e-mails or Internet chat rooms. Residents, however, believed that the Government monitored Internet use, including e-mails, which were channeled through the parastatal telephone company or a wireless connector (see Section 1.f.). E-mail users therefore generally practiced self-censorship. Most overt criticism of the Government came from the country's community in exile, and the Internet had replaced broadcast media as the primary way opposition views were expressed and disseminated. Exiled citizens' sites were not blocked. Internet use grew, but cost was prohibitive for most citizens. Some remote areas including smaller islands were still lacking in telephone service, further limiting Internet use.

*Academic Freedom and Cultural Events.*—There were no official restrictions on academic freedom or cultural events; however, in past years some qualified professionals were moved out of teaching positions because of their political affiliation or critical statements reported to government officials by persons in their classes. Therefore, most professors practiced self-censorship in order to avoid problems. Very infrequent cultural events took place, and all required approval from the Ministry of Information, Culture, and Tourism.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for the right of assembly; however, the Government restricted this right. Government authorization must be obtained for private home meetings of more than 10 persons. Although the Government formally abolished permit requirements for political party meetings within party buildings, in practice opposition parties were expected to inform authorities if they wished to hold gatherings of any kind, regardless of location. Security agents generally monitored gatherings in public places. The Government required notification for public events such as meetings or marches.

On October 12, security forces arrested three district leaders of the Convergence Party for Social Democracy (CPDS), a legal party, who were preparing to hold a meeting in their headquarters in Acurenam. They were released a few hours later, but prohibited from celebrating National Day inside CPDS offices.

Other incidents of detention and beatings occurred during the year, when party activists tried to meet or travel to other districts, although government officials were notified ahead of time. Examples included arrests of a dozen CPDS activists in Rebola on April 8 when they tried to convene an approved party meeting. Executive Committee members Carlos Ona Boriesa and Carmelo Iridi were given 50 blows during their detention. The two were transferred to the Baney military camp when the other CPDS members were released several hours later. The two were released later that evening and taken back to Rebola. Reportedly a higher authority intervened. On April 9, police disrupted a CPDS meeting in Ebebiyin, after government delegate Florentino Edu Enama revoked permission for the meeting and expelled party officials from the city.

When such incidents were brought to the attention of the President by foreign diplomats or CPDS activists, he professed to know nothing about them and claimed he would order such incidents of repression to cease. Opposition figures state, however, that such incidents would not occur without the President endorsing them.

The CPDS was allowed to hold its annual civic education program for party youth during the year without major harassment, and the Popular Action of Equatorial Guinea (APGE) party held its convention without problems.

In June the Olaf Palme Foundation tried to hold a conference on peace and democracy in partnership with the opposition CPDS party. The Government refused permission and denied visas, reportedly because it was not involved in planning and in charge of content. Months later a foreign government invited the Government to be a partner in a rescheduled seminar. The original agenda included participation of the opposition, in addition to high-level government officials, as panelists. The Government reportedly insisted that no CPDS members could make presentations. The organizers succumbed to government pressure, and the conference finally took place in December.

*Freedom of Association.*—The constitution and law provide for freedom of association, but the Government restricted this in practice. The law establishes what types of NGOs can register, and human rights associations were added in January 2005 to the list; however, no human rights associations tried to organize and register. The law prohibits the formation of political parties along ethnic lines and prohibits coalitions between political parties; however, six opposition groups continued to be part of a coalition, which during the year allied itself with the ruling party. Opposition party members complained that their meetings were disrupted or monitored.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right; however, religious leaders avoided criticizing the Government in their sermons, and government officials sometimes monitored services.

The law gives official preference to the Catholic Church and the Reform Church of Equatorial Guinea, due to their traditional roots and historical influence in social and cultural life. A Roman Catholic Mass was normally part of any major ceremonial function or holiday. Catholic schools received the same benefits from the state as public schools.

A religious organization must be formally registered with the Ministry of Justice, Religion, and Penal Institutions to operate. There were no reports during the year that the Government refused to register any group. Approval may take several years, due primarily to bureaucratic slowness rather than policy; however, the lack of clearly written registration procedures could be used against a church when a political figure did not like its pastor or a member.

Traditional African religions were practiced in private, even by many who belonged to other religious groups.

The Government continued to restrict the clergy, particularly regarding criticism of the Government. During the year church representatives reported that they practiced self-censorship. The Government required permission for any religious activity outside a church building, but this requirement did not appear to hinder organized religious groups.

Religious study was required in public and parochial schools and was usually, but not exclusively, Catholic.

*Societal Abuses and Discrimination.*—Non-Catholics occasionally faced discrimination in school enrollment or for expression of personal beliefs within religion classes.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights; however, the Govern-

ment limited them in practice. Police at roadblocks routinely subjected citizens to searches, harassment, and extortion; however, this occurred less frequently than previously. The Government attempted to justify roadblocks as controls to prevent illegal immigration, possible mercenary activities, or potential coups d'état. However, the checkpoints effectively restricted freedom of movement by opposition members. Police and soldiers continued to harass foreigners, mainly because they were perceived to be wealthier than most citizens (see Section 1.c.).

The military harassed and intimidated members of the Bubi ethnic group on Bioko Island. Security officials reportedly beat and shot Bubis for not surrendering their farm produce, sufficient money, and even land. The military were generally seen as an occupation army that prevented free movement of people in their traditional land.

The law prohibits forced internal or external exile; however, the Government did not respect this in practice. For example, on June 5, the Government forced Weja Chicampo into external exile (see Section 1.d.). In September the Government reportedly sentenced former general Agustin Ndong Ona to internal exile. Some persons have fled the country for political reasons.

Government officials and members of parliament were supposed to receive permission from their superiors before traveling abroad. This effectively acted as a control on ruling and allied party members.

Government security agents working in other countries reported on movements and activities of travelers from the country.

*Protection of Refugees.*—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has not established a system for providing protection to refugees. In practice the Government provided some protection against refoulement, the forced return of persons to a country where they feared persecution. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol.

There were no recent cases of the Government cooperating with the UNHCR or other humanitarian organizations in assisting refugees and asylum seekers. There is no local UNHCR office.

The police reportedly continued to harass individual asylum seekers, often for bribes.

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

The constitution and law provide citizens the right to change their government peacefully; however, in practice citizens could not freely change the laws and officials governing them.

*Elections and Political Participation.*—There have been no free, fair, and transparent elections since independence.

The country gained independence from Spain in 1968, and in 1979 the military, led by Brigadier General Teodoro Obiang Nguema Mbasago, overthrew its first President, after years of disastrous and cruel rule. In 1989, as the sole candidate, Obiang was elected to a seven-year term and has remained in power since then. In 1986 he founded the PDGE, for years the only legal party, which established an overwhelming dominance before other parties were permitted. The party rules with the concurrence of an oligarchic alliance based on clan and ethnic loyalties. There is no Presidential term limit.

Membership in the ruling party generally was a great advantage for hiring and promotion, both in the public and private sectors. Membership in another political organization was reportedly grounds for dismissal from any position, public or private. Opposition politicians often claimed to have been dismissed from their jobs after joining other political groups, with no possibility of legal redress.

The international community criticized the most recent parliamentary elections in 2004 as seriously flawed. Opposition candidates were subjected to harassment, arbitrary detention, restrictions on movement, and denial of equal access to the media. All state events were publicized in connection with the ruling PDGE party. Because of mandatory collection of dues and other contributions (reportedly including donations from other governments), the ruling party had hugely disproportionate funding available to spend, including on gifts to potential voters.

PDGE members went door-to-door before the election, threatening and harassing opposition supporters and subjecting them to arbitrary arrest. On voting day there were widespread reports of intimidation and other irregularities. Voters were discouraged from voting in secret, ballots were opened illegally, and ruling party representatives reportedly cast votes of children and deceased persons as well as their



own. Security forces intimidated voters in polling booths. There were few non-partisan observers in rural areas, and discrepancies were reported between local vote counts and what later were released as official tallies. For example, although international observers estimated that the opposition CPDS party received 12 percent of the vote, the final tabulation did not show this, and the ruling party offered the CPDS only two seats in the 100-seat parliament. Some seats were given to opposition parties that had pledged cooperation with the PDGE.

The President exercised strong powers as head of state, commander of the armed forces, and founder and head of the ruling party. In general leadership positions within government were restricted to the President's party or the coalition of "loyal opposition" parties. Because the ruling party overwhelmingly dominated the commissions established to review electoral practices and recommend reforms, no changes were made. The minister of the interior acted as President of the national electoral board. There was no independent electoral commission.

The process to register a political party was not transparent. Some political parties, popular prior to the 1992 law that established procedures for political parties to become legal, remained banned, generally under the excuse that they were "supporting terrorism" or seeking to overthrow the Government.

There were 13 registered political parties, 12 of which the Government called "opposition parties"; however, six of these aligned themselves with the PDGE, and others (e.g. CPDS) were called "radical" by the Government, meaning "confrontational" and willing to vote against the President's position. The Government claimed that these putative opposition parties were examples of "multiparty democracy"; however, the Government prohibited real debates between parties and public criticism of government policies and practices, except within the parliament.

Government officials routinely referred to any politicians from opposition parties deemed illegal as "terrorists." The Government generally withheld access to domestic broadcasting from opposition parties and referred to the opposition negatively when broadcasting. Reportedly the Government bribed members of the opposition to join the PDGE; if they refused, they found themselves out of work and their family members denied opportunities for employment.

There were 20 women in the 100-member parliament, and six women, including two ministers (labor, and women's issues), in the cabinet.

A new government was named in August, led by a new prime minister who was not a member of the minority Bubi ethnic group, which had been the tradition for decades. Additional appointed cabinet and subcabinet positions, bringing the total to 59, were established. A total of 49 appointees were from the majority Fang ethnic group, and at least 40 were from just two of the seven provinces. Almost 30 were from the President's home province.

*Government Corruption and Transparency.*—Official corruption in all branches of the Government remained a serious problem, but in August the President appointed a new prime minister who declared that elimination of corruption was his primary objective, and the subject received more public attention.

The country's newfound oil wealth had become a magnet for many seeking financial opportunities, including those willing to use corrupt means to obtain a share of the revenues. Wealthy individuals were able to buy the licenses needed to operate and had the influence to squeeze out competitors.

Military and other security personnel and civil servants earned low wages and in the past were told to "make their own raise," which implied government approval to demand bribes.

Some officials have been removed from office for corruption, but many persons believed they were scapegoats for higher-level and former officials. Officials by law must declare their assets, but there were no reports that they ever complied. There was no requirement for an official to divest himself of business interests that were in areas that his agency oversaw. When that was ostensibly done, under international pressure, the divestment generally was only a facade; another family member or associate nominally took over, or a business group was formed that appeared, falsely, to have no connection to the official.

In September the Prime Minister established a hot line, ostensibly for oil companies to use if they had evidence of corruption or were asked to participate in something they viewed as corrupt. It was reportedly used at least twice; however, there were no known investigations of those allegedly seeking to employ illegal practices.

The Government removed some officials from office for misuse of public trust (corruption), but none were prosecuted and some were moved to other government positions.

In 2004 an investigation by the legislature of a foreign country determined that at least \$35 million (17.5 billion CFA francs) of revenues from foreign oil companies had been misappropriated by the President, his family, and other senior government

officials over the previous few years. The investigators concluded that, in many cases, the money went directly into foreign bank accounts controlled by the President and close associates.

The Government released a report in an effort to refute the allegations. The Government claimed that the foreign accounts were intended to meet “needs in the country,” despite the private nature of the accounts, and were established to earn interest “for future generations,” which funds deposited in the Central African Bank did not. The Government purported to detail where hundreds of millions of dollars (billions of CFA francs) had been spent on capital construction projects underway in the country, and it claimed that funds from these oil revenue accounts were withdrawn by the President to pay for the projects. When those foreign accounts were closed in late 2004, most of the funds were transferred to the Central African Bank.

In 2005 the Government expressed interest in joining the Extractive Industries Transparency Initiative, a multinational civil society initiative to encourage transparency and accountability in extractive industries. However, it made little progress on meeting requirements to join because it passed no implementing regulations.

The law did not provide for public access to government information, and citizens and noncitizens, including foreign media, were generally unable to access government information. A lack of organized recordkeeping, archiving, and public libraries also limited access.

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

There were no domestic human rights NGOs. The law restricts NGOs and identifies specific areas in which they may operate; human rights were added in January 2005 to those types of NGOs that may organize; however, having long been banned, none existed.

The primary organization with some responsibility for human rights, the National Commission for Human Rights (CNDH), was controlled by the Government and suffered serious funding, staff, and institutional limitations. It did not investigate human rights complaints or keep statistics on them. The President appointed the members of the CNDH.

The Center for Human Rights and Democracy, although organized as a quasi-independent body, had no independent source of funding or authority but that given by the Government. It received minimal support and at the end of 2005 lost its office space, and was relocated inside the Ministry of Justice building. Its role had been primarily advocacy and public sensitization, not investigation or reporting of violations.

Neither the CNDH nor the Center for Human Rights and Democracy were considered effective. Their mandates were not clear, except that the center previously prepared the annual report to the UN High Commissioner for Human Rights presented in Geneva and hosted numerous workshops on human rights and trafficking.

The Government elevated the human rights portfolio to the first vice prime minister with the reorganization of government in August, but by year’s end no impact was seen from this move.

During the year the Government collaborated with the ICRC and other organizations to train local and regional security personnel, government officials, students, and others in human rights subjects. At various times during the year, UNICEF, UNDP, the ICRC, the European Development Fund, and contracted private organizations carried out activities in the areas of human rights protection and training.

No international human rights NGOs were resident in the country. There have been allegations from Catholic Relief Services, Reporters Without Borders, and the Center for Rural Development that NGO representatives visiting Malabo had their movements, telephone calls, e-mails, and faxes monitored.

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

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not enforce these provisions effectively. Violence and discrimination against women, trafficking in persons, discrimination against ethnic minorities, and discrimination against HIV/AIDS victims were problems.

During the year the Government staged public campaigns to combat child labor and discrimination and violence against women and persons with HIV/AIDS. Discrimination was based more on ethnicity and party affiliation than other factors.

*Women.*—Violence against women, including spousal abuse, is illegal, but the Government did not enforce the law effectively. The traditional perception that women were sold to men by their families, and therefore were property to be controlled by whatever means necessary short of death, was widespread. The public beating of

wives is illegal; however, violence in the home generally was tolerated. The police and judiciary were reluctant to prosecute domestic violence cases; some police and judicial officials stated that gender violence should be resolved at home, not prosecuted by the Government. The Government did not have a hot line, shelter, or other services for domestic violence victims. The number of prosecutions during the year was not known; however, the Government generally did not prosecute perpetrators of domestic violence, and such violence, particularly wife beating, was common.

Rape is illegal, but spousal rape is not specified in the law. The Government did not enforce the law effectively. Reporting rape was considered shameful to families involved. The number of prosecutions during the year was not known.

Prostitution is illegal but was generally tolerated. Women's poverty and demand from the increasing number of resident foreign workers fostered it. The Government's response was to close some local bars (which reopened a few days later). Police occasionally detained prostitutes, abusing and sometimes subjecting them to extortion; patrons were not arrested.

Trafficking in persons for prostitution was possibly increasing (see Section 5, Trafficking in Persons).

Sexual harassment was not illegal, and its extent was unknown.

The law provides for equal rights for women and men, including rights under family law, property law, and in the judicial system; however, rights of women were limited in practice. Because women become members of their husbands' families upon marriage, they usually were not accorded inheritance rights. Tradition also dictated that if a girl's family accepted a dowry from a man, she must then marry him, regardless of her wishes; if a marriage dissolved, the husband also automatically received custody of all children born during the marriage.

A foreign development fund, as part of its program to support civil society, dedicated one of its forums to the rights of women. The dominant topics were polygyny and traditional attitudes that make women vulnerable. Polygyny, which was widespread (although it had no legal basis), contributed to women's secondary status, as did limited educational opportunities.

The Ministry of Women's Affairs was responsible for women's issues.

Women largely were confined by custom to traditional roles, particularly in agriculture. Women experienced economic discrimination in access to employment, credit, pay for substantially similar work, and business ownership or management. Despite this, there were a few successful women entrepreneurs.

*Children.*—The Government devoted little attention to children's rights or their welfare and had few policies in this area, although during the year it sponsored several seminars, media programs, and announcements on the Convention on the Rights of the Child. In 2004 the parliament passed a trafficking-in-persons law, focused almost exclusively on trafficked children (see Section 5, Trafficking); however, other than prohibitions against child labor, no other provisions for the welfare of children were included.

By law education is compulsory, free, and universal through primary school, but the law was not enforced. Fees and requirements such as uniforms made it difficult for many families to afford to enroll their children. Boys were generally expected by their families either to complete an additional seven years of secondary school or to finish a program of vocational study after primary education. For many girls, pregnancy or the need to assist at home made acquiring even a primary education impossible. Women generally attained only one-fifth the educational level of men. According to UNICEF, from 1992 to 2002 net primary school attendance was 60 percent for boys and 61 percent for girls, and from 1997 to 2000, the secondary school enrollment ratio was 43 percent for boys and 19 percent for girls.

Teachers were sometimes political appointees with no training.

The Government continued to cooperate with a foreign government to provide textbooks to schools.

In September, in cooperation with an extractive industry company, the Government began setting up programs for teacher training; it identified a foreign NGO to implement the programs, relocated experts to Malabo and Bata, and imported educational materials. Under the program each party would contribute \$20 million (10 billion CFA francs) to the program over a five-year period.

The government-funded Social Action Program, working with a foreign official coordinator, also began to establish operating procedures, did an initial assessment, and designated counterparts in government ministries to coordinate priority projects to address shortcomings in education, health care, child protection, water, and sanitation.

Children suffered poor health and had a high mortality rate. The Government provided very little health care, but boys and girls had equal access to what was

offered. Treatment for malaria, the largest killer of children, was supposedly free for pregnant women and children to age five.

Abuse of minors is illegal; however, the Government did not enforce the law effectively, and child abuse occurred. Physical punishment was the culturally accepted method of discipline. No prosecutions for child abuse were reported.

Children were often pawns in demonstrations of support for the President and his policies. On December 1, some students rioted in Malabo after hours of walking to participate in an HIV/AIDS march, in reaction to a road accident that killed at least one student and severely injured others. Government officials partially blamed the rioting on teachers, parents, and principals having become "too lax in disciplining" children. They implied support for corporal punishment to reinstitute respect.

Child prostitution may exist, but there were no statistics available (see Section 6.d.).

Child labor by law is punishable by a fine from \$100 to \$500 (50,000 to 250,000 CFA francs); however, child labor occurred, generally in agriculture, selling of small items on the street or in markets, or domestic work. Its extent was unknown (see Section 6.d.).

Trafficking is punishable by up to 15 years in prison and a fine of approximately \$100,000 (50 million CFA francs); however, trafficking of children to the country was a growing problem (see Section 5, Trafficking in Persons).

Unlike in previous years, there were no reports of street children living in the country.

The Government, through the National Action Plan to Fight Against Trafficking in Persons and Child Labor, funded a program to educate the public against these practices, assist victims, and punish offenders. However, most training of investigators and child service workers had not begun by year's end, since sensitization and education on the subject was still continuing. The Government entered into an agreement with Gabon and Cameroon to analyze cross-border trafficking, and in July it signed a Multilateral Cooperation Agreement to Combat Trafficking in Persons, especially Women and Children, in West and Central Africa.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, persons were trafficked through and to the country. The penalties for trafficking in persons for sexual exploitation or other exploitation are imprisonment for 10 to 15 years and a fine of not less than approximately \$100,000 (50 million CFA francs).

The Government did not actively investigate trafficking cases. The Ministry of Justice is responsible for combating trafficking in persons, and the minister of justice is President of the interinstitutional commission on illegal trafficking of migrants and trafficking of persons.

Reliable figures on the number of trafficking victims were not available, but anecdotal evidence indicated the numbers were small. The country was a transit point and destination for trafficked persons. Although less prevalent than transit trafficking, trafficking into the country was reportedly a problem. Children, mostly from Benin and Nigeria, primarily were trafficked into the commercial sectors in Malabo and Bata. Nigerian boys worked in market stalls in Bata, often without pay or personal freedom. The country was both a destination and a transit point for trafficked girls and boys, mostly from Cameroon, Benin, and Nigeria. Women were reportedly trafficked for sexual exploitation, especially to Malabo. Some Nigerian girls were reportedly trafficked onward to Spain for prostitution.

The Government, in collaboration with UNICEF and foreign governments, implemented the first phase of a national action plan to prevent trafficking, punish offenders, and protect victims. The plan involved 11 ministries, religious communities, and nongovernmental and international organizations. During the year the Government conducted four seminars, with wide participation. Public service announcements on the problem of trafficking were widely disseminated.

There was one unconfirmed report of a government official involved in the trafficking of a Nigerian infant, reportedly for an illegal adoption. This was privately resolved between the two countries, and it was unknown if any action was taken against those involved. Lower-level law enforcement officials, such as border guards and immigration officers, were suspected of facilitating trafficking in exchange for bribes.

Traffickers generally crossed the border with false documents and children they falsely claimed were their own. These children reportedly worked without pay and were not allowed to attend school. Organized criminal networks in Benin and possibly Nigeria were thought to be involved in trafficking persons to and through the country. Fishing boats also were probably employed to transport children to avoid formal entry procedures.

During the year the Government was not asked by other governments to cooperate in the investigation and prosecution of trafficking cases. Authorities did not en-

courage victims to file complaints against traffickers. During the year there were no reports of prosecutions under the 2004 law.

The Government did not provide protection or assistance to victims or witnesses. Embassies of victims' countries of origin, if present, were expected to take care of victims until they were returned to their home countries. There were no NGOs in the country to assist victims. The only victims identified were repatriated.

*Persons With Disabilities.*—The law does not provide protection for persons with disabilities from discrimination in employment, education, or the provision of other state services. Educational services for the mentally or physically handicapped were minimal. They were usually provided, if at all, by churches or NGOs.

There was no institutional care or treatment for the mentally ill, a small but growing problem.

The law does not mandate access to buildings for persons with disabilities, and there was societal discrimination against such persons.

The ministries of education and health had primary responsibility for protecting the rights of persons with disabilities. Some public service announcements regarding rights of the disabled were broadcast.

*National/Racial/Ethnic Minorities.*—Discrimination against ethnic or racial minorities was illegal, and the Government did not overtly limit participation of minorities in politics; however, the near monopolization of political and economic power by the Fang ethnic group, particularly its Mongomo subclan, continued (see Section 3).

Of 59 persons appointed to cabinet and subcabinet positions, 49 were Fang, seven were Bubi, two were Bisio, and one was Ndowe.

Tensions existed in part because the dominant group controlled most property, which afforded it greater economic prosperity and prevented economic competition from minorities. Minorities felt discriminated against in regard to expropriation of property, reimbursement for their seized homes or land, ability to obtain loans, compete for scholarships, and obtain and keep jobs.

The number of residents from Nigeria, Ghana, Cameroon, Mali, Togo, and other African countries grew, despite increasing roundups by police of persons without valid visas and permits. Foreigners were subject to harassment and extortion by security forces.

Differences among subclans of the Fang, especially resentment of the political dominance of the Mongomo subclan, were also sources of political tension. In practice some members of ethnic minorities, particularly of the Bubi ethnic group, faced discrimination, especially when they were not members of the dominant party.

*Other Societal Abuses and Discrimination.*—Societal discrimination against homosexuals was strong, and the Government made no effort to combat it.

Persons with HIV/AIDS continued to be victims of societal discrimination and often kept their illnesses hidden. Radio campaigns and public statements advocating nondiscrimination toward persons with HIV/AIDS were frequent. The Government promulgated a decree that provides for free HIV/AIDS testing and treatment.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to establish unions and affiliate with unions of their choice, without previous authorization or excessive requirements; however, the Government placed practical obstacles before groups wishing to organize. The Union Organization of Small Farmers continued to be the only legal, operational labor union. According to the International Trade Union Confederation, the authorities continued to refuse to register the Equatorial Guinea Trade Union. The law stipulates that a union must have at least 50 members who are from a specific workplace to register; this rule effectively blocked union formation. Authorities refused to legalize the public sector union, the Independent Syndicated Services, despite it having met the requirements of the law.

According to regional representatives of the International Labor Organization, the Government continued to influence employment in all sectors. Requirements to utilize employment and security agencies controlled largely by the President's relatives continued.

There was no law prohibiting antiunion discrimination. However, unlike in 2005, there were no reports that workers tried to form unions, or that police visited their homes and threatened them if they persisted.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct activities without interference, but the Government did not protect this right in practice. Workers were effectively prohibited from striking. On rare occasions workers engaged in temporary protests or "go slows" (work slowdowns and planned absences). In one case workers protested poor conditions and pay at a con-

struction site at the port of Malabo, threatening the foreign contractor. The Prime Minister intervened and promised action on worker complaints if they would return to their jobs.

There were no reports of collective bargaining by any group; however, the Ministry of Labor sometimes mediated labor disputes. Dismissed workers, for example, could appeal to the ministry, first through their regional delegate; however, there was little trust in the fairness of the system. Citizens had a right to appeal decisions that the labor ministry had made to a special standing committee of parliament established to hear citizen complaints regarding decisions by any government agency. The Government and employers set wages with little or no participation by workers.

Workers believed that actions such as strikes would result in loss of their jobs and possibly harm to themselves or their families.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor and slavery, including by children, but there were reports that such practices occurred (see Sections 5 and 6.d.). Unlike in previous years, there were no reports that detainees and convicted felons were forced to perform labor outside prison, nor for government officials, without compensation (see Section 1.c.).

In 2004 the Government enforced for the first time existing laws on forced labor and convicted a Beninese woman of holding a Beninese girl of 14 as an indentured servant. The woman was ordered to pay back wages, fined, and sentenced to serve a prison term.

The law prohibits forced or compulsory labor by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are no comprehensive laws or policies to protect children from exploitation in the workplace, and the Government did not effectively implement the few that existed. The 2004 law against trafficking provides that persons found guilty of illegally forcing a minor to work should be punished with a fine from approximately \$100 to \$500 (50,000 to 250,000 CFA francs). Radio news reported that some parents of working children were forced to pay this fine as examples.

The legal minimum age for employment is 14 years, but the Government did not enforce this law, and child labor was common. In most cases children also went to school, girls through primary school and boys through middle school. In June 2005 the Government issued a decree forbidding the employment of children in street vending, car-washing, or in bars and restaurants, but this law was rarely enforced. According to a 2001 UNICEF child labor study, the most recent information available, child labor existed primarily in the form of children working as farmhands and market vendors in family businesses. During the year there were unconfirmed reports that foreign children were used as market vendors by nonrelatives and had no access to schooling.

The Ministry of Labor was responsible for enforcing child labor laws; however, it did not do so effectively.

*e. Acceptable Conditions of Work.*—Enforcement of labor laws and ratified international labor agreements was not effective, resulting in poor working conditions. Construction safety codes, for example, were not enforced. Most petroleum companies, on the other hand, exceeded international safety standards.

By law employers must pay the minimum wage set by the Government. Minimum wages were set for all sectors of the formal economy; however, the minimum wage did not provide a decent standard of living for a worker and family in Malabo or Bata. In the rest of the country, the minimum wage would provide a minimally adequate income. Many formal sector companies paid more than this, but most workers (farmers, etc.) were not covered under the minimum wage law. By law, hydrocarbon industry workers received salaries many times higher than those in other sectors, which fueled inflation and disadvantaged those who did not have those jobs. The Ministry of Labor is responsible for enforcing the minimum wage, but because of high unemployment, workers with any job rarely complained to authorities about wage rule violations.

The law prescribes a standard 35-hour work week and a 48-hour weekly rest period, requirements that generally were observed in practice in the formal economy. Exceptions were made for some jobs, such as those in offshore oil industry work. Premium pay for overtime was required, but the requirement was not enforced.

The law provides for protection for workers from occupational hazards, but the Government did not enforce this. The Government had an insufficient number of labor inspectors to oversee industry. The law does not provide workers with the

right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

Although payment of a high percentage of salary into the social security and health system is mandatory, workers rarely received health care, workers' compensation, or retirement benefits from the system after contributing. Employment agencies that were supposed to pass on payments for social security benefits for workers were notorious for closing without meeting their obligations.

## ERITREA

Eritrea, with a population of approximately 3.6 million, is a one-party state that became independent in 1993 when citizens voted for independence from Ethiopia. The People's Front for Democracy and Justice (PFDJ), previously known as the Eritrean People's Liberation Front, is the sole political party and has controlled the country since 1991. The country's President, Isaias Afwerki, heads the PFDJ, the national legislature, and the military. The Government continuously postponed Presidential and national legislative elections; national elections have never been held. Despite international efforts to resolve the situation, an ongoing border dispute with Ethiopia seriously hindered international trade, affected the Government's external relations, and was used by the Government to justify severe restrictions on civil liberties. Civilian authorities generally maintained effective control of the security forces.

The Government's human rights record worsened, and it continued to commit numerous serious abuses, including: abridgement of citizens' rights to change their government through a democratic process; unlawful killings by security forces; torture and beatings of prisoners, some resulting in death; harsh and life threatening prison conditions; arbitrary arrest and detention; executive interference in the judiciary and the use of a special court system to limit due process; government infringement on privacy rights; government roundups of young men and women for national service; arrest, incarceration, and torture of family members of national service evaders, some of whom reportedly died of unknown causes while in detention; severe restrictions on basic civil liberties, including freedoms of speech, press, assembly, association, and religion, particularly for religious groups not approved by the Government; restrictions on freedom of movement and travel for diplomats, humanitarian and development agencies, and UN Mission to Eritrea and Ethiopia (UNMEE) personnel; government circumscription of nongovernmental organization (NGO) activities; violence and societal discrimination against women and the widespread practice of female genital mutilation (FGM); governmental and societal discrimination against members of the Kunama ethnic group and homosexuals; and limitations on workers' rights.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings; however, the Government continued to authorize the use of deadly force against anyone resisting or attempting to flee during military searches for deserters and draft evaders, and deaths reportedly occurred during the year. Several persons detained for evading national service died after harsh treatment by security forces (see Section 1.c.). There were reports of summary executions and of individuals shot on sight near the Ethiopian border, allegedly for attempting to cross the border. There were reports that individuals were severely beaten and killed during government roundups of young men and women for national service (see Section 1.c.).

Persons arrested and detained because of their religious affiliation died from security force abuses (see Section 2.c.).

There was no additional information regarding action taken against military personnel who shot and killed 161 youths who were trying to escape from Wia Military Camp in June 2005 as reported by the London-based NGO, Eritreans for Human and Democratic Rights.

According to the Government Commission for Coordination with the UN Peacekeeping Mission, there were an estimated three million landmines and unexploded ordnance in the country left over from the country's 30-year war of independence and the 1998–2000 conflict with Ethiopia. The Eritrean Islamic Jihad Movement and others laid some new mines during the year. The UN reported three deaths and eight injuries from landmine incidents during the year; at least two of the deaths

and seven of the injuries involved newly laid landmines. It was probable that there were additional, unreported deaths in remote areas. The Government's demining program continued; however, statistics from this program were unavailable at year's end. The UN demining programs continued throughout the year, although their effectiveness was limited by a government order in October 2005 grounding all UN helicopters (see Section 2.d.). As a result, UNMEE transferred most of the demining activities to Ethiopia.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year; however, there were unresolved disappearances from previous years.

The whereabouts of an unknown number of Kunama, members of an ethnic group residing predominantly along the border with Ethiopia who were detained in 2005 because of their association with other captured or killed Kunama insurgents, remained unknown.

At year's end, the whereabouts of 11 senior PFDJ and National Assembly members and several journalists and employees of diplomatic missions arrested by the Government in 2001 remained unknown; however, there were unconfirmed reports during the year that several had died in detention and the rest were being held in solitary confinement.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law and unimplemented constitution prohibit torture; however, there were numerous reports that security forces resorted to torture and physical beatings of prisoners, particularly during interrogations. There were credible reports that several individuals, including young men and women rounded up for national service, died following torture or severe beatings by security forces. During the year security forces severely mistreated and beat army deserters, draft evaders, and members of particular religious groups (see Section 2.c.). Security forces subjected deserters and draft evaders to various disciplinary actions that included prolonged sun exposure in temperatures of up to 120 degrees Fahrenheit or the binding of hands, elbows, and feet for extended periods.

There were reliable reports that torture was widespread in an unknown number of detention facilities. In addition to psychological abuse, escapees reported the use of physical torture and abuse at a few prisons. Authorities suspended prisoners from trees with their arms tied behind their backs, a technique known as *almaz* (diamond). Authorities also placed prisoners face down with their hands tied to their feet, a technique known as the "helicopter."

There were reports that, on October 17, two men detained in a military camp for holding religious services in a private home died as a result of injuries sustained during torture (see Section 2.c.).

There were reports that some women drafted to the national service were subjected to sexual harassment and abuse. There were unconfirmed reports that instructors raped female students at Sawa Military Camp.

*Prison and Detention Center Conditions.*—Prison conditions for the general prison population were harsh and life threatening. There were reports that prisoners were held in underground cells or in shipping containers with little or no ventilation in extreme temperatures. The shipping containers were reportedly not large enough to allow all those incarcerated to lie down at the same time.

There were substantive reports that the detention center conditions for persons temporarily held for evading military service were also harsh and life threatening. Unconfirmed reports suggested there may be hundreds of such detainees. Draft evaders were typically held for one to 12 weeks before being reassigned to their units, although some were held for as long as two years. At one detention facility outside Asmara, detainees reportedly were held in an underground hall with no access to light or ventilation and sometimes in very crowded conditions. Some detainees reportedly suffered from severe mental and physical stress due to these conditions.

Unlike in the previous year, there were no reported deaths from adverse conditions.

Women and their young children were held separately from men. There is no juvenile detention center in Asmara, and juvenile offenders often were incarcerated with adults. There were reports that juveniles held in adult facilities were sodomized. Pretrial detainees generally were not held separately from convicted prisoners; however, in some cases detainees were held separately. Visitors were allowed sometimes, and prison authorities permitted family members to leave food and supplies for detainees at jails, prisons, and detention centers; released detainees reported that they received these items even if they were unable to meet with visitors.



Local groups and human rights organizations were not allowed to monitor prison conditions. The Government prohibited the International Committee of the Red Cross (ICRC) from visiting the unknown number of Ethiopian soldiers, who the Government claimed were deserters from the Ethiopian army, or any Eritrean detainees or prisoners, although the ICRC was allowed to visit and register Ethiopian civilian detainees in police stations and prisons. Authorities generally permitted three visits per week by family members, except for detainees arrested for reasons of national security or for evading national service.

*d. Arbitrary Arrest or Detention.*—The law and unimplemented constitution prohibit arbitrary arrest and detention; however, arbitrary arrest and detention were serious problems.

*Role of the Police and Security Apparatus.*—Police are officially responsible for maintaining internal security, and the army is responsible for external security; however, the Government can call on the armed forces, the reserves, and demobilized soldiers in response to both domestic and external security requirements. Agents of the National Security Office, which reports to the Office of the President, are responsible for detaining persons suspected of threatening national security. The military has the power to arrest and detain persons.

Active duty police officers were in charge of key police divisions. The police force was adequate in enforcing traffic laws and combating petty crime. Generally the police did not have a role in cases involving national security, but beginning in 2005 the police became involved in the rounding up of individuals evading national service. During the year the police, the military, and internal security forces engaged in arrests and detentions. Police and security forces frequently used violent tactics, such as beating and shooting in the air to control crowds in social settings and during roundups.

Corruption was not prevalent; however, there were reports that police demanded bribes to release detainees and that military forces accepted money to smuggle citizens out of the country. There were no mechanisms to address allegations of abuse among the police, internal security, or military forces, and impunity was a problem.

*Arrest and Detention.*—The law stipulates that detainees must be brought before a judge within 48 hours and may be held for a maximum of 28 days without being charged with a crime. In practice authorities often detained persons suspected of crimes for much longer periods. The law stipulates that, unless there is a “crime-in-process,” police must conduct an investigation and obtain a warrant prior to an arrest. In cases of national security, this process may be waived. In practice very few individuals were arrested with a warrant. Authorities often did not promptly inform detainees of the charges against them. Often detainees did not have access to legal counsel (see Section 1.e.) or appear before a judge, and incommunicado detention was widespread. There was a functioning bail system, except for cases involving national security or for which capital punishment might be handed down.

Arbitrary arrest and detention were serious problems. For example, on September 16–17, police reportedly arrested more than 2,000 persons at several nightclubs in Asmara. In one of the nightclubs, police reportedly surrounded the club, entered, and began to check the identification cards of those inside. After initially arresting only specific individuals, police changed their approach and arrested without charge everyone inside the club—approximately 250 persons—using sticks and threats to control the crowd. Most of those detained were subsequently released after posting bail. No trials were held in connection with the incident.

Security forces continued the practice begun in 2005 of detaining and arresting parents of individuals who had evaded national service duties or fled the country, although there is nothing in the legal code to warrant such arrests (see Section 1.f.). In December security forces in Asmara and surrounding areas arrested over 500 family members and spouses of national service evaders. Those who were arrested continued to be detained, reportedly under harsh conditions, at year’s end.

Security forces arbitrarily arrested dual nationals and foreigners and detained at least two foreign diplomats during the year, often under the guise of national security. There were reports that plainclothes agents of the National Security Office entered homes and arrested occupants. There also were reports that individuals were threatened by security forces over extended periods of time.

Security forces detained, generally for less than three days, many persons during searches for evaders of national service, even if they had valid papers showing that they had completed or were exempt from national service (see Section 1.c.). There were reports that individuals who spoke out against the Government or publicly questioned government actions were arrested and detained without due process.

The Government continued to arrest and detain members of nonregistered religious groups. Some members of nonregistered religious groups have been detained for more than 11 years (see Section 2.c.).

Security forces arbitrarily arrested journalists during the year (see Section 2.a.). The Government continued to detain journalists it took into custody in 2001 (see Section 2.a.).

Ethiopian nationals reportedly were singled out for arrest because they were unable to pay the necessary fees to renew their residency permits every 12 months (see Section 2.d.).

The Government detained without charge an UNMEE official, who was released in October. (see Section 4).

The three union leaders arrested in March 2005 reportedly were being held incommunicado at year's end.

There were no further reports about the several hundred politically motivated detentions in 2005 of persons who were seen as critical of the Government, and many of those detained remained in prison at year's end. Many were perceived to have ties to political dissidents or were believed to have spoken against government actions. Most of these detainees had not been tried and did not have access to legal counsel. The ICRC was not authorized to visit these detainees.

There were no developments in the 2002 arrests of individuals associated with the 11 PFDJ National Assembly members who were detained in 2001 and of Eritrean diplomats who were recalled from their posts. At least four of these detainees, in addition to many detained in previous years, remained in prison without charge at year's end. Among the detainees were former ambassador to China Ermias Debesai (Papayo) and Aster Yohannes, wife of former foreign minister Petros Solomon.

Two citizens who worked for a foreign embassy have remained in detention without charge since 2001. Two additional citizens who worked for a foreign embassy, who were arrested in 2005 and 2006, respectively, also remained in detention at year's end.

There were reports that the Government continued to hold without charge numerous members of the Eritrean Liberation Front, an armed opposition group that fought against Ethiopia during the struggle for independence.

The Government held numerous pretrial detainees during the year; however, there were widespread reports that the Government released an unknown number of detainees held without charge during the year. An unknown number of persons suspected of antigovernment speech, association with the 11 former PFDJ members arrested in 2001, Islamic elements considered radical, or suspected terrorist organizations continued to remain in detention without charge, some of whom have been detained for more than 10 years. These detainees reportedly did not have access to legal counsel and were not brought before a judge.

*e. Denial of Fair Public Trial.*—The law and unimplemented constitution provide for an independent judiciary; however, the judiciary was weak and subject to executive control. Public trials generally were perceived as fair, but virtually all cases involving individuals detained for national security or political reasons were not brought to trial. The drafting into national service of many civilians, including court administrators, defendants, judges, lawyers, and others involved in the legal system, continued to have a significant negative impact on the judiciary. The Government has not issued licenses to lawyers wishing to enter private practice for seven years.

The judicial system has two parts: civilian and special courts. The civilian court system consists of community courts, regional courts, and the High Court, which also serves as an appellate court. Appeals can be made in the civilian courts up to the High Court. The High Court took an average of four to six months to decide if it would hear an appeal and, at year's end, had a backlog of approximately 400 cases. Minor infractions involving sums of less than approximately \$7,300 (110,000 nakfa) are brought to community courts. More serious offenses are argued before regional courts, but a significant proportion of cases involving murder, rape, and other felonies are heard by the High Court. A single judge hears all cases, except those argued before the High Court, where panels of three judges hear cases. A panel of five judges hears cases in which the High Court serves as the court of final appeal.

The executive-controlled special courts issue directives to other courts regarding administrative matters, although their domain was supposed to be restricted to criminal cases involving capital offenses, theft, embezzlement, and corruption. The Office of the Attorney General decides which cases are to be tried by a special court. No lawyers practice in the special courts. The judges serve as the prosecutors and may request that individuals involved in the cases present their positions. The special courts, which do not permit defense counsel or the right of appeal, allowed the executive branch to mete out punishment without respect for due process.

The judges in the special court in both branches are senior military officers, with no formal legal training. They generally based their decisions on “conscience,” without reference to the law. There is no limitation on punishment, although the special courts did not hand down capital punishment sentences during the year. The Attorney General also allowed special courts to retry civilian court cases, including those decided by the High Court, thereby subjecting defendants to double jeopardy. In rare instances, appeals made to the Office of the President reportedly resulted in special courts rehearing certain cases.

Most citizens only had contact with the legal system through the traditional community courts. Judges heard civil cases, while magistrates versed in criminal law heard criminal cases. Customary tribunals were sometimes used to adjudicate local civil and criminal cases. The Ministry of Justice offered training in alternative dispute resolution to handle some civil and criminal cases.

Shari’a law for family and succession cases could be applied when both litigants in civil cases were Muslims. In these cases, the sentences imposed cannot involve physical punishment.

*Trial Procedures.*—The judicial system suffered from a lack of trained personnel, inadequate funding, and poor infrastructure that in practice limited the Government’s ability to grant accused persons a speedy and fair trial.

Unlike in the special court system, the law and unimplemented constitution provide specific rights to defendants in the regular court system. Although defendants could hire a legal representative at their own expense, most detainees could not afford to do so and consequently did not have access to legal counsel. The Government frequently assigned attorneys to represent defendants accused of serious crimes punishable by more than 10 years in prison and who could not afford legal counsel. In the High Court, defendants have the right to confront and question witnesses, present evidence, gain access to government-held evidence, appeal a decision, and are presumed innocent; these rights were upheld in practice.

*Political Prisoners and Detainees.*—There were no confirmed reports of new political prisoners; however, there were numerous reports of persons detained for political reasons (see Section 1.d.).

*Civil Judicial Procedures and Remedies.*—The civilian court system consists of community courts, regional courts, and the High Court, which also serves as an appellate court. Individuals with civil cases can also request their case be considered by the special courts. Most civil law relies on the Ethiopian legal code of 1957, as well as proclamations issued by the Government. The judiciary purports to be independent and impartial.

*Property Restitution.*—There were reports that the Government seized property without restitution. The Government failed to compensate foreigners for property taken by preindependence governments or to restore the property to them. There were no reports of the seizure of the private property of foreign nationals. Upon the ordered closure of several NGOs, the Government required that all property be turned over to it, including items such as computers, printers, and vehicles.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law and unimplemented constitution prohibit such actions; however, the Government infringed on the right to privacy.

The Government deployed military and police throughout the country using roadblocks, street sweeps, and house-to-house searches to find deserters and draft evaders as well as parents of deserters and draft evaders. There were reports that security forces targeted gatherings of unregistered religious groups and searched the homes of foreigners.

The Government monitored mail, e-mail, and telephone calls without obtaining warrants as required under the law. Government informers were believed to be present throughout the country.

There were reports that military officials and government officials seized residences and businesses belonging to private citizens. There were reports they rented the property, used it as housing for senior military officers’ and government officials’ families, or occupied the property for government and military use.

There were reports that the Government forced the resettlement of individuals residing in Massawa in preparation for the construction of a new duty-free zone.

Security forces continued the practice begun in June 2005 of detaining and arresting parents of individuals who had evaded national service duties or fled the country (see Section 1.d.). They required the parents to pay a fine of \$3,300 (50,000 nakfa) per child and bring their children back before they would release them. During the year the Government began to allow families to pay the fine in installments as opposed to all at once. During the year the Government also detained spouses

of individuals who had evaded national service or fled the country, and the Government prevented spouses of such individuals from departing the country.

While membership in the PFDJ, the Government's only sanctioned political party, was not mandatory for all citizens, the Government coerced membership in the PFDJ, particularly for individuals working in government positions or assigned through national service to serve in government institutions.

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

*a. Freedom of Speech and Press.*—The law and unimplemented constitution provide for freedom of speech and of the press; however, the Government severely restricted these rights in practice. Citizens did not have the right to criticize their government in public or in private. The private press remained banned, and most independent journalists remained in detention or had fled the country, which effectively prevented any public criticism of the Government. The Government intimidated remaining journalists into self-censorship.

The Government controlled all media, including three newspapers, two magazines, one radio station, and one television station. The law does not allow private ownership of broadcast media or foreign influence or ownership of media, and there was no private media in the country. The Government banned the import of foreign publications; however, individuals were permitted to purchase satellites and subscribe to international media. The Government had to approve publications distributed by religious or international organizations before their release, and the Government continued to restrict the right of the religious media to comment on politics or government policies. The press law forbids reprinting of articles from banned publications. The Government also required diplomatic missions to submit all releases for approval before their publication in the Government media.

The Government permitted two reporters representing foreign news organizations to operate in the country; however, it frequently prevented them from filing stories with their news organizations. Both reporters departed the country in June, and the Government delayed the arrival of their designated replacements for several months. The Swedish reporter who was held by the Government for nearly four years, released for medical treatment in November 2005 and then detained again a few days later, remained in detention without charge at year's end. There are two international reporters operating in Eritrea.

In November the Government arrested nine state journalists employed by the Ministry of Information; these individuals continued to be detained at year's end.

The Government continued to refuse to issue exit visas to the four Oromo journalists who came to the country in 2005 at the invitation of the Government to seek refuge from Ethiopia. The four have an agreement with a foreign country to be repatriated.

At least 15 local journalists who were arrested in 2001 remained in government custody at year's end.

*Internet Freedom.*—There were no official government restrictions on the use of the Internet; however, all Internet service providers were required to use government-controlled Internet infrastructure to provide service. The Government owned a significant percentage of the three Internet service providers. In September the police closed one of the Internet service providers for unknown reasons, although there were reports they had reopened by year's end. There were reports that the Government severely restricted the bandwidth available to private Internet service providers, thus interfering with their ability to provide services.

There were reports that the Government monitored Internet communications. In urban areas, individuals were able to access the Internet through Internet cafes for a fee or through an at-home service provider.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom; freedom of speech, movement of students, and the right to assemble were not respected in the academic context. The Government issued a directive in 2002 reconfiguring the University of Asmara, which effectively shut down the university's undergraduate programs. As a result, prospective students have not been allowed to enroll in the university and instead were directed by the Government to attend the Mai Nafhi Technical Institute (see Section 5). During the summer the Government transferred most of the university's undergraduate programs to vocational training schools spread throughout the country. Only the medical training programs remained in Asmara. Students finishing high school were not permitted to choose their next course of study and were assigned to specific vocational programs based on their performance on the matriculation exam. A few graduate level programs remained at the university; however, the law school was effectively closed, as new students were not permitted to enroll.

The Government did not provide exit visas to some students who wanted to study abroad. University academics who wished to travel abroad for further study or training were required to seek permission from the university President and from the Government prior to travel.

The Government monitored and controlled which films were shown at the cinema. International film festivals were closely monitored, and all films had to be approved by the Government.

*b. Freedom of Peaceful Assembly and Association.*—The law and unimplemented constitution provide for freedom of assembly and association; however, the Government did not permit freedom of assembly or association. For gatherings of more than three persons, the Government requires those assembling to obtain a permit.

The Government did not allow the formation of any political parties other than the PFDJ.

On May 30, approximately 40 women and elders from the Debub region gathered at the Presidential Palace of Asmara to ask for information about their husbands, who had been detained in retribution for their children fleeing the country to evade national service; security forces arrested the women and elders for not having a permit to assemble. There was no information on the status of their cases at year's end.

*c. Freedom of Religion.*—The law and unimplemented constitution provide for freedom of religion; however, the Government restricted this right in practice. Only four religious groups whose registrations had been approved by the Government were allowed to meet legally during the year. These were: Orthodox Christians, Muslims, Catholics, and members of the Evangelical Church of Eritrea, an umbrella group of several Protestant churches affiliated with the Lutheran World Federation. Members of the nonregistered churches continued to be arbitrarily arrested throughout the year. Security forces continued to abuse, arrest, and detain members of nonregistered churches; sometimes such abuse resulted in death.

Compass Direct reported that, on October 17, Immanuel Andegeresh and Kibrom Firemichel died from injuries and severe dehydration in a military camp outside the town of Adi-Quala according to credible reports. The two men were arrested two days earlier for holding a religious service in a private home.

There were reports that three members of nonregistered churches received a two-year sentence for violation of the Government restriction on belonging to an unregistered religious group. During the year there continued to be reports that security forces used extreme physical abuse such as bondage, heat exposure, and beatings to punish those detained for their religious beliefs, and that numerous detainees were required to sign statements repudiating their faith or agreeing not to practice it as a condition for release. There also continued to be reports that relatives were asked to sign for detainees who refused to sign such documents.

During the year there were reports that hundreds of followers of various unregistered churches (mostly Protestant) were detained, harassed, and abused. While some were detained for short periods of time and released, approximately 2,000 individuals remained in detention at year's end because of their religious affiliation, according to the NGO Compass Direct.

Many of those detained were held in military prisons for not having performed required national military service, and many belonged to unregistered religious groups. Several pastors and dozens of women were among the imprisoned. Several were released after recanting their faith; however, many refused to recant their faith and continued to be detained in civilian and military detention facilities across the country.

There were no developments in the continued detention of 13 members of the Rema Church detained in 2004 or the detention of 11 members of unregistered churches in May 2005; it was believed that all of these individuals remained incarcerated at year's end.

In January there were reports that the Holy Synod, under pressure from the Government, deposed Patriarch Abune Antonios of the Eritrean Orthodox Church on putative charges that he had committed heresy and was no longer following church doctrine. The synod selected a new patriarch, Dioscoros. Deposed Patriarch Antonios remained under house arrest and continued to challenge the circumstances of Patriarch Dioscoros's selection at year's end. The lay administrator appointed by the Government in August 2005 remained the head of church; the administrator was neither a member of the clergy nor an appointee of the patriarch as required by the constitution of the Eritrean Orthodox Church. This effectively put the Government in control of the Orthodox Church. The Government also continued to monitor, harass, threaten, and arrest members of the Orthodox Medhane Alem group, whose religious services it had not approved. The three ministers who led Medhane Alem

and who were arrested in October 2004 remained imprisoned without charge at year's end.

In December the Government established the practice of taking possession of the weekly offerings given by parishioners to the Orthodox Church. The government-appointed lay administrator of the Orthodox Church claimed that the Government used the money from the offerings to pay priests and provide alms for the poor.

There were reports that in September the Government ordered the Kale Hiwot church to surrender all church property to the Government.

The Government prohibited political activity by religious groups and faith-based NGOs. The Government's Office of Religious Affairs monitored religious compliance with this proscription.

The Government does not excuse individuals who object to national service for religious reasons or reasons of conscience, nor does the Government allow for alternative service. In November the Government decreed that church leaders from the four state-sanctioned religions were required to perform military and national service; previously, religious leaders such as priests and clerics were exempt from military and national service. The Government continued to harass, detain, and discriminate against the small community of members of Jehovah's Witnesses because of their refusal, on religious grounds, to vote in the independence referendum and the refusal of some to perform national service. Although members of several religious groups, including Muslims, reportedly have been imprisoned in past years for failure to participate in national military service, the Government singled out Jehovah's Witnesses for harsher treatment than that received by followers of other faiths for similar actions. In the past, the Government dismissed members of Jehovah's Witnesses from the civil service, and many were evicted from or not allowed to occupy government-owned housing. Members of Jehovah's Witnesses frequently were denied passports and exit visas, and some had their identity cards revoked or were not issued them at all.

According to the Office of General Counsel for the Jehovah's Witnesses, 27 Jehovah's Witnesses remained imprisoned without charge. Although the maximum penalty for refusing to perform national service is three years' imprisonment, three of the individuals have been detained for more than 11 years. Of the members of Jehovah's Witnesses detained, 12 were reportedly held at Sawa Military Camp and one was in prison in Asmara. At year's end, eight of the 40 Jehovah's Witnesses arrested during a home prayer meeting in 2004 remained incarcerated.

The army resorted to various forms of extreme physical punishment to force objectors, including some members of Jehovah's Witnesses, to perform military service (see Section 1.c.).

*Societal Abuses and Discrimination.*—There were negative societal attitudes toward members of some religious denominations other than the four sanctioned ones. Some citizens approved of the strict measures levied against unsanctioned churches, especially the Pentecostal groups and Jehovah's Witnesses.

There was a very small Jewish population in the country; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law and unimplemented constitution provide for these rights; however, the Government restricted some of them in practice. While citizens could generally travel freely within the country and change their place of residence, the Government restricted travel to some areas within the country, particularly along the border with Sudan and Ethiopia. Military police periodically set up roadblocks in Asmara and on roads between other cities to find draft evaders and deserters (see Section 1.d.).

In October 2005 the Government ordered the grounding of all UN helicopters. The order continued to constrain UNMEE's ability to supply troops in the field, monitor the temporary security zone area, and support medical evacuations. On March 1, a UNMEE soldier died from heart failure; the ban on helicopter flights was believed to have contributed to his death as his access to medical treatment was significantly delayed.

In June the Government further tightened restrictions on travel for all noncitizens. All diplomats, humanitarian organization and UN staff, and foreign tourists were required to obtain advance permission from the Government in order to leave Asmara. Travel restrictions were enforced by the use of military checkpoints. The granting of permission to travel was not a transparent process. While some foreign nationals obtained permission to travel to certain locations, the Government refused

to issue travel permits to others traveling to the same place. The Government often failed to respond to requests for travel.

There were reports that Ethiopians who remained in the country were not allowed to live in the Debub Province bordering Ethiopia.

Citizens and foreign nationals were required to obtain exit visas to depart the country. There were numerous cases where foreign nationals were delayed in leaving for up to two months or initially denied permission to leave when they applied for an exit visa. Persons routinely denied exit visas included men under the age of 50, regardless of whether they had completed national service, women age 18 to 27, members of Jehovah's Witnesses (see Section 2.c.), and other persons out of favor with or seen as critical of the Government. During the year the Government began refusing to issue exit visas to children 11 years and older. The Government also refused to issue exit visas to children, some as young as five years of age, either on the grounds that they were approaching the age of eligibility for national service or because their diasporal parents had not paid the 2 percent income tax required of all citizens residing abroad. Some citizens were given exit visas only after posting bonds of approximately \$6,600 (100,000 nakfa).

The law has no provisions concerning exile, and the Government generally did not use exile.

In general citizens had the right to return; however, citizens had to show proof that they paid the 2 percent tax on their income to the Government while living abroad to be eligible for some government services, including exit visas, upon their return to the country. Applications to return filed by citizens living abroad who had broken the law, contracted a serious contagious disease, or had been declared ineligible for political asylum by other governments were considered on a case-by-case basis.

During the year, in conjunction with the ICRC, the Government repatriated approximately 988 Ethiopians to Ethiopia.

*Internally Displaced Persons (IDPs).*—Approximately 20,000 IDPs from the conflict with Ethiopia were permanently resettled during the year. Approximately 22,000 IDPs remained in seven camps in the Debub and Gash Barka zones at year's end. Camp facilities were rudimentary, but conditions generally were adequate. There also was a large but unknown number of IDPs residing outside camps during the year. The Government allowed UN organizations to provide assistance to IDPs. In May 2005 the Government seized approximately 45 vehicles of the Office of the UN Human Rights Commissioner (UNHCR), which seriously impacted their ability to monitor programs and provide follow-up. The vehicles were not returned by year's end.

*Protection of Refugees.*—The law and unimplemented constitution do not provide for the granting of asylum or refugee status in accordance with the definition in the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. As a result the Government cannot issue legal refugee or asylum status. However, in practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution, and provided temporary protection to approximately 4,000 persons from Sudan and Somalia on a prima facie basis. The Government granted 19 Ethiopians who had deserted the Ethiopian army residency status. Another 100 Ethiopians sought asylum with the UNHCR; however, the determination of their status has not yet been made. Approximately 20 Ethiopians who had received permission to resettle to a third country were unable to obtain exit visas to depart Eritrea. Approximately 16,000 Ethiopians had temporary residence in the country. The Government cooperated with the UNHCR in assisting refugees who were not from Ethiopia.

There were 720 Sudanese refugees at Elit camp in the West and 3,780 Somali refugees at Emkulu camp, near Massawa. There were also up to 30,000 Beja Sudanese and approximately 600 Ethiopians in the Gash Barka region to which the UNHCR had no access or responsibility. The UNHCR was accommodating approximately 1,900 Ethiopians in urban areas whose status has not yet been determined, an increase from only 100 cases in 2005. The Government issued residency permits to Ethiopians living in the country for a fee; however, it did not issue them exit visas. Ethiopians unable to pay the residency permit fee were not legally eligible for employment. The Government prohibited the ICRC from continuing its program of purchasing residency permits for Ethiopians unable to afford the annual fee.

The UNHCR reported that, although it ended organized repatriation of refugees from Sudan in 2004, 18 refugees returned to the country spontaneously during the year.

There were reports during the year that the Government continued to refuse to allow the UNHCR to resettle several ethnic Oromo journalists from Ethiopia (see Section 2.a.).

The ICRC repatriated 988 Ethiopians from Eritrea back to Ethiopia and 83 Eritreans from Ethiopia to Eritrea during the year.

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

The law and unimplemented constitution provide citizens with the right to change their government peacefully; however, citizens were not allowed to exercise this right in practice.

*Elections and Political Participation.*—The Government came to power in a 1993 popular referendum in which voters chose to have an independent country managed by a transitional government run by the PFDJ. The PFDJ has not allowed for a democratically elected government, and national elections, originally scheduled for 1997, were never held. The only authorized political party is the PFDJ; the Government coerced membership in the PFDJ (see Section 1.f.).

There were three women on the PFDJ's 19-member Executive Council, and 11 women served on the 75-member Central Council. Women participated in the constitutional commission, occupying almost half of the positions on the 50-person committee. They also served in several senior government positions, including those of the ministers of justice, tourism, labor, and welfare.

There was no information on whether members of ethnic minorities were on PFDJ's 19-member Executive Council, served on the 75-member Central Council, or participated in the constitutional commission.

*Government Corruption and Transparency.*—There were reports of petty corruption within the executive branch, largely based on family connections. There were unconfirmed reports of more serious corruption among military leaders involving illicit trade and the appropriation of houses. There were reports that individuals requesting exit visas or passports had to pay bribes.

Although the law and unimplemented constitution provide for public access to government information, the Government did not provide information to either citizens or noncitizens, including foreign media.

Operations in the economy mirrored this practice. The Government or the PFDJ own most of the major industries in the country. In the past the Government has reclaimed successful privately held companies and turned them over to the party or to the Government to operate.

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

The Government allowed one domestic human rights NGO—Citizens for Peace in Eritrea (CPE)—to operate, although the NGO was basically nonfunctioning during the year.

The Government permitted only one international human rights organization, the ICRC, to operate within the country and the Government strictly limited the ICRC to operations such as repatriation, providing shelter to approximately 1,000 persons who were displaced by the conflict with Ethiopia (see Section 2.d.), visiting prisons and detention centers where Ethiopians were held (see Section 1.c.), and providing assistance to approximately 50,000 citizens through projects in water supply, health structure rehabilitation, and housing.

All NGOs, regardless of their scope of work, were required to register with the Ministry of Labor and Human Welfare. In May 2005 the Government issued a law that requires all NGOs to register with the Government for permission to continue operations in the country. It also requires international NGOs to have two million dollars in the local bank. Many NGOs failed to receive government approval under the registration process and were required to leave the country. As of year's end, there were 11 registered NGOs. During the year the Government asked five NGOs, Mercy Corps, ACCORD, Samaritan's Purse, International Rescue Committee (IRC), and Concern, to close operations and depart the country, which they did. Both IRC and Samaritan's Purse operated extensive projects in Eastern Sudan from their offices in Asmara. Following the signing of the Eastern Front Peace Agreement between the Eastern Front and the Sudanese government in September, the Government determined that IRC and Samaritan's Purse no longer needed to base their operations in Eritrea, despite the fact that IRC also operated Eritrea-specific programs. Neither IRC nor Samaritan's Purse had operations in the country at year's end.

In April the Government announced a change in humanitarian aid policy and decreed that all food assistance be provided through a cash-for-work program. Simul-



taneously, the Government redirected over 80,000 metric tons of food belonging to the World Food Program (WFP) and other donors to its own programs. It prevented NGOs and the WFP from entering into the storehouses. This food aid later appeared on the local market. The Government had not provided to any donors, including WFP, an accounting of how the 80,000 metric tons were distributed by year's end. By year's end, general food distributions had ceased, and all food assistance was reportedly provided through a government-operated cash-for-work program, in which participants earned less than one dollar per day.

The Government also did not permit general humanitarian food distribution by NGOs or by the WFP, although it allowed the UN Children's Fund (UNICEF) to continue its supplemental feeding programs. Supplemental feeding and hospital feeding programs continued under the supervision of the Ministry of Health. By requiring NGOs and UN organizations to have travel permits to depart the capital, the Government effectively controlled access by relief organizations to the rural areas. The status of school feeding programs was unknown (see Section 2.d.).

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

The law and unimplemented constitution prohibit discrimination against women and persons with disabilities; while the Government generally enforced these provisions, violence against women and discrimination against minority ethnic groups continued.

*Women.*—Violence against women was pervasive. Domestic violence is a crime; however, domestic violence, especially wife beating, was widespread. Women seldom openly discussed domestic violence because of societal pressures. Although the law prohibits domestic violence, the Government did not effectively enforce the law. Such incidents were more commonly addressed, if at all, within families or by religious clergy. The Government's response to domestic violence was hindered by a lack of training, inadequate funding, and societal attitudes.

Rape is a crime; however, it was unclear whether spousal rape is illegal. There was no specific information available on the prevalence of rape in the country. The Government responded to reports of rape by encouraging the perpetrator to marry the victim.

FGM was widespread, with some estimates as high as 89 percent frequency among girls. Almost all ethnic and religious groups in the country practiced FGM. In the lowlands, infibulation—the most severe form of FGM—was practiced. There is no law prohibiting FGM; however, the Government worked to combat the practice. The Government and other organizations, including the National Union of Eritrean Women and the National Union of Eritrean Youth and Students, sponsored education programs that discouraged the practice.

Prostitution is illegal but was a serious problem. Security forces, who regularly patrolled the city at night, occasionally followed prostitutes and arrested those who had spent the night with a foreigner.

Laws exist prohibiting sexual harassment; however, cultural norms prevented women from reporting these types of incidents, and no one was charged or prosecuted for sexual harassment.

Women have a legal right to equal educational opportunities, equal pay for equal work, and equal property rights; however, in practice men retained privileged access to education, employment, and control of economic resources, with greater disparities in rural areas than in cities. Women generally did not enjoy a social status equal to men.

The law requires that women ages 18 to 27 participate in national service (see Section 6.c.). During the year the Government continued efforts to detain female draft evaders and deserters. According to reports, some women drafted for national service were subject to sexual harassment and abuse.

*Children.*—Although the Government was generally committed to children's rights and welfare, its programs were limited by resource constraints. The Ministry of Labor and Human Welfare is responsible for policies concerning children rights and welfare. The Children's Affairs Division in the Ministry of Labor and Human Welfare covered childcare, counseling, and probation.

Education through grade seven is compulsory and tuition-free; however, students were responsible for uniforms, supplies, and transportation, which was prohibitively expensive for many families. Education above grade seven requires a nominal fee and is not compulsory. There was a shortage of schools and teachers at all levels, remedied in part by holding morning and afternoon shifts at schools. According to Ministry of Education estimates, the net enrollment rate of school-age children in the 2003–4 school year was approximately 43 percent. In 2003 the gross elementary (grades one to five) enrollment rate was 71.7 percent. For the 2003–4 school year, the Ministry of Education reported that 374,997 students were enrolled in elemen-

tary school and 122,966 students were enrolled in middle school. For middle school (grades six and seven), the gross enrollment rate was 44.87 percent. As of 2001, 86 percent of children who started primary school were likely to reach grade five. Approximately 75 percent of the population was illiterate. In rural areas young girls usually left school early to work at home.

The Government required that all students attend their final year of secondary school at a location adjacent to the Sawa military training facility in the western section of the country. Students who did not attend this final year did not graduate and could not sit for examinations to be eligible for advanced education. The remote location of this boarding school, security concerns, and societal attitudes resulted in few female students enrolling for their final year; however, women could earn an alternative secondary school certificate by attending night school after completing national service. Many students elected to repeat grades to avoid completing the 11th grade and being forced to go to Sawa. There were unconfirmed reports that the military conducted a roundup of these students in Keren in the spring.

The Government operated Mai Nafhi Technical Institute, where students who scored well on university exams were admitted, on the outskirts of Asmara. Mai Nafhi offered a wide variety of classes, ranging from the sciences to business and technology. No new students were accepted at the University of Asmara in the last three years (see Section 2.a.).

Although the Government did not provide medical care for children, it operated an extensive vaccination program.

There are no laws against child abuse, but child abuse was not common.

FGM was performed on an estimated 89 percent of young girls (see Section 5, Women).

The minimum age for marriage for both men and women is 18, although religious entities may bless marriages at younger ages. UNICEF reported that in the west and in coastal areas child marriage occurred. According to a 2002 Demographic and Health Survey, 28.2 percent of the female population between 15 and 19 were married, and 1.5 percent of the male population between 15 and 19 were married. Within the Tigrinya and Tigre ethnic groups, underage marriage was relatively rare.

The law criminalizes child prostitution, pornography, and sexual exploitation; however, some children were involved in prostitution.

*Trafficking in Persons.*—The law and unimplemented constitution prohibit trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The law and unimplemented constitution prohibit discrimination against persons with disabilities in employment, education, or in the provision of other state services, and there were no reports of discrimination in practice. The Government dedicated substantial resources to support and train the thousands of men and women with physical disabilities that resulted from the war for independence and the conflict with Ethiopia. There are no laws mandating access for persons with disabilities to public thoroughfares or public or private buildings, but many newly constructed buildings provided such access.

*National/Racial/Ethnic Minorities.*—There were reports of government and societal discrimination against the Kunama, one of nine ethnic groups residing primarily in the west.

Societal abuse of Ethiopians occurred, but there were fewer reports of such abuse than in the previous year.

*Other Societal Abuses and Discrimination.*—Homosexuality is illegal, and homosexuals faced severe societal discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the legal right to form unions to protect their interests; however, some government policies restricted free association or prevented the formation of unions, including within the civil service, military, police, and other essential services. The Ministry of Labor and Human Welfare must grant special approval for groups of 20 or more persons seeking to form a union. There were no reports that the Government opposed the formation of labor associations during the year; however, the Government did not approve the formation of any unions. All unions, including the Teacher's Union, Women's Union, Youth's Union, and Worker's Union, were run by the Government. Membership in these unions was required, and since most businesses were also government-owned, these unions did not experience antiunion discrimination. The Government did not encourage the formation of independent unions by employees of private businesses. Union leaders were typically government employees, and union activities were generally government sanctioned.

The three union leaders arrested without charge in March 2005 were reportedly in a secret detention center controlled by security forces at year's end.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference; however, employees of the military, police, and other members of the essential services do not participate in union activity. The Government determines the wage scale for government employees in a non-transparent manner. In the small private sector, the wages are set independently.

The law allows strikes; however, workers did not exercise this right in practice. In January the Government officially declared the establishment of free zones to attract foreign and local investors.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were unconfirmed reports that it occurred during the year. The Government required all men between the ages of 18 and 45 and women between the ages of 18 and 27 to participate in the national service program, which included military training and civilian work programs. Some citizens reported enlistment in the national service for many years with no prospective end date. The Government justifies its open-ended draft on the basis of the unresolved border dispute with Ethiopia. In addition, some national service members were assigned to return to their civilian jobs while nominally kept in the military because their skills were deemed critical to the functioning of the Government or the economy. These individuals continued to receive only their national service salary. The Government required them to forfeit to the Government any money they earned above and beyond that salary. Government employees generally were unable to leave their jobs or take new employment. Draft evaders often were used as laborers on government development projects.

Forced child labor occurred (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the Government has a national plan of action to protect children from exploitation in the workplace, it was not enforced effectively, and child labor occurred. The legal minimum age for employment is 18 years, although apprentices may be hired at age 14. The law prohibits children, young workers, and apprentices under age 18 from performing certain dangerous or unhealthy labor, including working in transport industries, working in jobs involving toxic chemicals or dangerous machines, and working underground, such as in mines and sewers. It was common for rural children who did not attend school to work on family farms, fetching firewood and water and herding livestock, among other activities. In urban areas, some children worked as street vendors of cigarettes, newspapers, or chewing gum.

Labor inspectors from the Ministry of Labor and Human Welfare are responsible for enforcing child labor laws, but inspections were infrequent.

Some of the major programs implemented to prevent child labor include government preschool services in rural and urban areas and academic and vocational training.

*e. Acceptable Conditions of Work.*—The minimum wage in the civil service sector of \$24 (360 nakfa) per month did not provide a decent standard of living for a worker and family. Most people in national service and the service industry made less than the minimum wage. The Government did not enforce the minimum wage law. There is no legally mandated minimum wage in the private sector.

The standard workweek is 44.5 hours, but many persons worked fewer hours. Workers are entitled to one rest day per week; most workers were allowed 1 to 1.5 days off per week. There are no prohibitions against excessive overtime. The Government has instituted occupational health and safety standards, but inspection and enforcement varied widely among factories. In practice some workers were permitted to remove themselves from dangerous work sites without retaliation.

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## ETHIOPIA

Ethiopia is a federal republic under the leadership of Prime Minister Meles Zenawi and the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) coalition. The country's population was approximately 77 million. In the May 2005 parliamentary elections, the EPRDF won a third consecutive five-year term. Domestic and international observers reported that polling throughout the country was generally credible, although irregularities and intimidation of voters and election observers marred polling in many areas. Political parties predominantly were ethnically based, but opposition parties engaged in a steady process of consolidation. While civilian authorities generally maintained effective control of the security

forces, there were instances in which elements within those forces acted independently of government authority.

Human rights abuses reported during the year included: limitation on citizens' right to change their government during the most recent elections; unlawful killings, and beating, abuse, and mistreatment of detainees and opposition supporters by security forces; poor prison conditions; arbitrary arrest and detention, particularly those suspected of sympathizing with or being members of the opposition; detention of thousands without charge and lengthy pretrial detention; infringement on citizens' privacy rights and frequent refusal to follow the law regarding search warrants; restrictions on freedom of the press; arrest, detention, and harassment of journalists for publishing articles critical of the Government; restrictions on freedom of assembly; limitations on freedom of association; violence and societal discrimination against women and abuse of children; female genital mutilation (FGM); exploitation of children for economic and sexual purposes; trafficking in persons; societal discrimination against persons with disabilities and religious and ethnic minorities; and government interference in union activities.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports of political killings; however, federal and local police forces committed unlawful killings during the year.

On January 23, federal police shot and killed 15 demonstrators and injured 19 others in the East Wallega zone, Guduru District. The shootings occurred during a demonstration by residents against local government forces. No investigation was conducted into the incident.

On February 6, off-duty federal police officer Alemu Dariba, along with other unidentified persons, killed four youths in Gondar. Dariba allegedly approached 17-year-old Berket Fantahu; 18-year-old Abebe Wondem-Agegn; 18-year-old Sentayhu Worknehand; and 19-year-old Dawit Tesfaye and ordered them to raise their hands. He then marched them to a stream 30 yards away, forced them to the ground, and shot each of them in the head. Dariba was arrested shortly after the incident and remained in custody without charge at year's end.

The Ethiopian Human Rights Council (EHRCO) reported that on May 27, in a violent conflict between local store owners in Nazret, Oromiya Region, police shot and killed Alemu Tesfaye, Tariku Yakiso, and Mensur Musema. Police had attempted to evict the store owners, and the owners and their employees responded by throwing rocks at the police. No investigation was conducted into the incident.

During the year reports were received of the August 2005 killing of Elias Molago, of Gibe District, by army troops. After Molago was killed, his body was publicly displayed in the town of Hosana, the district capital. Molago, an election observer in the 2000 parliamentary elections, had disputed the official results that gave the ruling party victory in the area. No investigation was conducted into Molago's killing.

There were no developments in the early 2005 political killings of opposition All-Ethiopia Unity Party/Coalition for Unity and Democracy (AEUP/CUD) party members Anley Adis, Eyilegne Wendimneh, Tilahun Kerebe, and Alamir Aemero. At the end of 2005 police had arrested two suspects in the killing of Tilahun Kerebe, but no further information was available.

There were no developments in the 2005 political killings by police, militia, and kebele (local administration) officials of 24 Oromo National Congress (ONC) members, including Ahmed Adem and parliamentarian-elect Tesfaye Adane. At year's end, three police officers suspected of involvement in Adane's killing were detained at Zway prison as their case remained under investigation.

There were no further developments in the 2005 political killing of CUD coordinator Hassan Endris in Amhara Region or the May killing of Sheikh Osman Haji Abdella in Oromo Region. Both killings were committed by kebele officials.

There were no developments in the August 2005 political killing of Bezela Lombiso and the rape of his wife by army troops. Bezela had been accused of killing a policeman during the 2000 national and regional elections.

There were no developments in the September 2005 killing of CUD member Asefa Getahun, the October 2005 political killing of Girma Biru, or the extrajudicial killings of Mosse Wasse and Tila Tsega.

There were no significant developments in the following cases of persons killed by security forces in 2004: the killing of Kebede Uzo in the Somali region, the killing of ninth-grade student Alemu Tesfaye in Oromiya region; the killing of high school student Amelework Buli of Oromiya region; the killings of various AEUP sup-

porters; the killing of 10 persons in Gode town; the killing of Geletaw Mamo of Amhara region and Efrem Alemayehu of Addis Ababa.

There were no new developments reported in the following 2005 police killings of demonstrators: the June killings of 42 unarmed demonstrators in Addis Ababa; the November killings of 46 rioters; the killings of student Shibre Desalegn, 16-year-old student Nebiy Alemayehu, Zulufa Surur (a mother of seven children), or 16-year-old brothers Fekadu Negash and Abraham Yilma. Seven police officers were also killed during the November riots, and no individuals were charged in these cases.

In late October the commission of inquiry established by the Government to investigate the alleged use of excessive force by security forces in violent 2005 antigovernment demonstrations released its report. The commission found that 193 civilians—nearly four times the number originally reported by the Government—and 6 members of the security forces were killed, while 763 civilians and 71 members of the security forces were injured, many seriously.

The commission also found that security forces did not use excessive force, given demonstration violence; however, prior to the release of the report, the chairman and deputy chairman of the commission fled the country, allegedly in response to threats made against them by government forces. After fleeing, both stated publicly and showed video evidence that at an official meeting in June, the commission had originally decided, by a vote of eight to two, that excessive force was used and that the total number of killed and injured was the same as eventually reported. Following this vote, government officials allegedly urged commission members to change their votes to indicate that excessive force was not used.

At year's end the criminal trial of government soldiers who were charged with the killing, rape, and torture of hundreds of Anuaks during the December 2003 to May 2004 violence in the Gambella region remained ongoing. In 2004 an independent inquiry commission was established to investigate this case. As a result of the commission's findings, six members of the army were arrested and placed on trial for their involvement in the killings.

At year's end there were approximately two million landmines in the country, many dating from the 1998–2000 war with Eritrea. During the year landmines killed five and injured 20 civilians in districts bordering Eritrea. The Government demining unit continued to make limited progress in its survey and demining of border areas. United Nations Mission in Eritrea and Ethiopia (UNMEE) officials reported that new landmines were planted on both sides of the border with Eritrea during the year. The Government and UNMEE engaged in demining activities in selected areas along the border and disseminated information on the whereabouts of suspected mined areas to local residents.

Armed elements of the Oromo Liberation Front (OLF) and the Ogaden National Liberation Front (ONLF) continued to operate within the country. Clashes with government forces on numerous occasions resulted in the death of an unknown number of civilians, government security forces, and OLF and ONLF troops and members.

On April 15, a blast in the central market place in the town of Gedo, Oromiya region killed 15 persons and injured 37 others. The Government accused dissident Oromo groups of involvement, but all denied responsibility. A number of individuals, including alleged ONC supporters, were arrested in connection with the bombing, although at year's end there were no reports of legal proceedings.

During the year several bomb explosions were reported in Addis Ababa and other parts of the country. On May 12, four persons were killed and 42 were injured in nine separate bombings in Addis Ababa. Security forces blamed the OLF and accused it of operating in cooperation with the Eritrean government; the OLF denied responsibility. There were no arrests in this case.

In late May, 42 persons were injured in three simultaneous bomb blasts at a hotel and two restaurants in Jijiga, Somali region.

Violent clashes between different ethnic clans during the year resulted in hundreds of deaths and injuries and displaced tens of thousands (see Section 5).

On June 11, a group of armed men attacked a bus en route from Addis Ababa to Gambella, near the town of Bonga, Gambella region. At least 14 persons were killed and several others injured. Reports indicated that the assailants may have been ethnic Anuak dissidents. Several people were arrested in connection with this event and charged with murder. At year's end their case was ongoing.

On September 3, a hand grenade was thrown into the Wendimamchoch Hotel in the town of Jijiga, killing the owner and injuring seven others. The Government had not identified suspects or made any arrests by year's end.

On September 15, an explosion in Addis Ababa killed three persons. The Government reported that those killed were OLF members attempting to construct a bomb, using materials supplied by Eritrea. However, many believed that government security forces may have been involved in the bombing.

A series of clashes between Muslims and Ethiopian Orthodox Christians during the year resulted in numerous deaths and injuries (see Section 2.c.).

There were no further developments in the 2005 hand grenade attacks on four hotels and a residence in Jijiga, which resulted in five deaths and 31 injuries.

No further information was available on the trials of suspects arrested in connection with the 2004 hand grenade attack on a television room at Addis Ababa University.

There were no developments in the 2004 hand grenade attack on a Tigrayan-owned shop in Debre Zeit, Oromiya region. Police blamed the OLF for the attack.

The federal high court in Addis Ababa continued to arraign and prosecute those formally charged with committing genocide and other war crimes, including extrajudicial killings, under the 1975–91 Derg regime (see Section 1.e.).

*b. Disappearance.*—The politically motivated disappearances of tens of thousands of civilian protestors following the November 2005 political demonstrations persisted into the current reporting period. The independent commission of inquiry into the alleged use of force by security forces in June and November 2005 found that security officials held over 30,000 civilians incommunicado for up to three months in detention centers located in remote areas following the November 2005 demonstrations. Other estimates placed the number of such detainees at over 50,000. By year's end, all but a few hundred of these prisoners were released and those who remained in custody currently were facing trial.

In January EHRCO reported the December 2005 disappearances of six persons. On December 2, security forces abducted Lt. Abebe Alemu of Lafto Subcity, Addis Ababa; Heletework Zewdu of Akaki Subcity, Addis Ababa; and Wondimagegne Gedefaw of Kolfe Subcity, Addis Ababa. On December 21 and 22, security forces abducted Tadesse Zelelam, Ayana Chindessa, and Legesse Tolera at Nekemt High School in Nekemt, Oromiya region.

There were no developments in the June 2005 abduction by security forces of Addis Ababa residents Ashenafi Berhanu, Tsegaye Neguse, Daniel Worku, Adem Hussien, Jelalu Temam, Girum Seifu, Mekonnen Seifu, Endeshaw Terefe, Daniel Abera, Tesfaye Bacha, Tesfaye Jemena, Bonsa Beyene, Getu Begi, Solomon Bekele, Amanuel Asrat, Mesfin Mergia, or Dawit Demerew. The whereabouts of these individuals remained unknown.

There were no new developments in the May detention of Jigsa Soressa, a guard at the Mecha and Tulema Association (MTA), an Oromo nongovernmental organization (NGO), who reportedly continued to be detained at Addis Ababa prison.

In June 2005 three Ethiopian air force personnel landed a military helicopter at Ambouli, Djibouti; two of them reportedly requested asylum, but an Ethiopian military delegation reportedly convinced them to return to Ethiopia the next day. Amnesty International (AI) and the UN High Commissioner for Refugees (UNHCR) attempted to visit them in Djibouti but were refused. At year's end, family members told local press that the pilots were detained at an air force base and were restricted from seeing visitors.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit the use of torture and mistreatment, there were numerous credible reports that security officials often beat or mistreated detainees. Opposition political parties reported frequent and systematic abuse of their supporters by police and regional militias.

On February 28, the opposition ONC reported that security forces beat and intimidated regional parliamentarian Wegayehu Dejene of Me-ea District, Oromiya region following a regional council meeting. At year's end no one had been charged.

The EHRCO reported that on July 30, security forces detained and beat one Oromo Federal Democratic Movement (OFDM) and five ONC regional parliamentarians after their attendance in a court case involving Mecha and Tulema Association members. At year's end no one had been charged.

The ONC reported that on January 23, several armed soldiers raped seven female residents of Guduru District, Oromiya region. The victims ranged in age from 18 to 37. At year's end there were no arrests.

There were no developments in the May 2005 of beating and subsequent suicide death of Abdeta Dita Entele, a member of the opposition coalition Oromo National Congress/United Ethiopian Democratic Forces of Siraro District in the Oromo region.

There were no developments in the October 2005 reported attack on Daniel Bekele, a policy advocate for the NGO ActionAid Ethiopia and a member of the executive committee of the Network of Ethiopian Nongovernmental Organizations and Civil Society Organizations, which monitored the May 2005 elections. At year's end Bekele remained in police detention on trial for treason and genocide.

Authorities took no action against police responsible for the 2004 beatings of students, teachers, and parents at Oromiya region high schools and universities or against militia responsible for 2004 attacks on its members reported by the opposition All-Ethiopia Unity Party.

Security forces beat persons during demonstrations (see Section 2.b.).

There were no developments in the 2005 report of two former senior government officials—former national and public security minister Tesfaye Woldeselase and Leggesse Belayneh, former head of criminal investigations—who were given death sentences by the federal high court for torturing political opponents during the former Mengistu regime. At year's end, the death sentences had not been carried out.

During the year ethnic clashes resulted in hundreds of injuries and deaths (see Section 5).

*Prison and Detention Center Conditions.*—Prison and pretrial detention center conditions remained very poor, and overcrowding continued to be a serious problem. Prisoners often were allocated fewer than 21.5 square feet of sleeping space each in a room that could contain up to 200 persons. The daily meal budget was approximately \$0.35 (3 birr) per prisoner, and many prisoners had family members deliver food daily or used personal funds to purchase food from local vendors. Prison conditions were unsanitary, and access to medical care was unreliable. There was no budget for prison maintenance.

In detention centers police often physically abused detainees. Authorities generally permitted visitors but sometimes denied them access to detainees. For example, the detained leaders of the CUD party had their visitation rights limited to immediate family members for a portion of the year.

While statistics were unavailable, there were some deaths in prison due to illness and poor health care. Prison officials were not forthcoming with reports of such deaths. The commission of inquiry into the 2005 post-election violence found at least 17 arrested protestors died in detention.

Authorities sometimes incarcerated juveniles with adults if they could not be accommodated at the juvenile remand home. There was only one juvenile remand home for children under age 15, with the capacity to hold 150 children.

Human rights organizations reported that in 2005 the Government had transported 10,000 to 18,000 individuals (mostly youths ages 18 to 23 detained during the November 2005 mass house-to-house searches in Addis Ababa) to Dedessa, a military camp formerly used by the Derg regime located 375 kilometers west of the capital. During the year most of the prisoners were released, although a few hundred remained in custody, facing charges for alleged crimes related to the November 2005 searches.

In July a new 90 bed facility for women was inaugurated at Kaliti. The separate building on the compound was constructed by Justice for All—Prison Fellowship, with funding from foreign governments. The facility improved sanitary conditions, provided greater privacy to female inmates, and was expected to help reduce overcrowding. The construction of a new prison for men near Kaliti was underway at year's end.

During the year the International Committee of the Red Cross (ICRC) visited regional prisons, civilian detention facilities, and police stations throughout the country and conducted hundreds of visits involving thousands of detainees. However, they were restricted from visiting federal prisons, including those where senior opposition, civil society, and media leaders were being held. The Prison Fellowship Ethiopia, a local NGO, was granted access to various prison and detention facilities, including federal prisons. The Government also periodically granted diplomatic missions access to regional prisons and prison officials, subject to advanced notification. Authorities allowed the ICRC to meet regularly with prisoners without third parties being present. The ICRC received permission to visit military detention facilities where the Government detained suspected OLF fighters. The ICRC also continued to visit civilian Eritrean nationals and local citizens of Eritrean origin detained on alleged national security grounds.

Government authorities continued to permit diplomats to visit prominent detainees held by the Special Prosecutor's Office (SPO) for alleged involvement in war crimes and terrorist activities. However, the Government limited access of representatives of the international community access to leaders of the CUD opposition party, members of civil society groups, and journalists detained in November 2005 for alleged involvement in antigovernment demonstrations in Addis Ababa, who remained in federal police custody at Addis Ababa's Kaliti prison at year's end. The Government also permitted Prison Fellowship Association and local religious leaders to visit these detainees.

*d. Arbitrary Arrest or Detention.*—Although the constitution and law prohibit arbitrary arrest and detention, the Government frequently did not observe these provisions in practice.

*Role of the Police and Security Apparatus.*—The Federal Police Commission reports to the Ministry of Federal Affairs, which in turn is subordinate to the parliament. Local government militias also operated as local security forces largely independent of the police and the military. Petty corruption remained a problem in the police force, particularly among traffic policemen who solicited bribes from motorists. Impunity also remained a serious problem. The Government rarely publicly disclosed the results of investigations into such types of abuses. The federal police acknowledged that many members of its police force as well as regional police lacked professionalism.

The Government continued its efforts to train police and army recruits in human rights. During the year the Government continued to seek assistance from the ICRC, Prison Fellowship Association and the EHRCO to improve and professionalize its human rights training and curriculum to include more material on the constitution and international human rights treaties and conventions.

In November the commission investigating the alleged use of excessive force by security forces in violent antigovernment demonstrations of June and November 2005 delivered its report (see Section 1.a.).

*Arrest and Detention.*—Authorities regularly detained persons without warrants and denied access to counsel and family members, particularly in outlying regions. Although the law requires detainees to be informed of the charges against them within 48 hours, this generally was not respected in practice. While there was a functioning bail system, it was not available for some offenses, including murder, treason, and corruption. In most cases authorities set bail between \$115 and \$1,150 (1,000 to 10,000 birr), which was too costly for most citizens. In addition police officials did not always respect court orders to release suspects on bail. With court approval, persons suspected of serious offenses can be detained for 14 days while police conduct an investigation, and for additional 14-day periods while the investigation continues. The law prohibits detention in any facilities other than an official detention center; however, there were dozens of crude, unofficial local detention centers used by local government militia.

The Government provided public defenders for detainees unable to afford private legal counsel, but only when their cases went to court. While in pretrial detention, authorities allowed such detainees little or no contact with legal counsel.

There were many reports from opposition party members that in small towns authorities detained persons in police stations for long periods without access to a judge, and that sometimes these persons' whereabouts were unknown for several months. Opposition parties registered many complaints during the year that government militias beat and detained their supporters without charge for participating in opposition political rallies (see Section 1.c.).

The Government continued its harassment of teachers, particularly in Oromiya region. The independent Ethiopian Teachers Association (ETA) reported that authorities detained numerous teachers and accused them of being OLF sympathizers, many of whom remained in prison at year's end. For example, in December prominent union members Tilahun Ayalew, Anteneh Getnet and Meqcha Mengistu were taken into police custody. Some of the teachers had been in detention for several years without charges. Human rights observers suspected several of the prolonged detentions were politically motivated.

Police continued to enter private residences and arrest individuals without warrants (see Section 1.f.).

Police detained journalists during the year (see Section 2.a.).

On May 27, following clashes between local police and store owners, 180 persons were detained by security forces in the town of Nazret, Oromiya region, and charged with inciting uprising and destruction of property (see Section 1.a.). At year's end most of those arrested had charges dismissed and were released; however, there was no information available on those still detained.

On August 30, security forces rounded up 250 persons in the town of Tikur Inchini, Oromiya region, following an uprising by local ONC activists. At year's end 81 persons remained in prison facing charges of treason.

Authorities took no action against Amhara region government militia, district officials, and police who arbitrarily detained AEUP members in 2004. ONC member Olbana Lelisa, who was arbitrarily detained in 2004, was released in 2005.

Due to the fact that demonstrations were banned in November 2005, there were no reports that police detained persons for holding meetings and demonstrations.



Opposition groups alleged that some of the persons detained by the SPO were held for political reasons, an allegation that the Government denied (see Section 1.e.).

In January international media reported that more than 11,000 persons detained in November 2005 following large-scale antigovernment demonstrations had been released. However, the commission of inquiry into post-election political violence found that over 30,000 individuals had been detained, while other reports placed the number at over 50,000. More than 2,200 of the prisoners were released without charge. An additional 734 persons detained during violence in Addis Ababa were released on January 6. More than 650 prisoners related to the protests were still being held at the Ziway detention camp in January, and the exact number of persons who remained in custody at year's end was not known.

In early February AI alleged that the Government was still holding thousands of students under arrest in Oromiya region. The Government denied the accusation, and claimed that only 86 students were under arrest for offenses including violence, property destruction, and "disrupting the teaching and learning process."

Alemayu Fantu, a prominent retailer, was arrested in October for allegedly being in possession of CUD civil disobedience calendars. He was released on bail after several weeks.

At year's end scores of CUD leaders, several members of NGOs active in civic education, and independent journalists detained in November 2005 remained in detention (see Section 1.e.).

All of the OFDM members detained following the May 2005 parliamentary elections had been released by the end of the year.

In response to attacks by armed opposition groups operating out of Somalia and Kenya, the military continued to conduct operations, which included occasional arbitrary detentions, in the Southern, Somali, and Oromiya regions.

Authorities took no action against Amhara region government militia, district officials, and police who arbitrarily detained AEUP and ONC members in 2004. Authorities also took no action against police who in 2004 detained hundreds of Oromo students and teachers for several weeks in detention centers on suspicion of being supporters of the OLF.

Thousands of criminal suspects reportedly remained in pretrial detention, some for years. Some of the detainees were teachers and students from the Oromiya region accused of involvement in OLF activities or arrested after student unrest broke out in Oromiya in 2004.

The Government continued to detain several persons without charge at the Gondar prison, some of whom had been in custody for years, while the police investigated their cases.

*Amnesty.*—On September 10, the Government granted its first amnesty in 30 years. This decision by the federal and regional pardon boards secured the release of nearly 10,000 prisoners, which represented approximately 15 percent of the total prison population. In total 237 prisoners were freed from federal prisons, and 26 others, including 11 death row inmates, were given reduced sentences. The remaining were released from regional prisons: 3,995 from Amhara; 2,435 from Oromo; 1,100 from Tigray; 2,400 (approximately) from the Southern National and Nationalities Region; and 43 from Gambella. Convicted rapists and those jailed for corruption were not included in the amnesty.

*e. Denial of Fair Public Trial.*—While the law provides for an independent judiciary, the judiciary remained weak and overburdened. The judiciary was perceived to be subject to significant political intervention.

The Government continued to decentralize and restructure the judiciary along federal lines with the establishment of courts at the district, zonal, and regional levels. The federal high court and the federal Supreme Court heard and adjudicated original and appeal cases involving federal law, transregional issues, and national security. The regional judiciary was increasingly autonomous and often heard regional cases.

Regional offices of the federal Ministry of Justice monitored local judicial developments. Some regional courts had jurisdiction over both local and federal matters, as the federal courts in those jurisdictions had not begun operation; overall, the federal judicial presence in the regions was limited. Anecdotal evidence suggested that some local officials believed they were not accountable to a higher authority. Pending the passage of regional legislation, federal procedural and substantive codes guide all judges.

To remedy the severe lack of experienced staff in the judicial system, the Government continued to identify and train lower court judges and prosecutors, although officials acknowledged that salaries did not attract the desired number of competent professionals.

*Trial Procedures.*—According to the law, accused persons have the right to a fair public trial by a court of law within a “reasonable time,” the right to a presumption of innocence, the right to be represented by legal counsel of their choice, and the right to appeal. Despite these protections, closed proceedings occurred, at times authorities allowed detainees little or no contact with their legal counsel (see Section 1.d.), and detainees usually were not presumed innocent. The Public Defender’s Office provides legal counsel to indigent defendants, although its scope remained severely limited, particularly with respect to SPO trials. Although the law explicitly stipulates that persons charged with corruption are to be shown the body of evidence against them prior to their trials, authorities routinely denied defense counsel access to such evidence before trial.

The law provides legal standing to some pre-existing religious and customary courts and allows federal and regional legislatures to recognize other courts. By law, all parties to a dispute must agree that a customary or religious court will be used before it may hear a case. Shari’a (Islamic) courts may hear religious and family cases involving Muslims. In addition, other traditional systems of justice, such as councils of elders, continued to function. Although not sanctioned by law, these traditional courts resolved disputes for the majority of citizens who lived in rural areas and generally had little access to formal judicial systems.

The federal first instance court’s seventh criminal branch handled cases of sexual abuse against women and children.

Three federal judges sat on one bench to hear all cases involving juvenile offenses. There was a large backlog of juvenile cases, and accused children often remained in detention with adults until officials heard their cases.

The military justice system lacked adequately trained staff to handle a growing caseload. Foreign assistance to train military justice officials resumed during the year.

On December 12, following a 12-year trial, 57 top officials from the former Derg regime, including former communist dictator Colonel Mengistu Hailemariam, were found guilty of genocide, treason and murder for crimes committed during their 17 years of rule. Twenty-seven of those convicted, including Colonel Mengistu, were tried in absentia, as they had fled the country. Their sentencing was pending at year’s end. By the end of the reporting period, courts had convicted 1,018 persons involved with the Derg regime of crimes related to their role in atrocities, while 5,000 to 6,000 others remained on trial in other cases.

*Political Prisoners and Detainees.*—The total number of political prisoners and detainees during the year was estimated to be in the hundreds.

The CUD leadership, civil society members, human rights defenders, and journalists arrested following the demonstrations in November 2005 remained on trial at year’s end, facing charges of treason, attempted genocide, and “outrages against the constitution,” among other serious charges carrying potential punishments of life in prison or death. Those on trial included Addis Ababa mayor-elect Berhanu Nega, former UN Rwanda Tribunal prosecutor Yacob Hailemariam, human rights activist Mesfin Woldemariam, ActionAid representative Daniel Bekele, Netsanet Demissie, and federal parliamentarian Kifle Tigneh, among other prominent individuals. Nearly 200 defendants, ranging in age from 18 to 76, were being prosecuted in four separate cases in Addis Ababa. Five Voice of America (VOA) journalists were among those initially charged, although their cases were dropped following international pressure.

The 200 political prisoners on trial in the Addis Ababa federal system were held in two separate prisons, Kaliti and Kerchele, often under harsh conditions. In March CUD Secretary General Muluheh Eyoel was placed in solitary confinement at Kerchele prison. In August fellow CUD member Andualem Arage, along with journalists Sisay Agena and Eskinder Nega, were placed in solitary confinement.

During their incarceration, several political prisoners experienced serious health problems. Some were taken to a special prison hospital, where they were treated and returned to detention facilities, while others complained of not having received any treatment. During the year pregnant journalist Serkalem Fassil prematurely gave birth while in detention at Kaliti. She was refused permission to remain in the hospital to nurse. The baby’s father, fellow journalist Eskinder Nega, was kept in solitary confinement and was not allowed to see his child.

Family members reported that the political prisoners were denied proper light, mattresses and, adequate bathroom facilities. Several defendants and families complained of having their visitation rights restricted on a number of occasions during the year. The visitation rules for political prisoners were more restrictive than the rules for other prisoners held in the same facilities. The ICRC was not permitted regular access to political prisoners (see Section 1.d).

*Civil Judicial Procedures and Remedies.*—The law provides citizens the right to appeal human rights violations in civil court; however, no such cases were filed during the year. Additionally, the Human Rights Commission, an office established by parliament to record human rights violations, was intended to act as a clearing-house for human rights complaints from individual citizens. The commission had not yet established this capacity by year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law requires authorities to obtain judicial search warrants to search private property; however, in practice, particularly outside Addis Ababa, police often searched property without obtaining warrants (see Section 1.d.). Opposition party representatives claimed that police sometimes used fraudulent warrants to enter homes and commit criminal acts, including extorting money. There were reports that members of the federal police robbed persons during the year, including through the use of false warrants.

There continued to be reports of police forcibly entering civilian homes. During and following antigovernment demonstrations in June and November 2005, security forces entered homes and searched premises without warrants, took thousands of persons from their homes in the middle of the night without warrants, and often detained family members or other residents.

Unlike in previous years, there were no reports from opposition party members that authorities burned down their homes and looted their offices.

All electronic communications facilities were state-owned. Political party leaders reported incidents of phone-tapping and other electronic eavesdropping.

The Government used a widespread system of paid informants to report on the activities of particular individuals.

There were reports during the year of the forced displacement of families in rural areas. The Government stated that its resettlement program, which moved families from drought-prone areas to more fertile lands, was entirely voluntary, but opposition parties accused local authorities in some rural areas of targeting opposition supporters for resettlement by manipulating resettlement rosters. Media reports indicated that in several instances, the Government resettled persons in areas with no existing infrastructure or clean water supply, resulting in unusually high rates of infant mortality.

During the year there continued to be credible reports from EHRCO and opposition parties that in certain rural areas in the Oromiya region; Amhara region; and the Southern Nations, Nationalities, and Peoples region; local officials used threats of land redistribution and withholding of food aid and fertilizer to garner support for the ruling coalition. There were many reports of ruling party or government harassment intended to prevent individuals from joining opposition parties or from renting property to them. There were numerous reports of more serious forms of harassment and violence directed against members of opposition parties in many areas of the country, including beatings, house burnings, and killings (see Sections 1.c., 1.d., 3, and 5).

There also were credible reports that teachers and other government workers had their employment terminated if they belonged to opposition political parties. According to the opposition Southern Ethiopian Peoples' Democratic Coalition (SEPDC), the regional government continued to dismiss SEPDC members—particularly teachers—from their jobs.

The law imposes a six-month waiting period on anyone seeking to remarry following a divorce or the death of one's spouse (see Section 5). The Government maintained that this waiting period was necessary to determine whether a woman may still be carrying the child of her former spouse. In practice this was not enforced, although the official overseeing such weddings may request a pregnancy test to show the woman was not pregnant from a previous marriage. Any interested party may request a written official explanation of why a wedding was allowed to occur within the waiting period.

Security forces continued to detain family members of persons sought for questioning by the Government.

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

*a. Freedom of Speech and Press.*—While the constitution and law provide for freedom of speech and press, the Government restricted these rights in practice. The Government continued to harass and prosecute journalists, publishers, and editors for publishing allegedly fabricated information and for other violations of the press law. The Government continued to control all broadcast media. Private and government journalists routinely practiced self-censorship.

Government-controlled media reflected mostly the views of the Government and the ruling EPRDF coalition. However, live radio and television broadcasts at times

included televised parliamentary debate and broadcast the views of opposition parliamentarians, as did government newspapers. Relations between the private press and the Government were not as strained as in the period immediately following the elections and the disturbances of June and November 2005, but the majority of private media existing in 2005 was effectively silenced by the closures of several publications and self-censorship following arrests and indictments of journalists.

Government actions against the private press that began during the May 2005 elections effectively silenced most private newspapers. Local journalists complained of constant government harassment as well as more subtle forms of censorship, including pressure on printers not to print the newspapers. As a result, the number of private newspapers available in Addis Ababa decreased dramatically from the period prior to the election to the end of the year. Eight newspapers were banned after their publishers and editors-in-chief were arrested. Six others newspapers ceased publication directly as a result of the Government's crackdown or the government-owned printing presses refusal to print the papers. The closed papers had a combined total weekly circulation of approximately 400,000. Following the crackdown, only approximately 40,000 copies of the six remaining private Amharic language political papers were in circulation.

Foreign journalists at times published articles critical of the Government but were subjected to government pressure to self-censor their coverage. During the year some reporters were expelled from the country for publishing articles critical of the Government.

On January 21, Associated Press correspondent Anthony Mitchell was given 24 hours to leave the country a day after reporting on renewed clashes between police and protesters in Addis Ababa. The state-owned Ethiopian News Agency (ENA) said the Government had decided to expel Mitchell for "tarnishing the image of the nation repeatedly, contravening journalism ethics," and "disseminating information far from the truth about Ethiopia." Mitchell, a foreign citizen who also worked for the UN news agency IRIN had worked in the country for more than five years.

On February 21, foreign journalist Inigo Gilmore was denied press accreditation by the Ministry of Information. In December 2005 Gilmore had published an article in the British newspaper *The Observer* headlined "Ethiopian leader accused over human rights," which included accounts of alleged human rights abuses in the wake of election protests.

On June 23, the Ministry of Information suspended publication of the English-language weekly *The Sub-Saharan Informer* on the pretext that the paper had not informed the Ministry of Information of its change of office address, which it had done twice in writing. The paper was granted permission to resume publication on August 18.

On February 10, the Government issued the first broadcasting licenses allowing two private radio stations to operate in the country. By year's end neither of the two stations was operational. The Ethiopian Broadcasting Agency (EBA) said it had selected the two stations, *Zami Public Connections* and *Tensae Fine Arts*, from among 12 contenders on the basis of their financial status and proposed program content.

In August the Southern Regional State announced plans to begin radio broadcasts by launching six FM stations. Also in August, EBA issued a license for a community radio station, the *Kori Community Radio*, in the Southern Regional State.

On August 25, EBA issued a commercial license to the ruling EPRDF party-affiliated *Radio Fana*. *Radio Ethiopia* sold broadcasting time to private groups and individuals who wanted to air programs and commercials.

The Addis Ababa City Administration Mass Media Agency continued its five-hour Amharic FM broadcast as well as a three-hour local television program broadcast twice daily from the capital city.

The Government operated the sole television station and tightly controlled news broadcasts. The broadcasting law prohibits political and religious organizations from owning broadcast stations. The law also prohibits foreign ownership.

There were restrictions on access to international news broadcasts during the year. VOA broadcast signals were subject to intentional jamming. The Government permitted ownership of private satellite receiving dishes; however, high costs and the limited capacity of the sole telecommunications entity, the Ethiopian Telecommunications Corporation, effectively restricted access to this technology.

The Government continued to use statutory provisions on the publication of false information, incitement of ethnic hatred and libel to justify the arrest and detention of journalists. Along with opposition party members, 16 journalists were charged with treason, genocide, and attempts to subvert the constitution, charges which carry maximum penalties of life in prison or the death penalty.

In November 2005 five VOA journalists were included in a group of CUD leaders, members of civil society, and journalists charged with treason and attempting to subvert the constitution. On March 23, following pressure from foreign governments, the federal high court dropped the charges of treason and genocide against the VOA journalists and 13 others.

Between December 2005 and May, several journalists were convicted on charges stemming from news stories published as long ago as 1998, including libel, publishing false news, failing to print the name of the deputy editor in the newspaper, defaming the Government, and misinformation. Prison sentences ranged from three months to 18 months. Some of the sentenced journalists were released from jail on bail after being detained for a few weeks or months. Bail amounts ranged from \$56 to \$1,260 (487 to 10,962 birr). The journalists released on bail earlier in the year had court appearances in October and November.

On November 10, Getachew Sime, former editor-in-chief of the defunct Amharic language weekly, *Agere*, appeared in court to appeal his December 2005 defamation conviction and three-month prison sentence. The Federal Supreme Court rejected his appeal.

Leykun Engeda, former editor-in-chief and publisher of the Amharic language weekly *Dagim Wonchif*, was granted \$116 (1,000 birr) bail on January 5, after he appealed to the Federal Supreme Court. In November his appeal was rejected and he was sent to Kaliti Prison. The case against Engeda stemmed from a 1999 article in *Dagim Wonchif* about a rebel organization known as the Ethiopian Patriotic Front, alleging that the rebels had won a military victory against government soldiers. *Dagim Wonchif* went out of business, ostensibly due to problems encountered in obtaining newsprint.

On February 21, Arega Wolde Kirkos, editor-in-chief of the private Amharic language weekly, *Tobia*, was arrested on defamation charges. After appealing to the Federal Supreme Court for the charges against him to be dropped, he was released on bail of approximately \$110 (1,000 birr). Arega appeared in court in November and the charges against him were dropped.

On March 8, Abraham Gebre Kidan, editor of the now-defunct Amharic-language weekly, *Politika*, was sentenced to one year in prison for publishing "false news" in a 2002 report attributed to the BBC, which claimed that the Government was training rebels in neighboring Eritrea. Kidan was subsequently released on bail of approximately \$110 (1,000 birr). He appeared in court in November, at which time the charge against him was dropped and he was released.

Two journalists indicted on old charges, Wossonseged Gebrekidan and Tesehalene Mengesha, remained in prison at year's end. On April 18, Wossonseged Gebrekidan, editor-in-chief of the now banned *Addis Zena*, was sentenced to 16 months' imprisonment for defamation stemming from a 2002 article that allegedly defamed the editor of *Abiotawi Democracy*, a publication of the ruling EPRDF. At the time of his sentencing, Gebrekidan was already in jail on anti-government charges as one of fourteen journalists on trial along with opposition leaders and members of civil society for allegedly trying to overthrow the constitutional order.

On April 25, Abraham Retta, a journalist who freelanced for a number of different Amharic-language newspapers, and worked as a columnist for the private Amharic weekly *Addis Admas*, was sentenced on April 25 to one year and jailed the same day. Retta was charged for an article in the now-defunct private Amharic newspaper, *Ruh*, reporting that government officials had embezzled World Bank assistance funds in 2002. Retta appealed his sentence to the Federal Supreme Court; he appeared in court in November and his case was postponed and remained pending at year's end.

On May 4, Tesehalene Mengesha, former editor of the defunct Amharic-language weekly, *Mebruk*, was convicted of criminal defamation and sentenced to 16 months in prison. Mengesha also faced additional pending charges for "spreading false information" related to a report in the then private Amharic-language weekly, *Mebrek*, on the assassination attempt on Egyptian President Hosni Mubarak when he arrived in Addis Ababa in 1995 to attend a summit of the Organization of African Unity.

On February 19, Goshu Moges, journalist and manager of the opposition private Amharic-language weekly newspaper *Lissane Hizb* was arrested in what police described as a "crackdown on terrorists linked to Ethiopia's opposition parties." Moges was charged with seeking to "overthrow, modify, or suspend the constitution." He was denied bail and remained in custody at year's end. *Lissane Hizb* was not explicitly banned by the Government but remained unable to publish since November 2005, due to arrests of the paper's leadership and fear of arrest on the part of the remaining staff.

On May 4, Tesehalene Mengesha, former editor of the defunct Amharic-language weekly, *Mebruk*, was convicted of criminal defamation and sentenced to 16 months in prison. The case stemmed from an article published in *Mebruk* during the 1998–2000 Ethiopian-Eritrean border war. Mengesha had previously been jailed at least three times between 1997 and 2000 in connection with his work for *Mebruk*.

Eskinder Nega, editor of the newspaper *Satenaw* and one of the 16 journalists being tried with the CUD leadership, was kept in a separate prison in solitary confinement. Nega's partner, journalist *Serkalem Fassil*, was also arrested and detained at *Kaliti* prison. Another of the 16 journalists imprisoned on treason charges, *Sisay Agena*, publisher of the weekly newspaper *Ethiop*, was also moved to *Kerchele* prison in August and kept in a dark cell (see Section 1.d.).

In January 2005 authorities arrested *Shiferaw Insermu*, a journalist with the Oromo-language service of the state-owned Ethiopian Television (ETV), for the third time, at the central criminal investigation office prison in Addis Ababa. *Insermu* and fellow ETV journalist *Dhabassa Wakjira*, who was arrested in April 2004, remained in detention on several charges, including passing government information to the OLF leadership. Prison authorities ignored various court orders to free them.

Police asked Addis Zena editor-in-chief *Fassil Yenealem* to disclose his sources for two stories, including a May 2005 article reporting that the ruling EPRDF had established a special intelligence force to arrest and assassinate CUD leaders, and had recruited 11 Tigrayan women to poison CUD leaders. *Yenealem* did not reveal his sources and was subsequently arrested for publishing a story that could not be corroborated. *Yenealem* was released on bail later in 2005 but was one of the journalists detained along with the CUD leadership on anti-state crimes. He remained in prison at year's end.

In June 2005 government security forces detained Addis Ababa newspaper distributor *Fikre Gudu* and held him for one month. After his release, he gave an interview to the private Amharic-language weekly *Asqual* discussing his arrest and subsequent imprisonment in a detention center outside the capital. He described poor prison conditions and criticized the Government for jailing him. Authorities detained him again in August 2005; they released him on bail after four days in police detention. During his latest detention, police accused *Gudu* of using the interview to spread false information and to defame the police and prison system. No information was available on whether the case against *Gudu* was still pending.

All official media received government subsidies; however, the official media were legally autonomous and responsible for their own management and partial revenue generation. The minister of information was the Government's official spokesperson, and the ministry managed contacts between the Government, the press, and the public; however, the Government routinely refused to respond to queries from the private press and often limited its cooperation with the press to the government-run Ethiopian News Agency, the EPRDF-controlled *Walta* news agency, and correspondents of international news organizations.

Unlike in previous years, the Prime Minister's office allowed some members of the independent press limited access to official events. On April 30, for only the second time in 14 years, members of the independent press were invited to join state media and foreign correspondents in covering a press conference given by the Prime Minister. Later in the year, journalists from local English-language independent newspapers were invited to a press conference that had been opened to foreign correspondents. Independent journalists were also invited along with foreign correspondents to attend a press conference by the prime minister on Somalia in December.

The Ministry of Information required that newspapers maintain a bank balance of \$1,150 (10,000 birr) when annually registering for a publishing license. This sum effectively precluded some smaller publications from registering. Authorities also required permanent residency for publishers to establish and operate a newspaper. The Government did not require residency for other business owners, and some independent journalists maintained that the Government used the residency requirement as a form of intimidation. The press law requires all publishers to provide free copies of their publications to the Ministry of Information on the day of publication.

The majority of private newspapers as well as government newspapers printed their publications on government-owned presses. Following the unrest in November 2005, presses frequently refused to print some papers, citing Ministry of Justice statements indicating that presses would be held responsible for content they printed. Police had the authority to shut down any printing press without a court order but during the year did not exercise that power.

The Ethiopian Free Press Journalists Association (EFJA) remained in disarray following the crackdown on the private press. Several journalists remained in exile,

including EFJA President Kifle Mulat. His name was on the list of journalists being sought by the Government for their involvement in what the Government called treason and attempted genocide. The detention of most of its members effectively halted the EFJA's operation. Another association, the Ethiopian National Union of Journalists, established with the support of the Government, was inactive during the year.

*Internet Freedom.*—Beginning in mid-May, several “blogs” (Internet journals) and media watchdog groups alleged that the Government had begun blocking various websites that displayed content critical of the Government. This was corroborated by members of the general public in Addis Ababa. Blocked websites included the site of the Oromo Liberation Front and several news blogs and sites run by the Ethiopian diaspora, including the Ethiopian Review, CyberEthiopia.com, Quatero Amharic Magazine, Tensae Ethiopia, and the Ethiopian Media Forum. The Committee to Protect Journalists and others called upon the Government to stop blocking these sites. Officials at the Ministry of Information claimed that they had no explanation or information about the sudden inaccessibility of the blogs, and denied that the Government was responsible.

In December 2005 Elias Kifle, the publisher of web-based Ethiopian Review, was charged in absentia with treason. Frezer Negash, an Addis Ababa-based correspondent for the website, was imprisoned without charge from January 27 to March 8.

CPJ noted that the Government's crackdown on the traditional print media and the resulting widespread self-censorship in the press had spurred many local journalists and social and political activists to use the Internet.

On December 24, Capital, a private English-language newsweekly reported that the Ethiopian Telecommunications Agency was distributing forms for Internet cafes in the country and requiring them to register their internet users. Sources told Capital that the telecommunications agency was working with the federal police to distribute the forms to all Internet cafes in Addis Ababa and other major towns in order to identify illegal users. Sources said that if an Internet cafe was found serving unregistered customers its owners would be jailed.

Media reported that citizens used the Internet frequently and consistently and that access had increased through the proliferation of Internet cafes. Voice-over-Internet-Protocol technology also became increasingly popular for communicating with family and friends overseas. Capital reported that the number of Internet users in Addis Ababa in late 2004 was estimated at 100,000. Approximately 94 percent of the country's Internet users lived in Addis Ababa; this was an indication of the relative lack of telecommunications infrastructure outside of the capital. Capital also reported that the telecommunications corporation has made it easier and more affordable for home users to subscribe to dial-up Internet service. By year's end the country had 40,000 home-based Internet subscribers.

Mobile phone text messaging remained blocked by the state telecommunications monopoly following claims that the opposition CUD had used text messaging to call for and coordinate antigovernment actions.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom during the year, maintaining that professors could not espouse political sentiments. Authorities did not permit teachers at any level to deviate from official lesson plans and discouraged political activity and association of any kind on university campuses. Reports continued throughout the year of both uniformed and plain-clothes police officers being present on and around university and high school campuses. The Government arrested students and teachers during the year. Professors and students were discouraged from taking positions not in accordance with government beliefs or practices. There was a lack of transparency in academic decisions, with numerous complaints from individuals in the academic community of bias based on ethnicity and/or religion. The freedoms of speech, expression, and assembly were frequently restricted on university and high school campuses.

In September the Ministry of Culture and Tourism banned performance of a musical drama entitled “WAI ADDIS ABABA,” at the Ethiopian National Theatre. The script was written by playwright Getenet Eneyew. Officials from the Ministry of Culture and Tourism attended a technical rehearsal before the play opened and informed the theater company that the play was to be canceled.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution and law provide for freedom of assembly. Prior to the May 2005 national elections, there were numerous opposition rallies, including one that occurred in Addis Ababa that was attended by nearly one million persons the weekend prior to the elections. However, immediately following the elections and throughout the year, the Government restricted this right in practice. From May 2005 to year's end,

the Government granted only one permit allowing a public demonstration to take place.

Organizers of large public meetings or demonstrations must notify the Government 72 hours in advance and obtain a permit.

Opposition political parties reported that during the year their supporters were targets of frequent and systematic harassment and violence by government security forces, often after leaving meetings. EHRCO reported that regional governments, including the Addis Ababa regional administration, infringed on the right of peaceful assembly and association.

The OFDM reported that cadres seized and destroyed membership cards of OFDM supporters, disrupted OFDM political meetings, and detained OFDM members in police stations and army camps.

No actions were taken against police who in 2004 reportedly beat demonstrators protesting the Government's decision to transfer the capital of Oromiya from Addis Ababa to Adama or against police who forced hundreds of detained student protestors in 2004 to kneel and run barefoot on gravel for hours (see Section 1.c.). It was unknown at year's end whether any persons detained in previous years for holding illegal meetings remained in detention.

During the year attacks by police, the army, and militia against members of the opposition and the general public decreased, largely due to the fact that no public assembly permits were issued and illegal demonstrations were limited.

*Freedom of Association.*—Although the law provides for freedom of association and the right to engage in unrestricted peaceful political activity, the Government in practice limited this right. The Ministry of Justice registers and licenses NGOs, and there was some improvement in transparency of the NGO registration process. The Government continued to deny registration to the Human Rights League (see Section 4).

As provided by law, the Government required political parties to register with the National Election Board (NEB). In 2005 the NEB's independence was called into question when it made a series of decisions limiting the political activity of opposition parties, including the rejection of the CUD merger and unwillingness to recognize the CUD coalition after the elections. However, during the year, the NEB permitted the registration of the Coalition for Unity and Democracy Party (CUDP), a party made up of former CUD members who joined parliament. The NEB continued to limit political activity of the ONC by not recognizing a change in the party leadership.

During the year the UEDF, CUD, and ONC reported arrests of their members and the forced closure of most political party offices throughout the country (see Section 1.d.). There were credible reports that the Government used legal means to harass leadership from an influential opposition political party, utilizing government agencies to restrict party control and membership.

During the year political leaders, including members of federal and regional parliaments, were prevented from traveling to their constituencies and meeting with supporters. The President of the OFDM, who was also a member of the federal parliament, was prevented from visiting his home town of Bogi Dirmeji, Oromiya region, and threatened by local police when attempting to do so. In addition, of 42 ONC federal parliamentarians, only three were able to meet with their constituents during the year. The three reported that following meetings with local representatives, party members were harassed and detained by local security forces.

There were no developments in the 2004 suspension of the MTA and arrests of its members. Some arrests appeared to have been made without warrants, and some detentions continued despite court orders to release suspects (see Section 1.d.).

The ETA continued to encounter government restrictions when attempting to hold meetings. On August 30, police interrupted a national assembly of ETA leadership and seized documents and other materials. Local police occupied and sealed the conference room where the meetings were held. However, police returned most of the seized items.

This incident followed a series of attempts by the Government to limit the activity of the ETA. The ETA had operated since 1967, but in 1993, when the EPRDF took power, an alternate, pro-EPRDF ETA was established. In 1993 the original ETA and the government-supported ETA began prolonged legal battles over the organization name and property rights. Although the original ETA received favorable judgments in lower courts, the newly formed ETA appealed to the Supreme Court. In the meantime, security forces closed the original ETA offices and continued to harass its members.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice; however, local au-



thorities occasionally infringed on this right. The Ethiopian Orthodox Church (EOC) and Islam are the dominant religions; nearly 90 percent of the population adhered to one or the other faith.

While the Government required that religious institutions annually register with the Ministry of Justice, there were no reports of government action against institutions that chose not to register. Under the law, a religious organization that undertakes development activities must register its development wing separately as an NGO. The Government did not issue work visas to foreign religious workers unless they were associated with the development wing of a religious organization.

Some religious property confiscated under the Mengistu (Derg) regime had not been returned by year's end.

*Societal Abuses and Discrimination.*—Minority religious groups reported discrimination in the allocation of government land for religious sites. Authorities banned a traditional animist Oromo religious group because it suspected that the group's leaders had close links to the OLF and MTA. Protestant groups occasionally reported that local officials discriminated against them when they sought land for churches and cemeteries. Evangelical leaders stated that because authorities perceived them as "newcomers," they were at a disadvantage compared with the EOC and the Ethiopian Islamic Affairs Supreme Council (EIASC) in the allocation of land. The EIASC reported that it faced more difficulty obtaining land from the Government than did the EOC, while others believed that the Government favored the EIASC. Officials targeted for demolition many mosques that squatters had built without city government approval.

In late September and early October, a series of clashes between Muslims and Ethiopian Orthodox Christians near the city of Jima left 12 dead and numerous churches and homes burned. The disturbances began on September 26 on the eve of the Meskel holiday, when smoke from a holiday bonfire set by Christians entered a nearby mosque. This led to violent fighting between large groups of Muslims and Christians, leading to eight deaths, the burning of churches and homes, and subsequent mass arrests of Muslims by local police. On October 4, four more persons were killed in a nearby village, when Muslims stormed an Ethiopian Orthodox church, setting it on fire and attacking churchgoers with machetes. Police made several arrests, but at year's end courts had not yet sentenced anyone arrested in connection with either incident.

On July 24, due to a lack of proper construction permits, the city administration dismantled a converted mosque in Addis Ababa. On the subsequent three Fridays, local Muslims demonstrated in Addis Ababa to protest, resulting in clashes with security forces and arrests and minor injuries of protestors. The situation was resolved when the Addis Ababa city administration granted land to the Muslim community for the construction of a new mosque on an alternate site.

The Jewish community numbered approximately 2,000. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the law provides for these rights, the Government restricted some of these rights in practice.

Throughout the year in the Gambella region, the Government continued to monitor and sometimes control the passage of relief supplies and access by humanitarian organizations, explaining that it was doing so as a matter of security for those traveling in the region.

The law prohibits forced exile, and the Government did not force any citizens into exile. A number of persons remained abroad in self-imposed exile, including 54 journalists (see Section 2.a.).

During the year the ICRC repatriated 988 Ethiopians from Eritrea and repatriated 83 Eritreans. Most Eritreans and Ethiopians of Eritrean origin registered with the Government and received identity cards and six-month renewable residence permits that allowed them to gain access to hospitals and other public services. However, there were anecdotal reports that local government officials denied indigent Eritreans the right to free medical services.

During the year the UNHCR processed 680 cases for resettlement in third countries, totaling 1,800 individuals, mainly from Sudan and Eritrea.

*Internally Displaced Persons (IDPs).*—The 1998–2000 war with Eritrea produced approximately 350,000 IDPs. Of these, humanitarian agencies resettled an estimated 225,000. The UNHCR estimated there were approximately 200,000 IDPs in the country, including approximately 62,000 in Tigray region, 44,700 in Gambella

region, approximately 30,000 in the Borena area of the Oromiya region, and 50,000 on the border of the Oromiya and Somali regions.

Violent clashes between different ethnic groups during the year internally displaced thousands of persons and resulted in deaths and injuries (see Section 5).

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and returning citizens.

The Government, in cooperation with UNHCR, also continued to provide temporary protection to individuals from Sudan, Eritrea, and Somalia who may not qualify as refugees under the 1951 Convention and the 1967 Protocol.

At year's end the country hosted approximately 97,300 refugees. This number did not reflect a significant change from the end of 2005; an increase in the numbers of asylum seekers from Eritrea was offset by the repatriation of approximately 5,000 refugees to South Sudan.

During the year the Government and UNHCR sought to open a new camp in Tigray region in order to accommodate the increasing number of Eritrean asylum seekers residing in the Shimelba camp. After one potential site was abandoned due to the lack of potable water, the Government and UNHCR agreed to continue to transfer newly arriving Eritrean refugees to Shimelba camp, and use some of the money set aside for the construction of the new camp for health, education, and sanitation projects for the host community near the camp, since this population had expressed their displeasure with the number of asylum seekers living in the area.

The conflict between ethnic groups in the Gambella region complicated UNHCR refugee protection efforts (see Section 5). Food deliveries to refugees continued in spite of the crisis in the West; however, humanitarian organizations at times were unable to adequately monitor deliveries due to travel restrictions.

The Government required that all refugees reside and remain at designated camps, most of which were located near the Eritrean, Somaliland, and Sudanese borders, unless granted permission to live elsewhere in the country. Such permission was given primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through generally free and fair elections held on the basis of universal suffrage; however, irregularities and intimidation of voters and election observers marred polling in many areas in the 2005 election. In practice the EPRDF ruling party dominated the Government.

The Government policy of ethnic federalism led to the creation of individual constituencies to ensure representation of all major ethnic groups in the House of Peoples' Representatives. Nevertheless, small ethnic groups lacked representation in the legislature. There were 23 nationality groups in six regional states that did not have a sufficient population to qualify for constituency seats; however, in the May 2005 elections, individuals from these nationality groups competed for 23 special seats in the 547-seat House of Peoples' Representatives.

*Elections and Political Participation.*—According to domestic and international observers, the May 2005 national elections, in which the EPRDF coalition won 372 of 547 seats, generally reflected the will of the people. Opposition parties made an unexpectedly strong showing, increasing their parliamentary representation from 12 seats to 172.

Irregularities, including intimidation of voters and election observers, marred polling in many areas. The Government and EPRDF also announced the "final" election results before the NEB released them. Observers reported killings, disappearances, voter intimidation and harassment, and unlawful detentions of opposition party supporters, particularly in the Amhara, Oromiya, and Southern Nations, Nationalities, and Peoples regions (see Sections 1.a., 1.b., and 1.d.). The Carter Center expressed concern over reports of improper vote counting and tabulation, stating that its observer teams had "found evidence that ballot boxes have been moved improperly, were improperly secured, or that party agents were barred from polling stations or were not allowed to watch the entire count." It also reported "election day and post-election intimidation and harassment." The head of the European Union's Electoral Observation Mission issued a preliminary report stating that the post-election com-

plaint review process “did not live up to international standards,” citing irregularities in key areas. In spite of these criticisms, international observers noted that the elections were an important step forward in the country’s democratization efforts.

Following the election, opposition parties accused the NEB of being an instrument of the ruling party and of failing to act when informed of electoral irregularities, including ballot stuffing, vote count fraud, bribery, killings, beatings, and widespread intimidation and harassment by ruling party supporters during the national elections.

In June 2005 negotiations between the ruling and major opposition parties over election complaints resulted in an agreement to adopt an ad hoc complaints resolution process to deal with the large number of unresolved electoral complaints. According to the Carter Center, 44 different complaints investigation panels conducted formal investigations and hearings in 178 constituencies across the country, resulting in a decision by the NEB to hold new elections in 31 constituencies. New elections were held in those constituencies in August 2005.

In September and October 2005 the Government and opposition leaders participated in discussions on the opposition’s participation in the House of People’s Representatives. While most UEDF members decided to take their seats in the house, some CUD leaders announced they would boycott the federal parliament, as well as regional parliaments and the Addis Ababa City Council. However, by year’s end most elected CUD members had joined parliament. In late October the CUD called for civil disobedience measures, such as horn-honking, boycotting EPRDF-owned business, and ostracizing alleged government supporters, which the Government publicly declared illegal.

Beginning on November 1, 2005, violent antigovernment protests allegedly organized by the opposition occurred in Addis Ababa, and the Government arrested several dozen opposition leaders, as well as members of the independent media and civil society groups, for alleged participation in unlawful activities. Security forces also detained between 30,000 and 50,000 demonstrators without charge. Military intervention led to widespread abuses such as arbitrary detention and killings. Security forces arrested at least 12 of the 20 CUD party executive committee members, including party President Hailu Shawel, vice chairman Bertukan Mideksa, secretary-general Muluneh Eyoel, and Addis Ababa mayor-elect Dr. Berhanu Nega, on charges of treason and genocide, among others (see Section 1.e.).

The EPRDF, its affiliates, and EPRDF supporters controlled all seats in the 108-member House of Federation, whose members were appointed by regional governments and by the federal government. Membership in the EPRDF conferred advantages upon its members, and the party owned many businesses and awarded jobs to loyal supporters.

The largest opposition party in the House of Peoples Representatives was the newly formed CUDP, composed of former CUD coalition members, which held 61 seats.

Registered political parties must receive permission from regional governments to open local offices. Opposition parties, such as the CUDP, the UEDF, and the OFDM, claimed that the pattern of widespread intimidation and violence directed against members of opposition political parties by local government officials continued throughout the year. Opposition parties and the press reported hundreds of such cases, including killings, beatings, arrests, house burnings, and property confiscation.

During the year there were many cases reported of authorities allegedly telling opposition members that they had to renounce their party membership if they wanted access to fertilizer, other agricultural services, health care, or other benefits controlled by the Government. Authorities often disrupted or unlawfully banned opposition party meetings.

There were no new developments in the EPRDF’s dissolution in late 2003 and early 2004 of offices of the Konso People’s Democratic Union (KPDU) and the KPDU-dominated Abaroba and Jarsso local councils, or in the arrest and beatings of KPDU members. Authorities took no actions against those responsible for the 2004 stoning of AEUP member Bekele Tadesse, or for the March 2005 bombing of the home of Zemedkun Gebre Kidane, chairman of the AEUP organizing committee in Ankober District.

Of the 19 members of the Council of Ministers, two were women, and a number of women held senior positions. There were 116 women in the 547-seat House of Peoples’ Representatives, a gain from 14 in the previous parliament, and 21 women in the 113-member House of Federation. Of the 14 members of the Supreme Court, three were women. During the May 2005 national elections women constituted nearly half of the community observers, party workers, and election officials at polling stations.

*Government Corruption and Transparency.*—The Ministry of Justice has primary responsibility for combating corruption. A combination of social pressure, cultural norms, and legal restrictions limited corruption. However, government officials appeared to manipulate the privatization process, as state- and party-owned businesses received preferential access to land leases and credit. The Government's decision to grant MIDROC, the country's largest foreign investor, exclusive license to import cement was perceived as favoritism toward a government ally.

The law provides for public access to government information, but access was largely restricted in practice.

The Government publishes its laws and regulations in the national gazette prior to their taking effect. The Ministry of Information managed contacts between the Government, the press, and the public; however, the Government routinely refused to respond to queries from the private press (see Section 2.a.).

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

A number of domestic and international human rights groups generally operated with limited government restriction, investigating and publishing their findings on human rights cases. The Government generally was distrustful and wary of domestic human rights groups and some international observers. NGOs continued to complain of restrictions on their importation of published materials and complained that they were prevented from bringing foreigner visitors into the country. In April 2005 the Government expelled representatives of several foreign-based NGOs conducting electoral work and at year's end had not allowed them to return.

Two of the most prominent domestic human rights organizations were EHRCO and the Ethiopian Women Lawyers Association (EWLA). The Government routinely discounted EHRCO's reports and labeled it a political organization. In December 2005 two of EHRCO's chief investigators, Cherinet Tadesse and Yared Hailemariam, were arrested and placed on trial with 111 others including the CUD leadership (see Section 1.e.).

The EWLA's primary function was to legally represent women. These and numerous other groups primarily engaged in civic and human rights education, legal assistance, and trial monitoring. However, the Government neither shared information nor acknowledged the existence of human rights abuses with members of the domestic NGO community.

The Government continued to investigate the Human Rights League for alleged ties to the OLF. The league's offices remained closed, and the Government had not responded to its 1997 registration request by year's end, despite a court order to do so.

The Government sometimes cooperated with international organizations such as the UN and ICRC; however, ICRC lacked full access to federal prisons and to political prisoners (see Sections 1.c. and 1.d.).

The Government is required by law to establish a human rights commission and an Office of the Ombudsman with the authority to receive and investigate complaints with respect to misadministration by executive branch offices. Both of these entities had been established, but neither organization was fully operational by year's end.

The Ministry of Justice continued to implement a three-year program of human rights training workshops for judges, prosecutors, police, and community members around the country. Election-related violence, however, severely curtailed program activities.

A parliamentary commission released its report on government human rights abuses alleged to have occurred in conjunction with ethnic violence in the Gambella region in late 2003 and 2004 (see Section 5). Human Rights Watch reported in March 2005 that the commission grossly underestimated the number of deaths associated with the ethnic violence. During the year six members of the army were charged with taking part in the 2003 killing of civilians. Their trials remained ongoing at year's end.

In September two ICRC employees were kidnapped in Somali region by the United Western Somali Liberation Front. The two were released unharmed five days later.

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

The law prohibits discrimination based on race, color, gender, language, national origin, political or other opinion, or social status; however, in practice the Government did not effectively enforce these prohibitions.

*Women.*—Domestic violence, including spousal abuse and rape, was a pervasive social problem. A July 2005 World Bank study concluded that 88 percent of rural

women and 69 percent of urban women believed their husbands had the right to beat them. While women had recourse to the police and the courts, societal norms and limited infrastructure prevented many women from seeking legal redress, particularly in rural areas. The Government prosecuted offenders on a limited scale.

In October 2005 the Government upgraded the Women's Affairs Office to a Women's Affairs Ministry, an independent office with increased staff. Two other important offices were filled in 2005—a Commissioner for Women and Children, with the rank of Deputy Minister, was named in the Ethiopian Human Rights Commission, and an Ombudsperson for Women and Children was also named in the Office of the Ombudsman.

The penal code criminalizes rape but does not specifically address spousal rape. The Government did not fully enforce the code due to lack of awareness of the law by the public, especially women, and a lack of capacity training, and funds. Social mores continued to be a key constraint, particularly in the rural areas.

Social mores obstructed investigations and prosecutions in rape cases, and many women were not aware of their rights under the law, which led to widespread underreporting. Observers estimated that at least 1,000 rapes occurred annually in Addis Ababa, but data based on official police reports counted only approximately 400 cases per year. The press continued to report regularly on rape cases, particularly when injury to minors resulted. Courts sentenced convicted rapists to 10 to 15 years' imprisonment, as prescribed by law.

Although illegal, the abduction of women and girls as a form of marriage continued to be a widespread practice in several regions, including the Amhara, Oromiya, and Southern Nations, Nationalities, and Peoples regions, despite the Government's attempts to combat the practice. Forced sexual relationships accompanied most marriages by abduction, and women often experienced physical abuse during the abduction. Abductions led to conflicts among families, communities, and ethnic groups. In cases of marriage by abduction, the perpetrator did not face punishment if the victim agreed to marry him (unless authorities annulled the marriage); even after the conviction of a perpetrator, authorities often commuted the sentence if the victim married him. Early/child marriage was also a problem, particularly in Amhara and Tigray regions, where girls were routinely married as early as age seven, despite the legal minimum age of 18 for marriage. There were some signs of growing public awareness of the problem of abuse of women and girls, including early marriage.

The majority of girls and women in the country had undergone some form of FGM. Girls typically experienced clitoridectomies seven days after birth (consisting of an excision of the clitoris, often with partial labial excision, and faced infibulation (the most extreme and dangerous form of FGM) at the onset of puberty. According to a Ministry of Health Demographic and Health survey released in 2005, the practice of FGM among all women had decreased from 80 to 74 percent, while support for the practice among women had dropped from 60 to 29 percent. The penal code criminalizes the circumcision of any female by imprisonment of not less than three months or a fine of not less than \$58 (500 birr). Likewise, infibulation of the genitals is punishable with imprisonment of five to 10 years. However, no criminal prosecutions have ever been brought for FGM.

The Government took some measures to help eradicate FGM, discouraged the practice through education in public schools, and broader mass media campaigns.

The combination of pregnancy at an early age, chronic maternal malnutrition, and a lack of skilled care at delivery often led to obstetric fistulae and permanent incontinence. Approximately 8,700 women developed obstetric fistulae annually, and 27,000 women with untreated fistulae were estimated to be living in rural areas. Treatment for fistulae was available at only one hospital, the Addis Ababa Fistula Hospital, which annually performed over 1,000 fistula operations. It estimated that for every successful operation performed, 10 other young women needed the treatment but did not receive it. The maternal mortality rate was extremely high, partly due to food taboos for pregnant women, poverty, early marriage, and birth complications related to FGM, particularly infibulation.

Prostitution was legal for persons over age 18 and was commonly practiced around the country; however, the law prohibits pimping and benefiting from prostitution. Persons exploited in prostitution routinely reported that poverty was the principal underlying cause.

The EWLA and the International Organization for Migration (IOM) reported that many female workers who traveled to the Middle East as industrial and domestic workers faced abuse (see Section 5, Trafficking).

Sexual harassment was widespread. The penal code prescribes 18 to 24 months imprisonment; however, sexual harassment-related laws were not enforced.

Although the law provides for equality of all persons, the Government did not effectively enforce these protections. The law sets the legal marriage age for girls and

boys at 18, elevates civil law above customary and religious law; allows for the legal sharing of property by unmarried couples who live together for at least five years, eliminates family arbitrators as a means of settling marital disputes in lieu of the court system, allows for the joint administration of common marital property, requires the courts to take into account the situation of children or the weakest member of the family in the event of divorce or separation, and imposes a six-month waiting period on women seeking to remarry following divorce or the death of a spouse. However, regional councils had authority to determine family law for their respective regions. Four regions maintained their own family law: Amhara, Tigray, Oromiya, and Addis Ababa; however, regional laws were not uniformly enforced. By law, such regional regulations could not conflict with the national constitution.

During the 2005 elections, EPRDF stipulated that 30 percent of its party candidates be women. Dozens of women successfully ran for election throughout the country, mostly on the EPRDF ticket.

Discrimination against women was most acute in rural areas, where 85 percent of the population was located. The law contains discriminatory regulations, such as the recognition of the husband as the legal head of the family and the sole guardian of children over five years old. Authorities did not consider domestic violence a serious justification for granting a divorce. There was limited legal recognition of common-law marriage. Irrespective of the number of years the marriage existed, the number of children raised, and joint property, the law entitled women to only three months' financial support if the common-law relationship ended. A husband had no obligation to provide financial assistance to his family and, as a result, women and children sometimes faced abandonment. The law states that any property owned before marriage belongs to the spouse that previously owned it. Any property gained during marriage is shared equally, although a wife does not have the right to inherit her deceased husband's share. Even with stronger formal laws, most rural residents continued to apply customary law in economic and social relationships.

All land belongs to the Government. Although women could obtain government leases to land, and the Government had an explicit policy to provide equal access for women to land, rural communities rarely enforced this policy. In nearly all regions women did not have access to land, except through marriage. In practice, when a husband died, other family members often took the land from his widow.

In urban areas, women had fewer employment opportunities than men, and the jobs available did not provide equal pay for equal work.

*Children.*—The Government supported efforts by domestic and international NGOs that focused on children's social, health, and legal issues, despite its limited ability to provide improved health care, basic education, or child protection.

In 2005 31.5 percent of school-age children did not attend school. As a policy, primary education was tuition free. There were not enough schools to accommodate the country's youth, particularly in rural areas, and the cost of school supplies was prohibitive for many families. In 2005 73.2 percent of male primary-school-age children and 63.6 percent of female primary-school-age children attended school; in Addis Ababa girls' attendance was significantly higher. Government reports indicated that 22.4 percent of the children who attended school left the system before they reached the second grade, and only 34.9 percent of children who began first grade completed eighth grade.

Child abuse was a problem. Members of an NGO staffed 10 child protection units in Addis Ababa's police stations to protect the rights of juvenile delinquents and juvenile victims of crime. Some police officers completed training on procedures for handling cases of child abuse and juvenile delinquency.

Societal abuse of young girls continued to be a problem. FGM was performed on the majority of girls (see Section 5, Women). Other harmful traditional practices included uvulectomy, milk-teeth extraction, early marriage, marriage by abduction, and food and work prohibitions.

In the Afar region older men continued to marry young girls, but media accounts suggested that this traditional practice continued to face greater scrutiny and criticism. Local NGOs, such as the Kembatta Women's Self-Help Center and the Tigray Women's Association, also influenced societal attitudes toward harmful traditional practices and early marriage in their areas by raising awareness of the problems. During the year regional governments in Amhara and Tigray instituted programs to educate young women on the issues of early marriage.

According to international NGOs, child prostitution was a growing problem, particularly in urban areas. According to an NGO report, 60 percent of persons exploited in prostitution were between the ages of 16 and 25. Underage girls worked as hotel workers, barmaids, and prostitutes in resort towns and rural truck stops. Pervasive poverty, migration to urban centers, early marriage, HIV/AIDS and other sexually transmitted diseases, and limited educational and job opportunities aggra-

vated the sexual exploitation of children. A few NGOs aided child victims, including the Forum on Street Children-Ethiopia, which provided children forced into prostitution or sexual exploitation with shelter, protection, and return to their families.

NGOs reported that houses of prostitution recruited impoverished girls as young as age 11 and kept them uninformed of the risks of HIV/AIDS infection and other sexually transmitted diseases. A 2003 Family Health International Report indicated that customers particularly sought younger girls because customers believed they were free of sexually transmitted diseases.

There were occasional reports that children were trafficked out of the country, including unconfirmed reports that children from the south were transported into Kenya by traffickers operating adoption rings and adopted as other nationalities (see Section 5, Trafficking).

Child labor remained a serious problem (see Section 6.d.).

The Government estimated the number of street children totaled 150,000 to 200,000, with approximately 50,000 to 60,000 street children in Addis Ababa. The UN Children's Fund (UNICEF) estimated there were 600,000 street children in the country and more than 100,000 in the capital. UNICEF believed the problem was exacerbated because of families' inability to support children due to parental illness and decreased household income. These children begged, sometimes as part of a gang, or worked in the informal sector (see Section 6.d.). Government and privately run orphanages were unable to handle the number of street children, and older children often abused younger ones. Due to severe resource constraints, hospitals and orphanages often overlooked or neglected abandoned infants. "Handlers" sometimes maimed or blinded children to raise their earnings from begging.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked from and within the country. The country was a source country for men, women, and children trafficked for forced labor and sexual exploitation. Young women were trafficked to Djibouti and the Middle East, particularly Lebanon, the United Arab Emirates, Saudi Arabia, and Bahrain for involuntary domestic labor. Some women were trafficked for sexual exploitation to Europe via Lebanon. Small numbers of men were trafficked to Saudi Arabia and the Gulf states for exploitation as low-skilled laborers. Both children and adults were trafficked internally from rural to urban areas for domestic labor and, to a lesser extent, for commercial sexual exploitation and forced labor, such as street vending and weaving. NGOs estimated that international trafficking annually involved between 20,000 and 25,000 victims.

The IOM reported in 2004 that trafficking was "increasing at an alarming rate." A 2003 study by a foreign government on the problem of internal trafficking of women and children confirmed that the problem was pervasive. The overwhelming majority of respondents confirmed that traffickers, typically unorganized petty criminals, lured women and children from rural areas to Addis Ababa and other urban centers with false promises of employment. Of the 459 respondents, 46 percent were illiterate and 49 percent had completed no more than an eighth-grade education. Upon arrival at their new destinations, 54 percent worked as domestic servants, but that number dropped to 9 percent as the trafficked women and children took jobs in bars, became prostitutes, or begged on the street.

Private entities arranged for overseas work and, as a result, traffickers sent women to Middle Eastern countries—particularly Lebanon, Saudi Arabia, Bahrain, and the United Arab Emirates—as domestic or industrial workers. These women typically were trafficked through Djibouti, Yemen, and Syria. They were trafficked out of the country either through the international airport in Addis Ababa, to Djibouti, or through the country's porous border with Somalia. The chief of the investigation and detention center in Lebanon reported in October 2005 that 30,000 Ethiopian women worked in Beirut, the vast majority of whom were trafficked. The Government also continued registering persons seeking employment overseas.

The law provides penalties of up to 20 years' imprisonment and a fine of \$1,150 (10,000 birr) for trafficking of women and children. Despite recent arrests of suspected traffickers, there were few successful prosecutions of traffickers. Arrested traffickers were often released without charge. However, in July a trafficker was convicted and sentenced to 13 years' imprisonment and fined \$575 (5,000 birr). The Ministry of Labor and Social Affairs, in concert with local police, was responsible for monitoring trafficking in persons, while the Ministry of Justice was responsible for enforcing antitrafficking laws. These entities remained generally ineffective. The Government assisted with international trafficking investigations.

There were no reports that government officials participated in, facilitated, or condoned trafficking. However, border guards did not treat human trafficking as a high priority.

The Government provided little assistance to trafficked victims who returned to the country. EWLA provided limited legal assistance to such victims. The federal police's Women's Affairs Bureau, in collaboration with the media, continued to implement a public awareness program on the dangers of migrating to Middle Eastern countries. There were some government initiatives during the year to combat trafficking, including government consultation with IOM. The Ministry of Labor and Social Affairs continued to review the contracts of prospective domestic workers planning to work overseas and rejected contracts that did not appear satisfactory. Immigration officials at the airport also continued to inspect the employment contracts of prospective workers traveling to the Middle East. The Ministry of Labor and Social Affairs had limited success in regulating employment agencies that sent migrant workers to Middle Eastern countries. Some illegal employment agencies escaped government scrutiny and continued to operate. The country's consulates in Beirut and Dubai continued to assist Ethiopian women trafficked to Lebanon and the United Arab Emirates.

IOM delivered training programs for judges, prosecutors, and police officers on the criminal aspects of trafficking during the year. These institutions had limited resources and jurisdiction to protect or intervene in cases of prosecution of offending employers.

*Persons With Disabilities.*—While the law mandates equal rights for persons with disabilities, the Government had no established mechanisms to enforce these rights. Persons with disabilities sometimes complained of job discrimination. The Government did not mandate access to buildings or provide services for persons with disabilities. Although the law provides for rehabilitation and assistance to persons with physical and mental disabilities, the Government devoted few resources to these purposes.

There were approximately seven million persons with disabilities, according to the Ethiopian National Association for the Disabled. Although there were an estimated 800,000 persons with mental disabilities, there was only one mental hospital and only an estimated 10 psychiatrists in the country. The Ministry of Labor and Social Affairs was responsible for protecting the rights of the disabled. Under funding from the ministry, prosthetic and orthopedic centers were established in five of the nine regional states over the past three years, albeit with limited capacity.

*National/Racial/Ethnic Minorities.*—There were more than 80 ethnic groups living in the country, of which the Oromo was the largest, at 40 percent of the population. Although many groups influenced the political and cultural life of the country, Amharas and Tigrayans from the northern highlands played a dominant role. The federal system drew boundaries roughly along major ethnic group lines, and regional states had much greater control over their affairs than previously. Most political parties remained primarily ethnically based.

The military remained an ethnically diverse organization; however, Tigrayans dominated the senior officer corps. During the May 2005 elections and subsequent demonstrations there were many reports of Tigrayan or Gambellan troops being used in Addis Ababa and other urban centers where the opposition was strong and where officials did not consider Amhara members of the armed forces sufficiently reliable.

There were occasional reports that officials terminated the employment of teachers and other government workers if they were not of the dominant ethnic group in the region.

There were continued incidents of ethnic conflict during the year, particularly in the western, southern, and eastern areas. The OLF and the Government engaged in many clashes. There were also clashes among ethnic groups in the Gambella, Somali, and Southern Nations, Nationalities, and Peoples regions.

Interethnic clashes resulted in hundreds of deaths during the year. In late May and early June, at least 39 persons were killed and 34 injured in Daroor, Somali region, in a dispute between two Garhaajis subclans, the Habar Yonis and Idagaale, over construction of a water reservoir.

In June following changes by the Government to zonal borderlines separating clan territories, there were violent clashes between the Guji and Borena clans in southern parts of the country, resulting in up to 150 deaths. The conflict also forced up to 120,000 persons from their homes. Ultimately, regional and local officials, in collaboration with clan elders, brokered a ceasefire and a resource-sharing agreement in July.

In September media reported that approximately 45,000 persons had been displaced from their homes in the Gambella region due to continued fighting between the region's three largest indigenous groups, the Anuak, Nuer, and Mazingar.



*Other Societal Abuses and Discrimination.*—Homosexuality is illegal and punishable by imprisonment. Instances of homosexual activity determined to be cruel, involving coercion, or involving a minor (age 13 to 16) are punishable by not less than three months or more than five years in prison. Where children under 13 years of age are involved, the law provides for imprisonment of five to 25 years. While society did not widely accept homosexuality, there were no reports of violence against homosexuals.

Societal discrimination against persons with HIV/AIDS continued during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides most workers with the right to form and join unions, and the Government allowed this in practice. However, the law specifically excludes teachers and civil servants (including judges, prosecutors, and security service workers) from organizing unions. There was government interference in trade union activities during the year. According to the International Confederation of Free Trade Unions, many trade union leaders were removed from their posts and/or forced to leave the country, while others were sent to prison.

A minimum of 10 workers were required to form a union. While the law provides all unions with the right to register, the Government may refuse to register trade unions that do not meet its registration requirements. The Government retained the authority to cancel the registration of a union after consulting the appropriate courts. There were no reports that the Government used this authority during the year. The law stipulates that a trade organization may not act in an overtly political manner. Approximately 300,000 workers were union members.

Seasonal and part-time agricultural workers did not organize into labor unions. Compensation, benefits, and working conditions of seasonal workers were far below those of unionized permanent plantation employees.

Despite government recognition of the independent ETA, authorities required all public school teachers to subsidize a separate government-created and controlled teacher's union (also called ETA) through mandatory withholding of \$0.23 (2 birr) from their monthly salaries.

In late 2003 the federal high court ruled that the Government's ETA had no legal standing or claim on the property of the independent ETA, and that authorities should return the assets of the independent ETA and allow its offices to reopen. The government-controlled ETA appealed to the Supreme Court, which instructed the federal high court to reinvestigate the case. That investigation continued at year's end, and the high court's decision to recognize the independent ETA had not been implemented.

Complete government control of the government-sponsored Confederation of Ethiopian Trade Unions executive committee continued throughout the year, as it had since its inception.

Although the law prohibits antiunion discrimination by employers against union members and organizers, unions reported that employers frequently fired union activists. Lawsuits alleging unlawful dismissal often took years to resolve because of case backlogs in the labor courts. According to labor leaders, a number of court cases in which workers were terminated for union activities were pending after four or five years. Employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities and generally did so in practice.

*b. The Right To Organize and Bargain Collectively.*—The law protects the right of collective bargaining for most workers, and in practice the Government allowed citizens to exercise this right freely. Labor experts estimated that collective bargaining agreements covered more than 90 percent of unionized workers. Representatives negotiated wages at the plant level. Unions in the formal industrial sector made some efforts to enforce labor regulations.

There are no export processing zones.

Although the constitution and law provide workers with the right to strike to protect their interests, it contains detailed provisions that make legal strike actions difficult to carry out, such as a minimum of 30 days' advance notice before striking. The law requires aggrieved workers to attempt reconciliation with employers before striking and includes a lengthy dispute settlement process. These applied equally to an employer's right to lock out workers. A majority of the workers involved must support a strike for it to occur.

During the year there were several minor strikes by construction workers who protested low wages and instances of arbitrary dismissal from work. Some of their demands were resolved through negotiation, while others remained unaddressed.

Workers nonetheless retain the right to strike without resorting to either of these options, provided they give at least 10 days' notice to the other party and to the

Ministry of Labor and Social Affairs, make efforts at reconciliation, and provide at least a 30-day warning in cases already before a court or labor relations board.

The law also prohibits strikes by workers who provide essential services, including air transport and urban bus service workers, electric power suppliers, gas station personnel, hospital and pharmacy personnel, firefighters, telecommunications personnel, and urban sanitary workers.

The law prohibits retribution against strikers, but labor leaders stated that most workers were not convinced that the Government would enforce this protection. Labor officials reported that, due to high unemployment and long delays in the hearing of labor cases, some workers were afraid to participate in strikes or other labor actions.

The labor law allows one or more permanent labor relations boards in the regional states to decide on cases involving enterprises owned by the federal government. The amendment also allows ad hoc labor relations boards in the regions to fulfill the same purpose.

In June the Government further amended the labor law to provide severance pay for workers on additional grounds that were not previously provided for, such as discrimination against persons with HIV/AIDS and payment of severance to those without pension plan.

*c. Prohibition of Forced or Compulsory Labor.*—While the law prohibits forced or compulsory labor, including by children, there were reports such practices occurred (see Sections 5 and 6.d.). Courts could order forced labor as a punitive measure.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws against child labor; however, the Government did not effectively implement these laws in practice, and child labor remained a serious problem, both in urban and rural areas. Under the law, the minimum age for wage or salary employment is 14 years, which was consistent with the age for completing primary school; however, the minimum age for employment was not effectively enforced. Special provisions cover children between the ages of 14 and 18, including the prohibition of hazardous or night work. By law, children between the ages of 14 and 18 were not permitted to work more than seven hours per day, work between the hours of 10 p.m. and 6 a.m., work on public holidays or rest days, or perform overtime work. The Government defined hazardous work as work in factories or involving machinery with moving parts, or any work that could jeopardize a child's health.

The Ministry of Labor and Social Affairs is responsible for enforcing child labor laws, but it did not provide adequate resources and oversight. While the Government made some effort to enforce these regulations within the formal industrial sector, social welfare activists, civic organizers, government officials, and employers agreed that child labor was pervasive throughout the country, particularly in agrarian areas and in the informal sector. In urban areas, many children worked in a variety of jobs, including shining shoes, weaving clothes, hustling passengers into cabs, working as porters, selling lottery tickets and other small items, and herding animals. In rural areas, children worked on family and commercial farms and as domestic laborers.

A 2001 ILO-funded survey on child labor found that 40 percent of children began working before the age of six. It also found the average number of hours worked in a week by children ages 5 to 17 was 32.8 hours. Approximately 13 percent of boys and girls between the ages of five and nine worked from 58 to 74 hours a week. More than two-thirds of all children surveyed were giving either all or part of their earnings to their parents or guardians. Reduced household income from poor crop harvests and children dropping out of school were two factors contributing to the increased incidence of child labor.

Child laborers often faced abuse. A 1999 study concluded that compared to non-working children, child workers faced twice as much physical and emotional abuse, five times as much sexual abuse, and eight times as much neglect. Among child workers surveyed, rapes occurred exclusively among child domestic laborers.

The Government's definition of worst forms of child labor included prostitution and bonded labor. During the year there were reports of forced or bonded labor of children who had been trafficked from the Oromiya region and the Southern Nations, Nationalities, and Peoples region to other regions of the country to work as domestic servants (see Section 5). Family members reportedly forced young girls into prostitution (see Section 5).

*e. Acceptable Conditions of Work.*—There is no national minimum wage. However, some government institutions and public enterprises set their own minimum wages. Public sector employees, the largest group of wage earners, earned a monthly minimum wage of approximately \$23 (200 birr); employees in the banking and insurance sector had a minimum monthly wage of \$27 (230 birr). According to the Office

of the Study of Wages and Other Remuneration, these wages did not provide a decent standard of living for a worker and family. Consequently, most families in the wage sector required at least two wage earners to survive, which forced many children to leave school early. Only a small percentage of the population was involved in wage labor employment, which was concentrated largely in urban areas.

The law provides for a 48-hour legal workweek (with a 24-hour rest period), premium pay for overtime, and prohibition of excessive, compulsory overtime. Although the Government did little to enforce the law, in practice most employees in the formal sector worked a 40-hour workweek.

The Government, industry, and unions negotiated to set occupational health and safety standards; however, the inspection department of the Ministry of Labor and Social Affairs did not effectively enforce these standards, due to a lack of resources. A lack of detailed, sector-specific health and safety guidelines also inhibited enforcement. Workers had the right to remove themselves from dangerous situations without jeopardizing their employment; however, most workers feared losing their jobs if they were to do so.

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## GABON

Gabon is a republic dominated by a strong presidency and the Gabonese Democratic Party (PDG), which has remained in power since 1968. The population was approximately 1.4 million. Legislative elections in December resulted in continued dominance by President El Hadj Omar Bongo Ondimba's PDG, which won more than two-thirds of the seats in a generally free and fair election. All parties participated in the election after the Government met several opposition electoral reform demands. In November 2005 PDG leader Bongo, President since 1967, was reelected for a seven-year term in an election marred by irregularities. Civilian authorities generally maintained effective control of the security forces.

The country's human rights record remained poor, although there were improvements in several areas. The following human rights problems were reported: limited ability of citizens to change their government; use of excessive force, including torture, on prisoners and detainees; harsh prison conditions; arbitrary arrest and detention; an inefficient judiciary susceptible to government influence; restrictions on the right of privacy; restrictions on freedom of the press, association, and movement; harassment of refugees by security forces; widespread government corruption; violence and societal discrimination against women and noncitizen Africans; trafficking in persons, particularly children; and forced labor and child labor.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports that the Government or its agents committed arbitrary or unlawful killings.

In August in Libreville a private security force, allegedly with close ties to local government officials, reportedly beat to death a Nigerian market vendor. Subsequent demonstrations by market vendors against the private security force resulted in numerous arrests (see Section 1.d.). At year's end no action had been taken against those responsible for the killing.

No arrests were made in the 2005 killing of Gildas Mbina Boulingui or in the 2005 drowning of a taxi driver. No further information was available about the trials of police responsible for killing two men in 2005. Security forces were implicated in all three cases.

Ritualistic killings occurred. The authorities did not criticize the practice. The body of Mathieu Moundounga, bearing signs of a ritual killing, was found on December 15. There were no arrests in the case by year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such practices, security forces sometimes beat or tortured prisoners and detainees to extract confessions. Unconfirmed reports from the African immigrant community asserted that police and soldiers occasionally beat noncitizen Africans during operations to round up and deport illegal immigrants. As in previous years, refugees complained of harassment and extortion by security forces. Unlike in previous years, there were no reports that practitioners of certain traditional indigenous religions inflicted bodily harm on other persons.

*Prison and Detention Center Conditions.*—Prisons were overcrowded and conditions were harsh. Food, sanitation, and ventilation were poor, and medical care was almost nonexistent. Juveniles were held with adults and pretrial detainees were held with convicted prisoners.

As in 2005, there were no known visits by human rights monitors to prisons; however, there also were no reports that the Government impeded such visits.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, but the Government did not always observe these prohibitions.

*Role of the Police and Security Apparatus.*—The national police, under the Ministry of the Interior, and the gendarmerie, under the Ministry of Defense, were responsible for domestic law enforcement and public security; the gendarmerie was also responsible for setting up checkpoints. Elements of the armed forces and the Republican Guard, a heavily armed unit that protects the President, sometimes performed internal security functions; both were subordinate to the defense ministry. The police were inefficient, and corruption was a serious problem. Security forces often used bribes at checkpoints to supplement their salaries. The inspector general's office was responsible for investigating police abuse. In August the commander of the gendarmerie issued a communique promising to take action against officers who practiced extortion. He said that he had recently taken disciplinary action against approximately 100 gendarmes, and that nine were imprisoned, 15 fired, and 13 suspended.

*Arrest and Detention.*—The law requires arrest warrants based on sufficient evidence and issued by a duly authorized official; however, security forces frequently disregarded this provision. The law provides up to 48 hours for initial detention, during which police must charge a detainee before a judge, but police rarely respected this timetable. Charges often were not filed expeditiously, and persons were detained arbitrarily, sometimes for long periods. Bail could be set at arraignment if further investigation was required. Detainees were allowed prompt access to a lawyer and, if indigent, to one provided by the state.

Police arbitrarily arrested market vendors during the year (see Sections 1.e. and 2.d.). In September police raided Libreville's largest market and arrested numerous vendors for a variety of infractions. The vendors had protested against the activities of a newly-established private security firm which levied mandatory fees on all vendors in the market and beat one market vendor to death in August (see Section 1.a.). The private security force was reported to have close ties with local government officials.

Members of the security forces frequently detained individuals at roadblocks under the guise of checking vehicle registration and identity papers. Security forces frequently used such operations to extort money.

Pretrial detention, limited to six months for a misdemeanor and to one year for a felony charge, may be extended for six months by the examining magistrate. Pretrial detainees have the right of free access to their attorneys; this right was generally respected. Detainees also have the right to an expeditious trial, but overburdened dockets resulted in prolonged pretrial detention. Approximately 40 percent of persons in custody were pretrial detainees.

A February census of Libreville's prison population, conducted by the country's Justice Ministry, revealed that 277 out of 1,100 prisoners in pretrial detention had been held more than two years. Journalists uncovered 16 cases of prisoners held more than five years without trial, including one who had been in prison for 11 years because the magistrate lost his file. Following public disclosure of the situation, the lower court in Libreville reviewed the cases of long-stay detainees and released 40 prisoners. Most of them had been held for as long as their potential terms would have been if they had been tried and convicted.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, the judiciary was inefficient and remained susceptible to government influence. The President appoints and can dismiss judges through the Ministry of Justice, to which the judiciary is responsible. Corruption was a problem.

The judicial system includes regular courts, a military tribunal, and a civilian High Court of Justice. The regular court system includes trial courts, appellate courts, and the Supreme Court. The Constitutional Court is a separate body charged with examining constitutional questions, including the certification of elections. The High Court of Justice is constituted by the Government as required to consider matters of security.

Systemic resource and personnel shortages in the judiciary often contributed to prolonged pretrial detention (see Section 1.d.).

*Trial Procedures.*—The constitution provides the right to a public trial and to legal counsel, and the Government generally respected these rights. Nevertheless,

a judge may deliver an immediate verdict of guilty at the initial hearing in a state security trial if the Government presents sufficient evidence. Defendants are presumed innocent and have the right to be present, to confront witnesses against them, to present witnesses or evidence on their behalf, and to appeal; the Government generally respected these rights.

Minor disputes may be taken to a local chief, particularly in rural areas, but the Government did not recognize such decisions.

*Political Prisoners and Detainees.*—On March 21, security forces arrested 15 opposition members during a sweep on the compound of the Union of Gabonese Patriots (UPG) leader Pierre Mamboundou. All were believed to have been released by May after charges were dropped by the authorities.

Opposition members arrested in December 2005 were released between January and March. They had participated in a demonstration to protest the reelection of President Bongo.

Herve Patrick Opiangah, arrested in 2004 when he led a protest demanding that the Government recognize his political party, was released in March on humanitarian grounds after reports that his health was impaired.

*Civil Judicial Procedures and Remedies.*—There was an independent civil judiciary, but it was susceptible to government influence and corruption. Corruption was also a problem in the enforcement of domestic court orders. Administrative remedies were not generally available.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, the Government did not respect these prohibitions in practice. As part of criminal investigations, police may request search warrants from judges, which they obtained easily, sometimes after the fact. Unlike in the previous year, the Government did not use search warrants to gain access to the homes of opposition figures and their families.

Security forces conducted warrantless searches for illegal immigrants and criminals, using street stops and identity checks. Unlike in previous years, there were no reports that security forces entered homes and arrested and detained refugees.

Authorities reportedly routinely monitored private telephone conversations, personal mail, and the movement of citizens.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government generally did not respect these rights in practice. Few citizens criticized the Government for fear of losing their jobs, and only a few opposition legislators in the National Assembly openly criticized the Government. In September 2005 the President announced that the Government would revoke the passport of anyone who criticized the Government in press conferences abroad; no such revocations occurred through year's end.

The only daily newspaper was the government-affiliated L'Union. Approximately nine privately owned weekly or monthly newspapers represented independent views and those of various political parties, but most appeared irregularly due to financial constraints, or in some cases, government suspension of their publication licenses. All newspapers, including L'Union, criticized the Government and political leaders of all parties, but not the President. Foreign newspapers and magazines were widely available.

The Government owned and operated two radio stations that broadcast throughout the country. Much of their news coverage concerned the activities of government officials, although editorials sometimes criticized specific government policies or ministers. Seven privately owned radio stations were operating at year's end; most were apolitical. International radio stations broadcast locally.

The Government owned and operated two television stations. Four privately owned television stations transmitted 24 hours per day. Satellite television reception was available.

On June 22, the National Communication Council (NCC) re-authorized publication of L'Autre Journal, which had been banned since 2003 for reporting that was deemed a threat to public order.

On September 29, the NCC suspended publication for three months of the independent weekly Echos du Nord for "unethical" reporting in a column critical of government infighting. The editor of the paper launched a hunger strike on October 3 to protest the council's action. The council cut the suspension to one month, and the editor ended his hunger strike, with no permanent ill effects.

On August 8, the Government spokesman and government-affiliated media harshly criticized foreign reporters for reporting on the health of the country's First Lady, which they considered inappropriate. Local journalists practiced self-censorship.

The law stipulates that penalties for libel and other offenses include a one- to three-month publishing suspension for a first offense and a three- to six-month suspension for repeat offenses. Editors and authors of libelous articles can be jailed for two to six months and fined \$1,000 to \$10,000 (500,000 to five million CFA francs). Libel can be either a criminal offense or a civil matter. The law authorizes the Government to initiate criminal libel prosecution against persons for libeling elected government officials; it also authorizes the state to criminalize civil libel suits. The Government did not use the libel laws during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Surveys indicated that about 5 percent of the population were using the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice. The law requires that groups obtain permits for public gatherings in advance. Unlike in the previous year, there were no reports of forced dispersions.

No action was taken against security forces that forcibly dispersed demonstrations in 2004 and 2005.

Unlike in the previous year, the Government did not ban marches by political groups.

*Freedom of Association.*—The constitution and law provide for freedom of association, and unlike in the previous year, the Government generally respected this right in practice.

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

The Ministry of the Interior maintained an official registry of religious groups but did not register small indigenous religious groups. The Government did not require religious groups to register but recommended that they do so to assemble with full constitutional protection.

The Government refused to register approximately 10 religious groups. Nevertheless, in practice the Government allows members of these groups to assemble, practice their religion, and to proselytize.

In recent years, some Protestant denominations have alleged that the Government television station accorded free broadcast time to the Catholic Church but not to minority religious groups. Others alleged that the armed forces favored Roman Catholics and Muslims in hiring and promotions.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the constitution and law provide for these rights, the Government frequently restricted them in practice. There were no legally mandated restrictions on internal movement, but police and gendarmes continued to stop travelers frequently to check identity, residence, registration documents, or to demand bribes (see Section 1.d.). Members of the security forces harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers. Some members of the security forces extorted bribes with threats of confiscation of residency documents or imprisonment. Residency permits cost \$200 (100,000 CFA francs) per year, and first-time applicants were required to provide the cost of a one-way air ticket to their country of origin. In principle, but usually not in practice, the Government refunded the cost of the air ticket when the individual departed the country permanently.

There were reports that, without explanation, authorities denied passport applications for travel abroad. There also were reports of unreasonable delays in obtaining passports, despite a government commitment to process passport applications within three days. The Government intermittently enforced a regulation requiring married women to obtain their husbands' permission to travel abroad.

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for pro-

viding protection to refugees. In practice, the Government generally provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum and cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. However, refugees complained about widespread harassment, extortion, and detentions by security forces.

In September the Government announced that it had obtained equipment that would permit it to provide identity cards for all refugees in the country. By replacing UNHCR-issued identity cards, the Government sought to reduce mistreatment of refugees, placing them on the same footing as all other immigrants.

Unlike in the previous year, the Government did not try to forcibly repatriate refugees.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections. In April and May, parties from the coalition supporting the Government and from the opposition began a dialogue on electoral reform. Although the two sides initially were unable to reach agreement, President Bongo mediated their differences and ultimately the Government agreed to meet key opposition demands, including the creation of a permanent electoral commission, the end of separate military voting, and the provision of official copies of polling place results to opposition parties. These concessions persuaded opposition parties to participate in the December legislative elections, which observers considered generally free and fair, although they suffered from administrative weaknesses. Overall, it was an improvement over the flawed 2005 Presidential election. A single party, the PDG, has remained in power since its creation by President Bongo in 1968, and political choice remained limited.

The Government was dominated by a strong presidency. When the legislature is not in session the President can veto legislation, dissolve the national legislature, call new elections, and issue decrees that have the force of law. The legislature generally approved legislation presented to it by the President. The President appoints ministers of government and heads of parastatals.

*Elections and Political Participation.*—In December elections were held to fill the 120 seats of the National Assembly. President Bongo's party, the PDG, won 81 seats. Other parties allied with the PDG won 16 seats. Opposition parties won 17 seats, led by the UPG with eight seats; UPG leader Pierre Mamboundou was among those elected. Four seats were won by independent candidates and one by a party that identified with neither government nor opposition. The results for one seat were declared null by the Constitutional Court, and that race was to be rerun.

In November 2005 President Bongo Ondimba was re-elected for another seven-year term in an election marred by irregularities, including incomplete and inaccurate electoral lists, abuse of government resources, and unequal access to the media. Opposition candidates also charged that the ruling party engaged in vote buying, multiple voting, and ballot stuffing. According to the National Electoral Commission, Bongo received approximately 79 percent of the vote, and Pierre Mamboundou of the UPG party received approximately 14 percent.

Opposition parties included the UPG, the Gabonese Progressive Party, and the newly-recognized Gabonese Union for Democracy and Development.

There were 16 women in the 120-member National Assembly and 12 women in the 48-member cabinet.

Members of all major ethnic groups continued to occupy prominent government positions; however, members of the President's Bateke ethnic group and other ethnic southerners held a disproportionately large number of key positions in the military and security forces. The general chief of staff, the minister of defense, and the chief of the republican guard were from the same region or ethnic group as the President.

Indigenous Pygmies rarely participated in the political process, and the Government made only limited efforts to include them (see Section 5).

*Government Corruption and Transparency.*—Official corruption was widespread, and there was extensive media coverage of police abuses, particularly at checkpoints; however, the anticorruption commission issued no reports and took no action against corrupt officials during the year. The commander of the gendarmerie stated that he would punish officers under his command who engaged in corruption, and that he had sanctioned more than 100 officers already (see Section 1.d.).

In May senior officials of the Fund for the Expansion and Development of Small and Medium Enterprise were arrested for fraud. They were released on bail and awaited trial at year's end.

The law does not provide for public access to government information, and the Government did not allow such access in practice.

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

A few local human rights nongovernmental organizations (NGOs) and human rights activists operated in the country without government restriction, investigating and publishing their findings. Government officials took no actions on their recommendations.

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

Although the constitution and law prohibit discrimination based on national origin, race, gender, or opinion, the Government did not enforce these provisions uniformly. There was considerable discrimination against women, especially in domestic affairs. Security forces also discriminated against noncitizens. The Government provided a lower level of health care and educational services to children of other African nationalities than it provided to citizens.

*Women.*—The law prohibits domestic violence; however, it was believed to be common, especially in rural areas. Police rarely intervened in such incidents, and women virtually never filed complaints with civil authorities.

Rape is against the law and carries a penalty of between five and 10 years' imprisonment; however, rape cases were seldom prosecuted. Only limited medical and legal assistance for rape victims was available.

Although illegal, female genital mutilation (FGM) was believed to occur among the resident population of noncitizen Africans; however, there were no specific reports of such practices during the year.

Although the law prohibits prostitution, it was a problem. Enforcement was rare, as the police considered prostitution to be a low priority.

There is no law that prohibits sexual harassment, and it was a problem. The Government and NGOs reported cases of female domestic workers (often victims of child trafficking) who were sexually molested by employers.

The law provides that women have rights to equal access in education, business, and investment, but women continued to face considerable societal and legal discrimination, especially in rural areas. While poor women frequently suffered discrimination, women among the educated urban population were treated more equally. Women owned businesses and property, participated in politics, and worked throughout the Government and in the private sector.

By law, couples must stipulate at the time of marriage whether they intend to adhere to a monogamous or a polygynous relationship; polygynous marriages were more common. For monogamous married couples, a common property law provides for the equal distribution of assets after divorce. In a polygynous marriage, a husband is obligated to give all wives the same level of financial support, although he may marry additional wives without permission from his existing wives. Wives who leave polygynous husbands receive half of their existing support as a one-time payment.

In inheritance cases, the husband's family must issue a written authorization before his widow can inherit property.

Common law marriage, which was accepted socially and practiced widely, afforded women no property rights.

A regulation requires that a woman obtain her husband's permission to travel abroad; this requirement was not enforced consistently.

*Children.*—The Government publicly expressed its commitment to youth, provided 4,000 academic scholarships during the year, and used oil revenues to build schools, pay teacher salaries, and promote education, including in rural areas. Education is compulsory until age 16 and was generally available through sixth grade. Approximately 78 percent of primary school-age children, and less than half of secondary school-age children, attended school. Secondary school attendance rates for immigrant children were lower, although public schools accepted immigrant children and the Government encouraged them to attend. The Government provided a family allowance to the parents of schoolchildren; however, students were required to pay for books, uniforms, and other school supplies, which precluded numerous children from attending school. A UN agency estimated that 64 percent of women and 78 percent of men were literate. Boys and girls had equal attendance rates in primary school, but more boys than girls were enrolled in secondary school.

There was little evidence of physical abuse of children, although there were occasional reports that family members sexually abused girls who had passed puberty. When such reports surfaced, the accused abusers were arrested and tried.



FGM was believed to occur among the resident population of noncitizen Africans (see Section 5, Women).

Trafficking in children was a problem (see Section 5, Trafficking).

Child labor remained a serious problem (see Section 6.d.).

Concerns about the problems faced by the large community of children of noncitizen Africans persisted. Almost all enjoyed far less access to education and health care than did citizen children; some were victims of child trafficking and abuses.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons, particularly women and children, were trafficked to the country. The antitrafficking law provides for prison sentences for traffickers of five to 15 years' imprisonment and fines from \$20,000 to \$40,000 (10 million to 20 million CFA francs). During the year police conducted periodic raids at which suspected traffickers were identified and turned over to prosecutors. Government agencies, in cooperation with the UN Children's Fund (UNICEF), provided care for victims, in some cases through NGOs. No information was available on the disposition of these cases at year's end, and there were reports that frustration over lack of prosecutorial action led police to conduct these raids less frequently as the year progressed.

The police and an interministerial committee composed of representatives from the labor, justice, foreign affairs, and family ministries, were responsible for combating trafficking. The Government also cooperated with UNICEF and the International Labor Organization (ILO).

Children (especially girls), primarily from Benin and Togo, worked as domestic servants or in the informal commercial sector. Nigerian children, also victims of trafficking, worked in the informal commercial sector as mechanics. Trafficked children generally worked long hours, were subjected to physical abuse, received inadequate food, and received no wages or schooling. No statistics were available on the number of trafficking victims in the country, but estimates ranged from 3,000 to 25,000.

There continued to be unconfirmed reports that some government officials employed trafficked foreign children as domestic workers, and that individual police and immigration officers were involved in facilitating child trafficking.

UNICEF and the Government sponsored a toll-free assistance hot line for child trafficking victims that provided 24-hour response assistance and arranged free transport to a victims' shelter. The hot line reported that the number of calls declined from 50 per week the previous year to about 20; about 20 percent of them were found on investigation to involve trafficking. A government-funded reception center offered protection for trafficking victims, including food, education, medical care, and repatriation assistance. A second center run by Carmelite nuns provided similar services for older girls and young women.

In May Libreville hosted a conference sponsored by UNICEF, the ILO, and the Economic Community of Central African States to coordinate efforts to prevent trafficking. The country also participated in a July summit in Nigeria to discuss the issue with neighboring countries. Together with other countries from west and central Africa, the Government signed an agreement on the fight against trafficking in persons and adopted a common action plan.

*Persons With Disabilities.*—There are no laws that prohibit discrimination against persons with disabilities or provide for access to buildings or services; however, there were no reports of official discrimination against persons with disabilities. There was some societal discrimination against persons with disabilities, and employment opportunities and treatment facilities were limited.

*Indigenous People.*—The Baka (Pygmies) are the earliest known inhabitants of the country. Small numbers of Pygmies continued to live as they have for hundreds of years in large tracts of rain forest in the northeast. Most Pygmies, however, were relocated to communities along the major roads during the late colonial and early postindependence period, together with other residents of remote communities. The law grants them the same civil rights as other citizens, but Pygmies remained largely outside of formal authority, keeping their own traditions, independent communities, and local decision-making structures. Pygmies suffered societal discrimination, often lived in extreme poverty, and did not have easy access to public services. Their Bantu neighbors often exploited their labor, paying much less than minimum wage. Despite their equal status under the law, Pygmies generally felt they had little recourse if mistreated by Bantu. There were no specific government programs or policies to assist Pygmies.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law places no restrictions on the right of association and recognizes the right of citizens to form trade and labor unions; workers

exercised this right in practice. The small private sector workforce was unionized. Unions must register with the Government to be recognized officially, and registration was granted routinely.

Discrimination on the basis of union membership is illegal. Employers who are found guilty by civil courts of having engaged in such discrimination may be required to compensate employees. There were no reports of any such cases during the year.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without government interference, and the Government protected this right in practice. The law provides for collective bargaining by industry, not by firm, and collectively bargained agreements set wages for whole industries. Labor and management met to negotiate differences, with observers from the Ministry of Labor. Agreements negotiated by unions also applied to nonunion workers.

The law provides workers the right to strike; however, they may do so only with eight days advance notification and also only after arbitration fails. Public sector employees' right to strike is limited if a strike could jeopardize public safety. The law prohibits government action against individual strikers who abide by the notification and arbitration provisions. In practice, the Government sometimes weighed in on labor disputes. For example, in November the President told oil companies to make concessions to striking workers. Although the President had no formal authority in the matter, the companies reluctantly complied.

Workers from the national post office went on strike October 31 demanding an additional 40 months' salary as severance payment in connection with reorganization of the post office. The strike was still under way at year's end, although minimum staffing was restored on December 8 and the post office reopened. Teachers at several public schools went on strike November 16. Although education officials called the strike illegal, the strikers suffered no punishment after returning to work the following week.

Charges were dropped in the 2005 case against taxi union leader Jean-Robert Menie.

There are no export processing zones, although there were plans to establish one.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred, including by children (see Sections 5 and 6.d.).

Some Pygmies reportedly were employed under conditions tantamount to slavery and without effective recourse to the judicial system (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although children below the age of 16 may not work without the express consent of the ministries of labor, education, and public health, child labor was a serious problem. The law stipulates fines and prison sentences for violations of the minimum age for work. The ministries rigorously enforced this law in urban areas with respect to citizen children, and few citizens under the age of 18 worked in the formal wage sector; however, child labor occurred in rural areas, where the law was seldom enforced.

An unknown number of children—primarily foreign—worked in marketplaces or performed domestic duties; many of these children were reportedly the victims of child trafficking (see Section 5). Such children generally did not attend school, received only limited medical attention, and often were exploited by employers or foster families. Laws forbidding child labor theoretically extended protection to these children, but abuses often were not reported. A 2001 ILO study estimated that 20,000 children between 10 and 14 years old were economically active, but the actual number was probably considerably higher since most children worked in the informal sector.

The constitution and labor code protect children against exploitation. The Ministry of Justice is responsible for implementing and enforcing child labor laws and regulations. Inspectors from the Ministry of Labor are responsible for receiving, investigating, and addressing child labor complaints. However, violations were not systematically addressed because the inspection force was inadequate and complaints were not investigated routinely. The Government viewed child labor and child trafficking as closely linked; the only available survey of children in the labor force found that 97 percent were noncitizens. As a matter of policy, therefore, prevention of child labor was to begin with prevention of trafficking.

*e. Acceptable Conditions of Work.*—In September the President announced an increase in the monthly minimum wage from \$85 to \$155 (44,000 to 80,000 CFA francs); government workers received an additional monthly allowance of \$40 (20,000 CFA francs) per child. Government workers also received transportation, housing, and family benefits. The law does not mandate housing or family benefits

for private sector workers. The minimum wage did not provide a decent standard of living for a worker and family.

The labor code governs working conditions and benefits for all sectors and theoretically provides a broad range of protection to workers; however, the Government sometimes did not respect these protections. According to the law, representatives of labor, management, and the Government are required to meet annually to examine economic and labor conditions and to recommend a minimum wage rate to the President, who then issues an annual decree. This procedure has not been followed since 1994, in part because the Government was following a policy of wage austerity recommended by international financial institutions.

The labor code stipulates a 40-hour workweek with a minimum rest period of 48 consecutive hours. Employers must compensate workers for overtime work. Companies in the formal sector generally paid competitive wages and granted the fringe benefits required by law, including maternity leave and six weeks annual paid vacation.

The Ministry of Health established occupational health and safety standards but did not enforce or regulate them. The application of labor standards varied from company to company and between industries. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

The Government reportedly did not enforce labor code provisions in sectors where the majority of the labor force was foreign. Foreign workers, both documented and undocumented, were obliged to work under substandard conditions; were dismissed without notice or recourse; or were mistreated physically, especially in the case of illegal immigrants. Employers frequently paid noncitizens less and required them to work longer hours, often hiring them on a short-term, casual basis to avoid paying taxes, social security contributions, and other benefits.

## THE GAMBIA

The Gambia is a multiparty, democratic republic with a population of 1.5 million. On September 22, President Alhaji Yahya Jammeh was re-elected for a third five-year term in an election considered partially free and fair. President Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC), dominated the National Assembly. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority. On March 21, a coup attempt was uncovered and approximately 50 suspects were detained, 21 of whom remained in detention awaiting or on trial at year's end.

The foiled coup plot resulted in a more restrictive environment, and the Government's respect for the human rights of its citizens declined during the year. Although the constitution and law provide for protection of most human rights, there were problems in many areas. Arbitrary arrests and detentions increased, particularly after the discovery of the coup plot. Security forces harassed and mistreated detainees, prisoners, opposition members, journalists, and civilians with impunity. Prisoners were held incommunicado, faced prolonged pretrial detention, and were denied due process. The Government infringed on privacy rights and restricted freedom of speech and press. Women experienced violence and discrimination, and female genital mutilation (FGM) remained a problem. Child labor and trafficking in persons also were problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports that the Government or its agents committed arbitrary or unlawful killings. However, in April there were allegations that the Government had executed five detainees in connection with the March coup plot after the Government announced that they had escaped while being transferred to a minimum security prison. The Government denied the reports, but none of the escapees were seen or heard from during the year. Similarly, the Government denied allegations of involvement in the July 2005 case of eight men found dead in the coastal town of Brufut, near Banjul. The victims were later identified as migrant workers from Ghana, Nigeria, and Togo who were trying to make their way to Europe. Government authorities announced that an investigation into the deaths was continuing, although nothing was reported by year's end.

There were no developments in the case of the 2004 killing of journalist Deyda Hydara (see Section 2.a.).

*b. Disappearance.*—There were reports of politically motivated disappearances during the year.

The whereabouts of five men detained in connection with the March coup attempt remained unknown at year's end; the Government claimed that they had escaped custody. (see Section 1.a.).

On July 11, police reportedly detained Ebrima Manneh, a journalist for the pro-government Daily Observer, at Sibanor police station; Manneh was not seen again during the year. The Government denied that he was being held in custody during the year.

On September 13, Tamba Fofana, a schoolteacher and opposition supporter, reportedly was picked up by soldiers and taken to the police on accusations of "anti-state" activities. He had not been seen again by the end of the year, and the police denied knowledge of his whereabouts. On September 18, security forces allegedly arrested Kanyiba Kanyi, a social worker and supporter of the opposition United Democratic Party (UDP). On October 18, the courts ordered his release, but his whereabouts remained unknown at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that security forces beat and mistreated persons in custody. Following the foiled March coup plot and throughout the year, there were credible reports of torture of detained suspects, including journalists. For example, according to press reports, three military officers detained in connection with the plot, Captain Yaya Darboe, Captain Bunja Darboe, and 2nd Lieutenant Pharing Sanyang, claimed at their court martial hearings that they had been tortured under interrogation to force their televised confessions. The Government did not respond to these allegations.

The Indemnity Act continued to prevent victims from seeking redress in torture cases. The army requested that victims file formal complaints so that cases could be investigated; however, there were no known prosecutions in civil courts of soldiers or security officials accused of beating or otherwise mistreating individuals during the year.

There were no developments in the October 2005 case in which the Police Intervention Unit—a paramilitary wing of the police—severely beat workers at a hotel construction site for obstructing a police officer and allegedly helping to free a prisoner. Police arrested seven of the workers and released them on bail 24 hours later.

There were unsubstantiated claims by opposition members that the Government continued to conduct training for vigilante groups. These groups, also known as "green boys," were suspected of involvement in past human rights offenses.

*Prison and Detention Center Conditions.*—Prison conditions at Mile 2, Janjanbureh, and Jeshwang prisons generally met international standards. The Government permitted some visits by independent human rights observers, but they were not allowed to visit detained suspects connected to the foiled coup plot. Local jails were overcrowded, and inmates, including detainees awaiting trial, occasionally slept on the floor. Prison guards were reluctant to intervene in fights between prisoners, which resulted in injuries.

Political prisoners were not held separately from other prisoners.

The Government permitted independent monitoring of prison conditions by some local and international human rights groups; however, neither the media nor the International Committee of the Red Cross (ICRC) was granted access to detainees or prisoners during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, there were instances of police and security forces arbitrarily arresting and detaining citizens, especially following the failed coup plot.

*Role of Police and Security Apparatus.*—The armed forces are responsible for external defense and report to the secretary of state (minister) for defense, a position held by the President. The police, under the secretary of state for the interior, are responsible for public security. The National Intelligence Agency (NIA), responsible for protecting state security, collecting intelligence, and conducting covert investigations, reports directly to the President. During the year the NIA often assumed police functions such as detaining and questioning criminal suspects. The police generally were corrupt and ineffective. On occasion police acted with impunity and defied court orders.

Many members of the security forces were held without charge in connection to the March coup plot, often beyond the legal 72-hour limit for detention.

In May the police established a human rights and complaints unit tasked with teaching basic human rights knowledge to police and other law enforcement officers

and sensitizing them to the need to respect the rights of prisoners and detainees. The unit also receives and addresses complaints of human rights abuses committed by police officers from both civilians and other police officers. During the year the unit received several complaints, and some police officers faced disciplinary actions as a result. The NIA is also authorized to investigate police abuses, although it was not reported that the NIA conducted any such investigations during the year.

*Arrest and Detention.*—The law requires that authorities obtain a warrant before arresting a person; in practice individuals often were arrested without a warrant. Periods of detention generally ranged from a few hours to 72 hours, the legal limit after which detainees must be charged or released; however, there were numerous instances of detentions surpassing the limit, particularly in cases related to the March coup plot. There was a functioning bail system; however, on occasion, the courts released accused offenders on bail, while the police or other law enforcement agencies rearrested offenders upon their leaving the court.

Many detainees, particularly those connected to the failed coup plot, were held incommunicado for extended periods during the year. According to an August report by the International Bar Association (IBA), prisoners frequently were not permitted to meet privately with their attorneys. For example, Tamsir Jasseh, who was arrested without charge on April 6 in connection with the March coup attempt, was not provided access to legal counsel for several months, although he had legal representation at his trial by year's end. In addition to the specific concerns raised about these instances of incommunicado detention, the IBA report expressed general concern about the country's judicial environment (see Section 1.e.).

The Government did not formally revoke military decrees enacted prior to the constitution that give the NIA and the secretary of state for the interior broad power to detain individuals indefinitely without charge "in the interest of national security." These detention decrees are inconsistent with the constitution, but they have not been subject to judicial challenge. The Government claimed that it no longer enforced these decrees; however, there continued to be numerous cases of detentions that exceeded the 72-hour limit beyond which detainees must be charged or released.

Security forces arbitrarily arrested numerous persons for political reasons, and the whereabouts of some of these political detainees, including a journalist and an opposition supporter, were unknown at year's end (see Sections 1.b. and 1.e.). The Government also arrested and detained opposition members who publicly criticized or who expressed views in disagreement with the Government (see Section 2.a.). Security officials arbitrarily detained and abused journalists during the year (see Section 2.a.).

Security forces arrested approximately 50 persons in connection with the March 21 coup attempt; 24 were released during the year, five allegedly escaped during a prison transfer, and 21 remained in detention at year's end. All but one of the suspects were arrested on March 22 on charges of treason and or concealment of treason; an army officer was arrested on April 14 and was not charged by year's end. Trials of 15 of the 21 detainees, 10 soldiers, and five civilians were ongoing at year's end (see Section 1.e.).

On December 8, former deputy director-general of the NIA, Alieu Singhateh, and former director of external relations of the NIA, Kemo Balajo, were released after prolonged detention on charges of concealment of treason in relation to the March 21 coup plot. The two were denied access to lawyers for several months.

In several instances security forces forcibly entered homes without warrants to arrest citizens. For example, on April 6, Sheriff Mustapha Dibba, the speaker of the National Assembly, and Mariam Denton, a prominent lawyer and UDP supporter who was representing coup suspect Tamsir Jasseh, were arrested without warrant. Dibba was accused of involvement in the coup plot but was released without charge on April 15 after being held for several days beyond the 72-hour limit. Denton was held for 111 days and was denied access to legal counsel for several weeks. In July a court order was issued for her release. The Government tried unsuccessfully to subvert the court order by charging her with concealment of treason; but on July 25, the charges were dropped and she was released.

Colonel Ndure Cham, former chief of defense staff who was the alleged mastermind of the March 21 coup plot, remained at large at year's end. Two of the five accused civilians, Alieu Jobe and Tamsir Jasseh, were charged with aiding and abetting Cham's escape in addition to charges of concealment of treason. They remained in detention, and their trial was ongoing at year's end.

Security forces also detained the family members of suspected coup plotters (see Section 1.f.).

On August 2, the former chairman of the Independent Electoral Commission, Ndondi Njie, and two commissioners, Sulayman Sait Mboob and Ebrima Silla

Sanneh, were detained on charges of financial malpractice. On August 7, Mboob and Sanneh were released on bail without being formally charged. On September 5, Njie was released without charge. No proof of financial malpractice was produced.

On June 2, the NIA detained Duta Kamaso, a former member of the National Assembly, on "political and economic grounds; Kamaso was released without charge on October 9. No explanation had been given for her arrest by year's end. Kamaso reportedly had to report to the NIA on a weekly basis during the year.

On November 10, two NIA officers, Nuru Secka and Bamba Manneh, were released on bail after spending several months in detention for failing to arrest a fugitive, former state guard commander major Kalipha Bajinka.

In early February, the Government withdrew charges against the three National Alliance for Democracy and Development (NADD) leaders detained in November 2005 for sedition and unauthorized possession of a diplomatic passport.

Backlogs and inefficiency in the justice system resulted in lengthy pretrial detentions. Approximately 40 of Mile 2 Prison's 230 inmates were in pretrial detention, and some had been incarcerated for several years while awaiting trial. On December 19, 20, and 21, the NIA freed a total of 26 people held in connection with minor offenses. The length of their detention was not disclosed.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, in practice the courts, especially at the lower levels, were corrupt and subject to executive pressure at times. Nevertheless, the courts demonstrated independence on several occasions, including in the high-profile cases of Malick Mboob and Duta Kamaso (see Sections 1.d. and 2.a.). However, there were instances of the Government and security forces disregarding court orders. For example, on March 30, the Government charged Pa Sallah Jeng, the mayor of Banjul, with the same allegations of corruption, abuse of office, and unauthorized spending for which he had been acquitted in December 2005; the trial was ongoing at year's end.

The judicial system is composed of the Supreme Court, the court of appeal, high courts, and eight magistrate courts. Cadi courts have jurisdiction over Islamic matters of marriage, divorce, land disputes, and inheritance where Muslim parties are involved. District chiefs preside over local tribunals that administer customary law at the district level. Cadi courts and district tribunals do not offer standard legal representation to the parties involved, since lawyers are not trained in Islamic or customary law. Military tribunals cannot try civilians.

An August report by the IBA expressed concern over the judicial environment, citing instances of lack of compliance with court orders, detainees held incommunicado and without access to lawyers, and a climate of fear for the safety and reputation of lawyers and their families when accepting politically related cases. The report also stated that some legal practitioners were reluctant to engage in cases involving human rights or public interest due to fear of harassment.

*Trial Procedures.*—Both civilian trials and courts martial are held in public. No juries are used in the civilian courts, but in the courts-martial the proceedings are presided over by a judge advocate assisted by a panel of senior military officers. The constitution and law provide for a fair and public trial, and the judiciary generally enforced this right, although frequent delays and missing witnesses and lawyers often impeded the process. Many cases were also delayed because of adjournments designed to allow the police or NIA time to continue their investigations.

Indigent defendants charged with murder or manslaughter have a right to an attorney provided at public expense. The prosecution prepares a case file, including testimonies and evidence, and provides a copy for the defense. Defendants are presumed innocent, have the right to confront witnesses and evidence against them, present witnesses on their own behalf, have the right to an attorney, and appeal judgment to a higher court. The law extends the above rights to all citizens, and there were no groups that were denied these rights based on race.

The judicial system suffered from corruption, particularly at the lower levels, and from inefficiency at all levels. Cases continued to be delayed because the court system was overburdened. To alleviate the backlog and reduce the possibility of undue influence and corruption, the Government continued to recruit judges and magistrates from other Commonwealth countries that have a similar legal system. The Attorney General oversees the hiring of foreign judges on contract. The Government reserves the right not to renew a judge's contract. Foreign judges were generally less susceptible to corruption and executive branch pressure. Despite these steps, corruption in the legal system persisted.

The judicial system recognizes customary, Shari'a (Islamic law), and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Shari'a

was observed primarily in Muslim marriage and divorce matters; it favored men in its provisions (see Section 5). General law, following the British model, applied to felonies and misdemeanors in urban areas and to the formal business sector.

On January 20 the Gambia Bar Association (GBA) accused the former chief justice, Stephen Allan Brobbey, of partiality in the assignment of cases, and lawyers boycotted one justice, M.A. Paul, for his alleged mishandling of trials, by refusing to appear before his court. The chief justice rejected the accusations but immediately effected changes in the courts and assigned Justice Paul to the civil division.

The trials of 15 of the 21 suspects detained in connection with the March 21 coup plot were ongoing at year's end (see Section 1.d.). Of the six NIA agents charged with concealment of treason, two, Alieu Singhateh and Kemo Balajo, were released on December 8, while Abdoulie Kujabi, Ngor Secka, Foday Barry, and Baba Saho, had not been tried by year's end. Retired Colonel Vincent Jatta, also charged with concealment of treason, was also awaiting trial at year's end. One detainee, Sergeant Buba Mendy, was arrested on April 14 and had not been charged at year's end. The trial of the five civilians charged with concealment of treason—Tamsir Jasseh, Alieu Jobe, Omar Faal Keita, Demba Dem, and Hamadi Sowe—was ongoing at year's end; two of the men, Alieu Jobe and Tamsir Jasseh, were also charged with aiding and abetting the escape of Colonel Ndure Cham, the alleged mastermind of the coup who remained at large at year's end.

The trial of the 10 soldiers was scheduled to resume in October; however, the defendants were brought before a court-martial at Yundum Army Barracks on October 11. No official reason was given for transferring the case to the court martial. Four soldiers, Captain Bunja Darboe, Captain Yaya Darboe, Captain Wassa Camara, and 2nd Lieutenant Pharing Sanyang, were charged with treason; six others, Captain Abdourahman Jah, Captain Pierre Mendy, Lieutenant Momodou Alieu Bah, Corporal Samba Bah, Lance Corporal Babou Janha, and Private Alhaji Nying, were charged with concealment of treason.

All of the detainees faced extended pre-trial detention and were denied access to legal counsel for several months during the year. Two suspects in the coup plot were released after testifying against the defendants as state witnesses; Mustapha Lowe was released on November 20, and Ousman Sey was released on December 29. There were no reports that Lowe and Sey were coerced into testifying against the other suspects; however, their charges were dropped once they agreed to testify as prosecution witnesses.

*Political Prisoners and Detainees.*—During the year there were credible reports that the Government held civilians as political detainees based on their political views or associations, and many were held incommunicado for prolonged periods. For example, on April 6, the Government detained without charge Mariam Denton, a prominent lawyer and UDP supporter who was representing coup suspect Tamsir Jasseh (see Section 1.d.). Until her release on July 25, Denton was denied access to her attorney despite an April 25 high court order granting the attorney unrestricted access to her. On June 2, the NIA detained Duta Kamaso, a former member of the National Assembly, on "political and economic" grounds, and accused her of being an informant for the antigovernment Freedom newspaper; Kamaso was released without charge on October 9 but must report to the NIA on a weekly basis. From August 26 to September 5, the Government detained Buba Sanyang, a NADD supporter, on accusations of impersonating a member of the IEC (see Section 3). Sanyang read a televised confession statement alleging he was assigned by NADD leader Halifa Sallah to impersonate an IEC officer and collect voter registration cards. He was released later on bail after being held at NIA headquarters for several days beyond the 72-hour limit; no charges were ever brought against him and his case did not go to trial.

During the year the Government arrested and detained opposition members who publicly criticized or who expressed views in disagreement with the Government (see Section 2.a.).

*Civil Judicial Procedures and Remedies.*—The high court has jurisdiction to hear cases for civil and human rights violations, although it may decline to exercise its powers if it is satisfied that adequate means of redress are available under other laws. The Indemnity Act continued to prevent victims from seeking redress in some cases (see Section 1.c.). The army continued to encourage victims to file formal complaints so that old cases would be investigated; however, no such cases were filed during the year.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, but the Government did not always respect these prohibitions in practice. Decree 45, which abrogates constitutional safeguards against arbitrary searches and the seizure of property without due process

remained in effect; however, in practice the Government did not use it. In several instances security forces forcibly entered homes without warrants to arrest citizens (see Section 1.d.). For example, on April 6, Sheriff Mustapha Dibba, speaker of the National Assembly, and Mariam Denton, a prominent lawyer representing a coup plot suspect, were arrested without warrants (see Section 1.d.).

Several family members of suspected coup plotters were detained. On March 25, Awa Darboe Cham, wife of Colonel Ndure Cham, the suspected mastermind of the coup plot, was arrested and questioned about her husband's whereabouts. She was held beyond the 72-hour limit and then released on April 4 without charge. During the last week of March the wife of National Assembly Member Omar Camara was detained and held beyond the legal limit; on April 3, she was released without charge along with her husband.

Observers believed the Government monitored citizens engaged in activities that it deemed objectionable.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and the press; however, the Government limited these rights by intimidation, detention, and restrictive legislation. Although the independent press practiced a degree of self-censorship, opposition views regularly appeared in the independent press, and there was frequent criticism of the Government.

During the year the Government arrested and detained opposition members who publicly criticized or who expressed views in disagreement with the Government. On June 27 an elected local official from the UDP, Ousman "Rambo" Jatta, was arrested on charges of "behaving in a manner conducive to a breach of the peace." On July 10, the case was discontinued and Jatta was granted bail; however, on September 23, security agents rearrested him, reportedly without charge. On October 17, a court ordered his release, but he remained in detention at year's end.

The NADD leaders detained in November 2005 were released in December 2005 (see Section 1.d.).

The Government published one newspaper, The Gambia Daily. The Daily Observer, although privately owned, tended to favor the Government in its coverage. There were three other independent newspapers, including one published by an opposition political party. There was one independent bi-weekly magazine.

During the year one government-owned and four private radio stations broadcast throughout the country. During most of the year government-owned television and radio gave very limited coverage to opposition activities. Local television stations rebroadcast the BBC, Radio France Internationale, the Voice of America, and other foreign news reports, and all were available via short-wave radio. The government-owned Gambian Radio and Television Service (GRTS) television, foreign cable, and satellite television channels were available in many parts of the country. The Senegalese-owned radio station SUD FM remained closed during the year; in 2005 the Government revoked its operating license for allegedly broadcasting derogatory remarks about the Government and the Senegalese government.

The Government allowed unrestricted access to satellite television, and residents who could afford it received independent news coverage by satellite dish or antenna.

The deterioration of the country's media environment continued during the year. The Government harassed journalists and editors of newspapers that published articles it considered inaccurate or sensitive.

On March 28, police arrested Madi Ceesay, the managing director, and Musa Saidykhan, the editor-in-chief of The Independent newspaper after it published two articles critical of the President. Ceesay and Saidykhan were released without charge on April 20. The Independent remained closed at year's end.

On April 10 Lamin Fatty, journalist for The Independent, was charged with publishing an article the state considered to be "false and malicious." Fatty's trial began on June 12 but was postponed numerous times. His trial was suspended indefinitely at year's end, meaning the trial will not continue unless assigned to a new magistrate.

On May 24, The Daily Observer published a letter reportedly from the editor of The Freedom Newspaper, an online newspaper critical of the Government, pledging his allegiance to the APRC, along with a list of the paper's supposed informants. On May 30, the NGO Reporters Without Borders reported that this was false information and the Government had attempted to hack into the Website of The Freedom Newspaper, smear the name of its editor, and publicize the names of its subscribers.

Also on May 24, the NIA detained Malick Mboob, a former journalist, for allegedly being an informant for The Freedom Newspaper. Mboob was released without charge on October 9.



On August 29, the NIA reportedly detained Amie Sillah, a NADD activist and journalist for the opposition Foroyaa newspaper. No reason for her arrest was given, and Sillah was released without charge on the same day.

On September 8, the NIA detained GRTS reporter and producer Dodou Sanneh, who was assigned to cover the opposition's Presidential campaign. On September 13, he was fired from GRTS and released from custody. Although the Government later ordered the director general of GRTS to reinstate him, Sanneh was dismissed again on November 20.

At a September 24 press conference after his election victory, President Jammeh claimed he would ban any newspaper deemed to threaten the country's peace and security through "irresponsible reporting."

In some cases journalists from certain independent newspapers were denied access to public events due to official disapproval of their editorial stance.

The Senegalese-owned radio station SUD FM remained closed during the year. The Government revoked its operating license in October 2005 for allegedly broadcasting derogatory remarks regarding both the Government and Senegalese government.

During the three-week campaign period before the September Presidential election, opposition parties were allotted television time slots, but coverage of opposition rallies was limited. Contrary to the code of conduct created by journalists and adopted by the media for coverage of the election, the ruling APRC party received more coverage than the opposition.

*Internet Freedom.*—Although there were no reports that the Government monitored e-mail or Internet chatrooms, the Government on one occasion restricted access to the Internet. In late May the Government reportedly blocked access to The Freedom Newspaper, and the site remained blocked at the end of the year. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by electronic mail. Although many citizens were illiterate and most did not have computers or Internet connections at home, Internet cafes were popular in urban areas. Internet access was limited by slow connection speeds and was frequently interrupted by power outages. On November 6, the Gambia Press Union opened an Internet cafe offering free access to journalists.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government did not always respect this right in practice.

In June the Government denied a request by the Association of Nongovernmental Organizations to hold a civil society forum on freedom of expression in association with the African Union Summit.

On September 20, police reportedly sprayed teargas on participants in a UDP rally; 12 UDP supporters were briefly detained.

In December 2005 an armed police riot squad blocked friends and family of slain journalist Deyda Hydara from accessing the site of his death on the anniversary of his murder. The second anniversary was commemorated without obstruction on December 16.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. The Armed Forces Provisional Ruling Council's Decree 81 requires NGOs to register with the National Advisory Council, which has the authority to deny, suspend, or cancel the right of any NGO to operate, including that of international NGOs. There were no reports of NGOs being denied the right to operate during the year.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

*Societal Abuses and Discrimination.*—There was no reported societal violence, harassment, or discrimination against members of religious groups. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights but allow for "reasonable restrictions." Restrictions were made on foreign travel for many people released from detention, often because their travel documents were confiscated at the time of their arrest or soon afterwards. These documents were eventually returned during the year.

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

*Protection of Refugees.*—Neither the constitution nor the law provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government has established a system for providing such protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government provided temporary protection through the registration of refugees with the Department of Immigration.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. UNHCR coordinated government efforts with the International Organization for Migration, the Gambia Red Cross Society and other agencies to provide assistance to refugees.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, partially free and fair elections held on the basis of universal suffrage. The constitution provides for democratic elections of the President and National Assembly every five years. The APRC remained the dominant political party.

*Elections and Political Participation.*—On September 22, President Jammeh was re-elected for a third term, winning approximately 67 percent of the vote. The main opposition political party, the UDP, challenged the election; however, on October 20, the courts upheld the election results.

The Commonwealth Observer Group reported that the election result represented an “expression of the will of the people”; other international observers declared the election partially free and fair, but noted under-age voting, voting by non-nationals, and biased media coverage in favor of President Jammeh. Opposition parties criticized these irregularities and stated that the APRC did not adhere to the code of conduct in the Memorandum of Understanding (MOU) brokered by the Commonwealth in September 2005. The opposition political parties signed the MOU in September 2005, but the APRC refused to sign until February.

In January 2005 five opposition parties formed the NADD alliance to contest the Presidential election and the 2007 National Assembly elections. Leaders of the National Democratic Action Movement, the National Reconciliation Party (NRP), the People’s Democratic Organization for Independence and Socialism, the People’s Progressive Party, and the UDP signed a Memorandum of Understanding that established NADD; however, the UDP and NRP withdrew from NADD before the Presidential election and ran as a separate alliance.

In July 2005 the Supreme Court ordered the four members of the National Assembly who fell under the newly-formed NADD coalition to vacate their seats and run in a special election. In September 2005 three of the four opponents regained their seats in a special election; the member who lost contested the vote in court, but at year’s end the case had still not been heard.

Individuals representing political parties or running as independents could freely declare their candidacy if their nomination was approved according to the rules of the IEC.

On July 17, President Jammeh named a new chairman for the IEC after former chairman Ndondi Njie was removed on charges of financial malpractice (see Section 1.d.); however, the replacement process was not in accordance with the rules of the constitution, which states that prior to removing an IEC commissioner for misconduct, the President must appoint a tribunal of three judges to make an inquiry and report on the facts. The accused member of the IEC is entitled to appear and be legally represented before the tribunal.

The Government arrested members of the opposition during the year (see Sections 1.d. and 2.a.).

There were five women in the 53-seat National Assembly; two were elected and three were nominated by the President. After a cabinet reshuffle, at year’s end there were five women in the 15-member cabinet, including the vice President.

There were no statistics available on the percentage of minorities who compose the legislature or the cabinet. President Jammeh and some members of his administration were from the previously marginalized minority Jola ethnic group.

*Government Corruption and Transparency.*—Official corruption remained a serious problem, although there were some government efforts to curb it during the year. The President often spoke out against corruption, and leading political and administrative figures, including a close ally of the President, faced harsh sentences on charges of corruption.

The findings of the 2005 Commission of Inquiry into official corruption, commonly known as the "Paul Commission," were not made public by year's end. In January the high court ordered a stay of execution on the commission's eviction orders against 20 former senior civil servants and ordered that the properties in question be restored to their owners. However, the stay of execution was ignored, and a few days later security forces evicted the former officials from their homes. In June a separate court reversed the recommendations for one member of the group, former Justice Minister Pap Cheyassin Secka. The GBA accused Justice Paul of lacking impartiality, and the high court dismissed the recommendations, charging that they were biased.

The constitution and law do not provide for public access to government information. Under the Official Secrets Act, civil servants are not allowed to divulge information about their department or to speak to the press without prior clearance with their head of department.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, although some members of domestic human rights groups reportedly practiced self-censorship in matters related to the Government. Amnesty International expressed concern over the situation of detainees held incommunicado and issued periodic updates on their status. The Government did not respond to these reports. The Government allowed visits by the UN and other international governmental organizations, such as the Commonwealth Secretariat, but offered no response to reports issued after the visits.

In December 2005 the Office of the Ombudsman established the National Human Rights Unit (NHRU) to promote and protect human rights and to support vulnerable groups. During the year the unit's reports focused on social and economic issues, such as gender, welfare, and child labor, and were not critical of the Government.

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

The constitution prohibits discrimination based on race, religion, sex, disability, language, or social status, and the Government generally enforced these prohibitions.

*Women.*—Domestic violence, including spousal abuse, was a common problem. Police considered reported incidents to be domestic issues outside of their jurisdiction. There was no law prohibiting domestic violence; however, cases of domestic violence could be prosecuted under laws prohibiting rape, spousal rape, and assault. The penalty for rape is life in prison, and it was enforced. The law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it.

The law does not prohibit FGM. The Government publicly supported efforts to eradicate FGM and discouraged it through health education; however, the practice remained widespread and entrenched. Between 60 and 90 percent of women have undergone FGM. Approximately seven of the nine major ethnic groups practiced FGM at ages varying from shortly after birth until age 16. FGM was less frequent among the educated and urban segments of those groups. There were unconfirmed reports of incidences of health-related complications, including deaths, associated with the practice of FGM; however, no accurate statistics were available. Several NGOs conducted public education programs to discourage the practice and spoke out against FGM and harmful traditional practices in the media. During the year the National Assembly Select Committee on Women and Children continued its campaign against FGM and other harmful traditional practices affecting the lives of women and children.

Prostitution is illegal but was a problem, especially in the tourist areas. The Government expelled numerous foreign prostitutes. The Tourism Offences Act deals with increasing incidents of tourism-related offenses, including sex tourism. The act prohibits child prostitution, trafficking, and pornography. No prosecutions or convictions were made under the Act during the year.

There are no laws against sexual harassment. Although individual instances have been noted, sexual harassment was not believed to be widespread.

Traditional views of women's roles resulted in extensive societal discrimination in education and employment. Employment in the formal sector was open to women at the same salary rates as men. No statutory discrimination existed in other kinds

of employment; however, women generally were employed in such pursuits as food vending or subsistence farming.

Shari'a law is applied in divorce and inheritance matters for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than did males. The appropriate church and the Office of the Attorney General settled Christian and civil marriage and divorce matters.

Marriages often were arranged and, depending on the ethnic group, polygamy was practiced. Women in polygamous unions had property and other rights arising from the marriage. They also had the option to divorce but no legal right to approve or be notified in advance of subsequent marriages. The Women's Bureau, which is under the Office of the Vice President, oversees programs to ensure the legal rights of women. Active women's rights groups existed.

*Children.*—The Government was committed to children's welfare. Although the Department of Education and the Department of Health and Social Welfare were the most generously funded government departments, lack of resources limited state provision of education, health, and social services. The Department of Education financed teachers' salaries and the construction of schools but was unable to properly equip the schools. The Social Welfare Unit of the Department of State for Health and Social Welfare received a very small allocation, as most of the department's money went towards salaries for health care professionals and the operation of hospitals and health centers across the country. These budgetary constraints limited the resources available to support children's welfare.

The constitution and law mandate free, compulsory primary education up to eight years of age, but the inadequate educational infrastructure prevented effective compulsory education, and children still must pay school fees. During the year the Government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in the Islamic schools called "madrassas." Girls constituted approximately 51 percent of primary school students and roughly one-third of high school students. The enrollment of girls was low, particularly in rural areas where a combination of poverty and sociocultural factors influenced parents' decisions not to send girls to school. As part of the Government's ongoing initiative to get girls to go to school, the Government continued to implement a countrywide program to pay basic school fees for all girls, a Scholarship Trust Fund scheme that began in two regions 1998 and reached all six regions nationwide in 2003; however, in two urban regions, girls still were required to pay for books, school fund contributions, and exam fees.

In June 2005 the Government passed the Children's Act, which is designed to protect and promote the welfare of children and to curb abuses against children, including trafficking in persons. In February the first of five regional children's courts was established under the Act and held its first session on March 2. The court met in camera on a weekly basis throughout the year. The court has jurisdiction to hear all adoption, custody, maintenance, parentage, special, and criminal cases affecting children, except for the offense of treason where the child is jointly charged with adults. Although several criminal cases were heard regarding rape and abuse, no convictions occurred under the Children's Act during the year.

Authorities generally intervened when cases of child abuse or mistreatment were brought to their attention; however, there was no societal pattern of abuse against children. Any person who has carnal knowledge of a girl under the age of 16 is guilty of a felony (except in the case of marriage, which can be as early as 12 years of age). Incest also is illegal. These laws generally were enforced. Serious cases of abuse and violence against children were subject to criminal penalties.

On July 23, a government shelter for children, including victims of trafficking, began operating in the Greater Banjul Area. The Department of Social Welfare indicated they were able to admit only around 100 children to the shelter at a time, and that several children had to be turned away due to funding constraints.

Trafficking of children for prostitution was a problem (see Section 5, Trafficking). Child labor was a problem (see Section 6.d.).

The Child Protection Alliance (CPA), a consortium of national and international organizations that promote the protection of children from abuse, conducted countrywide awareness campaigns for community and religious leaders on children's rights. Throughout the year, the CPA organized sensitization conferences and workshops for various groups such as lawyers, teachers, parents, media practitioners, and religious leaders around the country.

*Trafficking in Persons.*—The 2005 Children's Act prohibits trafficking in children; however, no law protects persons over the age of 18 from trafficking. Trafficking occurred, and the Government considered it a serious problem.

The country was a source, transit point, and destination for trafficked persons. The number of persons, mostly children, trafficked for commercial sexual exploitation was small but growing.

The penalty for trafficking in children (anyone under the age of 18) is life in prison, along with a substantial monetary fine. Enforcement of the act is primarily the responsibility of the Tourism Security Unit, a unit of the national army created specifically to enhance security in the tourism sector and keep minors out of the resort areas. There were no prosecutions under this law during the year.

In 2004 a joint UN Children's Fund (UNICEF)-government study reported that children engaged in prostitution in the main tourist resort areas were predominantly underage, some as young as 12. The report stated that the country attracted suspected or convicted European pedophiles who entered the country as tourists and committed their crimes against children with impunity. Victims of trafficking were children of both sexes, normally under 18 years of age. Trafficking victims mostly came from conflict-ravaged countries, such as Liberia and Sierra Leone. Victims from Senegal, Guinea Bissau, and Sierra Leone told CPA that foreign residents obtained permission from their home country families to employ them as bar waitresses or domestic maids. After their arrival the local employers informed the victims that their duties entailed commercial sex work.

Some child prostitution victims stated they worked to support their families, or because they were orphans and their guardian/procurer supported them. The guardian/procurer often assumed the role of the "African uncle," allowing the children to live in his compound with their younger siblings or paying school fees on their behalf in return for their servitude.

There was no evidence of government involvement at any level in trafficking in persons.

While the Government had no established victim care and health facilities for trafficked persons, it provided temporary shelter and access to medical and psychological services to reported victims of trafficking.

The Government's multi-agency trafficking in persons taskforce, which also included representatives from UNICEF, the National Assembly, and the CPA, met throughout the year. On August 25, the CPA began broadcasting public awareness messages about child trafficking on radio and television as part of an outreach campaign. On December 19, the Child Rights Unit of the Department of State for Justice held a UNICEF-funded conference and workshop on trafficking for officers from the police and security and intelligence services.

*Persons With Disabilities.*—Although the constitution protects persons with disabilities against exploitation and discrimination, no government agency is directly responsible for protecting persons with disabilities. The Department of State for Social Welfare dealt mainly with supplying some persons with disabilities with wheelchairs received from international donors. No legal discrimination against persons with physical disabilities existed in employment, education, or other state services; however, some societal discrimination existed towards persons with disabilities. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered little discrimination in employment for which they physically were capable. There were no laws to ensure access to buildings for persons with disabilities, and very few buildings in the country were specifically accessible to persons with disabilities.

During the year a government attempt to remove beggars, many of whom have disabilities, from the streets had adverse effects on these persons. The NHRU specifically sought to promote the rights of women with disabilities. The issue of the rights of persons with disabilities attracted press coverage throughout the year, and several NGOs sought to improve awareness of these rights, including encouraging the participation of persons with disabilities in sports and physical activities. Persons with disabilities were given priority access to polling booths on voting day.

*Other Societal Abuses and Discrimination.*—There was evidence of societal discrimination against persons infected with the HIV/AIDS virus. Stigma and discrimination hindered disclosure and led to rejection from partners and relatives. In some cases persons infected with HIV/AIDS were prevented from meeting visitors. The Government took a multi-sectoral approach to fighting HIV/AIDS and updated the National Strategic Plan, which provides for care, treatment, and support to persons living with, or affected by, HIV/AIDS, and the protection of the rights of those at risk of infection. The National AIDS Secretariat (NAS), whose goal is to promote public awareness of HIV/AIDS, sponsored a television sensitization campaign during the year to educate people about HIV/AIDS and prevent discrimination. Also, from October 2-6, NAS and the local UN Development Program jointly held the second

annual partnership conference on HIV/AIDS, which focused on the education sector response to HIV/AIDS.

There were no discriminatory laws based on sexual orientation; however, there was societal discrimination based on sexual orientation, which remained a social taboo.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Act, which applies to all workers, including foreign or migrant workers, except civil servants, specifies that workers are free to form associations, including trade unions, and workers exercised this right in practice. Unions must register to be recognized, and there were no cases where registration was denied to a union that applied for it. The act specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the Government intervened to assist workers who were fired or discriminated against by employers.

*b. The Right To Organize and Bargain Collectively.*—The law permits unions to conduct their activities without interference; however, it was widely felt that the Government would not tolerate industrial action. Unions were able to negotiate without government interference; however, in practice the unions lacked experience, organization, and professionalism, and often turned to the Government for assistance in negotiations. The law allows workers to organize and bargain collectively, and although trade unions were small and fragmented, collective bargaining took place. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management. The Labor Act also sets minimum contract standards for hiring, training, and terms of employment and provides that contracts may not prohibit union membership.

The law authorizes strikes but also places restrictions on strikes by requiring unions to give the commissioner of labor 14 days' written notice before beginning an industrial action (28 days for essential services); no strikes occurred during the year. The law specifically prohibits police officers and military personnel, as well as other civil service employees, from striking. The police and military had access to a complaints unit, and civil servants could take their complaints to the Public Service Commission or the Personnel Management Office.

Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. It prohibits retribution against strikers who comply with the law regulating strikes.

There is a government-established export-processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. The labor code covers workers in the EPZs, and they were afforded the same rights as workers elsewhere in the economy.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was a problem, although the constitution protects children less than 16 years of age from economic exploitation, and the Children's Act protects children, defined as those under the age of 18, from exploitative labor or hazardous employment. The Act also sets the minimum age of 12 years for engaging in apprenticeships in the informal sector. There was no effective compulsory education, and because of limited secondary school openings, most children completed formal education by the age of 14 and then began work. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading, as child labor in informal sectors is difficult to regulate and laws implicitly apply only to the formal sector. In rural areas most children assisted their families in farming and housework. In urban areas many children worked as street vendors or taxi and bus assistants. There were a few instances of children begging on the street. The tourist industry stimulated a low, but growing, level of child prostitution (see Section 5). Employee labor cards, which include a person's age, were registered with the labor commissioner, who was authorized to enforce child labor laws; however, enforcement inspections rarely took place. The Department of Labor under the Department of State for Trade and Employment was responsible for implementing the provisions of the International Labor Organization (ILO) Convention 182 on the worst forms

of child labor. The 2003 Tourism Offences Act incorporates ILO provisions outlawing child prostitution and pornography; however, the Government generally was ineffective in enforcing those provisions.

*e. Acceptable Conditions of Work.*—Minimum wages and working hours are established by law through six joint industrial councils, comprising representatives from labor, management, and the Government. The lowest minimum wage according to law was approximately \$0.70 (19.55 dalasi) per day for unskilled labor, but in practice the minimum wage was approximately \$1.79 (50 dalasi). The national minimum wage did not provide a decent standard of living for a worker and family. The minimum wage law covered only 20 percent of the labor force, essentially those workers in the formal economic sector. A majority of workers were employed privately or were self-employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families. The Department of Labor is responsible for enforcing the minimum wage and it did so when cases of underpayment were brought to its attention.

The basic legal workweek is 48 hours within a period not to exceed six consecutive days. Nationwide, the workweek included four eight-hour workdays and two four-hour workdays (Friday and Saturday). There are no limits on hours worked per week and no prohibition on excessive compulsory overtime. A 30-minute lunch break is mandated. Government employees are entitled to one month of paid annual leave after one year of service. Most government employees were not paid overtime. However, government workers holding temporary positions and private sector workers received overtime calculated per hour. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service.

The law specifies safety equipment that an employer must provide to employees working in designated occupations. The law also authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. Enforcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the labor department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice authorities did not effectively enforce this right.

The law protects foreign workers employed by the Government; however, it only provides protection for privately employed foreigners if they have a current valid work permit.

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## GHANA

Ghana is a constitutional democracy with a strong presidency and a unicameral 230-seat parliament. The country's population is approximately 21 million. In 2004 eight political parties contested parliamentary elections, and four parties, including the ruling New Patriotic Party (NPP), contested Presidential elections. NPP candidate John Agyekum Kufuor was reelected President with 52.45 percent of the vote. Despite a few incidents of intimidation and minor irregularities, domestic and international observers judged the elections generally free and fair. While civilian authorities generally maintained effective control over security forces, there were some instances in which elements of the security forces acted independently of government authorities.

The Government generally respected human rights and made significant improvements during the year; however, there were problems in several areas, including incidents of vigilante justice. Human rights problems included deaths resulting from the excessive use of force by police; vigilante justice; harsh and life-threatening prison conditions; police corruption and impunity; arbitrary arrest and detention; prolonged pretrial detention; infringement on citizens' privacy rights; forcible dispersal of demonstrations; forced evictions; corruption in all branches of government; violence against women and children; female genital mutilation (FGM); societal discrimination against women, persons with disabilities, homosexuals, and persons with HIV/AIDS; trafficking in women and children; ethnic discrimination and politically and ethnically motivated violence; and child labor, including forced child labor.

During the year the Government took significant steps to improve the protection of human rights, including passage of separate pieces of legislation to protect the rights of whistleblowers and persons with disabilities.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed political killings; however, the use of excessive force by security forces resulted in the deaths of several criminal suspects and other persons during the year.

There were no developments in the ongoing trial of three security officers charged with the 2004 suspected political killing of Issa Mobilla, the regional chairman of the opposition Convention People's Party (CPP).

Security forces were responsible for several deaths during the year. For example, on April 21, four persons were shot and killed by police officers at Dansoman Estates in Accra. The police had been pursuing a taxi that was similar to the one the four victims were occupying. Police opened fire on the taxi and killed all four occupants. The five police officers involved in the shooting were suspended pending trial. In December an official investigation into the shooting concluded. The Government accepted the findings and recommendations of the investigating committee and forwarded them to the Attorney General and the Police Council for action. At year's end, the Attorney General was considering the committee's nine recommendations, which included government compensation of the victims' families.

On May 19, police shot and killed a 26-year-old man after mistaking him for one of the robbers they were seeking. In December the Government accepted the report prepared by the investigating committee, which recommended that the Government pay for the victim's funeral expenses and compensate the family of the victim.

Government forces beat and forcibly evicted hundreds of illegal residents, which resulted in deaths (see Section 2.d.).

Forcible dispersion of demonstrators by security forces resulted in injuries and deaths during the year (see Section 2.b.).

There were no developments in the May 2005 death of an elderly woman in Dormaa, Brong Ahafo Region, after a police officer struck her in the chest. The military police publicly sought information or evidence regarding the October 2005 death of an accused thief whom soldiers allegedly burned and beat to death at the El-Wak Barracks in Accra, but no one had come forward with any new information by year's end. The case remained open, and the investigation will continue once new evidence is received.

There were no developments in the 2004 case in which seaman Philip Kuekebey died after allegedly being beaten by fellow seamen on the orders of their superiors.

During the year, chieftaincy disputes continued to result in deaths, injuries, and destruction of property (see Section 5).

As in previous years, there were a number of killings that resulted from disputes between indigenous locals and migrant herdsmen. In Volta, Eastern, and Upper West regions, joint military and police teams disarmed and removed Fulani herdsmen, who occasionally set up camp on private property without the consent of the owners.

Numerous deaths resulted during the year from vigilante-style justice on suspected criminals by angry citizens and mobs. Security forces sometimes intervened to save the lives of the intended victims. In August the police issued a statement urging the public not to engage in vigilante justice, emphasizing that such actions were illegal and punishable by law.

Unlike in the previous year, there were no reports that some members of the security forces appeared to sanction violence.

On April 24, a mob in Kumasi lynched a man mistakenly identified as a thief. The man was delivering a letter to his landlady, who allegedly recognized him but called for help anyway because she harbored a grudge against him. Police arrested the woman, as well as two men who allegedly stabbed the victim to death.

On May 23, a mob in Accra beat to death three men suspected of stealing goats. Police publicly deplored the action taken by the mob, and the case remained open at year's end.

According to news reports, on September 14, a mob beat a man to death in Kumasi after he allegedly snatched a woman's bag. Police in Kumasi said that the incident was not reported to them.

In December two alleged gang members suspected of burglary were beaten to death by neighbors of the homeowner. An investigation was ongoing at year's end.

The trial of four men who in 2005 allegedly beat to death a 16-year-old student mistaken for a bag-snatcher was ongoing at year's end.

There were no conclusive results of an investigation into the 2005 beating death of a 38-year-old man by a mob after he allegedly shot a former girlfriend and her female friend.



The police legal directorate did not issue an opinion on the 2004 death of a 16-year-old from Nsuaem, Western Region, whose father petitioned the inspector general of police in 2005 for an investigation after the police denied killing the boy during a mob attack.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there continued to be credible reports that police beat and abused suspects, prisoners, demonstrators, and other citizens. Severe beatings of suspects in police custody reportedly occurred throughout the country but largely went unreported in official channels. In many cases, police denied allegations or claimed that force was justified by the circumstances.

In April government forces beat and forcibly evicted hundreds of illegal residents (see Section 2.d.).

On June 3, the Inspector General of Police (IGP) ordered an investigation into the case in which a five-month-old baby became ill after being forced to spend the night in a Kumasi jail with her parents and aunt. The initial arrest warrant for theft was issued for the baby's mother, but the other two family members were also arrested when they attempted to prevent police from arresting the mother.

In November a nursing mother, who had given birth during her third week of serving a six-month prison sentence, was released from the Sunyani Prison following the intervention of the Commission on Human Rights and Administrative Justice (CHRAJ), a government body charged with investigating allegations of human rights abuse. The CHRAJ regional director was touring the prison facility when she saw the mother nursing her child.

Unlike in the previous year, there were no reports of inter- or intra-party clashes. There also were no reports that political party supporters beat journalists.

There were no developments in the case of the March 2005 alleged police beating of the traditional chieftain of the Mfantseman District.

In August the police regional disciplinary board conducted the trial of a police officer in Sunyani, who stood accused of shooting a bystander in October 2005. The board's decision was then sent to the national disciplinary board, which had not reviewed the case by year's end; the police officer remained on suspension.

In January 2005 the police officer who shot a taxi driver in 2004 for failing to stop was suspended from his job. By year's end the police homicide unit concluded its investigation and forwarded the case to the Attorney General's office for a recommendation regarding disciplinary measures for the police officer.

The Government did not continue its investigations into the June 2004 beatings of political party activists.

"Macho men" (political party thugs) and "land guards" (private security enforcers hired by citizens to settle private disputes and vendettas) caused injury and property damage during the year. The macho men were organized privately and operated outside the law. There were some allegations of police complicity with these extra-legal security agents, although police denied any involvement. During the year the police Land and Property Fraud Unit arrested, prosecuted, and convicted a number of land guards in the Greater Accra Region.

Vigilante-style justice conducted by angry citizens and mobs against suspected criminals and witches resulted in deaths and injuries (see Section 1.a.).

*Prison and Detention Center Conditions.*—Prison conditions in most cases were harsh and sometimes life-threatening, despite government efforts to improve them. Much of the prison population was held in buildings that were originally old colonial forts or abandoned public or military buildings, with poor ventilation and sanitation, dilapidated construction, and limited space.

According to the 2004 Prisons Service Annual Report, approximately 11,700 prisoners were held in prisons designed to hold 6,500. During a visit to Winneba Central Prison in 2005, CHRAJ found 45 prisoners occupying a room designed for three. Medical facilities were inadequate, and the prisons supplied only the most basic medicines. Prisoners relied on families or outside organizations for additional food, medicine, and other necessities. A shortage of food, bedding and clothing for prisoners continued. Overcrowding contributed to a high prevalence of communicable diseases. Some detainees facing short sentences allegedly pled guilty in order to be sent to prison, where conditions were somewhat better than in the overcrowded and unsanitary police detention centers that also lacked windows and ventilation systems.

In August President Kufuor asked the Prisons Service Council to make prisons more humane by improving prison conditions, observing that the prisons were outdated and did not distinguish among different categories of prisoners, including

first-time offenders, juveniles, and those convicted of serious crimes. The Government had not acted on his directives by year's end.

In December the Prisons Service set up a unit at the Nsawam Medium Security prison to care for babies whose mothers are in prison. At year's end, the unit had seven babies.

On June 7, a suspect in custody at the Tesano Police Station in Accra was killed by a fellow detainee during a fight between the two in which each accused the other of implicating him in a robbery.

On September 7, an inmate at the Bibiani Prison was found hanging in his cell, allegedly killed by his cellmates. Police had put him in the same cell as two of his alleged accomplices in a robbery after the inmate agreed to testify against the other two. The investigation was ongoing at year's end.

There were no developments in the March 2005 death of a prisoner in Kumasi who died after fellow inmates tied him up.

In certain facilities female prisoners in police cells were separated from male prisoners by only a few feet. In the Accra Central Police cells, female prisoners were kept in a small vestibule, separated from men by only a gate. The law stipulates that female convicts be tested for pregnancy upon incarceration, regardless of the offense, and that pregnant convicts be held in a facility where their health needs can be met. A nongovernmental organization (NGO) that worked with prisoners reported that many female convicts were not tested unless they began to show signs of pregnancy. In September the Minister for Women and Children's Affairs called on judges to avoid giving custodial sentences to pregnant women and proposed alternative sentences such as community work, suspended sentences, probation, and fines.

Some juveniles inflated their ages to avoid lengthy rehabilitation sentences in the Borstal Institute, a juvenile detention center that the Government operated like a prison. In response, the Department of Social Welfare and the Prison Service collaborated to transfer any known juveniles in adult prisons to juvenile correction centers.

Pretrial detainees were held with convicted prisoners.

During the year CHRAJ, the NGO Prisoners Rehabilitation and Welfare Action (PRAWA), and the Prisons Service all visited prisons and detention centers to monitor conditions. CHRAJ and PRAWA were required to give at least 10 days notice before any prison inspections.

*d. Arbitrary Arrest or Detention.*—The constitution and law provide for protection against arbitrary arrest and detention; however, the Government did not always observe these prohibitions.

*Role of the Police and Security Apparatus.*—The police, under the jurisdiction of a 10-member Police Council, are responsible for maintaining law and order. The military continued to participate in law enforcement activities during the year. A separate entity, the Bureau of National Investigations, handles cases considered critical to state security and answers directly to the Ministry of National Security. The police maintained specialized units in Accra for homicide, forensics, domestic violence, visa fraud, narcotics, and cyber-crimes. However, there were significant barriers to extending such services nationwide, including a lack of office accommodation, police vehicles, and equipment outside of Accra.

The police service came under repeated criticism following incidents of police brutality, corruption, and negligence. Impunity remained a problem. Delays in prosecuting suspects, rumors of police collaboration with criminals, and the widespread perception of police ineptitude contributed to a continued increase in vigilante justice during the year. There were also credible reports that police extorted money by acting as private debt collectors, by setting up illegal checkpoints, and by arresting citizens in exchange for bribes from the detainees' disgruntled business associates.

Government officials publicly stated that the Government's policy of zero tolerance for corruption applied to police and other security officials; however, a 2005 public opinion survey by the Ghana Integrity Initiative, the local chapter of Transparency International, found the police to be the public institution most frequently perceived as corrupt (77 percent of respondents).

The 33-person Police Intelligence and Professional Standards Unit (PIPS) investigated human rights abuses and police misconduct. During the year PIPS received 522 complaints and petitions, compared with 247 in 2005. There were 70 complaints related to harassment, unlawful arrest, and detention with human rights violations, compared with 48 in 2005 and 79 in 2004. Of the 522 complaints received, 212 had been investigated by year's end.

As a result of PIPS investigations, the Inspector General of Police in 2005 warned police officials that incidents of misconduct would be punished, and he took steps

to punish some offenders. Over the 18-month period between January 2005 and July, 80 police officers of varying rank were dismissed for various offenses, and 92 others were demoted. No disciplinary action was taken against police officers between July and year's end.

From January to May, the Government allowed 64 senior police officers to participate in two eight-week basic police skills courses, which included modules on appropriate use of force, international human rights standards, trafficking in persons, and domestic violence.

*Arrest and Detention.*—The constitution provides that an individual detained should be informed immediately, in a language that the detained person understands, of the reasons for the detention and of his or her right to a lawyer and an interpreter at state expense. The law requires judicial warrants for arrest and provides for arraignment within 48 hours. The law requires that a detainee who has not been tried within a “reasonable time” as determined by the court be released either unconditionally or subject to conditions necessary to ensure that the person appear in court at a later date. The law also provides for bail. In practice, however, many abuses of these rights occurred, including detention without charge for periods longer than 48 hours, failure to obtain a warrant for arrest, and remand of prisoners into custody for indefinite periods while an investigation is conducted by renewing warrants or by simply allowing them to lapse.

In 2005 the NGO Commonwealth Human Rights Initiative (CHRI) criticized the police for routinely detaining persons for more than 48 hours without a warrant signed by a magistrate. A 2003 Center for Democratic Development (CDD) survey found that 46 percent of the persons arrested were not informed of the charges against them, 51 percent were not read their rights, 67 percent reported they were not given the opportunity to contact a lawyer, and 44 percent believed they were presumed guilty from the onset.

Persons were occasionally detained for trivial offenses or on the basis of unsubstantiated accusations, such as insulting behavior, petty stealing, and disturbing the public peace. Authorities routinely failed to notify prisoners' families of their incarceration; such information often was obtained only by chance. The court has unlimited discretion to set bail, which was often prohibitively high. The court may refuse to release prisoners on bail and instead remand them without charge for an indefinite period, subject to weekly review by judicial authorities. On occasion, police also demanded money from suspects as a precondition for their release on bail.

Security forces used checkpoints and conducted mass arrests while searching for criminals (see Section 2.d.).

Lengthy pretrial detention was a serious problem. The Prisons Service's 2004 Annual Report reported that of 18,866 admissions, 10,709 (57 percent) were on remand and the remaining 8,157 were convicted. In 2004 the Attorney General announced a nationwide review of all cases on remand; however, no progress was made in reducing that number during the year. The chief justice and appellate judges characterized the situation as a grave injustice, particularly since some detainees had been remanded for traffic and other minor offenses. Detainees sometimes served more time in detention awaiting trial than the sentence for the crime required. During 2004 inspections of prison facilities, the Director General of Prisons met numerous remand prisoners who had been detained for up to 10 years without trial.

In June a parliamentary team visited the Nsawam Prison, where the Deputy Director General of the Prisons Service, who accompanied the group, told them that the numbers of prisoners on remand was putting pressure on the already overcrowded facilities. According to the Deputy Director General, some prisoners had been on remand for more than five years without being charged or having their cases called for trial. He said that the number of remand prisoners at Nsawam Prison had increased from 202 in 2002 to 847 by the end of June.

CHRAJ officials in the Volta Region echoed these concerns, noting instances of prisoners on remand for three to five years for petty theft. As of March, there were 36 prisoners in the Ho Central Male Prison who were being held on expired warrants.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judiciary was inefficient and subject to influence and corruption.

The law establishes two basic levels of courts: the lower courts and the superior courts. The lower courts consist of the circuit and district courts, which serve as juvenile courts and family tribunals. These courts try civil cases involving \$5,429 (50 million cedis) or less; and criminal cases for offenses punishable by a fine not exceeding \$1,086 (10 million cedis), imprisonment for a term not exceeding two years, or both. The superior courts consist of the Supreme Court, the appeals court, the

high court, the commercial court, regional tribunals, and fast-track courts. Fast-track courts hear cases to conclusion within six months. The majority of cases filed before the fast-track court involved banking and commercial matters, human rights, and defamation. In November the Attorney General brought a narcotics trafficking case before the fast-track court for the first time.

Members of the military are tried under the criminal code in a military court.

The Chieftaincy Act gives village and other traditional chiefs the power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. However, the authority of traditional rulers has steadily eroded because of a commensurate increase in the power of civil institutions, such as courts and district assemblies. In 2004 chiefs in Tema participated in an alternate dispute resolution (ADR) training program, which resulted in the recommendation that traditional councils have their own constitutions, apart from the Chieftaincy Act, to help institutionalize the role of local leaders in settling cases. The recommendation had not been implemented by year's end.

In 2005 the chief justice noted, with respect to judicial inefficiency, that one judge had adjourned three cases 96, 120, and 127 times, respectively. In 2004 the chief justice noted that some judges had not heard a single case or written a decision all year.

The Government took steps in 2005 to address these problems. New high court rules to shorten trials, which included the establishment of a commercial court, were effective in concluding trials more quickly during the year. The chief justice inaugurated a National Center for Arbitrators to train judges and other officials in ADR procedures to reduce court backlogs. Improved information technology resulted in an increase in cases handled by the fast-track high courts from 7,378 in 2004 to 10,111 during the year. The chief justice also adopted a code of ethics in 2005 and issued a third annual report during the year in his continuing campaign to increase transparency, curb corruption, and improve efficiency.

In 2005 the chief justice identified implementation of an ADR scheme as a key strategy for reforming the judicial service. He designated the first week of every legal term as "ADR week" to focus on settling cases suited for ADR and thereby reduce the backlog of court cases.

A judicial complaints unit, headed by a retired Supreme Court judge, addressed public complaints. During the year the unit received 632 complaints, of which 107 were resolved, 186 were under investigation, and 339 were pending.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and the judiciary generally enforced this right. Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases and have a right to appeal. Juries are used in murder trials. In practice, authorities generally respected these safeguards.

The trial of retired military personnel arrested in 2004 for allegedly plotting a coup against the Government was ongoing at year's end. The trial of two suspects accused of plotting a coup in 2005 also remained inconclusive at year's end.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, and citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. At the end of July, there were 44 human rights cases before the fast-track courts.

During the year judicial officials continued to implement procedures for voluntary, court-facilitated ADR for settling civil disputes. Trained ADR judges and lawyers mediated some cases pending before the fast-track courts in July; however, most cases were still pending resolution at year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, in practice the Government sometimes infringed on privacy rights. Although the law requires judicial search warrants, police seldom obtained them in practice.

Opposition party activists claimed the Government engaged in surveillance and harassment of those it perceived to be opposed to the ruling party. Some civil society organizations expressed concerns that the Government used surveillance, free of any oversight or regulation.

In April the Government carried out forced evictions of hundreds of illegal residents from Dudzorme Island within Digya National Park on Lake Volta, where approximately 7,000 persons lived. The residents were given less than a month's notice, and there was no resettlement plan formulated for them prior to their eviction.

The evictees had been living illegally for 30 years on land set aside as forest reserve. The evictees were reportedly beaten and forcibly put on an overloaded ferry that subsequently capsized in Lake Volta. Although NGOs reported that at least 100 persons drowned as a result, only 10 bodies were recovered. The Government stopped the evictions immediately and initiated a commission of inquiry to investigate the disaster. The commission had yet to publish its findings by the end of the year. In July the squatters initiated legal proceedings at the Accra Fast Track High Court requesting an order to prohibit the Forestry Commission from carrying out the rest of the planned evictions. At year's end the Government had no plans to continue the evictions and had not offered any resources to assist the evicted persons in resettling elsewhere.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. However, opposition parties occasionally complained that state-owned media outlets minimized media coverage of opposition politicians. Individuals criticized the Government publicly without reprisal.

More than 135 newspapers, including two state-owned dailies, and two state-owned weeklies, existed in the country. The two state-owned dailies had national circulation. Most newspapers circulated only in regional capitals, and many of the smaller privately owned newspapers were available only in Accra.

Accra and Tema had two state-owned and 18 privately owned FM radio stations, and there were approximately 11 state-owned and 100 privately owned FM stations across the country. Most stations were independent and aired a wide range of viewpoints. There was one state-owned television station that broadcast nationwide; three semi-privately owned television stations that broadcast in the Greater Accra, Eastern, Ashanti and Northern regions; and three cable networks broadcasting in the Greater Accra Region, two of which also broadcast in Kumasi. There was also one cable network broadcasting in Sekondi-Takoradi.

Foreign media operated freely in the country, including the BBC, Radio France International, and Voice of America. Foreign periodicals were available in major cities and circulated freely, even when they contained articles critical of the Government.

There were reports that police arrested, detained, and used excessive force against members of the media. For example on September 28, a police officer in Accra physically attacked a radio journalist who requested a fact sheet about an incident. The reporter was verbally abused, punched and had his head banged against the wall of the police station.

In November policemen from Tema, Ada and Kisseih allegedly used excessive force to prevent members of the media from covering a press conference held at Kportsum, near Ada. The Ghana Journalist Association (GJA) condemned the attack, claiming that police "brutalized" members of the press. Police sources contended that the press conference was not properly cleared with authorities and that they dispersed attendees and the press with minimal force.

Journalists were subjected to physical and verbal harassment as a result of their reporting. For example on August 15, a photojournalist covering the proceedings of a narcotics smuggling trial was attacked by a group of persons supporting the defendants. The journalist was photographing one of the defendants when the group pushed and struck him in an apparent attempt to prevent him from taking the photograph.

In September supporters of the former Minister of Road Transportation attacked a photographer and two journalists working for the *Enquirer* newspaper who were covering the minister's indictment by CHRAJ for perjury and abuse of office. Subsequently, the editor of the *Enquirer* was attacked by the same persons when he went to the police station to cover the story. The Government did not respond to the incident.

In December two journalists were barred from a press conference held by the Ghana Ports and Harbors Authority (GPHA). This was allegedly done in retaliation for an article run by the journalists' newspaper. The GPHA later apologized to the newspaper.

The state-owned media reported extensively on charges of corruption or mismanagement by both current and past government officials. During the year the state-owned media gave some coverage to opposition politicians and printed occasional editorials critical of government policies. The opposition claimed that government media denied it equal access and coverage on numerous occasions. In practice the state-controlled media gave greater exposure to government officials.

Government officials, including the President, called upon media to be more disciplined in their reporting but did not censor or abridge media output. Several cases of libel filed by government officials were settled to the agreement of all parties by the National Media Commission, a constitutionally mandated independent government body.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The Internet was accessible in Accra and large cities, but there was limited access in other parts of the country.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution and law provide for freedom of peaceful assembly; however, at times the Government restricted this right. The Government does not require permits for demonstrations, but police can deny use of a particular route.

In July the Government denied an application from the Gays and Lesbians Association of Ghana to host a proposed international conference in Accra in September. The Association was uniformly condemned by all religious organizations as well as government officials as being unconstitutional and immoral. Government officials maintained that because homosexuality is illegal in the country, granting a permit to hold the conference would be in contravention of the law (see Section 5.)

During the year police arbitrarily and forcibly dispersed demonstrations, which resulted in injuries.

On September 9, eight persons were injured when police opened fire during a demonstration by students of the Institute of Professional Studies in Accra. Police reportedly fired indiscriminately into the crowd, used tear gas to break up the demonstration, and beat student demonstrators.

On April 26, anti-riot police fired tear gas to disperse students at the Legon University who had started a riot to protest the results of student government elections.

On February 21, approximately 20 persons were injured when police used tear gas and water cannons to disperse participants in a major opposition demonstration against the Representation of the People (Amendment) Bill (ROPAB), a bill that parliament passed two days later to extend voting rights to citizens residing abroad.

Neither the police nor government ministries responded to requests for an investigation into the June 2005 case in which a joint team of military and police shot and wounded at least seven persons who were protesting surface mining in Prestea in the Western Region.

No action was taken against police and soldiers who assaulted and beat supporters of the ruling party for failing to obtain permission to demonstrate in the capital in 2004.

There were no developments in the 2004 beatings of individuals by NPP party thugs.

Unlike in the previous year, no bans were imposed on outdoor political activities or demonstrations; however, the ban on campus demonstrations remained in effect during the year, although it has never been challenged or enforced.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. Members of security forces are prohibited from joining political assemblies or groups within the security services, but they are allowed to participate outside police or military compounds.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

Religious institutions that wanted formal recognition were required to register with the Registrar General's Department; however, there were no reports that the Government denied registration to any group. Most traditional religions, with the exception of the Afrikania Mission, did not register.

Some Muslims continued to feel a sense of political and social exclusion because of the continued pervasiveness of Christianity in many aspects of society. Factors such as the token representation of Muslims in national leadership positions, the frequency of Christian-oriented prayers in public settings, and the ubiquity of Christian slogans contributed to this perception of marginalization and discrimination among some members of the Muslim community.

Despite official policies promoting free religious practice in schools, Muslim and Seventh-day Adventist students continued to complain that school administrators occasionally failed to accommodate students' religious obligations when regulating school attire or scheduling examinations on holy days, for example. The Seventh-

day Adventists failed in a 2005 court case challenging the exam-scheduling policies of the University of Ghana.

Human rights activists continued to express concerns about prayer camps in which individuals believed to be possessed by evil spirits were chained up for weeks, physically assaulted, and denied food and water. The camps targeted in particular persons with mental illness. Camp supervisors diagnosed mental illness as a demonic affliction and prevented them from consuming food or water, often for seven consecutive days, as a method of cleansing victims of their evil spirits. Other victims were estimated to be as young as six years old. Families sent these victims to be exorcised of evil spirits or cured of their physical or mental illness. Victims were held at the camps until they were deemed to be healed. Reports indicated that these practices extend to the Greater Accra, Eastern, Central, Western, Ashanti, and Brong Ahafo regions. Camp leaders prevented CHRAJ from investigating the allegations. In recent visits to prayer camps, foreign embassy observers witnessed over 100 persons who were forcibly chained to beds or posts and one windowless cell designed for persons with mental illness. The country's psychiatric community was aware of this issue and was pushing for an updated mental health law that protected the rights of the mentally ill.

Trokosi, a religious practice indigenous to the southern Volta region, involves pledging family members, most commonly teenagers but sometimes children under the age of 10, to extended service at a shrine to atone for another family member's sins. Trokosis help with the upkeep of these shrines and pour libations during prayers. Trokosis sometimes live near shrines, often with extended family members, during their period of service, which lasts from a few months to three years. Government agencies, such as CHRAJ, have at times actively campaigned against Trokosi, although local officials portray it as a traditional practice that is not abusive. Some NGOs maintain that Trokosis are subject to sexual exploitation and forced labor, while supporters of traditional African religions, such as the Afrikania Renaissance Mission, have said these NGOs misrepresent their beliefs and regard their campaigns against Trokosi as religious persecution.

*Societal Abuses and Discrimination.*—There were occasional reports of interreligious and intrareligious friction during the year.

In June the media reported a physical confrontation between members of the Christ Apostolic Church (CAC) and the Ga traditional authority, a chieftaincy group for the ethnic Ga people in the Accra area. Police did not make any arrests. The incident was precipitated by the CAC's violation of an annual one-month-long ban on drumming imposed by the Ga Traditional Council in Accra, which is granted legal authority over traditional practices by the Chieftaincy Act. For years CAC's use of drums and other musical instruments in its services has been a source of tension between it and the Ga traditional authority, which resulted in violence in 2001.

The Jewish community had a few hundred members. There were no reports of anti-Semitic acts. Unlike in previous years when anti-Semitic statements were published in two of the country's weekly newspapers, no anti-Semitic statements were known to be reported throughout the country.

The Government often took steps to promote interfaith understanding during the year. For example, official meetings and receptions were typically opened with a multid denominational invocation led by religious leaders from various faiths.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

Security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many were unmanned during daylight hours; however, the police acknowledged that some officers occasionally erected illegal barriers to solicit bribes from motorists. In serious cases, these officers were disciplined with a reduction in rank and salary or dismissal from the police force. The police continued to erect security checkpoints and conduct highway patrols in response to a continuing upsurge in highway robberies. Police roadblocks and car searches were a normal part of nighttime travel in larger cities. The regional police commanders monitored the activities of police personnel working at the checkpoints.

The constitution prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. The Government has established a refugee board to adjudicate claims for refugee status and to ensure that refugees receive all appropriate protections. The Government provided protection against refoulement, the return of

persons to a country where they feared persecution. The Government also granted refugee status or asylum. The law also incorporates the broadened refugee definition under the African Union Convention Governing Specific Aspects of Refugee Problems in Africa. The country cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The country generally had a liberal policy of accepting refugees from other West African nations, although this did not generally extend to granting work permits or permanent residence. The law accords the right of protection even to those refugees who entered the country without being documented.

The majority of the country's estimated 50,000 refugees were Liberians living in the Budumburam settlement on the western outskirts of Accra. Ten other nationalities were represented in the refugee population, including approximately 10,000 Togolese and 700 Sudanese.

At year's end the Government had not released the report of an investigation into a November 2005 incident in which police fired tear gas and warning shots and beat refugees at Krisan refugee camp in the Southwestern Region to control a riot that left buildings and a vehicle burned. Following the outbreak of violence, the Government restricted refugees' freedom of movement at this camp, gradually reinstating full freedom to enter or leave the settlement during the year.

Few refugees succeeded in overcoming the significant bureaucratic hurdles for obtaining work permits that would allow them to work legally in the formal sector. Most Ghanaian employers were not willing to wait the requisite three months for processing. Refugees in two locations complained that female market vendors resisted their attempts to set up alongside them. Nonetheless, many refugees secured employment within the informal sector as masons, carpenters, fishermen's assistants, tailors, small shopkeepers, and farmers.

In the Volta Region, Togolese refugees were allowed to use government-run clinics and hospitals at no charge.

Sexual and gender-based violence remained a problem among refugee populations. The physical insecurity of refugees living in the camps contributed to their vulnerability. The number of teenage pregnancies rose after police officers began guarding the camp and Liberian male teenagers arrived. At Budumburam camp, refugees alleged that they were coerced into having sex, usually with other refugees, in return for favors. In many cases victims were threatened with expulsion from their homes and pressured into having sex in exchange for money. Three cases of sexual assault were prosecuted, resulting in a six-month sentence for one perpetrator. Although there were reports of refugees being raped, officials at Krisan Camp were unable to determine whether the perpetrators were police or others due to lack of lights at the camp at night. In the other two cases, one victim was voluntarily resettled to a third country and one alleged perpetrator escaped and was never sentenced.

In August the Government granted refugee status to approximately 270 Sudanese refugees who had been living in the country since January 2005. The refugees were subsequently relocated to Krisan Camp.

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

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

*Elections and Political Participation.*—In 2004 Presidential and parliamentary elections were held nationwide. John Agyekum Kufuor of the NPP was reelected with 52.45 percent of the vote. Despite some irregularities, domestic and international observers characterized the elections as generally free and fair. There were reports of a shortage of ballots at some polls and minor problems with the voter register, such as misspelled names or photos not matching names. In the parliamentary elections the NPP won 128 seats; the National Democratic Congress (NDC), 94; the Convention People's Party, three; the Peoples' National Convention (PNC), four; and one independent candidate won a seat.

The country continued its transition from a one-party state to a more established multiparty constitutional system. The political system includes recognized opposition parties, which expressed their views freely within parliament and won a near majority of the parliamentary seats. Registered political parties, including two new parties registered this year, operated freely within the country; however, opposition parties and persons in private business continued to allege that government contracts were often awarded on the basis of ruling party membership.

Women held 25 of 230 parliamentary seats, and there were four female ministers, 14 deputy ministers, and three female council of state members out of 112 such positions. Significantly more women presented themselves as candidates in the district



assembly elections than in previous elections, and the percentage of female representation in the assemblies increased to 10 percent in 2006 from seven percent in 2002.

In addition to members of all of the country's six major ethnic groups and members of the Christian majority, the 230-seat parliament included members of several smaller ethnic groups, Muslims, and followers of traditional African religions. The NPP strongly favored members of the Ashanti ethnic group for high-level appointed positions.

*Government Corruption and Transparency.*—Corruption in the executive and legislative branches continued to be a problem. CHRAJ vindicated President Kufuor in its report on allegations that he had purchased a hotel with wrongfully obtained funds. The opposition NDC issued credible accusations that the Government used anticorruption investigations to intimidate and harass its members. Opposition parties charged that corruption continued unabated and that the Government failed to use the institutions and mechanisms at its disposal to address the problem. There were reports that government officials pressured businesses to steer contracts toward favored companies and individuals.

On April 12, the wife of former President Jerry Rawlings, Nana Konadu Agyeman-Rawlings, and seven top-ranking members and sympathizers who served in the NDC administration were brought before an Accra fast-track court on charges of "willfully causing financial loss to the state" in connection with the purchase of a Ghana Industrial Holding Corporation (GIHOC) cannery in Nsawam by CARIDEM Development Company. CARIDEM is a limited liability company owned by the 31st December Women's Movement, an NGO of which Mrs. Rawlings is the President. The Government alleged that Mrs. Rawlings and others acted together to falsify records on the outstanding balance CARIDEM owed the state on the purchase of the company, with the intent to deceive the Government. The directors of CARIDEM argued that they had fulfilled the terms of the agreement and that the ruling NPP was working against them for political reasons. Charges were withdrawn against three of CARIDEM's directors who were alleged to be connected to persons in high places within the ruling government. The case was ongoing at year's end.

The trial of the former head of the Ghana National Petroleum Corporation on charges of causing financial loss to the state was ongoing at year's end.

In July a national scandal erupted following allegations of complicity by police and other government officials in narcotics trafficking. During an investigation into the disappearance from police custody of five kilograms of cocaine from a 30-kilogram seizure, a tape recording surfaced of a meeting between a senior police official and drug traffickers. In a separate case, a woman alleged that a different senior police official requested a \$200,000 bribe to drop a case against her boyfriend, a foreign cocaine trafficker. Both the NPP and the opposition NDC used the scandal to accuse the other of allowing the country to become a transshipment point for cocaine and heroin bound for other countries.

On September 22, an independent commission submitted its report on these cases of alleged corruption in illicit drug trafficking. The report recommended that all persons present at the meeting between the police official and drug traffickers be charged with crimes. In the bribery case, the report recommended exoneration of the police official and censure of the IGP for meeting with a woman who claimed she had been asked for a bribe. The Minister of Interior stated publicly he would not follow the report's recommendations regarding the IGP in the bribery case. In December the Government accepted the proposal of the police council to disregard the commission's recommendation to censure the IGP.

In September CHRAJ found Minister of Road Transportation Richard Anane guilty of abuse of office, conflict of interest, and perjury and recommended to President Kufuor that the minister be relieved of his official duties. In October Anane resigned his ministry position under pressure following allegations of corruption and conflict of interest related to an extramarital affair. He remained a Member of Parliament and at year's end was seeking a court review of the CHRAJ report and its recommendations.

In a report on political party financing released in 2004, the Center for Democratic Development found that 42 percent of those surveyed cited kickbacks as the most prevalent manifestation of political corruption, followed by political appointment and extortion.

In August parliament passed a whistleblower bill establishing a procedure for individuals to disclose information on illegal conduct or practice. The law provides legal protection for whistleblowers against retribution from employers, and CHRAJ can order that the person be reinstated or receive monetary damages if they are fired. The law also provides for a fund to be created to compensate whistleblowers

who make a disclosure that leads to an arrest and conviction can be rewarded with money from the fund; in cases in which money is recovered, the whistleblower can be rewarded with a percentage.

In December CHRAJ issued conflict of interest guidelines for all public servants.

Although the constitution provides for public access to government information, parliament had not passed implementing legislation by year's end.

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

At least 20 domestic and international human rights NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to their views. International organizations and NGOs that operated in the country included the International Committee of the Red Cross (ICRC), the International Organization for Migration (IOM), Abantu for Development, Amnesty International, the Commonwealth Human Rights Initiative (CHRI), and the International Federation of Women Lawyers (FIDA).

The Government body CHRAJ was charged with investigating alleged violations of human rights, including corruption of public officials, and taking action to remedy proven violations. CHRAJ continued to hold workshops to educate the public, traditional leaders, police, and the military on human rights issues. It mediated and settled cases brought by individuals with grievances against government agencies or private companies. CHRAJ received an average of 10,000 complaints annually. The bulk of these were family-related issues, although the commission investigated some corruption cases, specifically those involving conflict of interest. Since its inception in 1993, CHRAJ has received over 78,000 petitions and successfully resolved 64,024.

CHRAJ operated with no overt interference from the Government; however, some critics questioned its ability to independently investigate high-level corruption within the Kufuor administration. Its biggest obstacle was a lack of adequate funding and resources, which resulted in low salaries, poor working conditions, and the loss of many of its staff to other government and nongovernmental agencies. Public confidence in CHRAJ was high, resulting in an increased workload for its overstretched staff, some of whom went unpaid for months due to a chronic lack of resources.

During the year the Government allocated \$1,465,798 (13.5 billion cedis) as compensation for victims of human rights abuses that occurred during the various periods of military rule that the country endured between 1957 and 1993. The victims were identified by the National Reconciliation Commission (NRC), which was set up by the 2001 National Reconciliation Act to investigate and document cases of human rights violations during this specific period. During the year the commission completed its review of reported cases and recommended reparations for 2,511 individuals. In addition confiscated properties were to be returned to their rightful owners. On October 13, the Government began issuing reparations ranging between \$108 and \$3257 (one million cedis and 30 million cedis, respectively). By year's end the Government had provided over \$542,888 (five billion cedis) in reparations to 850 persons.

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

The constitution prohibits discrimination on the basis of race, sex, disability, language, or social status; however, enforcement by authorities was generally inadequate. Limited financial resources and a generally permissive societal attitude toward such discrimination contributed to its perpetuation. The courts were empowered to specifically order enforcement of these prohibitions.

*Women.*—Violence against women, including rape and domestic violence, remained a significant problem. The law does not prohibit domestic violence, and the criminal code grants husbands spousal immunity from any charges of assault against their wives. According to FIDA, one in three women experienced domestic violence, and most abuses went unreported. The police service's Domestic Violence Victim Support Unit (DOVVSU), formerly the Women and Juvenile Unit, handled cases of domestic violence and child abuse, as well as juvenile offenses. During the year DOVVSU investigated 5,835 cases, the majority of which entailed allegations of assault (1,932) or failure to provide necessities of life (1,493). There were also 536 defilement cases. DOVVSU worked closely with the Department of Social Welfare, FIDA, the Legal Aid Board, and several human rights NGOs to combat domestic violence.

Prosecution of domestic violence cases remained difficult. Of 11,335 cases reported to DOVVSU's Accra branch between 1998 and 2004, only 19 percent led to a court appearance and less than 3 percent resulted in convictions from charges of assault. In many cases, victims were discouraged from reporting abuse and from cooperating

with prosecutors because of long delays in bringing such cases to trial. Victims frequently did not complete their formal complaints because they could not afford the fees that doctors charged to document the abuse in police medical forms.

Unless specifically called upon by DOVVSU, police seldom intervened in cases of domestic violence, in part due to a lack of counseling skills, shelter, and other resources to assist victims. In the Eastern Region, an NGO operated a single shelter that housed 18 women at year's end, with victims using the facility for periods of time ranging from several hours to nearly a year. This NGO received over 500 women in its crisis center and offered 171 women legal aid during the year. A second NGO offered legal aid to 800 women during the year.

The criminal code outlaws rape, and perpetrators were arrested and prosecuted for this crime. However, husbands have immunity from such charges.

Belief in witchcraft remained strong in many areas. In a practice prevalent mainly in the Northern, Upper East, and Upper West regions of the country, rural women continued to be banished by traditional village authorities or their families for suspected witchcraft. Most accused witches were older women, often widows, who were identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune. The banished women went to live in "witch camps," villages in the north of the country populated by suspected witches, some of whom were accompanied by their families. Various organizations, including Catholic Relief Services, provided food, medical care, and other support to residents of the witch camps. According to a local NGO in the Northern Region, the number of women in the witch camps was close to 3,000 and had been decreasing slowly in recent years. The women would not face formal legal sanction if they were to return home; however, most feared that they would be beaten or lynched if they returned to their villages and consequently did not pursue legal action to challenge charges against them and return to their communities. Outreach and community sensitization by various NGOs has made considerable progress in reintegrating the accused women into their communities.

There were several cases of lynching and assault of accused witches during the year. A local NGO reported that police refused to take the statement of a woman who had been assaulted by a group of villagers for fear that she would cast a spell on them. The NGO observed that such cases are not uncommon.

The Government, under the auspices of the DOVVSU, continued to charge and investigate persons who committed acts of violence against suspected witches and refrained from charging people based solely on allegations of witchcraft.

In March six female students of a senior secondary school were dismissed after they were found to be pregnant after being forced to submit to pregnancy tests. This action was endorsed by both the Ministry of Education and the Ghana Education Service. Human rights activists raised the concerns that the girls' rights had been violated by forcibly testing them and then dismissing them from school, and that the children's fathers were not similarly identified and punished.

The law prohibits FGM, but it remained a serious problem in the northern regions of the country. Type II FGM was more commonly performed than any other type. The typical age at which a girl was excised was 15, although it was often performed on younger girls. According to a 2005 study conducted by the Ministry of Health, approximately 15 percent of women between 12 and 19 in the three northern regions had undergone FGM, although some observers believed that NGO- and government-sponsored awareness campaigns regarding the illegality of FGM had driven the practice underground and that the real rate in these regions was as high as 30 percent. Such intervention programs have been somewhat successful in reducing the prevalence, although it was difficult to estimate their effectiveness precisely. Officials at all levels, including traditional chiefs, have spoken out against the practice, and local NGOs continued their educational campaigns to encourage abandonment of FGM and to train practitioners in new skills so that they could seek alternate sources of income. There were no prosecutions of practitioners during the year. In some cases women and girls preparing for marriage actively sought out FGM practitioners, sometimes without their parents' knowledge, because of a cultural belief that brides should be excised. One NGO in the Northern Region reported that mothers frequently failed to return to the hospitals where they delivered their babies for immunizations and postnatal clinics, allegedly because they did not want the hospitals to discover that they were having their daughters excised.

The law imposes punishments for the sexual exploitation of children; however, such exploitation occurred (see Section 5, Children).

Trafficking of women and children for prostitution occurred (see Section 5, Trafficking).

There were no laws to specifically protect women from sexual harassment; however, some sexual harassment cases were prosecuted under the existing criminal

code. Women's advocacy groups reported that sexual harassment was a problem. A 2005 survey by the African Women Lawyers Association found that 63 percent of the 789 female professionals in the country who responded had experienced some form of sexual harassment in the workplace and at educational institutions.

Women continued to experience discrimination in access to employment. Women in urban centers and those with skills and training encountered little overt bias, but resistance to women entering nontraditional fields persisted. Women, especially in rural areas, remained subject to burdensome labor conditions and traditional male dominance. Traditional practices and social norms often denied women their statutory entitlements to inheritance and property, a legally registered marriage (and with it, certain legal rights), and the maintenance and custody of children. There were a number of female entrepreneurs, but poor access to credit remained a serious barrier for women who wanted to start or expand a business.

Women's rights groups were active in educational campaigns and in programs to provide vocational training, legal aid, and other support to women. In 2005 the Ministry of Women and Children's Affairs (MOWAC) began developing plans to include women's concerns in government policies and to increase the hiring of women in civil service positions. The Government was active in educational programs, and many officials were active, outspoken advocates of women's rights.

During the year MOWAC launched the Women in Local Governance Fund (WiLGF), to help female candidates mount competitive campaigns during the District Assembly Elections in September and in the 2008 national elections. WiLGF organized seminars for women on campaign strategies, capacity building, and public speaking.

*Children.*—Within the limits of its resources, the Government was committed to protecting the rights and welfare of children, although its efforts were constrained by its limited financial and logistical resources. The Government continued to implement the Education Sector Plan (ESP) 2003–2015, which provides for free universal primary school education until 2015. The Ghana Education Service (GES) reported that its Capitation Grant scheme led to a 16.6 percent overall increase in enrollment from 2004–2005 to 2005–2006.

Education is compulsory through primary and junior secondary school (the equivalent of grades 1 through 9). Despite the constitutional provision for “free compulsory and universal basic education,” parents were required to purchase uniforms and books.

According to the Ministry of Education, the gross enrollment rate during the year was 92.7 percent at the primary level with 95 girls enrolled for every 100 boys, an increase from 93 in the 2004–2005 school year. At the junior secondary school (JSS) level, 76.1 percent of eligible children were enrolled, with 90 girls enrolled for every 100 boys, an increase from 88 in the 2004–2005 school year. Some children did not attend school because they worked to supplement their family's income (see Section 6.d.) or lived at great distance from the closest school. Many children, particularly in rural areas, were affected by insufficient teachers and other resources at local schools. The economic cost associated with enrollment was a significant obstacle for many children's families. In addition authorities did not regularly enforce children's attendance at school, and parents were rarely sanctioned for keeping their children out of school.

To increase access to basic education and lower the student drop-out rates, the Government introduced the Capitation Grant program during the 2005–2006 academic year. As part of this program, the Government paid schools \$3.26 (30,000 cedis) for every child enrolled. This payment was intended to eliminate the extra levies of up to \$489 (4.5 million cedis) that schools had imposed on students in addition to the tuition costs that were met by the Government. The Government also piloted a school lunch program in 690 schools, with plans to expand it if the pilot program proves successful. The Government also provided free books to schools in 138 districts in September. As a result of these initiatives, there was an 11.3 percent increase in enrollment, from 83.3 percent in 2004–2005 to 92.7 percent in 2005–2006.

The Government strongly supported the UN's Education for All goals. During the year GES actively campaigned to expand education for girls by providing scholarships at the JSS and Senior Secondary School levels and by offering financial incentives and free housing to female teachers to work in rural areas. The GES placed girls' education officers at regional and district levels, and there were community participation coordinators in every district office to mobilize communities to increase school enrollments for girls. The Government continued sponsoring science and math clinics at the JSS level to encourage more girls to pursue careers in science and technology.

These efforts have been accompanied by increased government support of informal schools, which target children who must work to help support their families. With funding from several foreign governments, NGOs organized and ran these informal schools, which taught basic numerical, literacy, and life skills at no charge. During the year the Government also increased educational opportunities for students with disabilities by increasing grants to primary schools serving these students so that 100 percent of the enrolled population received assistance.

Children under five years of age, regardless of gender, had access to free health care at public hospitals and clinics.

The law prohibits defilement, incest, and sexual abuse against minors, but such abuse remained a serious problem. There were frequent reports that male teachers sexually assaulted and harassed female students. The girls often were reluctant to report these incidents to their parents, and social pressure often prevented parents from going to authorities. Approximately 40 percent of female students reported being sexually harassed at school often or very often, according to a 2005 study conducted in upper primary and junior secondary schools. During the year there continued to be press reports of teachers and headmasters/headmistresses either arrested for sexual harassment of female students or dismissed for ignoring reported problems.

DOVVSU announced in 2005 that between January 1999 and May 2004, there were 1,756 cases reported in which men victimized children between the ages of two and 15, 397 cases in which girls over the age of 16 had been raped, and 44 cases of reported incest. DOVVSU further advised that during the year 536 cases of defilement, eight cases of causing harm to a child, and 1,493 cases of child neglect were reported. Severe resource constraints prevented DOVVSU from following up on individual cases, and DOVVSU did not maintain records on the disposition of cases.

Reports were received during the year of the use of corporal punishment, including the caning of students.

Local authorities estimated there were fewer than 50 Trokosis, who are members of the Ewe ethnic group sent as teenagers or children to live at a shrine for up to three years in atonement for an allegedly heinous crime committed by a family member. Most Trokosis were children, although some were adults who had been brought to the shrines as children. While instances of sexual abuse may occur, there was no evidence that sexual or physical abuse was an ingrained or systematic part of the practice. The practice explicitly forbids a Trokosi to engage in sexual activity or contact during the atonement period. After a ritual, the Trokosi returns to his or her family. In the vast majority of cases, there is no particular stigma attached to one's status as a former Trokosi shrine participant. Multiple investigations by foreign embassy representatives have turned up no credible evidence of systematic or widespread abuses (see Section 2.c.)

FGM was performed primarily on girls rather than adult women (see Section 5, Women).

Forced child marriage, which is illegal, remained a problem. CHRAJ and NGOs reported that the problem had not improved during the year. In 2004 the Acting Commissioner for CHRAJ declared forced marriage the major human rights abuse issue in the Northern Region, which was more socially conservative and economically depressed than other regions. In 2004 a 16-year-old girl committed suicide to protest an abusive marriage into which she had been forced. Schoolteachers reported two other cases of forced marriages in 2004.

There were reports that trafficking in children occurred for the purposes of forced labor or sexual exploitation, including children being sold into various forms of involuntary servitude (see Section 5, Trafficking).

Child labor was a serious problem (see Section 6.d).

The migration of children to urban areas increased due to economic hardship in rural areas. Children were often forced to fend for themselves to survive, increasing both the occurrence of child labor and the school dropout rate (see Section 6.d). In 2005 MOWAC officials estimated that as many as 40,000 porters (children who carry loads on their heads), most of whom were girls under 18, lived on the streets in major cities, including Accra, Kumasi, and Takoradi. These girls were among the most vulnerable child laborers, as many also engaged in prostitution or were sexually exploited in exchange for protection while living on the streets. In 2003 the Ghana Statistical Service and the International Labor Organization's International Program to Eliminate Child Labor (ILO/IPEC) surveyed 2,314 street children throughout the country, most of whom lived in the urban areas of the Greater Accra and Ashanti Regions and had migrated from northern rural areas. Of those surveyed, 45.7 percent had never attended school, 98.1 percent were engaged in economic activity within the last 12 months, and 80 percent stated the work was de-

manding. Over three-quarters of street children surveyed reported that both parents were alive, indicating poverty was the main cause of the problem.

Local and international NGOs worked with the Government to promote children's rights and were somewhat successful in sensitizing communities about protecting the welfare of children.

In November the media reported that young girls were being raped by older boys at a government-run orphanage in Accra and that orphanage officials were aware of the problem but did not intervene. Girls at the orphanage were also encouraged to prostitute themselves to earn money while still at the orphanage. The director of the orphanage denied these allegations, and the Government did not respond to the media report.

*Trafficking in Persons.*—The Human Trafficking Act, which President Kufuor signed in December 2005, prohibits trafficking in persons and provides for a minimum prison sentence of five years for convicted traffickers. Although four persons were arrested and charged under the new law, there were no prosecutions by year's end. The country was a source, transit, and destination country for women and children trafficked for the purpose of forced domestic and commercial labor and sexual exploitation.

There was no reliable estimate of the number of internally or externally trafficked victims, although both NGOs and IOM thought this number to be in the thousands. From January to September, four cases of child trafficking and seven cases of child labor exploitation were reported to DOVVSU.

Trafficking was both internal and international, with the majority of trafficking in the country involving children from impoverished rural backgrounds. The most common forms of internal trafficking involved boys from the Northern Region going to work in the fishing communities along the Volta Lake or in small mines in the west, and girls from the north and east going to Accra and Kumasi to work as domestic helpers, porters paid to transport various items, and assistants to local traders (see Section 6.d.). Local NGOs reported these children were often subjected to dangerous working conditions and were sometimes injured or killed as a result of the labor they performed. Local authorities supported projects sponsored by IOM and other organizations to decrease the incidence of such trafficking. IOM and various NGOs offered micro-credit assistance and education to families who agreed not to provide their children to traffickers and to those whose children had been trafficked.

Children between the ages of seven and 17 also were trafficked to and from the neighboring countries of Cote d'Ivoire, Togo, the Gambia, Nigeria, and Equatorial Guinea to work as farm workers, laborers, divers, street hawkers, or domestics. Benin and Burkina Faso were also destination countries for trafficked children.

Much of the recruitment of children was done with the consent of the parents, who sometimes were given an advance payment or promised regular stipends from the recruiter and were told the children would receive food, shelter, and often some sort of training or education. Some parents sent their children to work for extended family members in urban areas. Treatment of children sent to work in relatives' homes varied. Many children were given to professional recruiters, usually women, who placed the children with employers in cities. A child in these circumstances usually was paid between \$2.17 and \$3.26 (20,000 to 30,000 cedis) per month. In many cases the children never received the education or vocational training the recruiters promised. Girls were at particular risk of being forced into prostitution or being sexually abused by their employers.

Women also were trafficked to Western Europe, mostly to Italy, Germany, and the Netherlands. International traffickers promised the women legitimate jobs; however, the women often were forced into prostitution once they reached their destination. The women were sometimes sent directly to Europe while others were trafficked through third countries. Some young women were trafficked to the Middle East, particularly Lebanon, where they worked in menial jobs or as domestic help. There also was a trade in Nigerian women transiting the country on their way to Western Europe or the Middle East to work in the commercial sex industry. Traffickers from other countries reportedly used Accra as a transit point to Europe and the Middle East. Reportedly, there was some trafficking in persons from Burkina Faso, mostly transiting through the country on the way to Cote d'Ivoire.

Authorities were unaware of any organized crime syndicates involved in human trafficking in the country.

Under the new antitrafficking law, DOVVSU has responsibility for enforcement, and the Department of Social Welfare within the Ministry of Manpower, Development and Employment has responsibility for victim assistance, including locating family members and providing temporary shelter, counseling, and job skills training. Local police and social welfare officials reported insufficient resources to imple-

ment the new law, particularly in rural areas without police stations. In some cases police and community leaders simply ignored NGO education and sensitization efforts due to strong cultural norms that condoned trafficking.

The new law also establishes a 17-member Human Trafficking Board composed of all relevant ministries, the security services, the private sector, and other stakeholders. At year's end, MOWAC had identified a coordinator and the board's prospective membership, and had discussed a date for inaugurating the board, which was intended to oversee the Government's antitrafficking activities. However, at year's end the President had not yet signed the order approving the proposed membership, which was required for the board to be formally established.

In August police intercepted a truckload of 46 children being trafficked from the Upper West Region to Kumasi and the southern parts of the country. The children ranged from nine to 19 years old. Police arrested the driver under the new trafficking law, and his trial was ongoing at year's end. The children were sent back to their parents, who were not charged with a crime.

Also in August police arrested the driver of a bus carrying 40 children from the Upper West Region to Techiman. The driver's trial was ongoing at year's end.

In July 2005 a 25-year-old Ivorian man was remanded in custody in Sekondi for attempting to sell his 21-year-old male friend for \$2,714 (25 million cedis). There were no known developments during the year.

In September 2005 the Immigration Service reported its largest interception of traffickers to date when Kulungugu border officials arrested a woman for attempting to traffic 17 children, ages five to 17, to Burkina Faso. The children reportedly believed that they would be visiting Burkina Faso. The woman was released due to a lack of evidence, and the children were returned to their communities.

The Government generally assisted with international investigations of trafficking; however, during the year the Government continued to refuse to extradite a Member of Parliament to face a 2003 indictment for trafficking charges.

The Government, the ILO, and NGOs trained security forces, immigration authorities, customs officials, and police on the new trafficking law. Each group was taught methods of identifying victims, and police were trained on the new law, whom to charge, and which violations to cite in charging suspected perpetrators. Since July 2005 more than 200 senior officers, cadets, and recruits from the police service participated in a Trafficking in Persons training. Participants were trained in recognizing trafficking victims and securing evidence against trafficking criminals. TIP training is now a standard module in the curriculum of the Police Training Academy in Tesano, Accra.

In August the Government established a Border Patrol Unit under the Immigration Service to monitor the flow of travelers in and out of the country. The Minister of Interior committed \$214,984 (1.98 billion cedis) in start-up funds to the program. By year's end, 150 officers had completed an eight-week course of training in paramilitary operations and light weaponry as well as the standard six months of training at the Ghana Immigration Service camp in Assin Foso.

Various ministries worked with ILO/IPEC, the IOM, and NGOs to address trafficking. The Ministry of Manpower, Development and Employment, in conjunction with ILO/IPEC, continued to implement a National Plan of Action for the Elimination of Child Labor (see Section 6.d). The IOM, the African Center for Human Development, and MOWAC worked to identify and return children trafficked to fishing villages, and to support the fishermen's transition to alternate forms of income generation. Since 2002 587 trafficked children have been rescued from fishing villages; IOM helped with the rescue of 50 children during the year.

In a July meeting of the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS), Ghana signed an ECOWAS/ECCAS agreement among 24 countries to combat trafficking by establishing a Human Trafficking Board to develop a plan of action to combat domestic trafficking. The Government is also a signatory to a 2005 nine-country multilateral protocol for international cooperation on child trafficking.

Authorities made efforts to shelter and reintegrate trafficking victims from the country and other West African countries. In 2005 the Department of Social Welfare opened its second shelter, capable of accommodating 30–55 child trafficking victims, in Medina near Accra. The Government devoted little attention to rehabilitating traumatized child trafficking victims, some of whose parents rejected their children so that they would not be asked to refund money they had received from traffickers.

Several NGOs, both local and international, worked with trafficking victims. These organizations, as well as the University of Ghana's Center for Social Policy Studies, conducted studies of trafficking as part of their broader agenda, performed a few rescue operations for street children, provided training and education for victims of trafficking and abuse, and in some cases, assisted with family reunification.

Friends of Human Development, a local NGO, met regularly with community and opinion leaders to educate them about the dangers of trafficking and the penalties imposed by the new antitrafficking law.

The ILO/IPEC conducted workshops and other activities throughout the year to combat the problem of increased child sexual exploitation in the tourism industry. In 2005 a minister ordered hotel administrators to prevent adults from bringing children to hotels for sexual exploitation.

During the year the Government conducted community meetings and workshops for media and police to raise awareness of the trafficking law. There was a trafficking officer assigned to organize such workshops.

*Persons With Disabilities.*—In July parliament passed legislation that specifically provides for the rights of persons with disabilities, including protection against exploitation and discrimination in employment, health care, and other domains. While the Government did not systematically or overtly discriminate against persons with disabilities, such persons often experienced societal discrimination in practice. The law provides persons with disabilities access to public buildings as far as is practical. In 2003 officials in the department of social welfare estimated that 10 percent of the population had some form of physical disability.

In 1999 the Government established a policy whereby blind and wheelchair-bound persons would receive a nominal annual disability allowance of \$16.61 (153,000 cedis). In June 2004 the interim chairman of the Ghana Union of Physically Disabled Workers accused the Ghana Education Service (GES) of not paying workers with disabilities the allowance to which they are entitled. According to the Ghana Union of Physically Disabled Workers, approximately 60 persons with disabilities were denied this allowance during 2005, with GES the main offender.

Persons with both mental and physical disabilities were frequently subjected to abuse and intolerance. Some religious sects believed that persons with mental disabilities were afflicted by demons and should be exorcised (see Section 2.c.). The abuse of children with disabilities was common. There were reports that children with disabilities were tied to trees or under market stalls and caned regularly. There also were reports of family members killing children with disabilities.

In September the media carried reports of a four-year-old boy whose family confined him to their house, allegedly to spare him public ridicule of a congenital lump on the back of his waist. The boy was not permitted to interact with persons outside his immediate family. The Government did not respond by year's end.

There were multiple government agencies and NGOs involved in addressing discrimination against persons with disabilities, including the Ministry of Health, the Department of Social Welfare in the Ministry of Manpower, Development and Employment, the Ministry of Education, and the Center for Democratic Development (CDD). The NGO Parents Association of Children with Intellectual Disability and Autism conducted outreach and awareness-raising efforts during the year.

*National/Racial/Ethnic Minorities.*—Although the Government deemphasized the relevance of ethnic differences, its opponents complained that appointed senior government positions were dominated by Ashantis and other Akans at the expense of Ewes and northerners. The President and some of his ministers and close advisors were Ashanti, but the vice President and many ministers were of other ethnic origins.

There were numerous small-scale conflicts within ethnic groups during the year, most of which related to chieftaincy and land use issues. Efforts by NGOs to encourage reconciliation continued during the year.

The Dagbon conflict, also known as the Yendi conflict, was the most prominent and frequently discussed intraethnic conflict. Two branches of the same family, the Andanis and the Abudus, traditionally alternated in supplying the Ya Na (paramount chief of the Dagomba ethnic group) but recently became embroiled in a dispute over which family would supply the next Ya Na. By blocking some aspect of the burial rites, as both sides did following the deaths of previous Ya Nas, the families prevented the appointment of a Regent, who traditionally was installed until a new chief was selected or came of age. In April traditional leaders helped broker an agreement to bury Ya Na Yakubu Andani II and install a Regent in his place. The Ya Na's murder in 2002 and the tension over his burial has been a significant source of conflict in the northern part of the country. In May the President and vice President visited Yendi for the first time in four years to encourage the peace process. Nonetheless, in August security forces resisted an attempt by youths from the Abudu "gate" (line of succession) to forcefully enter the Ya Na's former palace, resulting in the deaths of a number of youth. The Government announced that three deaths resulted, but credible local sources reported more.



During the year chieftaincy issues, particularly those involving succession and land, sparked several violent confrontations within ethnic groups. In 2005 a chieftaincy conflict between two factions at Tetegu, a suburb of Accra resulted in gunshot injuries, the displacement of more than 2,000 persons, and the destruction of approximately 120 houses belonging to members of feuding factions. There were no known developments in the conflict, which remained unresolved at year's end.

In April at Bortianor, near Kokrobite in Accra, two persons belonging to different chieftaincy factions were fatally shot, and eight others were seriously injured. The Criminal Investigations Division of the Police announced a reward of \$2,172 (20 million cedis) for information leading to the arrest and prosecution of the culprits.

*Other Societal Abuses and Discrimination.*—The law criminalizes homosexuality, and lesbians and gays face widespread discrimination, as well as police harassment and extortion attempts. There is a minimum misdemeanor charge for homosexual activity, and homosexual men in prison often were subjected to sexual and other physical abuse.

There was widespread public outcry during the year against an international lesbian and gay conference scheduled to take place in Accra in September. Strong public opposition to the event and to homosexuals more generally was reflected in vehement letters to the editor, radio call-in shows, comments posted on the Internet, and in public speeches given by government officials. The Government banned the conference after local religious leaders united to protest the planned event.

Discrimination against persons with HIV/AIDS was a problem, and the fear of being stigmatized continued to discourage persons from being tested. In April 2004 the inspector general of police publicly urged all officers to be tested voluntarily through a free service available to the police. During the year several key government representatives, including the Presidential Advisor for HIV/AIDS, publicly denounced discrimination against persons with HIV/AIDS. In 2004 the cabinet approved a policy to protect the rights of persons living with HIV/AIDS. In August a judge ordered sex workers standing trial on charges of prostitution to get tested for HIV and publicly disclose their HIV status. The Office of the President sent a letter of protest to the chief justice on this incident but had not received a reply by year's end.

The Government subsidized many centers that provided free HIV testing to citizens, although there were reports that confidentiality was not consistently respected and preserved.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. While unions no longer must seek the approval of the Government before registering, the 2003 Labor Act requires that trade unions or employers' organizations must register and be authorized by the Chief Labor Officer to attain a certificate of registration and be considered legal. The percentage of workers belonging to unions appeared to be decreasing as more of the workforce entered the informal sector, where there was no union activity. The Ministry of Manpower, Development and Employment estimated in 2005 that 80 percent of the work force was employed in the informal sector.

The law prohibits acts of anti-unions discrimination; however, in practice, unions have reported that anti-union discrimination occurred.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides a framework for collective bargaining, and trade unions engaged in collective bargaining for wages and benefits with both private and state-owned enterprises without government interference. However, only unions that represented the majority of workers in a given company can obtain a Collective Bargaining Certificate, which is required to engage in collective bargaining.

The law recognizes the right to strike but restricts that right for workers who provide essential services, including "areas in an establishment where an action could result in a particular or total loss of life or pose a danger to public health and safety and such other services as the Minister may by legislative instrument determine." However, the Minister of Manpower, Development and Employment had not formally designated the list of essential services by year's end. The right to strike can also be restricted for workers in private enterprise whose services were deemed essential to the survival of the enterprise by a union and an employer. A union may call a legal strike if the parties fail to agree to refer the dispute to voluntary arbitration or if the dispute remains unresolved at the end of arbitration proceedings. No union has ever gone through the complete dispute resolution process, and there

were numerous unsanctioned strike actions during the year. There have been no legal strikes since independence.

In September the National Association of Graduate Teachers (NAGRAT) went on strike to protest issues related to salary and conditions of service. The Ghana Education Service (GES) refused to negotiate with NAGRAT on the grounds that the organization has no collective bargaining agreement certificate. NAGRAT has been denied a certificate because the GES argues it should be part of the Ghana National Association of Teachers.

Existing labor law applies in export processing zones, including the right to organize.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

The law provides for employers found guilty of using forced labor to be fined no more than 250 penalty units (each unit of which was assigned a monetary value to adjust for the fluctuating exchange rate); however, limited resources inhibited the Government's implementation of the law, and no fines were levied during the year. During the year the ILO continued to urge the Government to revise various legal provisions that permit imprisonment with an obligation to perform labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets a minimum employment age of 15 years, prohibits night work and certain types of hazardous labor for those under 18, and provides for fines and imprisonment for violators; however, child labor remained a serious problem in the informal sector. The law allows for children age 15 and above to have an apprenticeship under which craftsmen and employers have the obligation to provide a safe and healthy work environment along with training and tools. However, child labor laws were not enforced effectively or consistently, and law enforcement officials, including judges, police, and labor officials, were often unfamiliar with the provisions of the law that protected children. The 2003 Ghana Poverty Reduction Strategy acknowledged that child labor was a problem that required government intervention. During the year the Ministry of Women and Children's Affairs conducted seminars on child labor to educate the media, police, civil servants, and the general public. Local custom and poverty encouraged children to work to help support their families and eroded societal observance of minimum age laws.

An ILO/IPEC-Ghana Statistical Service survey of child labor released in 2003 found that 2.47 million children were engaged in some economic activity and 64.3 percent of those children attended school. Of those children engaged in economic activity, 1.27 million children were found to be engaged in child labor as defined by age and hazardous working conditions. Children as young as seven worked in agriculture and as domestic laborers, porters, hawkers, miners, quarry workers, and fare collectors. The fishing industry on Lake Volta had a particularly high number of child laborers engaged in potentially hazardous work, such as diving into deep waters to untangle fishing nets caught on submerged tree roots. An ILO representative reported in 2005 that child labor in the tourism industry had increased. Child laborers were poorly paid and subjected to physical abuse; they received little or no health care and generally did not attend school. According to government labor officials and the Ghana Employers Association, child labor problems were infrequent in the formal labor sector.

The law prohibits forced and compulsory labor by children; however, during the year children were reportedly sold, leased, or given away by parents to work in agriculture, fishing villages, quarry mines, shops, or homes. It was difficult to determine the extent to which forced and bonded labor by children was practiced (see Section 5).

There were newspaper reports of children being sold into various forms of involuntary servitude for either sexual exploitation or labor, such as 10- to 12-year-old boys working for fisherman in exchange for a yearly remittance to their families. The practice often involved the consent of their generally impoverished parents. Reliable data was not available on the number of children who were working in fishing villages along Lake Volta; nevertheless, NGOs who worked on this issue estimated the number to be well into the thousands (see Section 5).

The extent of child labor in the cocoa industry was unknown. In January the Government signed a National Plan of Action calling for the implementation of a child labor certification process in the cocoa industry. International chocolate manufacturers and the Ministry of Manpower, Development and Employment signed a Memorandum of Understanding in September to pursue the development of an initial survey of child labor in the cocoa industry. During the year, the Ministry of Manpower worked with foreign chocolate manufacturers to conduct a pilot survey of child labor

in the cocoa industry. The survey, which the Government intended to expand into a larger survey in 2007, was completed in December.

In April police arrested two senior secondary school students for attempting to sell three of their younger classmates for \$10,858 (100 million cedis) to a buyer in Bibiani. No trial date had been set by year's end, and the students remained in custody.

In July police rescued a 14-year-old girl who had been used as collateral for a loan of \$597 (5.5 million cedis) in the Brong-Ahafo Region. The girl's uncle took her from her parents in the Volta Region when she was 11 years old and gave her to a businessman who kept her in bondage for three years. Police had not made any arrests in the case, and referred the matter to CHRAJ, which was investigating the case at year's end.

Inspectors from the Labor Department of the Ministry of Manpower, Development and Employment are responsible for enforcement of child labor regulations, and district labor officers and the social services sub-committees of district assemblies are charged with seeing that the relevant provisions of the law are observed by annually visiting each workplace and making spot checks whenever they receive allegations of violations. Inspectors are required to provide employers with information about child labor violations and effective means to comply with provisions of the Labor Act. However, law enforcement and judicial authorities in the country were hampered by severe resource constraints and a lack of public awareness about the problem.

During the year there were no prosecutions for child labor resulting from these inspections. Officials only occasionally punished violators of regulations that prohibit heavy labor and night work for children. In addition the inspectors' efforts were concentrated only in the formal sector, rather than in the informal sector where most child labor was performed.

ILO/IPEC, government representatives, the Trade Union Congress, the media, international organizations, and NGOs continued to build upon the 2001-02 National Plan of Action for the Elimination of Child Labor in Ghana by increasing institutional capacity to combat child labor. With the support of the Government, NGOs and foreign countries funded more recent programs to combat child labor. Education and sensitization workshops were conducted with police, labor inspectors, local governments, and communities. Forums were held throughout the country to develop and implement an ILO/IPEC Time-Bound Program, which aimed to eliminate all forms of child labor under specified time periods and benchmarks.

*e. Acceptable Conditions of Work.*—A National Tripartite Committee composed of representatives of the Government, labor, and employers set daily minimum wages. In February, after lobbying by trade unions, the Tripartite Committee raised the daily minimum wage to \$1.74 (16,000 cedis), which did not provide a decent standard of living for a worker and family. Furthermore, there was widespread violation of the minimum wage law in the formal sector, and the growing informal labor force remained unprotected. In most cases households had multiple wage earners, and family members engaged in some family farming or other family-based commercial activities. The Ministry of Manpower, Development and Employment was unable to credibly enforce this law.

The law sets the maximum workweek at 40 hours, with a break of at least 48 consecutive hours every seven days. The Government compensated extra duty hours only for overtime actually worked, in accordance with labor equity, rather than as an automatic salary supplement. Workers were also entitled to at least 15 working days' leave with full pay in a calendar year of continuous service or after having worked at least 200 days in a particular year. However, such provisions do not apply to task workers or domestic workers in private homes.

Occupational safety and health regulations exist, and the Factories Department within the Ministry of Manpower, Development and Employment was responsible for imposing sanctions on violators; employers who failed to comply were liable to a fine not exceeding 1000 penalty units, to imprisonment for a term not exceeding three years, or to both. The law requires that employers report, no later than seven days from the date of occurrence, occupational accidents and diseases which occur in the workplace. In practice, safety inspectors were few and poorly trained, and they lacked the resources to effectively respond to violations. Inspectors did not impose sanctions or otherwise respond to violations during the year.

## GUINEA

Guinea is a constitutional republic in which effective power is concentrated in a strong presidency. President Lansana Conte has ruled this country of approximately 9.2 million persons since 1984, first as head of a military junta and, since 1994, as a civilian President. President Conte won reelection in December 2003 in an election boycotted by the opposition and criticized by international observers as neither free nor fair. The civilian authorities generally did not maintain effective control of the security forces.

The Government continued to implement political and macroeconomic reforms begun in 2004, but serious human rights abuses occurred during the year. There were restrictions on the right of citizens to change their government. Security forces unlawfully killed, beat, and abused civilians, particularly detainees. Prison conditions were inhumane and life-threatening. Impunity of alleged perpetrators of killings and abuse remained a problem. There were arbitrary arrests, prolonged pre-trial detention, and incommunicado detention. The judiciary was subject to corruption and executive influence. The Government infringed on citizens' privacy rights and restricted freedoms of speech, press, assembly, association, and freedom of movement. Violence and societal discrimination against women, prostitution of young girls, and female genital mutilation (FGM) were problems. Progress was made in combating trafficking of persons, but the practice continued, as did ethnic discrimination, antiunion discrimination, and child labor.

The Government took significant steps to improve freedom of the press by implementing a 2005 media liberalization decree and granting broadcast licenses to eight private radio stations. The Government agreed to some electoral reforms proposed by political parties.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed political killings; however, security forces killed at least 15 persons during the year, and there were reports of deaths in custody due to torture, abuse, and neglect (see Section 1.c.).

Police use of excessive force to control demonstrations and strikes resulted in deaths during the year (see Sections 2.b. and 6.b.).

The Government often considered killings by security forces to be "professional accidents," and instead of prosecution or sanction, transferred the perpetrator to another district. No legal or disciplinary action was taken against security force members responsible for killings during the year.

There were no developments in the following 2005 reported killings by security forces: the three killings by police during a student demonstration in Telimele in November or the July killing of a 19-year-old student in Conakry.

There were no developments in the reported 2004 killings by police.

Government authorities continued to block efforts by human rights groups and nongovernmental organizations (NGOs) to investigate political killings that took place in the 1970s under then President Sekou Toure.

Many victims of crime feared that they might never receive justice because of judicial corruption and at times resorted to vigilante violence. In March, in the Enta neighborhood of Conakry, the screams of a victim of attempted rape alarmed her neighbors, who caught the perpetrator and beat him to death. In late July residents in N'Zerekore beat, burned and stoned suspected criminals, killing between nine and 12. Several of the victims had been released from prison prior to serving their full sentences, while others had never been prosecuted; in both cases, the local community was frustrated by perceived corruption of local officials (see Section 1.d.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, both civilian and military security forces beat and otherwise abused civilians. There also were reports that security forces used torture and beatings to extract confessions and employed other forms of brutality, including holding prisoners incommunicado without charges under inhumane conditions.

An investigation by an international NGO in Conakry's main prison revealed patterns of torture. Prisoners, including children, bore similar wounds and shared common stories. One prisoner lost his sight due to beatings. A student imprisoned on assault and battery charges was paralyzed due to beatings by security forces. Prison guards were suspected of torture in both incidents; however, no investigation took

place by year's end. In September the Minister of Security issued a circular to all officers under his jurisdiction condemning torture and abuse, and announcing punitive measures against any persons found guilty of engaging in these practices. The Government had not launched an investigation into police torture or prosecuted individuals allegedly involved by year's end.

During the June general strike, police went door-to-door and detained private citizens on suspicion of strike involvement. In at least one instance, a gendarme raped a woman after entering the home. The officer was never arrested and the case was not prosecuted. The victim gave several media interviews and although the story was in the local news, the Government did not address the crime.

Police injured several persons while using force to disperse demonstrations during the year (see Section 2.b.).

Unlike in the previous year, there were no reports that police beat journalists.

In January a newspaper reported the October 11, 2005 rape of Paulette Keita by a lieutenant in the gendarmerie. At year's end, the officer was not arrested or charged with any crime.

No action was taken against security forces responsible for reported abuses in 2005 and 2004.

*Prison and Detention Center Conditions.*—Prison conditions remained inhumane and life threatening. Prisoners reported that guards threatened, beat, and harassed them. There were credible reports from prisoners that guards harassed and sexually assaulted female inmates. Toilets did not function, and prisoners slept and ate in the same space where they relieved themselves. Neglect, mismanagement, and lack of resources were prevalent. The basic diet for prisoners was inadequate, and most inmates relied on supplemental assistance from families or friends to maintain their health. Guards often demanded bribes in exchange for delivering food to those incarcerated and routinely confiscated food, which was seldom delivered to the intended beneficiary.

In Kankan, a woman sentenced to death was raped by the prison administrator and became pregnant. The woman remained in jail with the baby at year's end. In Mamou, a woman was raped by another prison administrator. She was transferred to the maximum security prison in Kindia. Neither of these administrators was punished. There are many reported cases where insufficient facilities for female prisoners prompted administrators to send women to work at the houses of prison or judicial officials where they were not paid for their work and were sexually exploited.

Standards of sanitation remained poor, which resulted in several dozen deaths due to malnutrition, disease, lack of medical attention, and poor conditions. Since January 1, 98 persons died in Conakry's prison, many as a result of malnutrition, poor medical treatment, and dangerous and unsanitary conditions. There was a decline in the number of deaths in prison from the previous year. The mortality rate nationwide of prisoners is approximately 20 percent.

Some prisoners exercised more power than the guards by controlling conditions and cell assignments, giving better conditions to prisoners who were able to pay.

The prisons remained severely overcrowded. Some prisoners reported sleeping on their knees because their cells were so small. The facility in downtown Conakry was built in 1950 to hold 200 prisoners but routinely held 1,000 prisoners or more. During the year, the prison held up to 1,280 prisoners. At year's end, there were 989 prisoners in this facility.

Although the Ministry of Justice administers the prisons, the facilities were managed and staffed by military officers and guards. There were reports that some prison administrators followed directives from their military superiors, even when they were in conflict with orders from the Ministry of Justice. Due to limited funds and personnel shortages, prisons were largely staffed by untrained "volunteers" who hope for permanent entry into the military. This system was difficult to manage and particularly vulnerable to corruption and abuse.

There were reports of prison escapes in Kankan, Labe, and N'Zerekore. Most prisoners were apprehended, but others remained at large. At least two prisoners who escaped in 2005 remained at large.

In most prisons, men and women were held separately, but juveniles generally were held with adults. There were 380 children below the age of 18 incarcerated. There were approximately 16 children who either were born in prison and lived permanently in the jails with their mothers or who had no alternative means of care. No provisions were made for children's food, clothing, education, or medical care in prison. The Ministry of Justice in collaboration with the NGO Association for the Support for Refugees and Displaced Persons in Detention (ASWAR-Guinea) constructed a new juvenile wing including recreational facilities housing 69 minors in Conakry's main prison.

At year's end, there were three boys below the age of 14 who were held in the Conakry prison with no legal representation. One boy had been detained for eight years on a petty shoplifting charge. An international NGO reported the prevalence rate of HIV/AIDS among incarcerated minor boys to be as high as 50 percent, suggesting sexual abuse. Local and international NGOs were providing some food and legal representation to these boys.

First-time offenders were not separated from common criminals, pretrial detainees were not separated from convicted prisoners, and the prison system often was unable to track pretrial detainees after arrest. Prisoners of political importance usually were held in the main prison in Conakry with the general prison population but were held in separate cells.

In practice political detentions rarely exceeded a few days, and these persons were generally extended more protections than other detainees because of the attention to their cases by NGOs and the media. In high profile detentions, the persons were often held separately from other detainees and prisoners, and access to them was unrestricted.

The Government stated its commitment to address prison conditions and used public funds to initiate certain reforms. The minister of justice announced a new policy that allows suspects and detainees to have access to legal representation. The ministry made recommendations for improvements in prison infrastructure, but at year's end none have been implemented. National and international NGOs continued programs to improve the health of critically malnourished inmates.

The Government permitted prison visits by Human Rights Watch (HRW) and the International Committee for the Red Cross (ICRC) and other local humanitarian and religious organizations, which offered medical care and food for those in severe need. A former prisoner reported that without this assistance, those who did not have families or friends would have starved to death. The ICRC reported that it was allowed regular access to all 33 official detention facilities and 2,500 prisoners during the year. The ICRC continued to initiate partnership programs with prison and security authorities to improve prison conditions. In the overcrowded N'Zerekore prison, the ICRC established access to clean water and constructed a secured area to allow prisoners to go outside. In April and June, HRW conducted investigations of the country's prisons.

The Government provided open access to prisoners and allowed interviews to be conducted outside the presence of prison guards or other government authorities. After the HRW report was published in August, the ministries of justice and security responded positively by addressing specific problems and proposing general reforms.

In July and August the minister of justice, himself a prisoner during the Sekou Toure regime, visited several of the prisons and pledged to improve prison conditions.

The Government cooperated in the April and June visit by Human Rights Watch (HRW) to monitor the country's prisons. In its subsequent report, HRW noted that security forces routinely violated the inherent right to life, freedom from torture, freedom of expression and assembly, and the right to trial within a reasonable period. Security forces committed many of these violations, particularly in police stations, detention facilities, and prisons. HRW concluded that security forces used excessive and lethal force on unarmed demonstrators, killing at least thirteen. HRW emphasized the sense of impunity that exists, emboldening perpetrators and sustaining abuses.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, security forces regularly used arbitrary arrest and detention.

*Role of the Police and Security Apparatus.*—The gendarmerie, a part of the Ministry of Defense, and the National Police, under the Ministry of Security, share responsibility for internal security and sometimes played an oppressive role in the daily lives of citizens. The Code of Penal Procedure permits only the gendarmerie to make arrests, but the army, the Presidential Guard (Red Berets), and the state police often detained persons as well. A quasi-police unit called the Anticrime Brigade (BAC), created to fight criminal gangs and bandits, operated in Conakry and in most major regions and prefectures. Administrative controls over the police were ineffective, and security forces rarely followed the penal code. Many citizens viewed the security forces as corrupt, ineffective, and even dangerous. Police ignored legal procedures and extorted money from citizens at roadblocks (see Section 2.d.). There were no reported judicial proceedings against officers suspected of committing abuses. National and international NGOs conducted seminars to train security forces on human rights issues and conflict resolution techniques.

In September the Ministry of Justice initiated a five-day national seminar that brought together judicial, prison, and security officials to address issues and make specific resolutions related to detention, proper procedures for arrest, the expanded role of defense attorneys, prison administration, and particular measures to fight against livestock theft.

*Arrest and Detention.*—The penal code stipulates that the arrest of persons in their home is illegal between 4:30 p.m. and 6:00 a.m.; nevertheless, midnight arrests took place. The penal code also requires that the Government issue a warrant before an arrest can be made and that detainees be charged before a magistrate within 72 hours; however, many detainees were incarcerated for longer periods before being charged. After being charged, the accused may be held until the conclusion of the case, including a period of appeal. Authorities frequently did not respect the provision of the law that provides for access by attorneys to their clients. Although the law proscribes incommunicado detention, it occurred in practice. Release on bail was at the discretion of the magistrate who had jurisdiction.

On January 19, police arrested and beat a school boy in Conakry for not stopping while the country's flag was being raised.

In February and June security forces detained hundreds of persons in connection with unruly protests during the two general strikes that effectively shut down the country. The large majority were almost immediately released. None of these persons remain in detention; the majority were released in two to three days (see Section 2.b.).

On June 13, police raided the homes of several supporters of Sidya Toure's Union of Republican Forces (UFR) party on suspicion of inciting violence during the general strike. They detained at least nine UFR members for a week to 10 days. These individuals were not allowed access to attorneys and were released without being charged with any crime. Several report that after their release, they were repeatedly harassed by security officers and threatened in anonymous phone calls.

There were no further developments in the 2005 cases of the individuals who were suspected for involvement in the January 2005 assassination attempt on President Conte. Antoine G'Bokolon Soromou and Mohamed Lamine Diallo remained in self-imposed exile. Approximately 60 individuals were detained and then released.

Gendarmes detained an unknown number of active and former military personnel for unspecified reasons. Credible human rights sources reported that the treatment of these detainees was not monitored by independent agents. In violation of the law, an unknown number of prisoners were held on army bases where virtually all contact was forbidden.

Prolonged pretrial detention was a serious problem. A prisoner advocacy organization estimated that approximately 80 percent of the prisoners in Conakry were awaiting trial. Based on the information of a prisoner advocacy group, only approximately 10 percent of the prisoners at Conakry central prison had been tried, while all others were in investigative detention. At times detainees remained in prison for more than 10 years without trial.

Seven military officers who were arrested in December 2003 for suspected coup plotting were still in prison awaiting trial at year's end. In January they were transferred from the central prison, where their families were able to visit regularly, to the maximum security prison in Kindia. Two prisoners, Abdoulaye Camara and Mohamed Diasy, reportedly served 10 years at the central prison without judgment or sentencing. The men were held in a cramped section of the prison where they were prevented from moving freely. At least one of them has suffered permanent paralysis as a result of prison conditions. Police arrested the men in March 1996 in connection with a burglary. One of them, Thierno Barry, has been in the Conakry central prison, without judgment or sentencing, since his arrest in 1991.

There were reports of a parallel and covert system of justice run by unidentified uniformed personnel who conducted midnight arrests, detained suspects, and used torture to obtain confessions before transferring detainees to prosecutors or in some cases, directly into prisons that were not under the jurisdiction of the Government.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for the judiciary's independence, judicial authorities routinely deferred to executive authorities in politically sensitive cases. In routine cases, there were reports that authorities accepted bribes in exchange for a specific outcome. Magistrates were civil servants with no assurance of tenure. Because of corruption and nepotism in the judiciary, relatives of influential members of the Government often were, in effect, above the law. Judges often did not act independently, and their verdicts were subject to outside interference. The judicial system was plagued by numerous problems, including a shortage of qualified lawyers and magistrates and an outdated and restrictive penal code. In September, to spearhead a national effort to improve the admin-

istration of justice, the Ministry of Justice held a national seminar on detention and a training conference for bailiffs (see Section 1.d.).

The judiciary includes courts of first instance, two courts of appeal, and the Supreme Court, which is the court of final appeal. The law provides for a parallel structure for juveniles. In practice the two courts of appeal for Kankan and Conakry that handle serious crimes barely functioned due to lack of resources and organizational problems, and many prisoners were detained for lengthy periods without trial (see Section 1.d.). By law, the courts of appeal are supposed to hold a session once every four months. In practice, there were only two sessions held since 2000. On August 2, the appeals court met for the first time since 2003 and scheduled hearings for 171 cases. During the year, the juvenile appeals court convened for the first time since 1998. Prior to the September session, all minors who had gone to trial had done so within the adult system.

*Trial Procedures.*—Trials are public, and juries are used for criminal cases. Defendants have the right to be present and to consult with an attorney in a timely manner. Defendants have the right to confront and question prosecution witnesses and present witnesses on their behalf. The prosecution prepares a case file, including testimonies and evidence, and provides a copy for the defense.

The penal code provides for the presumption of innocence of accused persons, the independence of judges, the equality of citizens before the law, the right of the accused to counsel, and the right to appeal a judicial decision; however, these rights were not consistently observed in practice.

On October 10, Sekhounah Soumah, the elected Rural Development Community President of Tanene, interrupted trial proceedings at the court of first instance of Dubreka. He assaulted the judge and ordered the judge to stop the trial that was in session. On October 15, the minister of justice, Guinea's Association of Magistrates, and the Guinea Bar Association protested the interference in judicial proceedings. At year's end, Soumah, who has family ties to President Conte, was not punished for his actions and remained in office.

Although in principle the Government is responsible for funding legal defense costs in serious criminal cases, in practice it rarely disbursed funds for this purpose. The attorney for the defense frequently received no payment.

Many citizens wary of judicial corruption preferred to rely on traditional systems of justice at the village or urban neighborhood level. Litigants presented their civil cases before a village chief, a neighborhood leader, or a council of "wise men." The dividing line between the formal and informal justice systems was vague, and authorities sometimes referred a case from the formal to the traditional system to ensure compliance by all parties. Similarly, if a case was not resolved to the satisfaction of all parties in the traditional system, it could be referred to the formal system for adjudication. The traditional system discriminated against women in that evidence given by women carried less weight (see Section 5).

A military tribunal prepares and adjudicates charges against accused military personnel, to whom the penal code does not apply. Civilians were not subject to military tribunals.

The state security court is composed of magistrates directly appointed by the President, and the verdict is open to appeal only on a point of law, not for the re-examination of evidence.

*Political Prisoners and Detainees.*—There were no reports of political prisoners; however, police detained members of political opposition parties during the year. The Government acknowledged the existence of several temporary political detainees. Opposition parties estimated that there were over 50 temporary political detainees, and the majority of their arrests occurred during the June national strike.

*Civil Judicial Procedures and Remedies.*—Under the law, there is a judicial procedure for civil matters. In practice, the judiciary was neither independent nor impartial, and decisions were often influenced by bribes and based on political and social status. There were no lawsuits seeking damages for human rights violations. In practice, domestic court orders were not enforced.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law provide for the inviolability of the home and require judicial search warrants; however, police and paramilitary police often ignored legal procedures in the pursuit of criminals. For example, during the June general strike, police went door-to-door in neighborhoods throughout Conakry, searching homes and private vehicles, and detaining private citizens on suspicion of involvement (see Section 1.d.). In at least one instance, a gendarme raped a woman (see Section 1.c.).

Although the belief that security forces monitored the mail no longer existed, many believed that they monitored electronic communications. Local businesses, in-



cluding foreign companies, often complained that public officials and authorities intimidated and harassed them.

In some instances the Government coerced membership in political organizations by conferring preferential treatment on those who were members of the majority Party of Unity and Progress (PUP). For example, the Government has sometimes demoted or reassigned government employees who were known to be members of opposition parties because of their active political affiliation.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of expression, and there were fewer arrests and detentions of journalists than in previous years; however, the Government suspended four newspapers during the year.

The Government prohibited talk or chants in public that it considered seditious, established defamation and slander as criminal offenses, and prohibited communications that insulted the President; incited violence, discrimination, or hatred; or disturbed the public peace or security. Sanctions included fines, revocation of press cards, imprisonment, and banishment.

In June, in the Nongo section of Conakry, security forces destroyed the market stalls of people who insulted the President when his motorcade passed.

The Government published an official daily newspaper, the *Horoya*, and continued to operate official television and radio stations. The state-owned media provided extensive and mostly favorable coverage of the Government and ruling party; however, government media increased coverage of opposition activities and was more critical of the Government officials on the local level.

In October the minister of information indefinitely suspended Ibrahima Sory Dieng, *Horoya* managing director, and Alhassane Souare, *Horoya* editor-in-chief, for not publishing President Conte's picture alongside the copy of his Independence Day speech. To date, the journalists have not regained their positions. Also in October the Director of Guinea's state-owned and operated Guinean Radio and Television suspended Ibrahima Ahmed Barry, a news producer, for failing to show images of key ministers engaging with the public. Barry remained suspended at year's end.

Private newspapers openly criticized the President and the Government. There were 10 private newspapers published weekly in Conakry, and up to 10 other publications appeared sporadically, although technical difficulties and high operating costs impeded regular publication. One newspaper, *L'Espoir*, was affiliated with the governing political party, and several other newspapers openly supported opposition parties. Other newspapers offered news and criticism of both the Government and the opposition.

In September the National Communications Council (CNC) announced financial subsidies of approximately \$71,000 (400 million Guinea francs) to 37 of 58 registered private newspapers, purportedly to encourage private media. Some observers believed it also was meant to encourage progovernment reporting.

Foreign publications, some of which criticized the Government on a regular basis, were available both in print and electronic format. Despite the limited reach of the print media due to low literacy rates and high prices of newspapers, the Government continued occasionally to criticize and harass print journalists.

The Government does not permit media ownership by political parties and religious institutions but did not restrict programming on political and religious subjects.

The CNC suspended three newspapers for articles published that were considered libelous or nonfactual.

In August, for the first time in the country's history, private radio stations began broadcasting. With various formats initially focusing on music, commercial operators competed for listeners in this key sector. Radio remained the most important source of information for the public. During the year 12 rural and community radio stations continued operating. At year's end the Government had accepted eight license applications for private radio stations; five were operational. Many citizens listened regularly to foreign-origin short wave radio. At year's end the Government continued to own and operate the only domestic television broadcast station. The Government did not restrict access to or distribution of foreign television programming via satellite or cable; however, relatively few citizens could afford these services.

Boubacar Yacine Diallo, an independent journalist and newspaper editor, was chairman of the CNC until December. On December 22, Diallo was appointed as minister of information. The CNC played a pivotal oversight role in the new privately owned broadcast media. Each of the applications for radio operators was thoroughly reviewed by the CNC before being sent to the Ministry of Information for final approval. While at the CNC, Diallo initiated programs to increase profes-

sionalism in journalistic practice and implemented a requirement that journalists must meet higher professional standards to obtain press credentials.

Journalists were subject to arrest, detention, and harassment; however, there were fewer such reports than in previous years.

For example, in March Almamy Kalla Conte, a journalist at the Lynx-Lance newspaper was detained by police for three hours while he was investigating thefts of steel railway lines.

The CNC suspended newspaper activities during the year. In February the newspaper *Les Echos* was suspended for two months after printing an article critical of the former minister of territorial administration and decentralization.

In March the Government refused to allow the magazine *Jeune Afrique* L'intelligent permission to distribute a weekly edition that featured a story reporting on President Conte's ill health and medical evacuation. The ban was temporary, and the magazine became freely available again later on. Until the ban was lifted, photocopies of the article, printed from the Internet, were available through street vendors.

In April the CNC suspended the journal *L'Enqueteur* for two months for publishing nonfactual information. On August 22, the CNC suspended the newspaper *Liberation* for three months for its publication of "nonfactual information, biased reporting, and an article that was racist and discriminatory." All of these articles were critical of prominent persons in politics and business. On November 27, the CNC suspended the weekly newspaper *Kaloum Express* for two months for the publication of "words that damage the reputation of the Guinean State."

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The Internet was available for use by all citizens, but only a small minority of the population used the technology. Cost, literacy, and availability remained major constraints to use by a broad range of citizens.

*Academic Freedom and Cultural Events.*—The Ministry of National Education and Scientific Research exercised limited control over academic freedom through its influence on faculty hiring and control over the curriculum; however, teachers generally were not subject to classroom censorship.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law restricts freedom of assembly, and while the Government generally allowed opposition meetings, it did not approve any applications for marches during the year. The penal code bans any meeting that has an ethnic or racial character or any gathering "whose nature threatens national unity." The Government requires a 72-working-hour advance notification of public gatherings; otherwise the events are considered illegal. The law permits local authorities to cancel a demonstration or meeting if they believe it poses a threat to public order. They may hold event organizers criminally liable if violence or destruction of property ensues. Police use of excessive force during the year resulted in the deaths of numerous demonstrators, including women and children. Police arrested numerous other demonstrators. No action generally was taken against the responsible police.

In January a celebration turned violent after the victory of the country's national football team. Youth clashed with police, and one person was killed when security forces fired into the crowd. Several persons were arrested and later released. No action was taken against the officer who fired the fatal shot.

On February 2, several students were arrested in Labe during a protest against poor living conditions. No injuries were reported. The students were released after being detained for a few days.

On February 21, riots erupted after the announcement of the new mayor of Gueckedou. During the demonstrations security forces fired into the crowd killing Yawa Suzanne Tolno, a mother of two, and Robert Millimono, a high-school student.

Police forcibly dispersed two nationwide general labor strikes, resulting in deaths and injuries; the strikes were organized in accordance with law. In February a five-day strike called by the interunion coalition of the National Federation of Guinean Workers (CNTG) and the Union of Workers of Guinea (USTG) effectively shut down the country after most workers in the formal and informal sectors stayed at home. The strike was relatively peaceful, although in at least two instances in Conakry security forces fired on demonstrators; following one of the two instances, Bangaly Sidibe was killed after being shot in the stomach. In another area of Conakry, at least one other person was shot and numerous other persons were seriously injured.

The June general strike was marked by significant violence. On June 12, when students learned they were unable to take their final exams and feared that they would not gain credit for the school year, they joined other persons who threw rocks,

burned tires and cars, and destroyed property. Security forces responded with lethal force and tear gas to control demonstrators. The Government reported that at least 11 persons were killed; however, local NGOs claimed that up to 21 persons were killed. There were at least 100 persons injured and hundreds more arrested, although most arrestees were released almost immediately and none remain in detention. On June 16, the Government released a formal statement to the international community, listing the victims of June 12.

Two persons, Aly Camara, a 29-year-old mason, and Seydouba Camara, a 26-year-old driver, were killed in the Matoto area of Conakry. In the Dixinn area of Conakry, Mamadou Bailo Barry, a 17-year-old electrician, Mamady Camara, a 15-year-old driver, and an unidentified person were killed by security forces. There were four killings in the region of Labe. Mamadou Oury Balde, a 20-year-old student, Boubacar Barry, a 25-year-old baker, Boubacar Diallo, a 16-year-old driver, and Djibril Sylla, a 21-year-old driver, were all killed in clashes with police. In N'Zerekore, Moussa Toure, a 16-year-old student, and Bangaly Keita, a 27-year-old driver, were killed.

Investigations by journalists and human rights organizations identified two additional victims not included in the official government statement. Ousmane Kaba, an 18-year-old student, was killed in Conakry. Amadou Sow, a 14-year-old student in Labe, was killed in clashes with police.

The Government promised thorough investigations into the killings; however, a formal report had not been released by year's end. No security officers were arrested or charged for their actions during the strike. NGOs reported that during their independent investigations, witnesses refused to disclose information, fearing government reprisal.

On December 3 and 4, at least 69 persons, including one woman and two imams, were arrested in Fria during protests about road conditions. Several of those arrested were local employees of the Russian company RUSSIAL, the aluminum corporation with mining and refinery operations in Fria. On December 7, many of the detainees were transferred to facilities in Conakry, and some were beaten while being interrogated. On December 14, the imams were released and on December 15, 10 RUSSIAL employees were released in Fria. On December 27 President Conte reportedly summoned the persons who were being detained in Conakry and instructed them never again to engage in violence and destruction of property. They were released the same day. At year's end, no persons remained in prison in connection with the incidents in Fria.

There were several protests during the year prompted by company cuts to family benefits by residents in the mining town of Kamsar. Many of the protestors were wives and family members of miners working for the Compagnie des Bauxites de Guinee (CBG). In December the protests became violent and on December 28, when the demonstrators clashed with police, one 12-year-old girl was killed by a stray police bullet. During this incident at least five women were injured. At year's end, at least 18 persons, mostly women, remained detained in connection with the incident.

The Government reported ongoing investigations into the December 2005 incident in Kouroussa when security forces fired on a crowd, wounding three persons. No report was released. There were no investigations or arrests in the incidents reported last year in Kissidougou, Sigui, Mandiana, Kerouane, Beyla, or Conakry during the December 2005 local elections.

There was no active investigation of the November 2005 killings in Telimele, the September 2005 injuries by military guards in Kouroussa, or any of the other forcible dispersions that resulted in deaths or injuries.

*Freedom of Association.*—The constitution and law provide for freedom of association; however, the Government infringed on this right in practice. The Government imposed cumbersome requirements to obtain official recognition for public, social, cultural, religious, or political associations. Most of the restrictions focused on political associations as opposed to nonpolitical associations. For example, political parties had to provide information on their founding members and produce internal statutes and political platforms consistent with the constitution before the Government recognized them.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

As part of an October 14 cabinet change, the Government issued a Presidential decree that changed the Ministry of the Islamic League to the General Secretariat of the National Islamic League. The General Secretariat continued to represent the 85 percent of the country practicing Islam. Most of the Muslim population adhered to Sunni teachings and practices. Government support of the powerful general secretariat led some non-Muslims to complain that the Government used its influence to

favor Muslims over non-Muslims, although non-Muslims were represented in the cabinet, administrative bureaucracy, and the armed forces. The General Secretariat oversees the choice of imams and prevented certain individuals who they believed were extremists or who did not support the General Secretariat's positions from becoming imams. The General Secretariat also monitored the messages broadcast in Friday prayer services by drafting and distributing the weekly sermons. The Government refrained from appointing non-Muslims to important administrative positions in certain parts of the country in deference to the particularly strong social dominance of Islam in these regions.

*Societal Abuses, Discrimination, and Anti-Semitism.*—Relations among the various religions generally were amicable; however, in some parts of the country, Islam's dominance created strong societal pressure that discouraged conversion from Islam or land acquisition for non-Islamic religious use.

There were few Jewish persons in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights; however, authorities at times infringed on them. The Government requires all citizens to carry national identification cards, which they must present on demand at security checkpoints.

Police and security forces continued to detain persons at military roadblocks to extort money; however, there were fewer such reports than in previous years.

The law does not prohibit forced exile, but the Government did not use it.

*Internally Displaced Persons (IDPs).*—Although the UN High Commissioner for Refugees (UNHCR), the International Organization of Migration, and the Government reported that all IDPs were reintegrated, a 2005 Norwegian Refugee Council report indicated many IDPs had not returned to their former homes. Unlike last year, the IDP Consultative Forum was no longer active. Many IDPs, particularly those who have been deported from other countries, are reintegrated directly to their former homes without assistance packages.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system of providing protection to refugees through an advisor on territorial issues within the Ministry of Territorial Administration. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Many positive developments in the area of refugee repatriation continued to occur during the year. The UNHCR accommodated all refugees desiring voluntary return to other countries from Guinea. The UNHCR and other international organizations also offered financial support for the rehabilitation of communities severely affected after 17 years of hosting refugees.

The country has been a place of refuge for asylum seekers from neighboring countries in conflict, including Liberia, Sierra Leone, Cote d'Ivoire, and Guinea Bissau. At year's end, UNHCR and the National Bureau for Refugee Coordination estimated that the total refugee population left in the country was 31,450 persons, of whom approximately 70 percent were Liberians. With the success of assisted and voluntary repatriation, several refugee camps closed during the year. The Government agreed to facilitate the integration of approximately 2,000 citizens of Sierra Leone who had chosen to remain in the country. By year's end, approximately 500 families received the proper documentation to complete this process.

During the year, the Government also provided temporary protection to approximately 45 individuals of different West African nationalities during the year who may not qualify as refugees under the 1951 UN convention or its 1967 Protocol.

Like in previous years, there were reports of rape, assaults, and forced prostitution. The Government reports these crimes are committed within the refugee population, generally by other refugees. Gender-based violence remained a problem. Tension continued between host communities and refugee populations because of disparities in living standards. Economic decline in the country exacerbated situations where refugees received basic services and opportunities unavailable to citizens.

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

The constitution and law provide for a popularly elected President and national assembly; however, the Government restricted citizens' ability to exercise this right. Political reforms resulted in some improvements during the year.

*Elections and Political Participation.*—Despite openly acknowledged health problems, the President ran for reelection in December 2003, winning against a candidate who was virtually unknown. All major opposition parties boycotted the election, criticized by international observers as neither free nor fair. In December 2005 the Government held nationwide elections, and 16 of 46 registered political parties, including all the major opposition parties, participated. According to official results, President Conte's ruling PUP garnered approximately 80 percent of the vote with certified victories in 31 of 38 municipalities and 241 of 303 local councils. The PUP and associated parties held 91 of the 114 seats in the National Assembly.

The local electoral process was characterized by both improvements over past practice as well as serious flaws. Positive developments included freer campaigning, a single ballot listing all parties, transparent ballot boxes, political parties represented at the polling stations, media coverage of events, and free access for national observers. However, the turnout was low, and there were significant irregularities and bias by officials towards the ruling party before and during the vote. These included government revision of voter rolls with limited oversight, exclusion of up to 50 percent of the opposition candidate lists, unequal provision and distribution of voter registration cards and identity documents, and susceptibility to cheating in the district-level vote consolidations.

The Government invited participation by the electoral commission, opposition parties, and civil society in the electoral process. In practice it retained control of most registration and election procedures, including the casting and counting of votes. Despite pressure from opposition parties to change the constitution to enable an independent electoral commission to have full responsibility for organizing all aspects of elections and reporting the results of the vote, the Government retained responsibility for organizing the elections, with the electoral commission validating the final results.

With few local exceptions, the National Autonomous Electoral Commission was ineffective. Political parties were unsuccessful in gaining judicial relief in some cases of alleged malfeasance.

In July the Government initiated a joint committee, comprised of majority and opposition political parties, to draft legislation for a new electoral commission, define the status of opposition parties, and establish procedures for party financing.

The law allows the President to run for an unlimited number of seven-year terms. There were 46 legally recognized political parties; deputies of five different parties were represented in the National Assembly. Only one opposition political party, the Union for Progress and Renewal (UPR), which had 20 seats, participated in the 114-member National Assembly. All of the other parties represented in the National Assembly joined the PUP government party alliance. Legislative elections are scheduled for June 2007. Government employees are required to campaign for the ruling party in each election.

The President continued to hold the power to appoint governors, prefects, and subprefects to administer regions, prefectures, and subprefectures, respectively. Most of these officials were members of the PUP or parties allied with it. Local governments generally had limited autonomy. Although they had some financial resources with which to fund local programs, most of their funds were controlled by the central government.

Prefects and other local officials who were members of opposition parties found that higher-level officials effectively blocked their authority. In some cases they were forced to join the ruling PUP party or lose their jobs. Those who continued their allegiance to opposition parties were relocated to different prefectures far from their home communities. To prevent risking their livelihood, others chose to remain uninvolved in politics.

Elected and appointed government officials continued to be disproportionately male. There were 20 female deputies in the 114-member National Assembly. There were five women in the 26-member Supreme Court. Four women held seats in the 30-member cabinet appointed in May. There were few women at senior levels below minister, and there were no women in the senior ranks of the armed forces. Women generally played a minor role in the leadership of the major political parties; however, Assiatou Bah was vice President of the UPR. The RPG named Fatou Bangoura to the post of political secretary.

Members of the three main ethnic groups (Soussou, Malinke, and Peuhl) as well as all smaller groups in the country (Gerze, Toma, Kisse, Koniake, and Mano) served in the National Assembly. The Supreme Court, cabinet, and armed forces leadership included representatives of all major ethnic groups. However, a disproportionate number of senior military officers were Soussou, the President's ethnic group.

*Government Corruption and Transparency.*—Corruption remained widespread throughout all branches of government. The President can overrule legislative decisions and did so in practice. Connection to the President or his powerful associates sometimes conferred exemptions from taxes and other fiscal obligations. Public funds were diverted for private use or for illegitimate public uses, such as buying expensive vehicles for government workers. Land sales and business contracts lacked transparency.

During the year a committee was established to follow-up on a 2005 World Bank report on corruption. Each ministry was tasked with creating an internal office to identify and address corruption as related to its duties. Using polling data gathered in 2003, the report identified government agencies widely viewed as corrupt by citizens. It also identified how corruption affected everything from commercial transactions to judicial decisions to civil service promotions. The report was released as part of a two-day conference on corruption and was then presented during similar meetings throughout the country. Businessmen, government workers, and average citizens were among the hundreds of persons surveyed in the study.

The Commission to Combat Corruption within the Ministry of Economic and Financial Control is located within the Office of the President. A public complaints bureau to report corruption was located within the commission in Conakry, but communication and coordination between the commission and the Ministry of Justice remained weak. There was much discussion of corruption in the media, but little action was taken during the year. In November a delegation of government, civil society, and media representatives attended the annual conference of Transparency International.

During the year there was continued media attention on prominent businessman Mamadou Sylla and allegations that he had defrauded the Government over a period of several years through business transactions between his company, Futurlec, and the Government. In 2005 the Prime Minister ordered an audit into those transactions, which revealed Sylla owed millions of dollars to the Government because of over-billing, double-billing, and other suspect accounting procedures. Sylla refused to open his company's books to the auditor, and he denounced the audit. Before any action could be taken, political allies of Sylla ordered a second audit, which found that it was the Government that owed Sylla several million dollars. The IMF added the resolution of this issue as one of the conditions of the country regaining a formally funded program. In July the Government ordered a third audit to reconcile the two previous findings. In November the findings were released, but were inconclusive. Also in November, the Government began legal proceedings against Sylla and others who were accused of embezzling state funds. In December Sylla and another former minister, Fode Soumah, were jailed for violation of court orders. After approximately one week in prison, they were released, apparently due to extra-judicial influence by President Conte; however, the legal proceedings against them continue.

For the first time in the country's history, the national budget included line items for every expenditure during the year. Each ministry was required to submit justifications for projected spending. The draft budgets were presented to the National Assembly which used its discretionary powers to determine the various funding levels. This budget exercise was designed to increase transparency in government processes.

There is no law providing free access to government information. Most government information is not available to the public, and there is no mechanism to request it formally. The Government did provide free official information in the government-run press and through limited publications.

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

A number of local and international NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, some local organizations alleged that government officials tried to intimidate them and that they often met resistance when trying to investigate abuses or engage in civil education.

Various government officials continued to block private efforts to memorialize victims of the Sekou Toure regime that ruled the country from independence until 1984. The Association of Victims of Camp Boiro was forbidden to establish a museum focusing on human rights in the former location of the prison where political detainees were tortured and killed.

The Government facilitated visits by international human rights organizations and fully cooperated with prison monitoring by the ICRC and HRW during the year.

In 2004 the National Directorate for Human Rights and Fundamental Liberties was created within the Ministry of Justice; no personnel have yet been appointed. A human rights office also exists within the Ministry of Defense. Although in previous years, the Office of International Humanitarian Rights, in conjunction with the ICRC, conducted human rights seminars during the year to teach military and security personnel about human rights recognized by international and regional agreements, there were no reports of activities during the year. A similar office related to human rights exists within the Ministry of Security, but it remained relatively inactive during the year.

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

The law states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed; however, the Government did not enforce these provisions uniformly. Violence and discrimination against women, FGM, trafficking in persons, and discrimination against ethnic minorities were problems.

*Women.*—Domestic violence against women was common, although estimates differed as to the extent of the problem. Due to fear of stigmatization and reprisal, women rarely reported abuse except at the point of divorce. Wife beating is not addressed specifically within the law. Assault in general carries a penalty of up to two years in prison and a fine from \$9 to \$36 (50,000 to 200,000 francs). If the assault is premeditated, the prison time increases from two to five years in prison and a fine of \$18 to \$54 (100,000 to 300,000 francs) and constitutes grounds for divorce under civil law; however, police rarely intervened in domestic disputes, and few perpetrators were punished.

Although rape is a criminal offense, in practice spousal rape is neither punished nor regarded as a criminal offense. Social beliefs prevented most rape victims from reporting incidents of rape. Local NGOs and government representatives reported that sexual assault increased during the year. According to a doctor at the central public hospital in Conakry, victims of sexual assault constituted 20 percent of all cases in the hospital. Many of these assaults were perpetrated by a person the victim knew and often took place at school; more than half the victims were young girls. Several local NGOs worked to increase public awareness of the nature of these crimes and promote increased reporting. The authorities were reluctant to pursue criminal investigations of alleged sexual crimes.

FGM was practiced widely in all regions and among all religious and ethnic groups, and the country had one of the highest rates of FGM in the world. FGM is illegal and carries a penalty of three months in prison and a fine of approximately \$18 (100,000 francs), although there were no prosecutions during the year. Senior officials and both the official and private press spoke against the practice. FGM was performed on girls between the ages of four and 17, but exact figures on this procedure were difficult to establish. The Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring, cited a continuing decline in the percentage of women and girls subjected to the worst forms of FGM. The CPTAFE estimated between 60 and 65 percent of girls were subjected to FGM. Another international NGO, TOSTAN, estimated 95 percent of girls were subjected to FGM.

Infibulation, the most dangerous form of FGM, was still performed in the Forest Region but less frequently than in previous years. Despite diseases resulting from crude and unsanitary surgical instruments and deaths resulting from the practice, the tradition continued, seriously affecting many women's lives. FGM also increased the risk of HIV infection, since unsterilized instruments were shared among participants.

The Government continued efforts to educate health workers on the dangers of this procedure, and it supported the CPTAFE's efforts. The CPTAFE reported high rates of infant mortality and maternal mortality due to FGM. The Government continued its plan to eradicate FGM, and government ministers, health officials, and the media discussed FGM more frequently, but there were no statistics evaluating the success of the program.

A growing number of men and women opposed FGM. Urban, educated families increasingly opted to perform only a slight, symbolic incision on a girl's genitals

rather than the complete procedure. During the year the CPTAFE held large public ceremonies celebrating the “laying down of the excision knife,” in which some traditional practitioners of FGM pledged to discontinue the practice; however, most of those who performed FGM opposed its eradication since the practice was lucrative. CPTAFE stressed the health consequences of excision while supporting the customary observance of the transition to womanhood through traditional dances and songs.

TOSTAN was successful in bringing together communities that traditionally intermarry to combat FGM. Recognizing traditional practices that encouraged FGM, the NGO helped establish binding social contracts where families agreed that they would accept a woman who had not undergone this procedure as an acceptable wife for one of their sons. This coordinated approach made it possible for thousands of families to immediately end this practice. In December over 150 communities in the center of the country made a public declaration to end FGM and underage marriage.

Although the Government made regular statements in the media against sexual harassment, it is not against the law. Women working in the formal sector in urban areas complained of frequent sexual harassment, and it was not penalized by employers.

The law provides for equal treatment of men and women. The Ministry of Social Affairs and Women’s Promotion worked to advance such equality; however, women faced discrimination throughout society. Women faced discrimination particularly in rural areas where opportunities were limited by custom and the demands of childrearing and subsistence farming. Women were not denied access to land, credit, or businesses, but inheritance laws favor male heirs over female heirs. Government officials acknowledged that polygyny was a common practice. Divorce laws generally tend to favor men in awarding custody and dividing communal assets. Legal evidence given by women carried less weight than testimony by men, in accordance with Islamic precepts and customary law. The Government affirmed the principle of equal pay for equal work, although in practice women received lower pay than men.

In August, to commemorate National Women’s Day, the Government unveiled its strategy to implement its 2007 to 2011 action plan to institutionalize women’s empowerment.

*Children.*—The law provides that the Government should support children’s rights and welfare, and the Government allocated and spent a significant percentage of the budget on primary education. The minister of youth and the Ministry of Social Affairs were tasked by the President to defend women’s and children’s rights, and a permanent committee dedicated to defending the rights of the child, with members chosen from different ministries, NGOs, and other sectors, continued to work.

Government policy provides for tuition-free, compulsory primary school education for six years, but enrollment rates were low due to additional school fees and lax enforcement of laws mandating school attendance. The net primary enrollment rate (NER) was the ratio of official school-age children enrolled in primary school to the total population of children of official primary school age, as defined by the national education system. The total NER for the 2005–06 school year was 63 percent; for girls, the NER was 57 percent. In rural areas, the total NER for the 2005–06 school year was 49 percent; for girls it was 42 percent. Gender equity was one of the main goals of the Government plan, Education for All. Girls had equal access to education and the increase in girls’ school enrollment was a result of several government programs to increase access to school and to promote girls’ education.

Child abuse, particularly sexual assault, was a problem. Girls between the age of 11 and 15 years were most vulnerable and represented 55 percent of the victims. During the year, a pastor in Conakry reportedly raped at least eight girls. He was arrested and charged with rape and assault. The pastor reportedly paid officers of the court as well as security officials to influence the process. He was found not guilty and released from police custody. At year’s end, the pastor remains in his position. In 2005 a teacher raped a nine-year-old girl in Sangoyah. The teacher’s salary was reduced by 20 percent with this amount being paid to care for the victim. The perpetrator pled guilty, was released from prison, and returned to his teaching job.

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

The legal age for marriage is 21 years for men and 17 years for women. Although there were no official reports of underage marriage, it allegedly was a problem. Parents contracted marriages for girls as young as 11 years of age in the Fouta and Forest Regions. The CPTAFE, in conjunction with the Government, local journalists, and international NGOs, continued to run an education campaign to discourage underage marriage and reported lower rates than in previous years. According to



CPTAFE, some families that sanctioned early marriages nevertheless kept their married daughters in the family home until they had at least completed secondary school.

There were reports that girls were trafficked for prostitution and boys and girls for other labor (see Section 5, Trafficking and section 6.d.).

The International Rescue Committee and UN Children's Fund (UNICEF) reported that children living in foster families often did not receive adequate food, shelter, and clothing and were compelled to work in the streets, sometimes as prostitutes, for their subsistence.

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, the country was a source, transit point, and destination point for trafficking. The law carries a penalty of five to 10 years' imprisonment and confiscation of any money or property received as a result of trafficking activities.

Some NGOs reported that women, men, and children were trafficked within the country, as well as internationally, for the sex trade and illegal labor. Trafficking in persons from rural areas, mainly from the poorest areas in upper Guinea, to urban centers was more common than international trafficking. As NGOs and the Government increasingly recognized trafficking within the country, more emphasis was placed on this practice in the national awareness campaign by UNICEF to combat trafficking. Accurate statistics were difficult to obtain because victims did not report the crime.

Some children were trafficked for forced labor in agriculture and diamond mining camps and for household work in Conakry. NGOs claimed that the country was frequently a transit route for a West African trafficking network because fraudulent passports can be easily obtained and no visas are required for local nationals to travel to certain North Africa countries. From these nations, children were then sent to destinations in Europe.

Girls under the age of 14 were involved in prostitution. The Government did not take action when prostitution of minors was brought to its attention, and it did not actively monitor child or adult prostitution.

The ICRC reported that trafficking of children was a problem among repatriates from Sierra Leone and Liberia, some of whom hoped to gain advantage from reunification projects intended to reconstitute families separated through war (see Section 2.d. Refugees).

In July a girl was kidnapped and trafficked to a village in Macenta Region to be exploited as a domestic servant. The police returned the seven-year-old girl to her grandmother. The perpetrator was identified, arrested, and the case turned over to the Ministry of Justice.

In November police rescued 14 Sierra Leonean women and their babies in Conakry and placed them in a safe house run by a local NGO. They were victims of a trafficking network that was planning to send them to Holland. At year's end, no suspects were arrested.

There were no developments in the 2005 case of the Malian woman accused of trafficking; she was turned over to the Ministry of Justice but deported rather than prosecuted. There were no developments in the 2004 case of a Sierra Leonean child trafficking ring.

The Interministerial Committee to Combat Trafficking in Persons was created by the Government to better coordinate their antitrafficking efforts. In February this committee was expanded to include representatives from other ministries and national and international NGOs working to combat trafficking. The new structure, the National Committee to Combat Trafficking in Persons, has 30 members, including representatives from the Ministry of Social Affairs and the Promotion of Women and Children, and the ministries of cooperation, justice, security, foreign affairs, education, youth, fishing, health, information, and tourism. The committee held educational seminars during the year, including a July 24 workshop to evaluate the conformity of the country's action plan with the Economic Community of West African States (ECOWAS) standards. The committee concluded that because there is a national action plan, the country was in compliance with its adoption of ECOWAS standards and that significant progress had been made in prevention and awareness. Efforts to draft and ratify antitrafficking legislation were underway along with programs to strengthen law enforcement capacity. However, while certain projects focused on victim protection, lack of funding prevented more effective work, particularly repatriation, accompaniment, and case follow-up. The committee emphasized the need to focus on prosecution of traffickers.

In June 2005 the Government signed a bilateral agreement with Mali to combat child trafficking. In July 2005 the Government signed a multilateral agreement with nine nations in the region to increase cooperation, harmonize antitrafficking legislation, and exchange information.

*Persons With Disabilities.*—The law does not prohibit discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. In practice there were no official reports of societal or governmental discrimination against person with disabilities. The Government had not mandated accessibility for persons with disabilities, and buildings and vehicles remained inaccessible. Few persons with disabilities worked in the formal sector; some worked in the informal sector in small family-run businesses, and many lived by begging on the streets.

In 2005 the Government, in cooperation with an international donor, launched a national civic education program that included persons with disabilities as well as persons with HIV/AIDS. One of the programs for persons with disabilities was staged at the School for the Deaf of Conakry. The program, in American Sign Language, explained concepts of citizenship, nationality, and equal participation.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically and regionally diverse. The Peuhls were the largest ethnic groups (approximately 40 percent of the population), followed by the Malinke (approximately 30 percent), and the Soussou (approximately 20 percent). There were several smaller ethnic groups in the Forest Region. Each group spoke a distinct primary language and was concentrated in a distinct region: the Soussou in lower Guinea, the Peuhl in middle Guinea, and the Malinke in upper Guinea. Conakry and other large urban areas such as Kankan and the Forest Region were ethnically heterogeneous.

While the law prohibits racial or ethnic discrimination, ethnic identification was strong.

Mutual suspicion, both inside and outside the Government, affected relations across ethnic lines. Widespread societal ethnic discrimination by members of all major ethnic groups was evident in private sector hiring patterns, in the ethnic segregation of urban neighborhoods, and in the relatively low levels of interethnic marriage. The proportion of public sector positions occupied by Soussous, particularly at senior levels, was widely perceived as exceeding their share of the national population.

The ruling PUP party, although generally supported by Soussous, transcended ethnic boundaries more effectively than the major opposition parties, which have readily identifiable ethnic and regional bases. The UPR's main base was the Peuhls, while the RPG's main base was the Malinke. Soussou preeminence in the public sector and Malinke migration into the traditional homelands of smaller ethnic groups in the Forest Region were sources of local political tensions that sometimes erupted into violence.

Unlike last year, there were no reported cases of interethnic conflict or violence.

*Other Societal Abuses and Discrimination.*—Discrimination against homosexuals is not prohibited by law, but there are no discriminatory laws based on sexual orientation. Although there were deep social, religious, and cultural taboos against homosexuality, there were no official reports of discrimination against homosexuals.

There have been reports that various hospitals in the country have refused to treat patients with AIDS; hospital workers feared contracting the disease.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law and constitution provide for the right of employees, except for military and paramilitary personnel, to form and join independent labor unions, and this right was respected in practice. The labor code requires elected worker representatives for any enterprise employing 25 or more salaried workers. Although labor statistics were inadequate, approximately 160,000 workers were reportedly unionized, including approximately 65,000 government workers and members of the National Federation of Guinean Workers (CNTG), the Government union. CNTG reports they also have identified over 40,000 sympathizers who have not paid dues. The largest independent union, Union of Workers of Guinea (USTG), claimed 69,500 members, including over 20,000 women. During the year five unions remained active.

During the year, for the first time in the country's history, unions formed a joint coalition to fight for workers' rights. The leaders of the two largest unions coordinated their efforts in planning the two general strikes that were observed by the majority of the country's population. Both strikes were undertaken in compliance with the law, with the unions providing adequate notice of their intention to strike. Police use of excessive force to control demonstrators in favor of the strike resulted in numerous deaths and injuries (see Section 2.b.)

The CNTG-USTG labor coalition succeeded in forcing several government concessions for union members, including higher salaries and increased benefits for government employees, formalizing the employment of contract teachers, and allowing

union representatives to take part in government decisions on fiscal and monetary issues. The unions also secured benefits for workers in the informal economy, including a reduction in the fixed price of rice and an agreement that any increase in fuel prices must be accompanied by other measures to provide a safety net for all citizens. On March 3, the Government and unions signed a protocol of agreement that ended the first national strike.

The union coalition called for the second strike after the Government did not comply with the terms of the protocol. The June strike was suspended with the June 16 signature of a memorandum of understanding establishing new criteria and deadlines for the Government to meet. To date, the Government has not complied with its terms.

In August the union of builders of public works secured a 120 percent salary increase after a successful collective negotiation. In the private sector, employees of gold and bauxite mining companies obtained significant increases in salary and benefits after the employers implemented similar measures adopted in the agreement between unions and the Government.

During the year the Government targeted labor leaders. On May 26, an armed person affiliated with the security apparatus was detained after a reported assassination attempt on U.S. G President Ibrahima Fofana. He was detained a short time and released.

In Boke, during the June national strike, the prefectural director of education was threatened with professional sanction for his leadership of striking teachers.

There were reports that police clashed with workers demanding benefits and that the Government pressured teachers to resign.

Although the law and constitution prohibit antiunion discrimination, in practice, particularly at regional and prefecture levels, unionized labor at times faced strong opposition from government officials. Government officials were often selected on the basis of nepotism and patronage; these individuals were not sensitized to the rights of workers and often viewed unions as an enemy of the Government. As a result union members in the interior of the country faced harassment and interference from many governors and prefects. Union activities in Conakry faced less harassment and interference. Individual workers threatened with dismissal or other sanctions have the right to a hearing before management with a union representative present and, if necessary, to take the complaint to the Conakry Labor Court. In practice this court did not convene during the year and any cases were referred to the Ministry of Labor for arbitration. In the interior, civil courts heard labor cases.

*b. The Right To Organize and Bargain Collectively.*—Under the labor code, representative workers' unions or union groups may organize in the workplace and negotiate with employers or employer organizations, and workers exercised this right in practice. The law protects the right to bargain collectively concerning wages and salaries without government interference, and employers established rules and hours of work in consultation with union delegates. There are no export processing zones.

The law grants salaried workers, including public sector civilian employees, the right to strike 10 days after their representative union makes known its intention to strike, but strikes were sometimes met with intimidation from security forces and, as a result, often did not take place. By law, arbitration is by consensus and is executed through the Office of the Inspector General of Work within the Ministry of Labor. In practice, however, employers can impose binding arbitration. The law prohibits strikes in essential services, including hospitals, police, the military, transport, radio and television, and communications. There were reports that government officials offered better positions and political posts to members of labor unions in exchange for ceasing strike activities.

Some internationally funded NGOs experienced labor disputes with local employees that were often contrived. There were documented accounts of government officials who sought bribes from, harassed, or otherwise threatened expatriate officials for these alleged labor infractions.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law specifically prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see Sections 5 and 6.d.).

The law prohibits the exploitation of vulnerable persons for unpaid or underpaid labor. Violations carried a penalty of six months' to five years' imprisonment and a fine of approximately nine dollars to \$67 (50,000 to 382,500 francs). The Government did not enforce this provision in practice.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The general labor code has specific provisions that pertain to child labor; however, child labor was a serious problem. By law the minimum age for employment is 16 years. Ap-

prentices may start to work at 14 years of age. Workers and apprentices under the age of 18 are not permitted to work at night, for more than 10 consecutive hours, or on Sundays. The labor code also stipulates that the Minister of Labor and Social Affairs maintain a list of occupations in which women and youth under the age of 18 cannot be employed. In practice enforcement by ministry inspectors was limited to large firms in the modern sector of the economy.

Overall, approximately 48 percent of children under age 15 were employed, accounting for approximately 20 percent of the total working population and 26 percent of agricultural workers. Child labor in factories was not prevalent because of the low level of manufacturing. Working children were mostly in the informal sector areas of subsistence farming, small-scale commerce, and mining.

Girls as young as age 14 engaged in prostitution (see Section 5). The worst forms of child labor were found in the artisanal mining sector, where children hauled granite and sand for little or no money.

Many young Muslim children sent to live with a Koranic master (marabout) for instruction in Arabic, Islam, and the Koran worked for the teacher as payment. Children often were sent from rural areas to Conakry to live with family members while they attended school. If the host family was unwilling or unable to pay school fees, the children sold water or shined shoes on the streets, and the host family took the money in exchange for their room and board or simply used the child as a cheap source of domestic labor (see Section 5).

There were reports that forced and compulsory child labor occurred (see Section 5).

The Government has spoken out against child labor but lacked the resources, enforcement mechanisms, and legislative will to combat the problem. As a result child laborers did not have access to education or health care and suffered from chronic malnutrition, traumatic stress, and depression.

*e. Acceptable Conditions of Work.*—The labor code allows the Government to set a minimum hourly wage; however, the Government has not exercised this provision nor does it promote a standard wage. Prevailing wages often did not provide a decent standard of living for a worker and family.

The labor code mandates that regular work should not exceed 10-hour days or 48-hour weeks, and it also mandates a period of at least 24 consecutive hours of rest each week, usually on Sunday. Every salaried worker has the legal right to an annual paid vacation, accumulated at the rate of at least two workdays per month of work. There also were provisions in the law for overtime and night wages, which were fixed percentages of the regular wage. In practice the authorities enforced these rules only in the relatively small, modern, urban sector. Little evidence showed that the Government monitored employers' work practices or sanctioned them for failure to follow the law.

Working conditions were worse in the private sector, excluding banking, insurance, and other similar institutions. Employees often were fired if they joined a union (see Section 6.a.).

The teachers' union reported that working conditions were deplorable. Teachers' wages were extremely low and not always paid on time, if they were paid at all. In some cases teachers went six months or more without salaries. Local Ministry of Finance employees charged with administering teacher pay allegedly withheld the salaries and used the funds for personal business. Some teachers lived in abject poverty, reporting to work without shoes and even the minimum requirements to do their jobs. These conditions were a major factor in the strike. On June 28, an agreement on teachers' compensation was signed by President Conte. To date, negotiations continue on the implementing regulations.

The labor code contains general provisions regarding occupational safety and health, but the Government has not elaborated a set of practical workplace health and safety standards. Moreover, it has not issued any ministerial orders laying out the specific requirements for certain occupations and for certain methods of work that are called for in the labor code. The Ministry of Labor and Social Affairs is responsible for enforcing labor standards, and its inspectors are empowered to suspend work immediately in situations hazardous to health. Enforcement efforts were sporadic. Labor inspectors acknowledged that they did not have adequate resources to cover even Conakry, much less the entire country.

Under the labor code, workers have the right to refuse to work in unsafe conditions without penalty; however, many workers feared retaliation should they refuse to work in unsafe conditions.

## GUINEA-BISSAU

Guinea-Bissau<sup>1</sup> is a multiparty republic with a population of approximately 1.6 million. In July 2005 Joao Bernardo “Nino” Vieira was elected President after defeating the candidate of the ruling African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC). The Presidential election, which international observers characterized as free and fair, represented another milestone in the country’s return to constitutional government. During March and April government forces launched a military campaign to remove a Movement of Democratic Forces of the Casamance (MFDC) faction from the north, which resulted in civilian casualties and the displacement of thousands of families. The country has remained stable since the military action. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, problems occurred in some areas. Poor prison conditions existed. Arbitrary arrest and detention and restrictions on freedom of speech occurred. There were violent dispersals of demonstrations. Lack of judicial independence and official corruption and impunity were problems. There were violence and discrimination against women. Female genital mutilation (FGM) was widespread. Child trafficking and child labor, including some forced labor, were problems.

### RESPECT FOR HUMAN RIGHTS

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

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

No arrests were made in the 2005 attack on the Interior Ministry in which approximately 20 soldiers believed to be loyal to former President Kumba Yala killed two security guards and injured a third.

There were no developments in the 2004 killing of former defense chief General Verissimo Correia Seabra and Colonel Domingos de Barros by military mutineers.

Demining operations continued during the year, and the city of Bissau was declared mine-free. On March 16, a passenger bus hit a rebel-placed landmine on the road between Sao Domingos and Varela, resulting in 12 civilian deaths.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them. The Government rarely punished members of the security forces who committed abuses.

Landmines and unexploded ordinance resulted in some injuries.

*Prison and Detention Center Conditions.*—Prison conditions remained poor. There were no formal prisons, and the Government detained most prisoners in makeshift detention facilities on military bases in Bissau and neighboring cities. Detention facilities generally lacked running water and adequate sanitation. Detainees’ diets were poor, and medical care was virtually nonexistent. Pretrial detainees were not held separately from convicted prisoners. Juveniles were not held separately from adults.

The Government generally permitted independent monitoring of prison conditions by local and international human rights groups. During the year representatives from the International Committee of the Red Cross (ICRC) and the Office of the Representative of the UN Secretary General visited prisoners.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions. Unlike in the previous year, police did not arbitrarily arrest or detain demonstrators; however, security forces detained persons for exercising their right to free speech (see Section 2.a.).

*Role of the Police and Security Apparatus.*—The police, under the direction of the Ministry of the Interior, have primary responsibility for the country’s internal secu-

<sup>1</sup>In June 1998, the U.S. Embassy suspended operations in the midst of heavy fighting in Guinea-Bissau and evacuated all official personnel in the country. This report is based on information obtained by U.S. embassies in neighboring countries, especially Senegal, from other independent sources, and from regular visits to Guinea-Bissau by U.S. officials assigned to the U.S. Embassy in Dakar. The U.S. Ambassador to Senegal, resident in Dakar, is also accredited to Guinea-Bissau.

city. The armed forces are responsible for external security and can be called upon to assist the police in internal emergencies.

The country is divided into 37 police districts; there were an estimated 600 police in the country. Impunity and corruption were rampant, and police generally were ineffective. Transit police were particularly corrupt and demanded bribes from vehicle drivers whether their documents and vehicles were in order or not. Police were poorly and irregularly paid, and there was a severe lack of resources and training. The Attorney General was responsible for investigating police abuses, and three investigations were conducted during the year. Two cases involved allegations of theft against the judicial police and the third case involved allegations against members of the military who had confiscated fishing equipment during a dispute. All three cases were pending at year's end.

*Arrest and Detention.*—The law requires arrest warrants and provides for the right to counsel, and, if indigent, to counsel provided by the state. Pretrial detainees were allowed prompt access to family members. The law also provides for the right to release if no timely indictment is brought, and the right to a speedy trial. However, authorities did not always respect these rights in practice. There was a functioning bail system.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, but, in practice, there was little independence. Judges were poorly trained and paid and sometimes were subject to corruption. The Attorney General had little protection from political pressure since the President has sole authority to appoint or replace the Attorney General.

Civilian courts conduct trials involving state security. Under the Code of Military Justice, military courts only try crimes committed by armed forces personnel. The Supreme Court is the final court of appeal for both military and civilian cases. The President has the authority to grant pardons and reduce sentences.

*Trial Procedures.*—The law provides for the right to a fair trial, and the judiciary generally enforced this right. There is no trial by jury. The law provides for a presumption of innocence, the right to timely access to an attorney, to question witnesses, to have access to evidence held by the Government, and the right to appeal. Citizens who cannot afford an attorney have the right to a court-appointed lawyer.

Traditional practices still prevailed in most rural areas, and persons who lived in urban areas often brought judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. The police often resolved disputes.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The judiciary system handles civil and criminal matters; however, there is no administrative mechanism to address human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice; however, on April 21, security forces cut the phone and electricity of Luis Nancassa (see Section 2.a.).

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government did not always respect these rights in practice. During the year security forces detained persons for exercising their right to free speech and threatened and harassed journalists. Some journalists practiced self-censorship.

On March 9, Luis Nancassa, President of the Teacher's Union, was detained for four hours after criticizing President Vieira on a radio program.

There also were reports that former defense minister Marcelino Cabral was detained on April 2 and held for one week for criticizing the military over its efforts to remove the MFDC from the north of the country. Armed Forces Chief of Staff Major General Batista Tagme Na Waie claimed Cabral was aiding rebels. Tagme also publicly threatened to arrest Deputy Laberana Djalo for the same reason, but did not do so due to Djalo's parliamentary immunity.

In addition to the government-owned newspaper *No Pintcha*, several private newspapers published without restriction. All newspapers published sporadically during the year due to financial constraints and dependence on the state-owned printing house. The national printing press often lacked raw materials.

There were several independent radio stations, a national radio station, and a national television station. International radio broadcasts operated without restriction.

There were some reports of harassment of journalists. On June 23, police accused Augusto Queba Barbosa of Radio Pindjiguiti of disseminating false information for reporting police abuse.

During the weekend of March 25–26, three armed soldiers broke into the hotel room of Radio France International correspondent Allen Yoro Embalo and threatened him with military arrest for reporting on the conflict with MFDC rebels.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet including by electronic mail. Lack of infrastructure, equipment, and education severely limited access to the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government did not always respect this right in practice. Permits were required for all assemblies and demonstrations.

On September 8, violence erupted when police attempted to detain protest leaders, and police used clubs to break up a peaceful demonstration by approximately 400 nurses and other health professionals. The demonstrators were requesting pay raises and the provision of promised benefits.

No action was taken against police who fired into a crowd of demonstrators walking to the National Elections Commission to demand the results of the 2005 Presidential election. Three protesters were killed, and a fourth subsequently died of injuries inflicted by the police.

*Freedom of Association.*—The constitution and law provide for the right of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice. However, during the year the Government continued its 2005 ban on activity by the Islamic religious group Ahmadiyya, contending that some activities, including the group's practice of paying locals to attend services, were disruptive.

Although the Government must license religious groups, there were no reports that any applications were refused.

*Societal Abuses and Discrimination.*—There were no developments in the February 2005 mob beating of four Ahmadiyya believers or in the attack against police who were trying to control a demonstration outside a courthouse in Gabu.

There was no Jewish community. There were no reports of discrimination against members of religious groups or of acts of anti-Semitism.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The law did not specifically prohibit forced exile; however, the Government did not use it.

*Internally Displaced Persons (IDPs).*—In March and April a military campaign to oust MFDC rebels in the north uprooted approximately 10,000 persons who fled to safe havens in the country or to Senegal. With tribal and family ties on both sides of the poorly marked border, the nationality of the IDPs was not always clear. Once the military campaign ended, most IDPs returned to their homes. The Government allowed access to IDPs by domestic and international humanitarian organizations.

The Government worked with the World Food Program (WFP), the ICRC, and local nongovernmental organizations (NGOs) to coordinate assistance to IDPs. The Government also provided rice after WFP stocks were temporarily depleted.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government did not grant refugee status or asylum during the year.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR reported that the Government was tolerant of refugees and permitted them to engage in economic activities to support themselves.

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

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

*Elections and Political Participation.*—In July 2005 Joao Bernardo Vieira, the country's former military ruler, defeated ruling PAIGC candidate Malam Bacai Sanha in a run-off Presidential election. The election, which international observers declared free and fair, constituted a major step in the country's return to constitutional government that began with the 2003 removal of former President Kumba Yala, who had ruled by decree and undermined democratic institutions.

In March 2004 legislative elections were held for the 100-seat National Popular Assembly (ANP). Despite the PAIGC plurality of 45 seats, President Vieira replaced Prime Minister Carlos Domingos Gomes Junior in 2005 with Aristides Gomes, who like the President, had been suspended from the PAIGC party. In late January the Supreme Court upheld the constitutionality of the replacement, which the PAIGC had challenged.

There were 14 women in the 100-seat ANP. The Supreme Court President, two of the country's 19 government ministers, and one of nine state secretaries also were women.

All ethnic groups were represented in the Government.

*Government Corruption and Transparency.*—Official corruption and lack of transparency were endemic at all levels of government. Customs officers frequently accepted bribes for not collecting import taxes, which greatly reduced government revenues.

The law provides that "everyone has the right to information and judicial protection"; however, such access was seldom provided.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The Government permitted visits by UN representatives and the ICRC.

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

The law prohibits discrimination on the basis of sex and race; however, the Government did not enforce these provisions effectively.

*Women.*—Domestic violence, including wife beating, was an accepted means of settling domestic disputes. There is no law that prohibits domestic violence, and politicians were reportedly reluctant to address the subject for fear of alienating more traditional voters or particular ethnic groups. Although police intervened in domestic disputes if requested, the Government had not undertaken specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.

The law prohibits rape, including spousal rape, but government enforcement was limited, in large part because of lack of resources.

Certain ethnic groups, especially the Fulas and the Mandinkas, practiced FGM. The practice has increased as the Muslim population has grown and FGM was performed not only on adolescent girls, but also on babies as young as four months old. The Government has not outlawed the practice; however, a national committee and international and domestic NGOs continued to conduct a nationwide education campaign to discourage FGM.

The law prohibits prostitution, but enforcement was weak.

There is no law prohibiting sexual harassment, and sexual harassment was a problem.

The law treats men and women equally and prohibits discrimination; however, discrimination against women was a problem, particularly in rural areas where traditional and Islamic law were dominant. Women were responsible for most work on subsistence farms and had limited access to education, especially in rural areas. Women did not have equal access to employment. Among certain ethnic groups, women cannot own or manage land or inherit property.

*Children.*—The Government allocated limited resources for children's welfare and education. Public schooling was universal. However, attendance and quality of education were low due to lack of resources. Teachers were poorly trained and paid, sometimes not receiving salaries for months at a time. For economic reasons, chil-



dren often were required to help families in the fields which often conflicted with schooling.

FGM was performed commonly on young girls and sometimes even infants (see Section 5, Women).

Child marriage occurred among all ethnic groups, but no reliable data existed to quantify the problem. Girls who fled arranged marriages often were forced into prostitution to support themselves. Local NGOs worked to protect the rights of women and children, and operated programs to fight child marriage and to protect the victims of child marriage. Ironically, observers noted during the year that NGO efforts to enroll more girls in school had a negative side effect on child marriages: more girls were forced to marry at a younger age because parents feared the social opportunities of school would increase the risk of their daughters losing their virginity before marriage.

Child trafficking occurred (see Section 5, Trafficking).

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

There were street children in Bissau. The Child Protection Office of the Bissau Police Department estimated that approximately 1,000 children were living on the streets, with a growing number of boys engaged in petty crime and forming gangs.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports that children were trafficked from and within the country. Some boys sent from rural areas to attend Koranic schools in neighboring countries, primarily Senegal, were exploited, abused, and forced to beg to meet daily monetary quotas for their Koranic teachers known as marabouts. Girls were sometimes exploited as prostitutes; however, the extent of this problem was unknown.

The Ministry of Interior has responsibility for antitrafficking efforts; however, the Government had no national plan to combat trafficking or the capability to monitor, interdict, or prosecute traffickers. The Government investigated at least two cases of child trafficking during the year, but did not prosecute anyone.

The practice of buying and selling child brides also reportedly occurred on occasion.

There were reports that customs, border guards, immigration officials, labor inspectors, or local police may have been bribed to facilitate such trafficking; however, no specific information was available. Other government officials, including police and border guards, worked closely with the Association of the Friends of Children and the UN Children's Fund to prevent trafficking, raise awareness, and repatriate victims.

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities, nor mandate building access for them, nor provide for equal access to employment and education. However, there were no reports of overt societal discrimination. The Government made some efforts to assist military veterans with disabilities through pension programs, but these programs did not adequately address health, housing, and food needs.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides all civilian workers with the freedom to form and join independent trade unions without previous authorization or excessive requirements, and all workers exercised this right in practice. A significant majority of the population worked in subsistence agriculture; only a small percentage of workers were in the wage sector and organized. Approximately 85 percent of union members were government or parastatal employees, and they primarily belonged to independent unions.

The law does not prohibit antiunion discrimination; however, no workers alleged antiunion discrimination, and the practice was not believed to be widespread.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, but the Government did not always protect this right (see Section 2.b.).

The law does not provide for or protect the right to bargain collectively; however, the tripartite National Council for Social Consultation conducted collective consultations on salary issues. Most wages were established in bilateral negotiations between workers and employers. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right during the year. The law also prohibits retaliation against strikers. The only legal restriction on strike activity was a prior notice requirement.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were no specific laws that protected children from exploitation in the workplace, and child labor occurred. The legal minimum age is 14 years for general factory labor and 18 years for heavy or dangerous labor, including all labor in mines. The small formal sector generally adhered to these minimum age requirements; however, the Ministry of Justice and the Ministry of Civil Service and Labor did not enforce these requirements in other sectors.

Most child labor occurs in the informal sector. Children in cities often worked in street trading, and those in rural communities did domestic and field work without pay; children generally performed such labor to support families or because of a lack of educational opportunities. Some children were partially or completely withdrawn from school to work in the fields during the annual cashew harvest. The Government had not taken action to combat such practices by year's end. The Institute of Women and Children and the Ministries of Labor and Justice are responsible for protecting children from labor exploitation; however, there was no effective enforcement due to lack of a legal structure.

Children were trafficked for purposes of labor exploitation (see Section 5, Trafficking).

*e. Acceptable Conditions of Work.*—The Council of Ministers annually establishes minimum wage rates for all categories of work, but it did not enforce them. The lowest monthly wage was approximately \$38 (19,030 CFA) per month plus a bag of rice. This wage did not provide a decent standard of living for a worker and family, and workers had to supplement their incomes through other work, reliance on the extended family, and subsistence agriculture.

The Government, which relies heavily on support from international donors for basic budget support, regularly fails to pay public servants in a timely manner, often with delays of several months.

The law provides for a maximum 45-hour workweek, but the Government did not enforce this provision. The law also provides for overtime pay, provided that it does not exceed 200 hours per year, and a mandatory 12-hour rest period between workdays.

With the cooperation of the unions, the Ministries of Justice and Labor establish legal health and safety standards for workers, which the ANP then adopts into law; however, these standards were not enforced, and many persons worked under conditions that endangered their health and safety. Workers, including foreign workers, do not have the right to remove themselves from unsafe working conditions without losing their jobs.

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## KENYA

Kenya, with a population of 34 million, is a republic dominated by a strong presidency. The President is both the chief of state and head of government. In 2002 citizens elected Mwai Kibaki of the opposition National Rainbow Coalition (NARC) as the country's third President. Kibaki succeeded Daniel Arap Moi, who led the former ruling party, the Kenya African National Union (KANU), and who served as President from 1978 to 2002. During the 2002 general elections, KANU, which had controlled both the presidency and the parliament continuously since 1963, lost its parliamentary majority to NARC, a coalition of more than a dozen political parties. Observers concluded that the elections reflected the popular will and were free and fair. While civilian authorities generally maintained effective control of the security forces, there were some instances in which the security forces, particularly the police, acted independently of government authority.

The Government in many areas respected the human rights of its citizens or attempted to institute reforms to address deficiencies. However, serious problems remained, particularly with regard to abuses by the police. The following human rights problems were reported: unlawful killings, torture and use of excessive force by police; police impunity; harsh and life-threatening prison conditions; arbitrary arrest and detention; prolonged pretrial detention; executive influence on the judiciary; incidents of disrespect for freedom of speech and the press; government corruption; abuse of and discrimination against women; female genital mutilation (FGM); child prostitution and labor; trafficking in persons; vigilante justice; interethnic violence; lack of enforcement of workers' rights.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed politically motivated killings during the year; however, security forces did commit arbitrary or unlawful killings. A High Court judge noted in a September report that the Government had not demonstrated a commitment to adequate investigation of cases of extrajudicial deaths.

By year's end, a special committee of parliament had not yet released its May 2005 report implicating a former minister and several government officials in the 1990 murder of then foreign minister Robert Ouko.

The Independent Medico Legal Unit (IMLU), a leading human rights nongovernmental organization (NGO), reported that 287 extrajudicial killings occurred during the year. The IMLU attributed the increase in killings to the Government's March 2005 "shoot-to-kill" directive. During the year 380 cases of torture were reported; 13 torture cases during the year resulted in death (see Section 1.c.). In addition, 19 extrajudicial killings showed signs of torture.

In June police killed two persons suspected of involvement in an attempted mugging. Police subsequently arrested a third person who fled the scene, named Odongo. Witnesses reported that Odongo, whose body was found at the city mortuary a month later, was uninjured when arrested. According to a postmortem done by IMLU, the cause of Odongo's death was two gunshots to the head. No action was taken against the perpetrators of the three killings.

In September Pius Kiare was shot and killed by police at Kiambu police station after being arrested for possessing a gun. The IMLU concluded that Kiare also suffered injuries including a broken back and pelvic bone.

Police continued their 2005 "shoot-to-kill" policy, and there were reports of summary police executions. In March 2005 the minister of internal security issued a "shoot-to-kill" order against anyone found in possession of an illegal firearm; later that month, the minister explained that he meant for officers only to defend themselves if fired upon. During the year security forces continued to assert that the "shoot to kill" policy was necessary because of the large number of firearms in the hands of criminals. Police claimed that criminals' frequent use of sophisticated weapons had increased the risks faced by police in performing their duties.

In June 2005 the Parliamentary Committee on National Security summoned the commissioner of police to explain why the police had recently killed so many individuals. No reports had been published by year's end, and none were expected.

There were many reports of police being killed and injured by armed criminals, but statistics were unavailable.

Police killed numerous criminal suspects during the year. For example, on February 12, police in Kiambu shot and killed a suspected mugger. On March 14, police in Kisumu shot and killed seven would-be mattress thieves. On December 21, police shot and killed five suspected bank robbers in Nairobi. No action was taken against the perpetrators in any of the cases.

There were no reported developments in the March 2005 case in which Nairobi police officers executed three robbery suspects, or in the May 2005 killings by police of five unarmed men in separate incidents across the country.

Police also killed civilians at checkpoints. For example, on July 25, Nairobi police stopped three men at a checkpoint, ordered them from their vehicles, then shot and killed them while they knelt by the roadside.

There were reports that persons died while in police custody or shortly thereafter, occasionally as a result of torture (see Section 1.c.). For example, on January 30, the media reported that the families of two men had accused police in Mombasa of drowning the men after arresting them in connection with a drug investigation. Police officials stated they would open an inquest to investigate the deaths.

According to a January 26 media report, murder suspect Wycliffe Ngare Onyancha died while in detention at the Nyamira police station. A doctor's examination determined the cause of death to be beatings to the chest, abdomen, and limbs. Although Onyancha's family petitioned the police to take action against the officers who interrogated him, no action had been taken against the police officers involved by year's end.

Also in January a local member of parliament urged police to investigate the deaths of two robbery suspects. Local residents claimed the suspects died while in police custody; however, police claimed the suspects died while being transported to the hospital.

The IMLU investigated the deaths during the year of at least three persons at the Sultan Hamud police station in Machakos District. The postmortem examina-

tions found evidence of torture. The IMLU reported its results to the police commissioner; however, no action was taken against the officers.

On March 17, two suspects were charged in the December 2005 killing of Hassan Ahmed Abdillahi, the Kenya Ports Authority District Investigation Officer. Abdillahi had been involved in the investigation of governmental corruption linked to international trafficking of narcotics and other contraband through the port.

The 2004 murder trial of six prison guards accused of the 2000 killings of six prisoners was ongoing. Press reports indicated that the trial had been adjourned nearly 20 times for a variety of reasons, including the transfer of the presiding judge.

The trial of several wardens for their roles in the suspicious deaths of seven death row inmates in 2000 had been partly heard during the year and was scheduled to resume in January 2007.

Unlike in the previous year, there were no reports that excessive force by the police to disperse demonstrations and strikes resulted in deaths.

There were numerous instances of mob violence and vigilante justice. The great majority of victims killed by mobs were suspected of criminal activities, including robbery, killings, cattle rustling, and membership in terror gangs. The Government rarely made arrests or prosecuted the perpetrators of these acts.

For example, the media reported in June that residents of Kisii had killed at least 20 persons over a three-month period during the year.

On January 10, a mob in Nakuru beat to death two suspected carjackers.

On January 12, passengers traveling on a mini bus near Nyeri beat to death a man who was allegedly attempting to rob them.

On March 11, villagers in Karatina killed two alleged robbers by slitting their throats.

There were no reports that official action was taken during the year against the perpetrators of the following 2005 cases of mob violence: the stoning death in Nairobi of a man caught sodomizing a minor and the killing of a man caught stealing in January; the April incident in which villagers in the Kiambu District killed a 17-year-old boy who was allegedly stealing household goods; the beating death of a man in Meru District who allegedly had sodomized a 13-year-old boy in April; the stoning death of a gang member in Kisumu in June; or the killing in Molo of a man who had burned his parents to death in August.

Human rights observers attributed this vigilante violence to a lack of public confidence in police and the judicial process. In September the IMLU reported that community policing also contributed to the high incidence of mob violence. The social acceptability of mob violence also sometimes provided cover for personal vengeance and the settling of land disputes.

Mob violence against individuals suspected of witchcraft was a problem, particularly in Kisii, Nyanza, and the Western Province. Human rights NGOs noted a reluctance among the public to report such cases due to fear of retribution. On June 26, a man and a woman who were suspected practitioners of witchcraft were killed by a mob in Kisii.

Interethnic violence continued to cause numerous deaths (see Section 5).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and the Government took steps to eliminate prisoner abuse. There continued to be documented instances of police using violence and torture during interrogations and as punishment of both pretrial detainees and convicted prisoners. According to the IMLU's 2005–2006 annual report, common methods of torture involved the use of whips, burning with cigarettes, and beatings by blunt force including gun butts and wooden clubs.

Detainees frequently claimed that they had been tortured or abused, making it difficult to separate real from fabricated incidents. Human rights organizations, churches, and the press highlighted and criticized numerous cases of torture and several cases of indiscriminate police beatings. During the year the IMLU received 380 cases alleging torture by security officers, compared to 397 allegations received in 2005, although they noted this number was below the actual incidence. The IMLU reported that 13 torture cases resulted in death (see Section 1.a.).

Because the police themselves were responsible for investigating and prosecuting most crimes, reports from the IMLU and other human rights organizations that provided evidence of torture by security forces were routinely ignored.

A January media report stated that in December 2005 two men in Nyamira District were apprehended by police officers for murder. The two later died in police custody. Police officials charged that the men fainted during interrogation and died at the hospital where they were taken for treatment. A January 26 media report

indicated that a post-mortem examination of one of the men showed evidence of torture. There were no reports of action taken against the police.

In February an inmate at Shimo la Tewa Prison in Mombasa was allegedly beaten by an officer. Although the inmate reported the case to the senior officers, no action was taken against the prison official. The IMLU intervened and the inmate was released.

On June 20, municipal guards arrested Michael Okumu Kasera, a pro bono lawyer with the IMLU, accusing him of being a street hawker. The guards attempted to extort a bribe, which Kasera refused, and then proceeded to beat him, breaking his arm in the process. He was then taken to the Central Police Station. There were no reports of action taken against the guards or police.

According to an April 6 media report, a police officer suspected of a July 2005 murder alleged during his murder trial that he had been tortured by 10 other policemen while in custody. There was no report of a separate investigation into the torture claims.

On September 6, a human rights tribunal ordered the Government to pay journalist Peter Makori approximately \$70,190 (5,053,671 shillings) for torture and illegal detention by the police in 2003 (see Section 4).

The IMLU's investigation into the case of Salim Elijah Masinde failed to find evidence of torture. Masinde, an inmate since 1988 in Kamiti Prison, reported in February 2005 that he had been severely beaten while in custody.

Police occasionally used excessive force to disperse demonstrations and strikes, which resulted in injuries (see Section 2.b.).

Police occasionally abused street children (see Section 5). The Kenyan National Commission for Human Rights (KNCHR) issued a report during the year that noted that street children formed cooperatives in which each member contributed regularly to a fund to bribe police.

There were allegations of rape by security forces, including the rapes of women in prisons and refugee camps. There were no known investigations conducted during the year regarding the June 2005 complaints that soldiers raped women as they were evicting them from illegal settlements in the Mau forest earlier in the month.

On January 6, villagers beat a man and woman in Taita-Taveta for allegedly having practiced witchcraft. The victims were reportedly hired to use witchcraft to "cleanse" the village, but residents eventually accused the couple of using sorcery against the villagers instead. Police responded and saved the couple from further injury.

There were no further developments in the March 2005 case in which a couple in Kakamega District was arrested for possessing traditional charms and subsequently released on bond or in the December 2005 case in which two persons appeared in court for allegedly killing two family members whom they suspected of practicing witchcraft.

Societal acts of violence, including rape, banditry, and shootings, occurred frequently near refugee camps (see Section 2.d.).

*Prison and Detention Center Conditions.*—Prison conditions continued to be harsh and life-threatening, although the Government attempted to make some improvements. Most prisons, particularly the men's facilities, continued to be severely overcrowded. In March 93 prisons housed more than 50,000 inmates, more than three times their intended capacity of 16,000. Meru prison had three times more inmates than its intended capacity. As of February, Thika prison, built for a population of 300, housed 966 inmates. A backlog of cases in the judicial system also contributed to prison overcrowding (see Section 1.d.). On August 4, Vice President Moody Awori announced the Government's plan to hire more judges and magistrates to expedite cases, and to expand the community service order program used to sentence petty offenders to community service, rather than confinement. Implementation of this program was too slow to effectively address overcrowding, although Awori stated on July 31 that 56,000 offenders had benefited from it.

Reforms improved conditions in some prisons. In early September the prisons department established a health unit to improve the delivery of health services to inmates. Some facilities offered access to academic classes, enabling a number of prisoners to sit for national exams, or vocational training, such as carpentry or tailoring. Charitable associations organized occasional medical clinics for inmates.

Prisoners generally received three meals per day, but portions were inadequate, and prisoners were sometimes given half rations as punishment. Water shortages continued to be a problem.

Civil society organizations began visiting prisons in 2003, and these visits continued to reveal harsh conditions as well as allegations by prisoners of inhumane treatment and torture. Such treatment, perpetrated by police, prison guards, and inmates at times resulted in deaths (see Section 1.d.).

Prison personnel stated that rapes of both male and female inmates, primarily by fellow inmates, continued to be a problem. A June 26 media report indicated that it was not uncommon for prison officials to rape female inmates. Experts believed the incidence of HIV infection to be increasing among the prison population, although statistics were difficult to obtain because there were no voluntary counseling or testing services in most prisons. Hundreds of prisoners died annually from infectious diseases caused by overcrowding and inadequate medical treatment. For example, on July 21, a court ruled that the 2004 deaths of five prisoners at Meru G. K. Prison were a result of prison overcrowding, that prison conditions had been inhumane, and that the Government should expand the prison.

Prisoners sometimes were kept in solitary confinement far longer than the legal maximum of 90 days. Prisoners and detainees sometimes were denied the right to contact relatives or lawyers. Family members who visited prisoners faced numerous bureaucratic and physical obstacles, each often requiring a bribe to overcome. An NGO reported that citizens were more likely to face extortion attempts by members of the prison service than by employees of any other government agency. On May 29, Vice President Moody Awori, who was responsible for the prison system in his capacity as minister for home affairs, acknowledged that bribery occurred throughout the country's jails and prisons.

There were no developments in the ongoing trial of three prison guards charged with helping 28 pretrial detainees escape from Naivasha prison.

There were no separate facilities for minors in pretrial detention. At year's end, there were no known developments in the August 2005 petition by 31 pretrial detainees in Embu prison to separate young boys from their adult counterparts because of allegations of sodomy in the cells. A February 2005 media report noted that High Court judges touring King'ong'o maximum security prison discovered several minors, one only 15 years old, serving long sentences among adult prisoners. The judges ordered the prison to provide information on the minors' convictions and imprisonment in order to conduct a review, but there were no known developments in the review during the year. In January a judiciary subcommittee report recommended that judges and magistrates visit prisons regularly to ensure that children are not confined with adult inmates.

A number of children under the age of four lived with their mothers in the 14 prisons for women. Nationwide data were unavailable, but two prisons, Nyeri and Thika, housed 27 and 12 children, respectively.

The KNCHR, as well as the International Committee of the Red Cross (ICRC), had the authority to inspect prison facilities on demand at any time, but the Government did not permit consistent independent monitoring of prison conditions. During the year the KNCHR conducted 19 visits, the IMLU conducted five visits, and the Oscar Foundation Free Legal Aid Clinic Kenya conducted one visit; there were no ICRC visits. Members of the media were selectively allowed visits.

*d. Arbitrary Arrest or Detention.*—The law prohibits arrest or detention absent a court order unless there is reasonable suspicion of a suspect having committed, or being about to commit, a criminal offense under the law; however, police occasionally arrested and detained citizens arbitrarily.

*Role of the Police and Security Apparatus.*—There was a large internal security apparatus that included the police's Criminal Investigation Department (CID), the National Security Intelligence Service (NSIS), the national police, the administration police, and the paramilitary General Services Unit. The CID investigates criminal activity, and the NSIS collects intelligence and monitors persons considered subversive. These security forces are under the authority of the Ministry of State for Provincial Administration and National Security in the Office of the President. There was a public perception that police often were involved or complicit in criminal activity.

The results of a public perception survey released July 5 and conducted by the Kenya Anticorruption Commission (KACC) found that 86.3 percent of citizens considered the police the most corrupt government institution. The NGO Transparency International (TI) reported the same finding in its Kenya Bribery Index 2006, which stated that extortion by police increased in 2005, in contrast with the improvements reported from 2003 to 2004. The average bribe amount, however, decreased dramatically from approximately \$152 (10,831 shillings) in 2004 to \$20 (1,465 shillings) in 2005, a decrease which TI attributed to reforms in the public transportation sector.

On August 15, The Nation reported that 19 traffic police officers had been arrested for accepting bribes.

On September 5, a policeman in Nakuru was sentenced to four years in prison for taking a bribe of approximately \$70 (5,000 shillings) to terminate a criminal case. On November 7, his appeal was denied.

Police, in collusion with prosecutors, resorted to unexplained illegal confinements, extortion, torture, and highly questionable and fabricated charges as a cover-up for malpractice.

Impunity was a problem. Police officers were only occasionally arrested and prosecuted for corruption or for using excessive force. Authorities sometimes attributed the absence of an investigation into corruption or an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and there was considerable public skepticism of a process that assigned the investigation of police abuse to the police themselves.

During the year the Government took some steps to curb abuses of authority by police. In August the police commissioner inaugurated and deployed a special police squad that included undercover detectives whose mandate was to combat corruption in the police force during traffic stops. The Government arrested and charged some police officers for various offenses, including corruption, although the Government did not provide details on how many of these indicted police officers were tried, acquitted, convicted, or imprisoned.

*Arrest and Detention.*—Individuals may be apprehended on suspicion since police may make arrests without a warrant. By law, detainees must be brought before a court within 24 hours in noncapital offenses and within 14 days in capital cases; the penal code specifically excludes weekends and holidays from this 14-day period. While persons who are charged may be released on bail with a bond or other assurance of the suspect's return, many indigent pretrial detainees could not afford bail.

Although the law provides families and attorneys access to pretrial detainees, security forces rarely allowed access in practice (see Section 1.c.).

The law does not stipulate the period within which the trial of a charged suspect must begin. Police from the arresting location are responsible for serving court summons and for picking up detainees from the prison each time the courts hear their cases. Police often failed to show up or lacked the means to transport the detainees, who then were forced to await the next hearing of their case.

Arbitrary arrest was a problem. Police often arrested citizens with the sole purpose of extorting bribes.

On January 13, the internal security minister stated that the Government would continue operations to arrest and crack down on members of the Mungiki, a banned cultural, religious, and political movement and criminal protection racket based in part on Kikuyu religious traditions. Police arrested more than 250 suspected members on January 30, approximately 100 on February 3, and approximately 800 in December.

Unlike in the previous year, there were no reports that police arbitrarily arrested persons demonstrating against the parliament.

Lengthy pretrial detention continued to be a serious problem that contributed to overcrowding in prisons. In February, 65 percent of inmates in Thika prison were in remand. In 2005 the backlog of judicial cases resulted in a daily average of 21,474 pretrial detainees being held, constituting nearly 45 percent of the total prison population. The Government claimed the average time spent by suspects in pretrial detention on capital charges was approximately 16 months; however, many detainees spent more than three years in prison before their trials were completed. Very few could afford attorneys. The Government acknowledged cases in which persons were held in pretrial detention for several years.

On April 19, four men who had been in remand for 11 years were released after being acquitted of murder charges.

*Amnesty.*—In July the Government released nearly 8,000 prisoners to ease prison congestion.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the executive branch often influenced the judiciary. In December the African Peer Review Mechanism reported a “visible lack of independence of the judiciary” in the country.

The President has extensive powers over appointments, including those of the Attorney General, the chief justice, and appeal and High Court judges. The President also can dismiss judges and the Attorney General upon the recommendation of a special tribunal appointed by the President. Although judges have life tenure (except for a very few foreign judges hired by contract), the President has extensive authority over transfers. In January a judiciary subcommittee recommended increased transparency in the process of filling judges' positions.

Reforms begun in 2003 reduced corruption in the judiciary to some extent, but were criticized for coming up short. Of 23 judges suspended in 2003, 16 took early retirement. Of seven who were to face tribunals, one was cleared of any wrongdoing, one was awaiting a verdict, one was reinstated by the President, and four had yet

to begin proceedings. In March 2005 the chief justice formed a committee to probe complaints against the judiciary. There were reports during the year that the committee was investigating members of the judiciary for unethical conduct, but the results of these investigations were not made public. In August the Ministry of Justice announced it would form a public complaints unit, noting that corruption had contributed to the judiciary's inability to adequately protect human rights. By year's end the unit was holding weekly sessions during which the public could file complaints with the ministry's director of human rights affairs.

The Government occasionally used the legal system to harass government critics; some civil society organizations reported that the anticorruption commission was used for this purpose.

The court system consists of a Court of Appeals, a High Court, and two levels of magistrate courts, where most criminal and civil cases originated. The Supreme Court is the highest court in the land. The chief justice is a member of both the Court of Appeals and the High Court. All judges in the Court of Appeals and the High Court are appointed by the President upon recommendation of the Judicial Service Commission; magistrates are hired by the commission. Criminal law trials are conducted by magistrate courts, while the High Court and Court of Appeals hear appeals. Civil cases may be heard by any of the courts, depending on the nature of the case.

*Trial Procedures.*—Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and defendants have the right to attend their trials, to confront witnesses, and to present witnesses and evidence. Civilians also can appeal a verdict to the High Court and ultimately to the Court of Appeals. Judges hear all cases. In treason and murder cases, the deputy registrar of the High Court can appoint three assessors to sit with the High Court judge. The assessors are taken from all walks of life and receive a sitting allowance for the case. Although the assessors render verdicts, their judgments are not binding. Defendants' lawyers can object to the appointments of specific assessors.

Defendants do not have the right to government-provided legal counsel except in capital cases. For lesser charges free legal aid rarely was available and then only in Nairobi and other major cities where some human rights organizations, notably the Federation of Women Lawyers, assured that it was provided. As a result, poor persons may be convicted for lack of an adequate defense. Defense lawyers do not always have access to government-held evidence in advance of a trial. The Government may plead the State Security Secrets Law as a basis for withholding evidence, and local officials sometimes classified documents to hide the guilt of government officials. Court fees for filing and hearing cases were high for ordinary citizens. The daily rate of at least \$28 (2,040 shillings) for arguing a civil case before a judge was beyond the reach of most citizens.

The law provides for Islamic courts that use Shari'a (Islamic law) and states that the "jurisdiction of a Kadhi's court shall extend to the determination of questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion." There are no other traditional courts in the country. The national courts used the law of an ethnic group as a guide in civil matters as long as it did not conflict with statutory law. This occurred most often in cases that involved marriage, death, and inheritance issues and in which there was an original contract founded in traditional law. Citizens may choose between national and traditional law when they enter into marriage or other contracts; however, thereafter the courts determine which kind of law governs the enforcement of the contract. Some women's organizations sought to eliminate traditional law, arguing that it was biased in favor of men (see Section 5).

Military personnel are tried by military court-martial, and verdicts may be appealed through military court channels. The chief justice appoints attorneys for military personnel on a case-by-case basis.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The Kenya National Commission on Human Rights has the power of a court. It can issue summonses or other orders. If satisfied that an infringement on human rights has taken place, it can order the release of a prisoner or detainee, payment of compensation, or other lawful remedy.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, except "to promote public benefit"; however, authorities sometimes infringed on citizens' privacy rights. The law permits police to enter a home forcibly if the time required to obtain a search warrant would



prejudice the investigation. Although security officers generally obtained search warrants, they occasionally conducted searches without warrants to apprehend suspected criminals or to seize property believed stolen. Police and the intelligence service continued to professionalize and modernize and to limit actions that could qualify as interference.

On January 4, the Government completed the eviction from the Mau forest of approximately 600 squatters who had returned to the area after the Government evicted approximately 10,200 of them in June 2005 for living illegally on protected lands. Unlike in the previous year, there were no reports that security forces raped some of the evictees. Although some of the 2005 evictees had title deeds, the Government claimed that the deeds were issued years ago as political patronage in violation of the law. The Government's resettlement plan had not been implemented by year's end.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, but the Government sometimes restricted these rights in practice. Security forces harassed, beat, or arrested members of the media during the year. There were credible reports that journalists practiced self-censorship.

The Government occasionally interpreted existing laws to restrict freedom of expression. The legal prohibition of debates on issues under court consideration and a parliamentary ruling against debates on certain aspects of Presidential conduct limited the scope of deliberation on a number of political issues. The Government monitors many types of civil meetings that would be considered outside the purview of more open societies and individuals were not always allowed to criticize the Government publicly without reprisal.

The media remained independent despite both verbal and physical attacks on it by members of the Government and security forces. The mainstream print media included four daily newspapers that reported on national politics and occasionally criticized the Government. There also were numerous independent tabloid periodicals that appeared irregularly and were highly critical of the Government. Reporting in these tabloids ranged from revealing insider reports to unsubstantiated rumor mongering.

Of the several television stations operating in Nairobi, the government-owned Kenya Broadcasting Corporation (KBC) was the only station with a national network of broadcast and cable television, AM and FM radio, and short-wave broadcasts. Although KBC coverage continued to become more balanced, its monopoly on national broadcasting continued to limit the ability of opposition leaders and other critics of the Government to communicate with the electorate outside the capital. Stations owned by other media companies, including 12 radio stations, operated primarily along the country's central corridor and more densely populated adjacent regions.

The international media remained free to operate; 120 international correspondents worked in the country, and approximately 100 media organizations reported out of Nairobi. There were three international FM broadcasters in Nairobi: Radio France International, Voice of America, and the BBC.

On April 22, a cabinet subcommittee proposed limits on individual shares in media houses, which media outlets viewed as an attempt by the Government to deal with a hostile press.

During the year government officials repeatedly accused local media of being irresponsible and disseminating misinformation. Journalists continued to be susceptible to harassment, intimidation, and arrest. For example, in late February two journalists worked for the Standard were arrested for writing an allegedly false story about a meeting between President Kibaki and opposition leader Kalonzo Musyoka. On February 28, the Government demanded a retraction of the story. On September 29, the case against the journalists was dismissed.

On March 2, two days after the two Standard journalists were arrested, security forces raided the Standard newspaper and its sister television station, Kenyan Television Network, destroying equipment, confiscating computers, and burning copies of the next day's paper. Two Standard staff members were taken into custody but later released without charge. The minister for provincial administration and national security stated that the attack had been warranted on security grounds and would be repeated if necessary. At year's end, the Government had held no one responsible for the raid, which sparked widespread public condemnation of the Government's attack on media freedom. Experts reported that the attack did not appear to intimidate the media, which continued to criticize the Government.

On February 22, 11 persons associated with the Weekly Citizen were charged with publishing an alarming story. They were released on bond and their cases were pending at year's end.

On April 26, the speaker of the house banned Royal Media House from covering parliament's proceedings after Citizen Radio (part of Royal Media) broadcast a program that unfavorably depicted members of parliament.

On August 16, the Government withdrew its case against a Kenya Times writer and editor who had been arrested in September 2005 for publishing an opinion piece that officials considered inflammatory.

In a November 17 ruling, the court upheld the dismissal of a 2005 suit filed by a journalist from the Nation against First Lady Lucy Kibaki; in May 2005 Kibaki forcibly entered the Nation media house to protest negative press coverage and assaulted a television journalist and damaged his camera.

On February 17, a journalist with the People Daily newspaper was sentenced to six months in prison for "publishing an 'alarming story' in 1999 about militiamen robbing elite guards. The judge ruled the article could have caused fear among the people.

The media bill requires publishers to purchase a bond of \$12,800 (one million shillings) before printing any publication and to deposit copies of their newspapers and books with a registrar within two weeks of publication. The law criminalizes the sale or distribution of publications not deposited or bonded, under penalty of a fine of \$256 (21,000 shillings) or six months' imprisonment. Some members of the media were concerned that the Government would use this law, as well as the Books and Newspapers Act and the Official Secrets Act, to stifle freedom of expression; however, the law was not strictly enforced.

The regulatory framework for broadcast media continued to allow abuse and manipulation in the issuance, withholding, and revoking of broadcast permits and frequencies.

On March 10, a court ruled that the frequency assigned to the East African Television Network had been blocked unfairly by the Government in an effort to deny the station a broadcasting license.

Individual journalists practiced self-censorship due to both pressure and bribes from government officials and other influential persons to avoid reporting on issues that could harm the interests of these persons or expose their alleged wrongdoings. There also were credible reports that journalists accepted payments to report certain stories, some of which were fabricated.

Unlike in the previous year, there were no reports that individuals associated with government officials used criminal libel laws to intimidate journalists and publications.

Sedition was not grounds for censorship of publications; however, the Prohibited Publications Review Board reviewed publication bans. A number of publications remained banned, including such works as the Quotations of Chairman Mao Zedong and Salman Rushdie's *Satanic Verses*.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Public access to the Internet was limited in rural areas with a less developed infrastructure. During the year the Ministry of Communications estimated that 1.5 million citizens used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and there were fewer reports than in the previous year that the Government restricted this right. Organizers must notify the local police in advance of planned public meetings, and authorities may cancel such gatherings only if there are simultaneous meetings previously scheduled for the same venue or if there are specific security threats.

Police forcibly dispersed demonstrators, although there were fewer such reports than in the previous year. For example, on December 5, police used tear gas to disperse a demonstration of opposition leaders.

On May 18, police freed 38 persons charged with incitement following clashes during an October 2005 rally in Kisumu that resulted in the deaths of four persons.

At year's end, the Government had not prosecuted any police officers for four deaths that occurred at a November 2005 rally in Kisumu after police disrupted the rally for being held without permission. Police did not publicly respond to a KNCHR report alleging their responsibility.

No action was taken against security forces that used excessive force to disperse demonstrations in 2005 and 2004.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. The Societies Act requires that every association be registered or exempted from registration by the registrar of societies. Approximately 40 political parties were registered. There were reports that new parties encountered difficulties in registering during the year.

The 2002 ban on membership in Mungiki remained in effect. In previous years the Mungiki espoused political views and cultural practices that were controversial in mainstream society; many of its members engaged in criminal activities, particularly in the public transportation sector, and harassed and intimidated residents in areas where the group was active. The number of Mungiki members was unknown, but the group had a significant following among the unemployed and other marginalized segments of society. Other groups that remained banned included the Kamjesh, Chinnololo, Sanina Youth, Baghdad Boys, Jehila Embakai, Jeshi la Mzee, Nmachuma, and the Taliban.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice. There was considerable tolerance among religious groups; however, some Muslims believed they were treated as second-class citizens in the predominantly Christian country. In a 2004 human rights survey, only 7 percent of citizens listed limited freedom of worship as a problem; however, in the majority Muslim Coast Province, 31 percent perceived freedom of religion to be insufficiently protected.

The Government required religious organizations to register with the registrar of societies. The Government allowed traditional indigenous religious organizations to register, although many chose not to do so. Religious organizations generally received equal treatment from the Government; however, some small splinter groups found it difficult to register due to their inability to define their status as more than an offshoot of a larger religious organization.

According to Muslim leaders, authorities rigorously scrutinized the identification cards of persons with Muslim surnames, particularly ethnic Somalis, and sometimes required additional documentation of citizenship, such as birth certificates of parents and even grandparents. The Government stated that the heightened scrutiny was an attempt to deter illegal immigration rather than to discriminate against ethnic Somalis or their religious affiliation.

Witchcraft was illegal but still practiced (see Section 1.c.).

*Societal Abuses and Discrimination.*—There were no reports of societal violence, harassment, or discrimination against members of religious groups. The Jewish community constituted less than 1 percent of the population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

Police routinely stopped vehicles and checked vehicle safety and driver documents on roads throughout the country. Police often committed extortion at such checkpoints. Ethnic Somalis were required to provide additional identification (see Section 2.c.).

Civil servants and members of parliament must obtain government permission for international travel, which generally was granted.

The law prohibits forced exile, and the Government did not use it in practice. However, John Githongo, who resigned in 2005 as the Government's highest anticorruption official (see Section 3), remained in self-imposed exile outside of the country out of fear for his safety.

*Internally Displaced Persons (IDPs).*—An unknown proportion of the several thousand persons displaced by ethnic clashes from the 1990s to the present had not returned to their homes due to fear of renewed violence. The Government provided shelter, food, and transport to IDPs, and coordinated support services with NGOs, particularly the Kenya Red Cross (KRC) and church charities. The Government resettled some IDPs in land formerly belonging to the state in Rift Valley and Coast Provinces. There are no reliable figures for the number of IDPs assisted or resettled, but the KRC provided assistance of emergency shelter and to roughly 7,000 persons fleeing the Turbi massacre in Marsabit. In addition, victims of the November/December floods received shelter, food, and other assistance from the KRC.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government had not established a legal system for providing protection to refugees. The Government generally provided protection against refoulement, the return of persons to a country where they feared persecution. The Government also voluntarily hosted approximately 240,000 refugees in cooperation with the Office of the UN High Commissioner for Refugees (UNHCR), and recognized UNHCR refugee status determinations. Unlike in the previous year, no refugees were deported. In July 2005 approximately 17,000 Somalis fled temporarily to El Wak in the northeast, escaping an outbreak of clan violence in Gedo, Somalia; no members of the group were granted refugee status. Most returned voluntarily to Somalia.

The Government did not accept refugees for resettlement in the country. The Government worked closely with the UNHCR and other humanitarian organizations in assisting refugee resettlement to other countries. The Government adheres to the 1951 Convention; however, it does not offer any prospects of local integration.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and its 1967 Protocol. UNHCR did not seek temporary protection for such individuals in 2006; however, there were some residual cases remaining from the Gatumba massacre survivors, who traveled on Burundi travel documents for medical and other—mostly resettlement—assistance.

The Government required that all refugees reside and remain at designated UNHCR camps, most of which were located near the Somali and Sudanese borders, unless granted permission to live elsewhere in the country. Such permission was given primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps.

Security at refugee camps, which markedly improved due to increased police presence during the year, remained a problem, particularly at the Kakuma camp, where rape was among the most frequently reported crimes. Rapes occurred when women and girls left the camps to herd goats and collect water or firewood. Most rapes were perpetrated by other refugees and some by members of the local community. Security forces were also responsible for a small number of the rapes.

Security problems in refugee camps also resulted from persecution of Muslim converts to Christianity, community pressure regarding opposition to FGM, forced marriages particularly of young Sudanese girls, and family objections to out-of-clan marriage, which often resulted in the kidnapping of spouses and children. The UNHCR requested increased police presence in the identified troubled areas.

According to the UNHCR, the incidence of rape in two camps sheltering 240,000 Somali, Sudanese, and other refugees had declined from 94 in 2000 to 19 in 2004, a rate of .08 per thousand persons. At some camps, such as Dadaab, refugees formed committees to combat such abuse with some success, although women and children remained vulnerable to rape, abuse, and exploitation.

To further reduce incidences of sexual abuse in these camps, in 2005 15 relief agencies began implementing the provisions of a 2004 code of conduct for humanitarian workers in refugee programs. Incidents of reported rapes and gender-based violence continued to decrease during the year.

Acts of violence, including banditry and shootings, occurred frequently near the camps, as well as elsewhere in the weapons-rich, resource-poor provinces where the camps were located. Refugees were mistreated and abused by citizens and by residents of other refugee camps because of ethnic and religious differences. Interclan violence occasionally erupted among rival Somali clans at the camps; Somali refugees who married non-Muslims or openly espoused religions other than Islam were subject to abuse.

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

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

*Elections and Political Participation.*—Since independence in 1963, KANU had continuously controlled both the presidency and the parliament. The 2002 elections were the country's third multiparty elections for Presidential, parliamentary, and civic seats. Five Presidential candidates contested the elections, with the main contestants being KANU candidate Uhuru Kenyatta and NARC candidate Mwai Kibaki. NARC was a coalition of more than a dozen political parties, including former members of KANU, who formed a united front to contest the December gen-

eral elections. Kibaki won 61.9 percent of the vote, and international observers determined the elections were peaceful, free, and fair.

In the 2002 elections, 210 members of the 222-member parliament were elected, and 12 were appointed.

Five by-elections were held on July 24. Observers concluded that the by-elections were carried out methodically and transparently, without instances of violence or intimidation on election day. There were, however, credible reports that government officials misused state resources for partisan campaigning and that political party representatives on all sides attempted to bribe voters.

On March 21, parliament convened for the first time since President Kibaki suspended it in November 2005, citing his legal authority to do so. Parliament's suspension was followed by the December 2005 reconstitution of the cabinet, which excluded a number of former ministers who had opposed him during the legal referendum.

In June 2005 KANU filed a lawsuit alleging that the President violated the law by naming ministers without the parties' consent. The lawsuit was pending at year's end.

There were no developments in the 2005 and 2004 cases of criminal youth gangs who attacked political figures.

There were 15 women in the 222-seat parliament and eight female ministers and assistant ministers in the 83-member cabinet.

There were 189 members of the country's five largest ethnic groups in the 222-seat parliament. There were 18 minority ministers and assistant ministers in the expanded December 2005 cabinet.

*Government Corruption and Transparency.*—Incidents of government corruption and frequent press reports fueled a widespread public perception that large-scale corruption at the highest levels of government and in parliament persisted and that little official action had been taken against the most corrupt.

In January John Githongo, the former permanent secretary for governance and ethics known as the anticorruption czar, released a report providing details of a massive corruption scandal, Anglo Leasing, which took place during the current administration. The Githongo report was followed by the February publication of a report on the Goldenberg scandal under the Moi government. Both reports implicated a number of former and current government officials, renewing public frustration that little progress had been made to improve the country's record on corruption. Although three sitting ministers resigned following their inclusion in the reports, the High Court subsequently declared one minister immune from prosecution due to protection from double jeopardy. Githongo abruptly resigned in February 2005 while on an official overseas trip. In December 2005 President Kibaki eliminated the position of permanent secretary for ethics and governance during restructuring of the cabinet.

The Government created the KACC in 2003 and appointed a chairman and other staff in 2004. In March, 100 officers who had been suspended in December 2005 for taking bribes during a police recruitment program were reinstated. According to a media report, the police commissioner announced on March 15 that the matter had been dealt with internally.

In October 2005 the Government enacted the Public Procurement and Disposal Act, which provides for a procurement oversight board. The board was not operational by year's end.

Despite laws and institutions intended to fight corruption, no ministers or assistant ministers were arrested or suspended from office by year's end. In February the KNCHR and TI published a report, "Living Large," that detailed instances of wasteful government expenditures, focusing on the purchase of luxury vehicles by officials in the current government. In response the finance minister announced in his annual budget speech that the Government would adopt the report's recommendations and prohibit almost all private use of official vehicles. Top officials of ministries and parastatal organizations were required to surrender all official vehicles in excess of one. At year's end only a few vehicles had been turned in.

On July 7, KACC issued a report on public perception that noted that citizens believed graft was rampant and entrenched in government culture.

Although the law does not provide for it, access to government information, particularly through the Internet, improved during the year. The Government spokesman's briefings were televised and updates to many government websites were prompt. A promised biographic database of all members of parliament, however, remained stalled.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. With the exception of the police, government officials were usually cooperative and responsive to the queries of these groups. However, there were some reports that government officials intimidated and threatened to disrupt NGO activities, and that less-established NGOs (particularly those in rural areas) were subjected to interference from provincial administrators and security forces.

Approximately 15 domestic organizations actively advocated for human rights in the country; 14 were independent of the Government. Several NGOs maintained comprehensive files on local human rights abuses. A number of attorneys represented the indigent and human rights advocates without compensation, although they could handle only a small percentage of those who needed assistance and were concentrated chiefly in Nairobi and other large cities. The Government allowed human rights organizations to witness autopsies of persons who died in police custody.

The Institute for Education in Democracy and other NGOs monitored the July by-elections in cooperation with the Electoral Commission, the KNCHR, and diplomatic missions.

A number of human rights organizations, including the Kenya Human Rights Commission (KHRC), the MLU, and the KNCHR, produced both regular reports cataloguing the human rights situation in the country and special reports on pressing human rights problems.

In April and May 2005, several peaceful assemblies organized by the KHRC were violently disrupted in spite of the KHRC having informed the police in advance as required by the Public Order Act. Several staff members were arrested and charged with participating in unlawful assemblies. The cases were pending at year's end.

The KNCHR has the status of an appeals court and can issue summons, order the release of prisoners, and require compensation for human rights abuses. On September 6, the organization's first human rights tribunal ordered the Government to pay journalist Peter Makori approximately \$70,190 (5,053,671 shillings) for torture and illegal detention by the police in 2003.

During the year there were reports that the Government intended to restrict the freedom of civil society and other watchdog organizations. In September the KNCHR came under investigation by the KACC for alleged financial irregularities. The KNCHR attributed the crackdown to the Government's discomfort with the organization's watchdog role. In April media reported that a cabinet subcommittee recommended placing NGOs under closer supervision to safeguard the Government's public image. The Nation reported in July that the finance minister proposed to bring three independent government commissions, including the KNCHR, under closer control to protect the public from "rogue organizations." In September 40 civil society organizations accused the Government of using anticorruption mechanisms to silence critics.

On March 13, the Government published the Parliamentary Human Rights Handbook to help members of parliament better fulfill their role as protectors of human rights. The Kenya Chapter of the International Commission of Jurists prepared the book.

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

The constitution and law prohibit discrimination on the basis of a person's "race, tribe, place of origin or residence, or other local connection, political opinions, color, or creed"; however, government authorities did not enforce effectively many of these provisions. There was also evidence that some government officials at least tolerated and in some instances instigated ethnic violence.

*Women.*—Although all forms of violence against women are prohibited, domestic violence against women was a serious and widespread problem. The penal code does not contain specific provisions against domestic violence, but treats it as an assault. Police generally would not investigate in cases of domestic violence, which they considered private family matters. The 2004 Kenya Demographic and Health Survey revealed that more than half of women had experienced domestic violence after the age of 15 years. Wife beating was prevalent and largely condoned by much of society. NGOs, including the Law Society of Kenya, provided free legal assistance to victims of domestic violence.

On July 14, President Kibaki signed into law the Sexual Offenses Act, which criminalized rape, defilement, child pornography and sex tourism, and sexual harassment; the law had not been implemented by year's end.

The new law maintained the existing penalty of up to life imprisonment for rape, although actual sentences usually were no longer than 10 years. The law established minimum sentences for both rape and defilement, with higher penalties for the latter. The rate of prosecution remained low because of cultural inhibitions against publicly discussing sex, a fear of retribution against victims, the disinclination of police to intervene in domestic disputes, and the unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover, traditional culture permitted a husband to discipline his wife by physical means. Neither the new law nor previously existing laws specifically prohibit spousal rape.

According to police statistics, there were 2,736 rapes nationwide during the year compared with 2,867 reported in 2005. Available statistics underreported the problem, since social mores discouraged women from going outside their families or ethnic groups to report sexual abuse. Human rights groups estimated that over 16,000 rapes were perpetrated annually.

The law prohibits FGM, but is still practiced, particularly in rural areas. According to the UN Children's Fund (UNICEF), 32 percent of women had undergone FGM. In 2004 an international conference on FGM in Nairobi reported that of the country's 42 ethnic groups, only four (the Luo, Luhya, Teso, and Turkana, comprising 25 percent of the country's population) did not traditionally practice FGM. According to the NGO Maendeleo Ya Wanawake (Development of Women), the percentage of girls undergoing the procedure was 80 to 90 percent in some districts of the Eastern, Nyanza, and Rift Valley provinces. There were more public awareness and programs to stop the practice in which government officials often participated. For example, in December a Methodist and a Presbyterian church group conducted alternative ceremonies for 500 girls and boys.

FGM usually was performed at an early age. Some churches and NGOs provided shelter to girls who fled their homes to avoid the practice, but community elders frequently interfered with attempts to stop the practice.

A January media report noted that the frequency had dropped in one district to 54 percent compared to 93 percent in 1999 before awareness campaigns began targeting FGM. Despite anti-FGM programs, which increasingly focused on young men to convince them to marry women who had not undergone FGM, women and children who had not undergone FGM faced social stigma.

In December 2005 there were a number of arrests of individuals accused of applying forced FGM. For example, four parents were arrested along with a man who performed FGM. In mid-December 2005 a woman in Nyandarua District plead guilty in court for subjecting four girls to FGM. During the same month, the Kuria district commissioner called for police to arrest parents who forced their daughters to undergo the procedure. In April 2005 17 girls in Marakwet District fled to avoid FGM and were given shelter in Eldoret by the NGO Center for Human Rights and Democracy. In April 2005 police forcibly removed the girls from the shelter and returned them to their villages. According to a media report, 20 girls were still in hiding with the aid of a church in Marakwet District three years after they fled their homes to avoid FGM.

Government officials continued to attempt to stem FGM. In December, the provincial commissioner of the Rift Valley Province was quoted as having declared that any civil servant condoning or supporting FGM (such as nurses or local chiefs) would be fired. He added that the parents of girls subjected to the practice would be arrested.

In December 2005 rescuers hid 140 girls in a school in Meru North District and planned to engage them in an alternative rite ceremony, while another 330 completed a "no cut" initiation rite in Marakwet District.

In January a couple was arrested for compelling their 10-year-old daughter to undergo FGM in preparation for her marriage. There were no further developments by year's end.

The Nation reported on June 23 that a 15-year-old girl died after performing FGM on herself.

Various communities have instituted "no cut" initiation rites for girls as an alternative to FGM. According to The Family Planning Association of Kenya, its "no cut" program called Ntanira na Kithomo (Initiate Me through Education) contributed to a 13 percent decline in the prevalence of FGM in Meru North District through 2005.

Prostitution is illegal but was a problem perpetuated by poverty. On May 19, Minister of Tourism Morris Dzero supervised a police raid of a hotel on the coast where child prostitution was allegedly taking place. In May 2005 Minister of Immigration Linah Kilimo accompanied a police raid on a nightclub where illegal immigrants were allegedly forced to work as prostitutes. A number of the illegal immigrants were subsequently repatriated. Despite the high profile of these incidents, they did not prompt specific government action against prostitution.

The law prohibits sexual harassment; however, sexual harassment in export processing zones (EPZs) was a problem (see Section 6.e.).

The law provides equal rights to men and women and specifically prohibits discrimination on grounds of gender; however, women experienced a wide range of discriminatory practices, limiting their political and economic rights and relegating them to second-class citizenship. For example, the law allows only males to transmit citizenship automatically to their wives and children.

Women continued to face both legal and de facto discrimination in other areas. According to UNICEF, gross and net enrolment in primary and secondary schools were balanced; however, a January government report indicated that in universities only 36.3 percent of students were women. Women constituted 70 percent of the country's illiterate population.

The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children but terminates the inheritance rights of widows if they remarry. Moreover a widow cannot be the sole administrator of her husband's estate unless she has her children's consent. The law also allows the Ministry of Justice to exempt certain communities from the law in deference to tradition, which provides for equal distribution of a man's property only among his sons.

Wife inheritance, in which a man inherits the widow of his brother or other close relative, was commonly practiced in certain communities. On January 15, the Nation reported that men felt it was their responsibility to marry HIV-positive widows to spare other men from being infected. Although poor and uneducated women were more likely to be inherited or suffer from property and inheritance discrimination, prominent and educated women sometimes were victims. Forced marriages were also common.

Women made up approximately 75 percent of the agricultural work force and were active in urban small businesses. Nonetheless the average monthly income of women was approximately two-thirds that of men, and women held only 6 percent of land titles. Under traditional law women in many ethnic groups cannot own land. Women had difficulty moving into nontraditional fields, were promoted more slowly than men, and were more likely to be laid off than men. Societal discrimination was most apparent in rural areas.

*Children.*—The Government was generally committed to the rights and welfare of children, and there was legislation and developed policies to promote education and protect children's rights; however, the Government did not implement its policies fully.

According to the Government's economic survey during the year, the Government's Free Universal Primary Education Program raised primary school enrollment from 7.4 million in 2004 (approximately 81.1 percent of the primary school age group) to 7.6 million in 2005 (approximately 83.2 percent).

Most citizens welcomed tuition-free education; however, the program also resulted in overcrowded classes due to insufficient teachers and an inadequate budget. To enhance access to free primary education, the Government continued to support informal schools to cater particularly to children in urban slums. About 79.9 percent of enrolled children completed the eight-year primary school education cycle in 2005 compared to 76.2 percent in 2004. Approximately 64 percent of primary school graduates went on to secondary school in 2005, up from less than 50 percent in 2004. The law mandates compulsory schooling for all children through grade 12, but in 2005 the enrolment in secondary school was only 29.3 percent. Although this enrolment rate represented an increase over the 2004 rate of 22.2 percent, UNICEF reported that secondary school continuing net attendance based on household surveys was approximately 11 percent.

Although the number of boys and girls in school was approximately equal at the primary level, boys substantially outnumbered girls in higher education. Rural families were more reluctant to invest in educating girls than in educating boys, particularly at the higher levels. According to Federation of Women Lawyers, 8,000 to 13,000 girls annually dropped out of school due to pregnancy.

Child rape and molestation continued to be serious problems. In 2004 the People Daily reported that 38 percent of children under 18 were sexually abused. Newspapers contained frequent reports of molestation or rape of children by teachers, police, clergy, and others. In July 2005 the Chamber of Justice and the NGOs Care Kenya and Cradle issued a report entitled The Defilement Index that indicated that incestuous defilement accounted for approximately 75 percent of abuse against young girls in urban areas. The report showed that six out of 10 persons working with abused children agreed that the most vulnerable girls were those in nursery to class four (one to 10 years old).

Legally, a person is not considered to have raped a girl younger than 14 if he had sexual intercourse with her against her will; instead, he commits the lesser offense



of defilement. The unimplemented 2006 Sexual Offenses Act defined minimum sentences for both rape and defilement with harsher penalties for defilement.

On March 8, a court in Eldoret sentenced a man to seven years in prison with hard labor for raping a six-year-old girl. On June 12, a man was sentenced to life in prison for repeatedly raping his 13-year-old daughter in Kajiado District. In July a man who had been sentenced to 40 years in prison for raping a four-year-old girl was freed when the court decided that insufficient evidence had been provided during his trial. On August 10, a court in Kisii sentenced a man to 14 years in prison with hard labor for attempting to rape his mentally handicapped niece (age unknown) on February 19. On December 22, a 25-year-old man was sentenced to life in prison for defiling a 10-year-old girl in Laikipia District.

Certain ethnic groups commonly practiced FGM on young girls, particularly in rural areas (see Section 5, Women).

Newspapers frequently highlighted the problem of child marriages, which the public perceived to be a commonly practiced tradition among certain ethnic groups. According to UNICEF, 25 percent of young women had been married as children. The Marriage Act forbids marriage under the age of 16, but the Mohammedan Marriage and Divorce Act allows Muslim girls to marry at puberty.

On January 3, police arrested the parents and husband of a 12-year-old girl whose parents forced her to marry a 20-year-old man.

A January 27 report highlighted the case of a 15-year-old girl in Wajir who was chained to a bed and starved for a week for refusing to marry a 50-year-old man. The girl escaped and went to police. Police arrested both the would-be husband and the girl's brother.

In early December police rescued a 15-year-old girl who escaped from a forced marriage to an older businessman on the coast. Police were investigating who arranged the marriage by year's end.

There were reports that infertile married women in the Kuria community sometimes used girls to bear children for the married couple. In February a 10-year-old girl who was thus "married" to a 50-year-old infertile woman escaped in Kuria District.

Trafficking in children was a problem (see Section 5, Trafficking), as was child prostitution, although the new Sexual Offenses Bill outlaws both. The minimum sentence for child trafficking is 10 years in prison and a fine of approximately \$27,400 (approximately two million shillings).

On August 14, the assistant education minister announced the Government would build shelters around the country for sexually abused children. On June 15, the Government's director of children's services announced that through a justice sector reform program, children's officers, probation officers, and provincial administrators had received training on children's rights. On the same day, the Government reported that 80 more chief children's officers had been appointed to the Department of Children's Services.

Child prostitution increased considerably in recent years due to both poverty and the increase in the number of children orphaned because of the spread of HIV/AIDS. Strong growth in the tourism industry led to an increasingly severe problem of foreign and domestic tourists seeking sex with underage girls and boys (see Section 6). According to the International Labor Organization (ILO), approximately 30,000 girls under the age of 19 years were engaged in prostitution in the country.

Approximately 1.9 million children were still engaged in child labor (see Section 6). UNICEF reported that 26 percent of children were involved in child labor activities and that approximately 30 percent of girls from 12 to 18 years of age who were living in coastal cities studied were either part-time informal sex workers or were engaged in sex work as a full-time income generating activity.

Difficult economic conditions and the spread of HIV/AIDS continued to intensify the problem of homeless street children. During the year the children's rights NGO ANPPCANN estimated that approximately 750,000 children lived on the streets. Street children faced harassment as well as physical and sexual abuse from police and society, and within the juvenile justice system. For example, in January street children who had allegedly stabbed a bus driver were beaten by residents in Eldoret who argued that the children posed a security threat in the community.

The Government provided programs to place street children in shelters and assisted NGOs in providing education, skills training, counseling, legal advice, and shelter for girls abused by their employers. By November 2005, 231 of 300 street children in the National Youth Service had graduated from vocational courses. The Government's program to remove children from the street and provide them with education and vocational training continued. The Government also provided shelter and medical care to street children exploited in the commercial sex industry.

*Trafficking in Persons.*—The law does not explicitly prohibit all forms of trafficking in persons, although the new Sexual Offenses Act criminalizes trafficking of children and trafficking in persons for the purpose of sexual exploitation. There were reports that persons were trafficked to, from, and within the country. Laws prohibiting the forcible detention of women for the purposes of prostitution as well as child labor, the transportation of children for sale, and the commercial sexual exploitation of children can also be used to prosecute trafficking-related offenses.

The country was a source, transit, and destination country for trafficking in persons. Victims were trafficked for sexual exploitation through the country from South and East Asian countries and the Middle East en route to European destinations. Boys between the ages of 15 and 18 were also trafficked for labor to the Middle East. Women and girls were trafficked to the Middle East, other African nations, Western Europe, and North America for domestic servitude, manual labor, and forced work in massage parlors and brothels. Asian nationals, principally Indians, Bangladeshis, and Nepalese, were trafficked into the country and coerced into bonded labor in the construction and garment industries. There was a report of six Sri Lankan young men who were lured with promises of hotel jobs in Cyprus, but ended up in a remote part of western Nairobi. Police apprehended the trafficker but no formal charges had been filed.

In August two police officers based at the Endebess police station in Tranz-Nzoia were suspended from duty for allegedly helping a suspected member of a child trafficking syndicate escape from custody. The accused trafficker was arrested for attempting to traffic an allegedly abducted child from the country to Uganda. However, the officers were subsequently reinstated to active duty pending disciplinary action from police headquarters and were believed to have been reassigned.

Police reportedly also investigated trafficking cases in the coastal and Rift Valley regions; no further information regarding resulting arrests or prosecutions was made available. The Government was unable to provide concrete statistics on trafficking-related investigations, arrests, and prosecutions during the past year.

Kenyan victims trafficked abroad were generally recruited through employment agencies under false pretenses. Domestic trafficking victims were often lured by friends and relatives who offered them promises of employment or access to education. Children from poor families were the most vulnerable, as their families were misled into believing that their child was gaining the opportunity for a better life.

The minimum term in prison for trafficking for the purpose of sexual exploitation is 15 years' imprisonment, a fine of up to approximately \$27,400 (1.918 million shillings), or both. However, fines were limited, and jail time was rarely enforced. There were no investigations into trafficking cases by December 2006. The Government was unable to provide concrete statistics on trafficking-related arrests and convictions during the past year because it does not track trafficking cases separately or specifically.

The police antitrafficking unit has primary responsibility for combating trafficking but was not effective. In December the Ministry of Home Affairs collaborated with the Office of the President and the ministries of labor, education, and tourism, to establish a National Steering Committee to address the problem with the support of the vice President. The ministries of labor, home affairs, and foreign affairs continued a program of trafficking education, awareness, and inspection for all 68 foreign employment agencies.

Although many observers believed some government officials were involved in trafficking in persons, no additional specific cases of corruption were identified during the year.

Government assistance to NGOs to combat human trafficking continued to be minimal. However, awareness among government departments grew during the year largely due to NGOs' successful efforts to study the issue, educate the media, and inform the public about the problem.

*Persons With Disabilities.*—The 2004 Persons with Disabilities Act prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government effectively enforced its provisions during the year. Although implementation has been slow due to the ongoing process of harmonizing the Act with existing laws, the Government has equipped some public buildings with wheelchair ramps, lifts, and sanitary facilities. Also, each region has been assigned a sign-language interpreter for court proceedings. The Ministry of Health is the lead ministry for responsible for seeing that the law is implemented and is working to harmonize the law with existing laws.

A January 3 Standard report highlighted the case of a visually impaired woman, educated through the masters' level, who had been unable to find a job teaching above the primary level because of her disability.

The Ministry of Health acknowledged societal bias against persons with disabilities. The law covers both physical and mental disabilities. The ministry worked in partnership with NGOs and faith-based organizations by providing staff for facilities. Persons with both physical and mental disabilities were treated in the same facilities.

*National/Racial/Ethnic Minorities.*—The country's population was divided into more than 40 ethnic groups from three major sociolinguistic families. There were frequent allegations of discrimination and occasional violence among some of these groups. Unofficial results of the 1999 census indicated that the Bantu ethnic groups comprised about 67 percent of the population, which included the Kikuyu and closely related Embu and Meru at about 32 percent, the Kamba at about 10 percent, and the Luhya at about 16 percent. Nilotic ethnic groups comprised about 30 percent of the population, which included the Kalenjin at about 12 percent and the Luo at about 11 percent. Cushitic ethnic groups comprised about 3 percent of the population, including the Somalis at about 2 percent. The Kikuyu and related groups dominated much of private commerce and industry and often purchased land outside their home province, which sometimes resulted in fierce antagonism and resentment from other ethnic groups. The numerically small and shrinking South Asian community controlled a disproportionate share of the country's commerce.

In private business and in the public sector, members of virtually all ethnic groups commonly discriminated in favor of other members of the same group. Some neighborhoods, particularly in the slum areas of the capital, tended to be segregated ethnically, although interethnic marriage has become fairly common in urban areas. With the 2007 general election approaching, some political leaders made blatant appeals to traditional ethnic animosities and resentments for the purposes of political mobilization. In the run up to past elections, such appeals resulted in intimidation of voters from targeted ethnic groups and violent communal clashes.

Clashes occurred between various ethnic groups and clans. The ongoing conflict between two Cushitic ethnic groups inhabiting the far north continued, with each group accusing the other of maintaining militias and receiving armed support from their ethnic fellows across the border in Ethiopia to harass, intimidate, and kill the other. There were reports of several violent clashes during the year. The Government reacted swiftly by sending a police force supported by the army to stop the attacks. It also arranged for public reconciliation meetings between elders of the two communities and involved local politicians in the endeavor.

Early in the year, communal violence around Likia in Rift Valley Province resulted in eight persons being killed and 10 injured. On February 23, the provincial commissioner suspended six police chiefs for failing to notify the Government of the escalating tension in the area.

On September 20, four persons were killed and 12 injured in interethnic clashes near Nakuru. After approximately 500 persons fled their homes, the Government assisted their return a week later.

Through the provincial administrations, the Government held a number of public meetings in regions plagued by ethnic violence to promote dialogue and peaceful resolution of conflict. The Government also dispatched regular police and a paramilitary force to patrol affected areas and prevent recurrence of violence. During the year, in Coast Province, the Government distributed land titles to landless persons long engaged in challenging the legality of their dispossession to eliminate one source of interethnic conflict in that region.

In June ethnic violence erupted in the region of Western Province bordering Uganda and continued for the next six months. Competition over land exacerbated by rivalries among political leaders representing contending ethnic communities were at the root of the conflict. The Government deployed security forces to the area to stop the violence.

Other notable conflicts included that between the Maasai and Kuria in southern Rift Valley province and between rival Kikuyu and Luo criminal gangs in a major slum in Nairobi. Both conflicts were quickly suppressed by government security forces.

Many factors contributed to interethnic conflicts, including the proliferation of guns, the commercialization of traditional cattle rustling, the growth of a modern warrior/bandit culture (distinct from the traditional culture), unresponsive political leadership at the local level, diminished economic prospects for groups affected by a severe regional drought, and the inability of security forces to adequately quell the violence. Land owner/squatter conflict was particularly severe in Rift Valley and Coast provinces, while competition for resources such as water and pasturage was particularly severe in the northern districts of Eastern Province and in North Eastern Province.

During the year members of coastal ethnic groups attempted to seize land they claimed had been given away unfairly decades before to individuals from outside the province in an alleged attempt to change the region's demography for political purposes. The Government recognized that some illegal land deals had taken place in the past, but insisted that those seeking to challenge past land deals follow the rule of law through the courts and not simply squat on disputed land.

There were no developments in the 2004 petition to the High Court by members of the predominantly Muslim Nubian community, who claimed that the Government discriminated against them by trying to eliminate their ethnic identity. At year's end, the High Court had not rendered a judgment on their petition for redress of grievances related to their rights as citizens.

*Other Societal Abuses and Discrimination.*—There was societal discrimination against homosexuals and persons with HIV/AIDS. A lingering stigma toward persons with HIV/AIDS made it difficult for many families to admit that their members were HIV-positive.

There were occasional reports of violence against persons with HIV/AIDS. For example, on April 15, a 15-year-old boy was killed by his uncle, allegedly because of his HIV status. The uncle was still at large at year's end. An April 26 media report noted that military members with HIV/AIDS were ostracized by their colleagues.

The Department of Defense provided for uniformed personnel and their families and some members of the community to have access to HIV counseling and testing, prevention programming, and antiretroviral treatment.

The Government worked in cooperation with international donors on programs of HIV/AIDS prevention and treatment.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including those in the EPZs, are free to join unions of their choice, and workers exercised this right. Workers numbering seven or more in an enterprise have the right to form a union by registering with the Trade Union Registrar. If the Registrar denies registration, the union may appeal to the courts. The Police Act prohibits members of the national police force from joining unions. Some unions complained that employers resisted efforts to establish unions in factories in which at least 80 percent of workers indicated a desire for union membership and representation. Unlike in the previous year, unions did not report difficulty registering with the registrar of unions or the Ministry of Labor. The armed forces, police, prisons service, and the administration police force are specifically not covered by the Employment Act.

There were 42 unions representing approximately 600,000 workers, approximately one-third of the country's formal-sector work force. All but five of these unions, representing approximately 300,000 workers, were affiliated with the one approved national federation, the Central Organization of Trade Unions (COTU). The two largest non-COTU unions were the 240,000-member Kenya National Union of Teachers and the Union of Kenya Civil Servants, with approximately 60,000 registered members.

There were no human rights abuses of union leaders reported by the Government.

The law prohibits employers from intimidating workers; however, some antiunion discrimination still existed, specifically in the EPZs in Mombasa. Employees wrongfully dismissed for union activities were able to take their cases to the industrial court, a body of up to five judges appointed by the President, and many were awarded damages in the form of back pay. Union leaders reported that the industrial court still ordered reinstatement, but employers often did not comply, and workers often accepted payment in lieu of reinstatement. Reinstatement was not a common remedy; more often aggrieved workers found alternative employment in the lengthy period prior to the hearing of their cases. The Government voiced its support for union freedom but did not protect it fully.

*b. The Right To Organize and Bargain Collectively.*—While not having the force of law, the Industrial Relations Charter (IRC), executed by the Government, COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate trade union organizational activities, and the Government protected these rights in practice. Both the Trade Disputes Act and the IRC authorize collective bargaining between unions and employers, and wages and conditions of employment were established in negotiations between unions and management. The Government permits wage increases of up to 100 percent and renegotiation of collective agreements; however, the law allows employers in ailing industries to dismiss workers regardless of the provisions of their collective bargaining agreements. Collective bargaining agreements must be registered with the industrial court to ensure adherence to these guidelines. The security forces cannot bargain collectively but have an

internal board which reviews salaries. Other groups that cannot bargain collectively, such as the health sector workers, have associations, not unions, which negotiate their wages and conditions that match the Government's minimum wage guidelines, although these agreements were not legally enforceable.

The law, with some restrictions, permits workers to strike, and workers exercised this right in practice. Workers must submit a letter to the Ministry of Labor and Human Resource Development and wait 21 days before a strike can occur. Members of the military services, police, prison guards, and the National Youth Service are prohibited from striking. Other civil servants can strike following the 21-day notice period (28 days for essential service workers, such as water, health, education, or air traffic control workers). During this interim period, the minister may mediate the dispute, nominate an arbitrator, or refer the matter to the industrial court for binding arbitration. Once a dispute is referred for mediation, fact-finding, or arbitration, any subsequent strike is illegal.

The Government resumed deducting and remitting member dues to the Civil Servants Union (CVU) after the CVU held a special election in December 2005 for the Board of Directors. The registrar-general had ordered the election after the union's June 2005 strike. During the year some public employees threatened to strike over wage issues. Government agencies threatened to fire strikers and replace them, but discussions continued, and agreements were reached in most cases.

Although the law prohibits retaliation against strikers, employers have fired strikers without redress. The University Academic Staff Union officials were contesting the dismissal of union officials participating in a strike demanding better salaries. The law prohibits employers working in sectors such as water and sewerage, health, and law enforcement to go on strike.

With the exception of the Factories Act, all labor laws apply in the EPZs (see Section 6.e.); however, the EPZ Authority and the Government granted many exemptions to applicable laws. For example, the Government waived a provision of the law that prevents women from working in industrial activities at night. There were reports that persons lost their jobs in EPZs because of their refusal to work on Saturdays. Union leaders claimed that a number of textile and garment firms in EPZs employing about 3,000 workers have refused to sign collective bargaining agreements. Seven garment producers in the Athi River EPZ near Nairobi signed collective bargaining agreements (CBAs) in 2003, but negotiations on the next CBA have dragged out and no agreement on a new CBA had been reached by year's end. Two garment producers in Mombasa have recognized the textile union, but have not completed CBA negotiations. Union leaders claimed that a number of other garment producers in EPZs have refused to recognize the Tailors and Textiles Workers Union and resisted efforts to unionize their workers.

On May 1, the Government ordered a crackdown on firms employing casual workers over an extended period of time without changing their terms of employment to regular status. The Ministry of Labor and Human Resource Development also stated it would close down those businesses whose workers were denied the right to join trade unions. Under the Employment Act, no employer is allowed to employ a casual worker longer than three months. However, employers normally relieved casual employees after two months and rehired them to circumvent the law. No action was taken by the ministry during the year against employers that engaged in such practices.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits slavery, servitude, and forced and bonded labor, including by children; however, there were reports that such practices occurred (see Section 5). Under the Chiefs' Authority Act, a local authority can require persons to perform community services in an emergency; there was no attempt to use the law during the year.

There were reports of forced or compulsory labor by children (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The 2001 Children's Act prohibits all forms of child labor that are exploitative or hazardous, or would prevent children under age 16 from attending school; however, child labor was a problem, particularly in the informal sector. An estimated 1.9 million children between the five and 17 years of age were working, with the majority being between 13 and 17 years of age. While children under 16 years of age are prohibited from working and the employment of children in the industrial sector is illegal, the law does not apply the minimum age restriction to the agricultural sector, where approximately 70 percent of the labor force was employed. The minimum age law also does not apply to children serving as apprentices under the terms of the Industrial Training Act.

The Ministry of Labor and Human Resources Development officers nominally enforced the minimum age statute, and the Government worked closely with COTU

and the ILO's International Program for the Elimination of Child Labor to eliminate child labor. By 2005 the Government's Free Universal Primary Education Program resulted in the return to school of more than 1.5 million children who had been working. Termination of school fees made primary school affordable for many more families, but the continuing expenses of uniforms, textbooks, and exam fees kept primary education out of reach for the poorest families and some orphans.

Children worked primarily in the informal sector, mostly in family businesses and on family plots where they assisted their parents. A significant number of children worked in family units on tea, coffee, sugar, and rice plantations. Children also worked in mining, small quarries, and abandoned gold mines. Children often worked as domestic servants in private homes, and during the year there were reports of abuse of children serving as domestic employees. Poverty and the growing number of HIV/AIDS orphans led to an increase in child labor in the informal sector, which was difficult to monitor and control. In addition a large number of children were exploited in the sex industry (see Section 5). The employment of children in the formal industrial wage sector in violation of the Employment Act was less common.

The law establishes definitions of child labor, and the worst forms of child labor can be prosecuted under the Children's Act, which prohibits child sexual exploitation, and the Penal Code, which prohibits procurement of a girl under 21 for the purpose of unlawful sexual relations and criminalizes child commercial sexual exploitation, child labor, and the transportation of children for sale (see Section 5).

In June 2004 the Government prepared a National Plan of Action to Eliminate the Worst Forms of Child Labor. A practical guide to labor inspection was developed, and the Government trained labor inspectors and occupational health and safety officers to report on child labor. In February the Government renewed the three-year mandate for the National Steering Committee on the Elimination of Child Labor. Members include the Attorney General, eight ministries, representatives of children welfare organizations, and non-governmental organizations, unions and employers. An Interministerial Coordination Committee on Child Labor, chaired by the vice President, was responsible for setting general policy. The country's National Policy on Child Labor aims at strengthening the framework for coordination, monitoring and initiating realistic strategies for preventing, protecting, rehabilitating and reintegrating children from child labor, particularly in its worst forms, and providing access to alternative forms of education and skills training for sustainable livelihoods. The National Steering Committee met with stakeholders to review the updated policy and discuss the National Plan of Action in September, and the Interministerial Coordinating Committee is reviewing the recommendations from the Steering Committee.

On July 28, Vice President Awori presided at the launching of a national campaign to stop violence against children and address child labor and trafficking issues. The campaign is supported by UNICEF and NGOs, and caravans visited five locations this year to hold events to raise local awareness of child protection issues.

Many NGOs also were active in child labor issues and assisted in the return to school of child laborers. In the past several years, the Government has implemented 73 programs on the elimination of child labor with 25 partner agencies. These programs removed 50,000 children, half of them girls, from child labor. The partners placed the children in schools, vocational training institutions and apprenticeships, and supported income-generating activities for 10,000 parents. Partners also provided support to schools to initiate income-generating activities to help keep children from poor families in school.

UNICEF, the Ministry of Tourism and Wildlife, the World Tourism Organization, and the NGOs End Child Prostitution and Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) continued to work with hotels and tour operators to increase their awareness of child prostitution and sex tourism. ECPAT also worked with the other groups to develop a code of conduct. Beginning in 2005 the Ministry of Tourism mounted a campaign to register villas and cottages, putting them under the same strictures and requirements as hotels, and encouraging them to participate in the ECPAT code of conduct. In February 30 hotels on the Coast signed the ECPAT Code of Conduct. By August about 1,200 were registered. The Ministry of Tourism and Wildlife and the Kenya Association of Hoteliers and Caterers intend to see all hotel operators and other tourism and hospitality firms sign and implement the code, but there were no further signups during the year. The Ministry of Tourism and Wildlife has made implementation of the code a condition for annual licensing of hotels, lodges and restaurants by the Hotel and Restaurant Authority.

The vice President and minister of home affairs publicly accepted the UNICEF report on child sex tourism, urged wider hospitality industry participation in the

ECPAT code, and pledged the Government would work with UNICEF to develop long-term strategies for child protection and social/behavioral changes. The Government increased the budget, permitting the Ministry of Home Affairs and the Child Protection Department to hire an additional 160 children's officers.

*e. Acceptable Conditions of Work.*—The legal minimum wage for blue-collar workers in the wage sector has 12 separate scales, varying by location, age, and skill level. In many industries, the legal minimum wage equaled the maximum wage. In May 2005 the Government increased the legal minimum wages for workers by 12 percent in both urban and rural areas: the lowest minimum wage in large urban areas was approximately \$72.70 (5,346 shillings) per month. The minimum wage did not provide a decent standard of living for a worker and family. Most workers relied on second jobs, subsistence farming, informal sector opportunities, or the extended family for additional support.

Workers covered by a CBA generally received a better wage and benefit package than other workers. For instance the average covered worker received \$100 (8,170 shillings) per month in addition to a housing and transport allowance, which often constituted 25 to 50 percent of a worker's compensation package.

The law limits the normal workweek to 52 hours, although employees who work at night may work up to 60 hours per week. Some categories of workers had lower maximum limits on workweek hours. As is the case with respect to minimum wage limitations, the law specifically excludes agricultural workers. An employee in the nonagricultural sector is entitled to one rest day per week and there are provisions for 21 days of annual leave and sick leave. The law also provides that the total hours worked (regular time plus overtime) in any two-week period not exceed 120 hours (144 hours for night workers). The Ministry of Labor and Human Resources Development was responsible for enforcing these regulations; however, violations were reported during the year. Workers in some enterprises, particularly in the EPZs and road construction, claimed that employers forced them to work extra hours without overtime pay to meet production targets. In addition, the employers often did not provide nighttime transport, leaving workers vulnerable to assault and robbery, including sexual harassment.

Although the law sets forth detailed environmental, health, and safety standards, the Government did not enforce the law. Fines generally were too low to serve as a deterrent to unsafe practices. EPZs are excluded from these legal provisions (see Section 6.b.). The Ministry of Labor's Directorate of Occupational Health and Safety Services (DOHSS) has the authority to inspect factories and work sites, but lacked statutory authority to inspect factories in the EPZs. DOHSS had only 52 inspectors instead of the 168 expected to cover the entire country. During the year DOHSS carried out some inspection visits although no action was taken after the inspections nor did it provide information on the findings. Labor unions and NGOs continued to criticize health and safety conditions in the EPZs and other sectors, such as small horticulture producers.

DOHSS developed a program in which factories with more than 20 employees establish internal safety committees that are trained to conduct safety audits and submit compliance reports to DOHSS. DOHSS claimed that in 2005 it organized the training of 2,393 workers in occupational safety and health services in various companies in the formal sector.

DOHSS health and safety inspectors can issue notices against employers for practices or activities that involved a risk of serious personal injury. Such notices can be appealed to the factories appeals court, a body of four members, one of whom must be a High Court judge. The law stipulates that factories employing at least 20 persons have a health and safety committee with representation from workers; however, according to the Government, fewer than half of the very largest factories had instituted health and safety committees. Workers, including foreign or migrants, can refuse to remain in hazardous conditions, but many were reluctant to risk losing their jobs.

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## LESOTHO

Lesotho is a constitutional monarchy with a population of approximately two million. Under the constitution, the King is head of state, fills a ceremonial role, has no executive authority, and does not actively take part in political initiatives. In 2002 Prime Minister Pakalitha Mosisili, the leader of the Lesotho Congress for Democracy (LCD) party, won reelection, and the LCD won 79 of 80 constituency-based seats. Domestic and international observers concluded that the elections were gen-

erally free and fair. In October 18 members of parliament (MPs), including one cabinet minister, resigned from the LCD and formed a new opposition party, leaving the LCD with only 61 seats in the 120-member body. In November the Government dissolved parliament, and the Independent Electoral Commission set February 17, 2007, as the date for national elections. While civilian authorities generally maintained effective control of the security forces, some members of those forces committed human rights abuses.

The Government generally respected the human rights of its citizens; however, major human rights problems included: unlawful deprivation of life; security force abuse and use of torture; excessive force employed against detainees; official impunity; poor prison conditions; lengthy pretrial detention and long delays in trials; widespread domestic violence; severe restrictions on women's rights; societal discrimination against women and persons with disabilities or HIV/AIDS; and child labor in the agricultural and other informal sectors.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, in August Maseru City Council (MCC) security guards Thabo Lets'ela and Tebello Mahlomola shot three pedestrians, killing two, on Kingsway Road in downtown Maseru. One victim died on the spot, and a second died later in a hospital. The third victim, a high school girl, received only minor injuries. The event was ignited by a confrontation between street vendors and MCC security personnel. According to private radio station MoAfrika, MCC security personnel had begun removing street vendors in an effort to clean the streets ahead of a Southern African Development Community summit. The security guards were charged with murder and attempted murder; at year's end they were in pretrial detention.

In June unknown persons killed Bereng Sekhonyana, an MP from the opposition Basotho National Party (BNP). By year's end there were no arrests in the case.

There were two deaths in custody reported during the year (see Section 1.c.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law expressly prohibit such practices; however, there were allegations that security forces tortured persons and credible reports that the police at times used excessive force. According to the Human Rights Unit in the Ministry of Justice and Human Rights, in 2005 citizens filed 17 complaints of human rights abuses by the police. These complaints were referred to police authorities, and 15 of the 2005 cases were resolved, while the other two were withdrawn and referred to the Police Complaints and Discipline Division.

Following an alleged assassination attempt on the foreign minister in January, two of his bodyguards, Private Taole Mokhesuoe and Private Phetsetso Motsehl, filed a torture complaint against the police investigating the incident. The Office of the Director for Civil Litigation in the Ministry of Law and Constitutional Affairs stated that the case against the police was before the High Court, where charges were pending at year's end. The two bodyguards were court-martialed and given a severe reprimand for dereliction of duty.

Following the June assassination of Bereng Sekhonyana, an MP from the opposition BNP, the weekly newspaper Mopheme reported that three female BNP members, Mapelesa Mosetse, Karabelo Ratlali, and Mafauli Fauli, claimed that they were physically tortured and verbally abused by male policemen investigating the case. The BNP later repeated the charge at a press conference held by the party's leadership. Lawyers for the BNP filed charges against the police, and the case was pending in court at year's end.

No action was taken against police officers who allegedly abused suspects in connection with the July 2005 killing of a police officer in the Sehlabathebe district. The Ministry of Home Affairs and Public Safety referred the case to the Police Complaints Authority (PCA), and discussions reportedly continued between the police and the PCA at year's end.

*Prison and Detention Center Conditions.*—Prison conditions were poor, and facilities were overcrowded and in disrepair. Women, men, and juveniles were housed separately. After inspecting 51 prisons, the Office of the Ombudsman, an independent statutory body, released a report in August 2005 that criticized conditions including overcrowding, lack of bedding, poor sanitation, and poor nutrition. The report also included recommendations for extensive physical improvements to facilities, more frequent inspections, and separate areas within prisons for ill inmates.



Authorities improved nutrition during the year, but no action was taken to address the other problems.

In 2004 the Office of the Ombudsman recommended disciplinary action against the warden of Mohale's Hoek Prison after two prisoners killed themselves following abuse by prison guards; however, no action had been taken by year's end.

The law provides that pretrial detainees and convicted prisoners be held in separate prisons; however, pretrial detainees were held with convicted prisoners. Security and military prisoners were held in a separate facility.

Prison regulations provide for visiting committees made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens. These committees are authorized to visit any prison without the prior knowledge of the prison director, and generally were allowed to do so. The committees reported their findings to the prison director as well as the general public. International human rights groups were permitted to monitor prison conditions. The British Department for International Development's (DFID) Justice Development Sector's program personnel worked in prisons and conducted regular inspections. After receipt of DFID's recommendations, the nutritional standards and living conditions of prisoners improved.

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

*Role of the Police and Security Apparatus.*—The security forces consist of the Lesotho Defense Force (LDF), the Lesotho Mounted Police Service (LMPS), and the National Security Service (NSS). The Prime Minister is the minister of defense and national security, with direct authority over the LDF and the NSS. The police force is under the minister of home affairs and public safety.

The LMPS is nationally managed, with the country divided into three police regions, which are further divided into districts. An assistant commissioner of police heads each region; senior superintendents head the districts. The LMPS suffered from a significant shortage of resources, which limited its effectiveness.

Corruption was a problem; however, the Government continued its reform efforts. Police authorities confirmed allegations that some police officers solicited bribes to overlook traffic and other offenses. Police authorities and media reported that police and army personnel may have been involved in a spate of armed robberies during the year. In January a court sentenced a police officer to eight years' imprisonment for involvement in armed robberies in 2005.

The process of carrying out justice was slow, but members of the security and police forces were prosecuted and sentenced. Impunity is a problem, but to a limited extent.

The PCA is an independent oversight body that monitors questionable behavior by police officers and addresses public grievances against the police; the Police Act does not accord the body powers of search and seizure or the power to summon police officers. PCA commissioners have requested that the Ministry of Home Affairs and Public Safety pursue amendments to the act to enhance PCA powers, but no amendments were passed by year's end.

From January to August, the PCA received 50 complaints involving assault, poor service, extortion, and unfair dismissal from the LMPS. Ten cases were opened, and 32 referred to the ombudsman, Legal Aid, and the police. Five were advisory matters and were referred to the relevant organs of state, while three were settled to the satisfaction of the complainant and officially closed.

The LMPS Inspectorate, Complaints and Discipline Unit reported that it was investigating 25 complaints of unlawful detention, assault, corruption, failure to investigate cases, and abusive language and intimidation filed against the police between January and August. The nine complaints filed in 2005 also continued under investigation. Of the 48 complaints received in 2005 and referred to the minister of home affairs and public safety, 26 cases were closed; the remainder were still under investigation at year's end. Disciplinary action was taken against certain police officers on the basis of these proceedings.

*Arrest and Detention.*—The law requires police to obtain a warrant prior to making an arrest. Suspects must be informed of charges within 48 hours, and their families must be notified of any imprisonment. The law also allows family members to visit inmates. However, in practice the police did not always comply with these provisions. The law provides for granting bail, which the authorities granted regularly and in general fairly. Persons detained or arrested in criminal cases and defendants in civil cases had the right to legal counsel. The Legal Aid Division, under the Ministry of Justice and Human Rights, offered free legal assistance, but a severe lack of resources hampered the division's ability to be effective. Nongovernmental organizations (NGOs) maintained a few legal aid clinics.

Pretrial detainees constituted approximately 16 percent of the prison population, and pretrial detention could last months or even years. The backlog was due to lack of resources, delay tactics by defense counsel, and unavailability of legal counsel. In November 2005 The Mirror newspaper published an article reporting that judges granted postponement of cases without proper cause, and attorneys failed to appear without explanation. The article also reported that 6,000 cases were pending in magistrates' courts.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the judiciary was generally independent in practice.

The judiciary consists of the Court of Appeal (which meets semiannually), the High Court, magistrates' courts, and traditional courts, which exist chiefly in rural areas to administer customary law. The High Court also provides procedural and substantive guidance on matters of law and procedure to military tribunals; however, it does not participate in adjudication.

A single high court judge normally adjudicates criminal trials with two assessors who serve in an advisory capacity. The authorities generally respected court decisions and rulings.

*Trial Procedures.*—There is no trial by jury. Trials are public, but in civil cases judges normally hear cases alone. There was a large case backlog, which led to lengthy delays in trials (see Section 1.d.). Defendants have the right to legal counsel; however, government sources stated that in the magistrates' courts, some accused persons were not advised of their right to legal representation, and some cases proceeded without representation for the accused. Free legal counsel was available, either from the state or a legal NGO. A defendant may be either held or released on bail until a sentence is passed. Defendants are presumed innocent and have the right to appeal. Defendants have the right to access nonconfidential government information during a trial.

In civil and criminal courts, women and men are accorded equal rights. However, in traditional (customary) courts, certain rights and privileges were denied to women, and they were greatly disadvantaged (see Section 5). However, in October the parliament passed the Legal Capacity of Married Persons Act, which effectively eliminated de jure discrimination against women in the customary law system.

When traditional law and custom were invoked in a court case, a male plaintiff could opt for customary judgment by a principal chief rather than a civil court, and the judgment would be legally binding.

Military tribunals have jurisdiction over military cases only. Decisions by military tribunals can be appealed only to a special court-martial appeal court, which is composed of two judges from the High Court—one retired military officer with a legal background and the registrar of the High Court.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary with jurisdiction over civil matters. Citizens can freely access the court system to file lawsuits seeking cessation of human rights violations or a recovery of damages resulting from such acts. Some administrative remedies are available from the Labor Court, as stipulated by the Public Services Act. Judicial remedies for such wrongs are addressed in the constitution. However, a failure by the state to produce exhibits in court and to sequester witnesses, especially in high-profile cases, were substantial obstacles to the enforcement of domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law do not fully protect citizens' privacy rights; however, the constitution contains a section on the "Right to respect for private and family life," which states that "Every person shall be entitled to respect for his private and family life and his home." During the year there were no reports that authorities infringed on those rights. Although search warrants were required under normal circumstances, the law provides police with wide powers to stop and search persons and vehicles and to enter homes and other places without a warrant.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. However, many journalists admitted to practicing self-censorship to avoid libel suits as well as problems from their editors.

Citizens and residents enjoy broad rights of freedom of speech, which in general the Government respects.

Several independent newspapers routinely criticized the Government. There were seven private radio stations but no private television station. The media was free

to criticize the Government, but risked being sued for slander or libel. The official state-owned or state-controlled media consisted of two radio stations, a television station which broadcast a two-hour daily newscast, and two weekly newspapers. All reflected official positions of the ruling party. South African and global satellite television and radio broadcasts were widely available.

Government ministers and other officials initiated a number of libel and defamation suits against members of the independent media, some of which led to out-of-court settlements.

In one of them, an English-language weekly newspaper, *The Mirror*, succumbed to financial pressure as a result of libel suits and closed in May.

In September the High Court summoned the chief reporter of *Public Eye* to appear on contempt charges following his newspaper's reports on a controversial scheme through which high-level government officials and judges obtained luxury cars at a fraction of their market value. In its report the newspaper had criticized the participation of members of the judiciary in the scheme, suggesting that it could cloud their impartiality in judging cases. The editors of *Public Eye* refused to accept an official reprimand and print a retraction as suggested by the court, and the case remained open at year's end.

In February the Prime Minister and two other cabinet ministers filed a case against three former members of their party for *crimen injuria*, defined as impairing someone's dignity (it is a criminal offense, while defamation is a civil offense). The Government officials accused the three former party members of distributing leaflets accusing the Prime Minister of despotic tendencies and stating that he and the foreign minister were involved in adulterous relationships. Hearings began on October 16, but were later postponed until March 2007.

The defamation suit filed in November 2005 by retired Major General Thibeli against the Catholic newspaper *Moeletsi a Basotho* was still pending at year's end.

At year's end the 2004 case in which an MP sued the newspaper *Mololi* for libel was still pending.

In November the acting minister of communications directed state-owned broadcast media to cease playing the music of traditional artists who had participated in opposition political party rallies.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals or groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The Internet was not widely available, due to a lack of information infrastructure, the Government's position as monopoly carrier from which any other Internet service provider would have to purchase bandwidth, and the high cost of access. Access was almost nonexistent in rural areas.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

*Societal Abuses and Discrimination.*—There were no reports of societal violence, harassment, or discrimination against members of religious groups.

There was a very small Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The constitution and law prohibit forced exile, and the Government did not use it.

*Protection of Refugees.*—The laws provide for the granting of refugee status or asylum in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system to provide protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government continued to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. There were reportedly an estimated 60 refugees resident in the country from Sudan, Uganda, Rwanda, the Democratic Republic of the Congo,

Ethiopia, and Eritrea. Other refugees have sought relocation from the country to South Africa to take advantage of better living conditions and opportunities there. There is a commissioner for refugees in the Ministry of Home Affairs and Public Safety.

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

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

*Elections and Political Participation.*—In the 2002 elections the LCD party won 79 of the 80 constituency-based seats; the opposition Lesotho People's Congress party won the remaining constituency seat; and the 40 proportionally elected seats were divided among nine opposition parties. Prime Minister Mosisili, the leader of the LCD party, won reelection. Domestic and international observers concluded that the elections were generally free, fair, peaceful, lawful, and transparent. International observers characterized the first post independence local government elections, held in April 2005, as generally free and fair.

There were 15 women in the 120-member National Assembly and 12 women in the 33-member Senate. The speaker of the National Assembly, five government ministers, one assistant minister, four judges of the High Court, and the commissioner of police were women. Female candidates captured 53 percent of seats in the April 2005 local elections.

Approximately 98.5 percent of the population was Basotho. There were no members of minorities in the National Assembly, the Senate, or the cabinet.

A provision in the constitution requires that members of parliament possess the physical faculty of speech; however, this provision was not enforced.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year. The World Bank Institute gave the Government an above-average rating for control of corruption. However, according to the NGO Transparency International, corruption was a serious problem.

In September the High Court fined the Impregilo Company approximately two million dollars (15 million maloti), after the construction company admitted use of bribery to influence a government investigation. In a February 2005 case brought before the High Court, Impregilo was charged with bribing a former chief executive of the Lesotho Highlands Water Project (LHWP); the chief executive continued to serve a 15-year sentence for a separate LHWP-connected bribe.

Although there are no laws providing for access to government information, and access to government information was incomplete, Web sites of government ministries, parastatal companies, and private organizations provided significant information on governmental activities.

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

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

An independent Office of the Ombudsman exists to protect citizens against infringement of their rights by public and private sector organizations. The Office of the Ombudsman appears to function without undue governmental or political interference. The ombudsman was constrained by a shortage of staff, financing, and equipment. The ombudsman intervened in issues such as requests for release of unlawfully withheld salaries; reinstatement of employees illegally suspended from their jobs; compensation for persons relocated to new areas in connection with LHWP activities; and compensation for and repair of houses in communities close to large-scale development projects. Some of the ombudsman's reports, which were publicly released, were successful in bringing attention to various issues.

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

The constitution and law prohibit discrimination based on race, color, sex, language, political or other opinion, national or social origin, birth, or other status; however, the constitution also recognizes customary law as a parallel legal system, and women's inheritance and property rights were severely restricted under this system.

*Women.*—Although dependable statistics were not available, domestic violence against women was believed to be widespread. Traditionally, a wife may return to her "maiden home" if physically abused by her husband. Under common law (the

formal legal system), domestic violence or spousal abuse is a criminal offense and defined as assault; however, few domestic violence cases were brought to trial. The law does not mandate specific penalties; however, an offender can be cautioned and released; given a suspended sentence; fined; or imprisoned. Punishment depends on the severity of the assault, and judges have a wide degree of discretion in sentencing. Such behavior was increasingly considered socially unacceptable due to advocacy and awareness programs of the Gender and Child Protection Unit (GCPU) of the LMPS, the Federation of Women Lawyers, the NGO Lesotho Child Counseling Unit (LCCU), other NGOs, and broadcast and print media campaigns.

The law prohibits rape, including spousal rape, and mandates a minimum sentence of five years' imprisonment, with no option for a fine. The rape of young children, older girls, and women was common. Courts heard a number of rape and attempted rape cases, and sentences were imposed and carried out. There were numerous cases of rape involving very young girls, as a result of the ill-informed belief among some men that such intercourse could cure HIV infections. Although there were convictions in several cases, sentences tended to be minimal. The organizations involved in combating the problem included the GCPU, the LCCU, and other NGOs. Their activities included teaching young persons and parents about the Sexual Offenses Act of 2003, in schools, churches, and in village gatherings; and teaching persons how to report such offenses and how to access victims' services.

The law does not address prostitution, and it was a problem (see Section 5, Children). Prostitution was driven by poverty, and anecdotal evidence indicated that it was a growing problem. No accurate statistics on prostitution were available.

The law does not specifically prohibit sexual harassment, which was believed to be widespread.

Traditional law and custom severely limited the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce; however, under customary (traditional) law, a married woman was considered a minor during the lifetime of her husband, and she could not enter into legally binding contracts without her husband's consent. However, in October parliament passed the Legal Capacity of Married Persons Act, which effectively eliminated de jure discrimination against married women in the customary law system. A woman married under customary law has no standing in civil court. Under the country's dual legal system, marriages which occur under customary law must be legalized in the civil system to have legal standing. Government officials publicly criticized customary practice regarding marriage.

The tradition of paying a bride price (lobola) was frequent. There was no evidence that lobola contributed to abuses against women's rights. Lobola, if not paid to the bride's family, allows the family the right to end a marriage and the right to challenge custody of any offspring. Polygamy was practiced by a very small percentage of the population. Women were not discriminated against in access to employment, credit, or pay for substantially similar work.

Women's rights organizations took a leading role in educating women about their rights under customary (traditional) and formal law, highlighting the importance of women participating in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation funded efforts by women's groups to sensitize society to respect the status and rights of women.

*Children.*—The Child Protection Act (CPA) and the Sexual Offenses Act provide for the protection of children; however, limited resources hampered the Government's ability to fully enforce these laws.

The Government devoted substantial resources to primary and secondary education. Education by law was universal; however, it was not compulsory, even at the primary levels. Tuition-free primary education, which was introduced in 1999, has been extended to one additional grade annually. The seventh and last class was made tuition-free during the year, and the Government inaugurated 17 new primary schools to accommodate increased pupil intake.

A substantial number of children did not attend school, particularly in rural areas where there were few schools, where children were involved in subsistence activities to help support their families, or where families could not afford fees for the purchase of uniforms, books, and school materials. In 2002 the United Nations Children's Fund (UNICEF) estimated that 62 percent of boys and 68 percent of girls attended primary school. During the year, according to UNICEF, these figures had increased to 80.6 percent of boys and 85.7 percent of girls. More boys failed to attend school than girls, due to the tradition of livestock herding by young boys (see Section 6.d.).

Boys and girls had equal access to government-provided health care.

Child abuse was a common problem, especially for children made vulnerable by HIV/AIDS. There were few official reports or statistics. During the year the Ministry

of Gender, Youth, Sports, and Recreation stated on a number of occasions that there was a need to fight child abuse.

Child prostitution was also a problem. According to media reports, young girls and boys, many of whom were orphans, moved to urban areas to work as prostitutes. A 2001 UNICEF assessment concluded that child prostitution in the country was a poverty-driven phenomenon rather than a commercial enterprise, and that the financial arrangements were casual and not the product of organized criminal syndicates. However, UNICEF and the Government agreed that while the numbers remained small, the more recent trend toward commercial prostitution by children was a growing problem. There was little capability within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

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

Familial stress, poverty, the spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment, creating a growing number of street children and families headed by children; their number totaled an estimated 100,000 to 200,000. Street children were hampered by lack of access to government services, such as medical care and schooling, and were not informed about their rights to such services. There were no reports of abuse of street children by security forces.

The GCPU within the LMPS had branches in all 10 districts, but lack of resources restricted their ability to be effective. The GCPU dealt with sexual and physical abuse, neglected and abandoned children, and protection of property rights for orphaned children. The GCPU also has a mandate to address child labor issues, although it has stated that it has not dealt with such cases.

*Trafficking in Persons.*—Neither formal nor traditional law addresses trafficking in persons. There were reports that people were trafficked to, from, and within the country; however, official statistics were lacking. In 2005 the minister of gender and the assistant minister of education publicly stated their concern over six cases of child trafficking and the possible increase of trafficking-related activities; however, there were no known developments in the six cases by year's end. There were no official statistics on trafficking, since it is not a specific category of crime. Police can charge persons suspected of trafficking under the labor code, the CPA, and kidnapping statutes contained in the constitution. The Ministry of Home Affairs and Public Safety and the GCPU are responsible for monitoring trafficking. Although there is no specific legislation on trafficking, the Ministry of Health and Social Welfare, some NGOs, and the police continue to offer assistance to suspected victims of trafficking.

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical disabilities in employment, education, or provision of other government services, and the Government enforced these laws within its limited ability. Although societal discrimination was common, the tradition of hiding disabled children from the public was no longer commonly accepted. The Association of the Disabled actively promoted the rights and needs of disabled persons.

Laws and regulations stipulate that persons with disabilities have access to public buildings, and such buildings completed after 1995 generally complied with the law. The election law provides for assisted voting for persons with disabilities.

*National/Racial/Ethnic Minorities.*—Minorities constituted less than 2 percent of the population. There were small groups of ethnic Indians, Europeans, Chinese, and mixed-race persons. Economic and racial tension between the Chinese business community and the Basotho remained a problem.

*Other Societal Abuses and Discrimination.*—There continued to be reports that children orphaned by AIDS, persons with AIDS, and their immediate families were ostracized.

In 2004 the Prime Minister took an HIV/AIDS test and started an HIV/AIDS awareness campaign.

In June parliament amended the labor code to include an HIV/AIDS workplace policy. On July 17, King Letsie III recognized the work of an HIV/AIDS activist with an award. Each government ministry or department provided subsidized medicine and food to its employees with HIV/AIDS (such assistance was available to all citizens at subsidized prices at all government hospitals).

LDF policy states if a soldier is found to be HIV positive after induction, he is not retired or separated. The soldier is provided counseling and testing, and his duties are adapted as appropriate.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the law, workers have the right to join and form trade unions without prior government authorization and without excessive

bureaucratic requirements, and workers exercised this right in practice; however, some employers in the textile sector did not observe trade union rights. Both locally and foreign-owned businesses displayed a lack of full understanding of the labor code's provisions regarding the right to form labor unions. During the year there were six reported cases of unfair labor practices. The labor code prohibits civil servants from joining or forming unions but allows them to form staff associations. The Mounted Police Service Act also specifically prohibits members of the police from belonging to trade unions but allows them to establish a staff association charged with promoting professional efficiency and the interests of its members, and they have done so.

The Government regarded all civil servants as essential employees; therefore, they did not enjoy general labor rights, such as the rights to strike or negotiate collectively. In 2004 civil servants established a professional association.

The Ministry of Employment and Labor stated there were 13 functional trade unions with a combined membership of 25,411. The ministry indicated that 25 trade unions had been deregistered as a result of their failure to submit annual reports. Women were dominant in textile union employment.

A majority of Basotho mineworkers were members of the South African National Union of Mineworkers (NUM). While the NUM, as a foreign organization, was not allowed to engage in most union activities in the country, it provided training, developed agricultural projects, and performed other social services for retrenched mine workers and families of deceased miners.

The law prohibits antiunion discrimination, and in practice the Government generally enforced this prohibition; however, there were reports that some employers harassed union organizers, intimidated members, and fired union activists, particularly in locally owned companies.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and in practice the Government generally protected this right; however, some private sector employers tried to restrict these rights (see Section 6.a.). Collective bargaining is protected by law and freely practiced. The law provides for a limited right to strike; however, civil servants were not allowed to strike, and, by definition, all public sector industrial actions were unauthorized. In the private sector, the Labor Code requires an escalating series of procedures to be followed by workers and employers before strike action is authorized.

There are no export processing zones.

The commissioner of labor was authorized to order the reinstatement of wrongfully dismissed employees and the payment of back wages but did not have the authority to impose criminal fines.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. The Government effectively enforced this prohibition.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code contains statutory prohibitions against the employment of minors in commercial, industrial, or other nonfamily enterprises involving hazardous or dangerous working conditions. The Government effectively enforced these statutes. However, child labor was a problem in the informal and agricultural sectors, which child labor laws do not cover, and the Government had no mechanism for inspection of those sectors. The legal minimum age for employment in commercial or industrial enterprises is 15 years or 18 years for hazardous employment; however, children under 14 years old reportedly were employed in family-owned businesses. Children under 18 may not be recruited for employment outside the country. Many urban street children worked in the informal sector. Most jobs performed by children were often gender-specific: boys as young as four were livestock herders, carried packages for shoppers, washed cars, and collected fares for minibuses; girls were domestic servants; teenage girls (and a few boys) were involved in prostitution (see Section 5); and both boys and girls worked as street vendors.

In traditional society rigorous and occasionally dangerous working conditions for young herdboys were considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws. Reportedly the age of initiation into herding continued to drop. The emphasis on traditional socialization methods to the exclusion of formal education continued the cycle of poverty for most youth.

The Ministry of Employment and Labor is responsible for investigating child labor allegations; however, inspections were minimal.

*e. Acceptable Conditions of Work.*—A national minimum wage is determined annually by the Wage Advisory Board, a tripartite entity consisting of representatives

of the Government, trade unions (employees), and employers. In 2004 the Government introduced a schedule of basic minimum wages for different sectors, such as manufacturing, construction, retail, service, and mortuary services. For example, authorities set the minimum wage for a beginning machinist in the textile industry at approximately \$87 (643 maloti). During the year textile workers earned an average of \$95 (660 maloti) per month, and machine operators received an average of \$110 (770 maloti) per month. The national minimum wage for workers in lower-skilled jobs did not provide a decent standard of living for a worker and family.

Most wage earners supplemented their income through subsistence agriculture or remittances from relatives in South Africa.

The labor code provides for basic worker rights, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 12 days of paid leave per year, and paid sick leave and public holidays; however, these regulations exclude the informal and agricultural sectors. Employers did not always respect these rights in practice. Required overtime was legal as long as overtime wages were paid for work in excess of the standard 45-hour workweek. According to the commissioner of labor, employers in the security sector were the worst violators of the labor code. They regularly worked employees beyond the statutory hours, did not insure their workers against injury or death, and paid them less than the minimum wage. In October the labor code was amended to give workers in the security sector permission to work 60 hours per week. Work beyond 60 hours per week constitutes overtime.

The labor code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize the risk of injury; employers generally followed these regulations. The labor code also empowers the Ministry of Employment and Labor to issue regulations pertaining to work safety in specific areas, and the ministry has exercised this right. There were no known instances of the ministry ineffectively or improperly enforcing health and safety standards. The labor code does not protect explicitly the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections of the code on safety in the workplace and dismissal implied that such a dismissal would be illegal.

The law also provides for a compensation system for industrial injuries and diseases related to employment. The commissioner of labor, who functions as part of the Ministry of Employment and Labor, was charged with investigating allegations of labor law violations. Labor inspectors generally conducted unannounced inspections of a random sample of employers each quarter.

The Government and private sector implemented voluntary HIV/AIDS counseling and testing programs in line with Labor Code Act Number 5, passed in June, which strengthened existing programs.

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## LIBERIA

Liberia is a constitutional republic with a population of approximately 3.5 million. In November 2005 Unity Party candidate Ellen Johnson-Sirleaf was declared the winner of multiparty Presidential elections, which domestic and international observers considered free and fair. President Johnson-Sirleaf replaced Chairman Charles Gyude Bryant, who led the interim National Transitional government of Liberia (NTGL) since October 2003. Since the 2003 signing of the Comprehensive Peace Agreement (CPA), which ended the 1999–2003 civil war between the former government and the country's two rebel groups—Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL)—approximately 15,000 peacekeepers deployed by the UN Mission in Liberia (UNMIL) and 1,100 UN international police (UNPOL) had primary responsibility for maintaining security. Efforts to retire and retrain the Liberian National Police (LNP) which maintained arrest authority continued. The Armed Forces of Liberia (AFL) were completely demobilized and retired during the year. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The Government generally respected the human rights of its citizens; however, problems persisted in some areas. Deaths from mob violence increased. Police abused, harassed, and intimidated detainees and citizens. Prison conditions remained harsh and incidents of arbitrary arrest and detention occurred. Lengthy pretrial detention and denial of due process and fair public trial were problems. LNP officers on several occasions assaulted journalists and a human rights worker. Some incidences of trial-by-ordeal were reported. Corruption and impunity continued in



many levels of the Government. There was violence against women, especially reports of rape. The practice of female genital mutilation (FGM) remained widespread. Child abuse, trafficking in persons, and racial and ethnic discrimination were problems. Instances of child labor were reported, especially in the informal sector. Child neglect and child abuse continued to be problems. There were some instances of ethnic tensions during the year, but none that resulted in violence.

The Government took significant steps during the year to correct past human rights deficiencies. The Government worked with numerous international partners to rehabilitate the country's justice sector and established a public defender's office in the capital. The President dismissed or suspended a number of government officials for corruption, and the Government tightened contracting practices and financial controls through the Governance and Economic Management Assistance Plan (GEMAP). During the year the Truth and Reconciliation Commission (TRC), which was established in 2005 to investigate human rights violations and war crimes committed during the 14-year civil war, began taking statements from witnesses.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary and Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, on August 3, a Special Security Service (SSS) officer killed another SSS officer in a private dispute. The investigation was completed on November 22, but no action was taken by year's end.

General Benjamin Yeaten was still a wanted man in the country, and remained in self-imposed exile during the year. Yeaten remained a suspect in the 2003 execution of former deputy national security minister John Yormie and former deputy public works minister Isaac Vaye.

There were allegations that ex-combatants, both from former government and rebel security forces, were involved in killings, theft, and other crimes against workers at rubber plantations, notably the Guthrie Rubber Plantation and the Firestone Rubber Plantation.

Ritualistic killings, in which body parts used in traditional indigenous rituals were removed from the victim, reportedly occurred during the year. The number of such killings was difficult to ascertain since police often described deaths as accidents or suicides, even when body parts were removed. No one was prosecuted for such killings during the year.

On July 6, the Government arrested five "heartmen" suspected of committing ritualistic killings in Ganta, Nimba County. On July 18, the Nimba County superintendent urged residents to oppose ritualistic killings of any kind.

There were increased reports of mob violence during the year. On August 7 and 8 and on September 6, angry mobs killed three persons suspected of theft. Numerous others incidents were reported.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The welfare and whereabouts of former Chief of Intelligence Peterson Marbiah, who disappeared when John Yormie and Isaac Vaye were arrested in 2003, remained unknown at year's end.

The UNMIL investigation into the 2003 disappearance of foreign citizen Nabil Hage, who was believed to have been abducted by LURD, was ongoing at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, but there were reports that police officials employed them.

For example, on February 15, a corrections officer trainee was suspended for allegedly ordering five prisoners to beat three other prisoners and force them to drink muddy water.

On June 9, the National Human Rights Center of Liberia reported that the Government arrested approximately 20 associates of former President Taylor on suspicion of plotting against the Government and held them at the National Security Agency (NSA), where some were severely beaten. The Government denied that any beatings took place.

During the year LNP officers sometimes abused, harassed, intimidated, and extorted bribes from persons, particularly at checkpoints. For example, on September 20, two legislators reported being assaulted by LNP officers in two separate incidents, one at a checkpoint and one in a courthouse. On September 26, the LNP inspector general formally apologized to the legislators in question and to the legislature as a whole, citing inadequate training as the reason for the assaults. The police officers were reprimanded, but not formally punished or suspended.

On October 3, a local newspaper reported that police forced a false confession from a robbery suspect by placing a lighter under his genitals until he confessed. The Government had not responded to the incident by year's end.

LNP officers assaulted journalists and a human rights worker during the year (see Section 2.a. and section 4).

Unlike in the previous year, there were no reports that political party members harassed and beat journalists or that former combatants were responsible for civilian injuries.

During the year the UN Office of Internal Oversight Services (OIOS) investigated reports of sexual exploitation and abuse by UN peacekeepers, UNMIL staff, UN private contractors and implementing partners. On November 30, the BBC reported that a UN officer had allegedly sexually assaulted a 15-year-old girl on November 15. UNMIL had not received a report, and requested details regarding the incident from the BBC in order to initiate an investigation; there were no reported developments in this case by year's end. The UNMIL Conduct and Discipline Unit was investigating six cases by year's end, while the OIOS was investigating 24 cases.

In November 2005 an UNMIL peacekeeper was arrested for raping a nine-year-old girl. An UNMIL investigation confirmed the rape occurred, and UNMIL repatriated the peacekeeper in March.

The law of the hinterland prohibits trial-by-ordeal, such as the placement of a heated metal object on a suspect's body or the insertion of an extremity into hot oil to determine whether the defendant is telling the truth. However, the law permits ordeals of "a minor nature and which do not endanger the life of the individual." The use of trial-by-ordeal reportedly continued in rural areas. For example, on June 12, the Government arrested five persons in Grand Gedeh County for committing an illegal trial-by-ordeal in which they reportedly forced seven persons, who were allegedly involved in drowning another person, to drink a liquid made from poisonous tree bark.

Lack of confidence in the police and judicial system resulted in mob violence and vigilantism (see Section 1.a.). For example, on July 27, a vigilante group forcefully arrested and injured a thief in Monrovia and interrogated him before turning him over to the LNP. On September 4, the minister of justice announced that citizens should organize themselves in "vigilante groups" or "community watch teams" to protect neighborhoods from growing crime. On September 6, the inspector general of police clarified that such groups should register with the police, should not carry weapons, and should not include minors or those with criminal records.

*Prison and Detention Center Conditions.*—Prison conditions were harsh and in some cases life threatening. Monrovia Central Prison held almost four times its capacity during the year due to the large number of pretrial detainees (see Section 1.d.). The Government relied on the World Food Program and various nongovernmental organizations (NGOs) to provide food to the prisons. The UN and NGOs continued to provide medical services. During the year both the Government and international partners continued renovations at prisons in Voinjama, Gbarnga, Buchanan, Kakata, Zwedru, and Monrovia. A private company financed construction on the prison in Harbel city. In some counties the structure that served as a jail was a container with bars at one end. Unlike in the previous year, there were no reports that local officials forced prisoners to work for them.

In February, July, and August, prisoners caused disturbances at Buchanan and Gbarnga prisons, overpowered unarmed guards, and caused damage to the Gbarnga prison in protests over conditions and trial delays. In each instance, the guards fled. On October 12, approximately 30 prisoners escaped from Buchanan prison; only a few were apprehended by year's end.

In some locations there were no separate facilities for juvenile offenders, and convicted prisoners and detainees awaiting trial were held together. Women and juveniles were subject to abuse by guards or other inmates. Men and women were held together in some counties or cities with only one prison cell. In the nine UNMIL-monitored prisons, men and women were not held together.

The Government permitted the independent monitoring of prison conditions by local human rights groups, the media, and the International Committee of the Red Cross (ICRC). Some human rights groups, including national and international organizations, made regular visits to detainees held in police headquarters and prisoners in Monrovia Central Prison.

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

*Role of Police and Security Apparatus.*—The Ministry of Justice has responsibility for enforcing laws and maintaining order within the country and oversees the LNP

and the National Bureau of Investigation (NBI). Approximately 15,000 UNMIL peacekeepers and 1,100 UNPOL officers had primary responsibility for maintaining security. Efforts to retire and retrain members of the LNP continued during the year. The AFL was completely demobilized and retired during the year. Approximately 600 UNPOL officers assisted with restructuring, recruiting, training, and equipping the LNP, which was composed of new recruits and those who served under the former administrations. By year's end UNPOL had recruited, trained, and deployed more than 2,030 LNP officers to Monrovia and 14 surrounding counties. In September 2005 the LNP opened a Women's and Children's Protection Section (WCPS), and 50 officers had completed training to staff the unit. While WCPS was generally effective in addressing the growing number of women and children's protection issues, it was understaffed and had limited resources.

The LNP operated independently and retained arrest authority; however, UNPOL and armed UN Formed Police Units accompanied LNP officers in joint patrols around Monrovia.

LNP officers, who were unarmed, were slow to respond to criminal activities and often ineffective, which resulted in an increase in armed robberies during the year. Corruption and impunity were problems, and police officers were not paid for up to three months at a time. Police had limited logistics, communication, and forensic capabilities and did not have the capacity to adequately investigate many crimes, including murders.

The LNP investigated reports of police misconduct or corruption, and several LNP officers were suspended or dismissed for misconduct or corruption. On March 13, the deputy director of police was suspended and subsequently dismissed for stealing \$4,000 (240,000 LD) worth of gas coupons. Also in March, four LNP officers were suspended for assaulting a journalist. On June 5, the Bureau of Immigration and Naturalization dismissed seven police officers for misconduct. On July 4, eight LNP officers were suspended for financial corruption. Some demobilized LNP officers continued to wear old uniforms to extort money from citizens during the year. Newly trained LNP officers, who were not paid for months at a time, also extorted money from citizens.

Public confidence in the police remained low, and citizens occasionally continued to use mob justice to protect persons and property. UNPOL, with the LNP, set up a system of community policing forums.

*Arrest and Detention.*—The constitution requires warrants to make arrests and provides that detainees either be charged or released within 48 hours; however, warrants were not always based on sufficient evidence, and detainees, particularly those without the means to hire a lawyer, often were held for more than 48 hours without charge. The law provides for bail for all offenses except rape and treason. Detainees have the right to prompt access to counsel and, if indigent, to have an attorney provided by the state, but the Government did not ensure such access for all detainees.

Both LNP officers and other government officials were responsible for the arbitrary arrest and detention of citizens during the year. For example, on June 12, the chief justice of the Supreme Court ordered the arrest of the manager of Bellview Airlines over a personal dispute; the manager was released without charge later that day. On April 19, the legislature ordered the arrests of Economic and Legal Affairs Minister Morris Saytumah, and Deputy Minister of Finance for Administration Francis Karpeh for deducting taxes from legislators' allowances; the ministers were released after 72 hours without charge. On October 18, in Grand Bassa County, Justice of the Peace Wusus Konneh constructed his own detention cell, although he had no legal authority to detain individuals. While Konneh did hold persons in the detention cell, the Ministry of Justice demolished it by year's end. No further information was available on this case by year's end. On September 16, the Government arrested without warrant a prominent local businessman of Lebanese descent in Monrovia for economic sabotage. The case was ongoing at year's end.

Although the law provides for the right of a person who is charged to receive an expeditious trial, lengthy pretrial and prearrest detention remained serious problems. Approximately 90 percent of prisoners at Monrovia Central Prison were pretrial detainees. Trial delays were caused by judicial inefficiency, lack of court facilities and qualified judges, and corruption. In some cases the length of pretrial detention equaled or exceeded the length of sentence that could be imposed for the crime. On May 17, the director for the Center for the Protection of Human Rights, T. Dempster Brown, filed a lawsuit to dismiss 300 pretrial detainees from Monrovia Central Prison. Several persons were released, and Brown dropped the case. On May 24, the judge of Criminal Circuit Court A released 27 of the 300 detainees who had been held in pretrial detention for an excessive period of time. The newly

formed Public Defenders Office was instrumental in obtaining the dismissal of approximately 50 cases from 2004 and 2005 due to lack of judiciary action.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, judges were subject to political, social, familial, and financial pressures, and corruption persisted in the judiciary. There were reports of executive branch influence over the judiciary. Judges regularly received bribes or other illegal gifts from damages that they awarded in civil cases. Judges sometimes requested bribes to try cases, release detainees from prison, or find defendants not guilty in criminal cases. Defense attorneys sometimes suggested that their clients pay a gratuity to appease or secure favorable rulings from judges, prosecutors, jurors, and police officers. By statute members of the bar must be graduates of a law school; however, some judges and magistrates were not lawyers.

In September 2005 the Supreme Court ordered the closure of all noncommissioned justice-of-the-peace courts; however, some courts still operated during the year. No replacement courts were in place at year's end.

The judiciary is divided into four levels, including justices of the peace, courts of no record (magistrate courts), courts of first instance (circuit and specialty courts), and the Supreme Court. The Supreme Court appointed judges to counties outside of Montserrado, but judges and magistrates continued to abandon their posts to opt for living in Monrovia. On May 2, the Supreme Court chief justice dismissed 34 magistrates for abandoning their posts.

Some judges assigned throughout the country were unable to hold court due to lack of security, supplies, equipment, or a courthouse. International donors supported additional prosecutors and defenders, resulting in approximately 15 qualified prosecutors and 19 public defenders in the country. Uneven application of the law remained a problem throughout the judicial system.

Traditional forms of justice administered by clan chieftains remained prevalent in some localities (see Section 1.c.).

*Trial Procedures.*—Trials are public and juries are used in circuit court trials but not at the magistrate level. Under the constitution, defendants have the right to be present, to consult with an attorney in a timely manner, and to have access to government-held evidence relevant to their case; however, these rights were not always observed. Defendants in criminal trials enjoy a presumption of innocence and have the right to an attorney, to confront witnesses in a public trial, and to appeal adverse decisions, but many of these protections were not available to defendants who could not pay bribes. There was no effective system to provide public defenders in rural areas, but by June four full-time public defenders were responsible for cases in Montserrado County. Some local NGOs continued to provide legal services to indigents and others who had no representation. There continued to be long delays in deciding cases.

On August 22, a jury acquitted nine persons including Orishall Gould, former managing director of the National Social Security and Welfare Corporation, for embezzlement of more than \$600,000 (32.4 million LD). On September 18, the Government filed a motion to set aside the verdict and was awarded a new trial. The defendants appealed that decision to the Supreme Court, where the case was pending at year's end.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent civil law court in Monrovia, but circuit courts in each county function as both criminal and civil courts. Specialty courts, such as the tax court, probate court, and labor court, also address civil matters. As with criminal courts, specialized courts were weak. Administrative and judicial remedies were available to settle alleged wrongs. NGOs and the Government established mediation centers throughout the year.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The constitution provides for the right of privacy and the sanctity of the home and requires that police obtain a warrant or have a reasonable belief that a crime is in progress, or is about to be committed, before entering a private dwelling.

During the year the Government ordered members of the Gio and Mano ethnic groups to leave the homes they occupied in Nimba and Lofa counties and return them to their Mandingo owners, who had fled the country during the civil war. The Gios and Manos refused to leave the homes, and the Government did not forcibly reconstitute the properties to their Mandingo owners. A court case was ongoing at year's end.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, on September 19, National Security Advisor H. Boima Fanbulleh warned the public against making “reckless statements” that threatened the country’s security.

The independent media was active and expressed a wide variety of views without restriction.

In Monrovia there were approximately a dozen newspapers that published during the year with varying degrees of regularity; six were independent dailies, and five were independent biweekly papers. The Government published the New Liberian newspaper.

Due to the price of newspapers and transportation, the estimated 75 percent illiteracy rate, and road conditions elsewhere in the country, newspaper distribution generally was limited to the Monrovia region. As a result, radio remained the primary means of mass communication. There were 15 independent radio stations that regularly broadcast in Monrovia, approximately 24 local stations, one UNMIL radio station, and one government-operated station. Radio stations operated without government restrictions.

There were three local television stations; however, television was limited to those who could afford to purchase sets, generators, and fuel to provide electricity. For those persons and businesses with satellite capability, CNN, BBC, Skynews, and SABC Africa generally were available.

During the year the police harassed and assaulted journalists. For example, on April 24, LNP officers reportedly beat two reporters during a demonstration. Four LNP officials were suspended because of the incident. On May 24, Executive Mansion SSS officers reportedly harassed and intimidated journalists for not maintaining enough distance between themselves and the President during a public event. The report of a committee established by the President to investigate the May 24 incident resulted in the Government’s decision to replace damaged camera equipment. On October 13, LNP officers beat a radio journalist who was covering the arrest of rioters. The Government investigated the incident and promised to avoid such incidents in the future. No further information was available on this case by year’s end.

Unlike in the previous year, there were no reports that political party members attacked journalists at political rallies.

On May 17, the state-owned Liberian Broadcasting System warned journalists to seek clearance prior to broadcasting corruption allegations against government officials. On April 25, three newspapers, the New Democrat, the Daily Observer, and the Analyst published information accusing senators of receiving exorbitant salaries. The senators characterized the accusations as “false and misleading,” and ordered the three newspaper editors to appear before the Senate. The editors appeared and apologized to the Senate for not writing a balanced story; there were no further actions against them during the year.

Unlike in the previous year, there were no reports that political party members attacked journalists at political rallies.

Journalists commonly accepted payments to publish articles. At a university commencement ceremony on August 23, the President spoke out against “pocketbook journalism,” and asked the media to be more responsible in publishing articles. At year’s end the Press Union of Liberia accused the President of putting checks in Christmas cards sent out to all media outlets as an attempt to influence the press. Only three media outlets returned the checks, and the President responded that the gesture was not meant to influence the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet access was not widely available due to lack of infrastructure. High illiteracy also limited public exposure to the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

The constitution provides for the right of peaceful assembly, and the Government generally respected this right.

LNP officers beat journalists covering demonstrations during the year (see Section 1.a.). Demonstrations occurred throughout the year in which both protestors and police sustained minor injuries.

*Freedom of Association.*—The constitution provides for the right of association, and the Government generally respected this right in practice. There were 30 registered political parties. Dozens of civil society organizations, organized around themes such as human rights, women's issues, development objectives, poverty alleviation, health concerns, and worker's associations, were active.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice. Christianity was the dominant religion and most meetings, including official government meetings, began and ended with Christian prayers. Islamic leaders complained of some discrimination against Muslims. On June 8, some Muslim groups criticized the President for not including more Muslims in her cabinet. Some Muslim leaders complained that the budget did not allocate enough money for Islamic schools.

All organizations, including religious groups, were required to register with the Government; however, traditional indigenous religious groups were not required to register and generally did not do so.

On July 20, the LNP director warned Muslim women not to wear veils in public but did not prohibit the use of headscarves. Islamic religious leaders objected, but there were no reports that Muslim women were discriminated against or arrested for wearing veils during the year.

*Societal Abuses and Discrimination.*—Some tensions existed between the major religious communities. The private sector in urban areas, particularly in the capital, gave preference to Christianity in civic ceremonies and observances. Throughout the year the Interreligious Council and other religious organizations promoted dialogue between religious groups. However, ethnic tensions existed in Nimba County between the Mandingo and Mano and Gio ethnic groups, mainly over property. On July 31, the Government established a commission to recommend a solution to these disputes. The commission had not completed its work by year's end.

Incidents of ritualistic killings occurred during the year (see Section 1.a.).

There was no notable Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice. LNP officers occasionally subjected travelers to arbitrary searches and petty extortion at checkpoints in and around Monrovia (see Section 1.d.).

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

*Internally Displaced Persons (IDPs).*—As of May, the Office of the United Nations High Commissioner for Refugees (UNHCR), which had assisted IDP returns, declared that all IDP camps were officially closed. Some IDPs remained in the closed camp areas even though assistance was no longer provided. By December UNHCR had provided return assistance to 326,824 persons since the return operation began in November 2004.

An environmental NGO was responsible for addressing environmental hazards in former IDP camps including the filling of pit latrines and garbage pits, safe disposal of toxic materials, and demolition of abandoned shelters.

On May 8, the NGO Save The Children reported that young women and girls in IDP camps and in return communities were sexually exploited as they sought food or money for their families.

On August 15, the Government changed management at Guthrie Rubber Plantation due to growing insecurity in the plantation and offered return assistance to IDPs and former combatants illegally operating the plantation. At year's end, approximately 200 former combatants registered for government and UN return assistance benefits.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and

asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and 1967 Protocol.

During the year the UNHCR assisted the repatriation of approximately 80,000 Liberian refugees to country. International NGOs estimated that thousands of other refugees returned to the country without assistance during the year.

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

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

*Elections and Political Participation.*—In November 2005 Ellen Johnson-Sirleaf won the national Presidential elections with 59.4 percent of the vote in a runoff election. In the same elections voters selected 30 senators and 64 representatives; one was subsequently disqualified. Domestic and international observers considered the elections generally free and fair. Individuals and parties freely declared their candidacies, and membership in the dominant parties did not confer any formal advantage. In preparation for the elections, the National Elections Commission (NEC) registered 30 political parties; 22 parties contested the Presidential election results.

The state is highly centralized. The law provides that the head of state appoint county superintendents, and the President appointed all 15 superintendents during the year. Local governments had no independent revenue base and relied entirely on the central government for funds. As a result, there was very limited government functioning outside of Monrovia, and civil servants often waited for months to receive salaries. Local officials served mainly to lobby the central government.

On September 12, the President requested permission from the legislature to appoint city mayors because the NEC lacked sufficient funds to carry out mayoral elections. The issue was not resolved at year's end.

There were five female ministers, a number of female deputy ministers, five women in the Senate, nine women in the House of Representatives, and four female county superintendents. There was one female Supreme Court judge and one female Supreme Court justice nominee. Women constituted 33 percent of local government officials and 31 percent of senior and junior ministers. Only a few Muslims held senior government positions, including one ministerial post.

*Government Corruption and Transparency.*—Corruption remained endemic at middle and lower levels of government due to low civil servant salaries, a culture of impunity, and long delays in payment of wages. Financial mismanagement decreased considerably at a macro level, but was still a serious problem along with lack of accountability within government agencies. There was a widespread public perception of corruption in all branches of government. Some high-level government officials, including the President, were publicly committed to fighting corruption. All political appointees were supposed to publicly declare their assets upon confirmation, but only some appointees complied.

The Government dismissed or suspended a number of high-level officials for corruption. For example, on May 28, the Ministry of Public Works dismissed its comptroller for stealing ministry funds to pay for a personal generator. On June 8, Head Postmaster Wleh Freeman, Director General of Post Joseph S. Gbemelen, Jr., and Assistant Director General for Expedited Mail Services Emmanuel Z. Browne were suspended for three months for administrative malfeasance. On June 10, the President dismissed Chief Medical Officer and Deputy Minister for Health and Social Welfare Benson Barh, Assistant Minister for Commerce and Industry Aaron Mathies, and Director of the Civil Aviation Authority James Atttoh. A number of lower level Ministry of Finance employees also were dismissed the same day. On June 12, eight postal employees faced prosecution for mail theft. On July 30, Deputy Police Director Al Karley was dismissed for misappropriating 2,495 gallons of gasoline.

Beginning in February, international financial controllers were placed under GEMAP in key ministries and state-owned enterprises. Controllers helped change financial management, purchasing, and contracting practices, and instituted financial controls that increased government revenues and helped to curb corrupt practices. However, single-source procurement and suspect concessions and contracts remained a serious concern.

By year's end the Government had announced publicly investigations against former high-ranking members of the National Transitional government of Liberia (NTGL), who were in power from 2003–2005. On September 18, the Government filed a motion and was awarded a new trial in the 2005 corruption case involving the management from the National Social Security and Welfare Corporation (see Section 1.e.). The defendants appealed that decision to the Supreme Court, where

it was pending at year's end. On December 17, NTGL Comptroller Emmanuel Erskine pleaded guilty to charges of economic sabotage, including the misappropriation of \$62,714 (3,762,840 LD). Other investigations and trials were reportedly ongoing at year's end.

There were no developments in the 2005 corruption case against J.D. Slinger, former head of the Bureau of Maritime Affairs, or Alphonso Gaye, managing director of the National Port Authority.

In 2004 the Government suspended Police Director Chris Massaquoi and Customs and Excise Commissioner Charles Bennie on charges of corruption; however, neither case was prosecuted during the year.

On February 2, Massaquoi was appointed Commissioner of Immigration until being named SSS director on August 1. On August 26, Bennie was appointed director of price analysis at the Ministry of Commerce and Industry.

The law provides for "no limitation on the public right to be informed about the Government and its functionaries," but little government information was available, and there were few procedures for obtaining it. However, during the year, the Government took steps to increase transparency. The Ministry of Finance published the national budget and quarterly financial results, and state-owned enterprises published financial statements. On July 21, the Public Procurement and Concessions Commission launched a Web site and published its first report monitoring some government expenditures.

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

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

There were three coalitions of human rights groups: the National Human Rights Center of Liberia with nine member organizations; the Network of Human Rights Chapters with eight groups; and the Human Rights and Protection Forum, an umbrella organization of 70 to 80 groups. Approximately 40 groups formed a civil society collective called the National Civil Society Organization. These coalitions sought to increase public discussion of human rights problems. Civil society NGOs continued to develop.

During the year the Government worked to facilitate the free and safe passage of relief supplies by international NGOs and permitted visits by a UN panel of experts, the ICRC, and various UN agencies.

On September 19, the Forum for Human Rights and Democracy, a human rights organization, reported that LNP officers assaulted one of its employees and confiscated her camera while she was taking pictures of the police beating a theft suspect. An investigation was ongoing at year's end.

In September 2005, the Government's Independent National Commission on Human Rights (INCHR), established in 2004, was dissolved upon the adoption of a new act regarding the INCHR; its reconstitution was ongoing at year's end.

On February 16, the House of Representatives formed a committee on human and civil rights; no reports or recommendations were published during the year.

On March 29, the Government transferred former President Charles Taylor to the Special Court for Sierra Leone to face war crimes charges in connection with the civil conflict in Sierra Leone.

On February 20, the President officially commissioned members of the TRC, which was established in June 2005, to investigate human rights violations during the 1979–2003 civil war. During the year the TRC held activities to sensitize the public to their work and began taking statements on past human rights abuses. The TRC experienced problems during the year due to mismanagement and disharmony among commissioners. This hindered its effectiveness and raised doubts about its ability to accomplish all its stated goals in a two-year period.

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

The constitution prohibits discrimination based on ethnic background, race, sex, creed, place of origin, or political opinion; however, the Government did not enforce effectively all these provisions.

The constitution enshrines discrimination on the basis of race; and only persons who are "Negroes" or of "Negro descent" can become citizens or own land. Differences involving ethnic groups, notably the Krahn, Mano, Gio, Lorma and Mandingo ethnic groups, continued to contribute to social and political tensions.

*Women.*—The law prohibits domestic violence; however, it was widespread and not seriously addressed by the Government, the courts, or the media. Several NGOs



continued programs to treat abused women and girls and to increase awareness of their rights. The most severe penalty for domestic violence is six months imprisonment. LNP officers received training on sexual offenses as part of their initial training.

The law provides sentences for rapists ranging from seven years' to life imprisonment; accused rapists are ineligible for bail. However, the Government did not effectively enforce the law. The law does not specifically criminalize spousal rape. The number of reported rapes increased during the year; however, the stigma of rape contributed to the pervasiveness of out-of-court settlements and obstructed prosecution of cases. Inefficiency in the justice system also prohibited timely prosecution of cases.

Some local NGOs pushed for prosecution of rape cases or provided lawyers to indigent victims. On September 27, the WCPS reported that of the approximately 600 cases of sexual exploitation and abuse it received during the year, 10 were prosecuted and few resulted in convictions.

The law does not specifically prohibit FGM, and the Government took no action against FGM during the year. FGM traditionally was performed on young girls in northern, western, and central ethnic groups, particularly in rural areas. The most extreme form of FGM, infibulation, was not practiced. Social structures and traditional institutions, such as secret societies, often performed FGM as an initiation rite, making it difficult to ascertain the number of cases. At least one case was reported during the year. On February 9, the minister of internal affairs condoned FGM at his confirmation hearing by arguing that it was a cultural practice that should be respected.

Although prostitution is illegal, it was widespread.

The law does not prohibit sexual harassment, and it was a problem, including in schools and places of work.

Women have not recovered from the setbacks caused by the war, when many schools were closed, and they were prevented from maintaining their traditional roles in the production, allocation, and sale of food. Thousands of women remained displaced, preventing them from pursuing livelihoods or education.

Under the law, women and men enjoy the same legal status. Women can inherit land and property, receive equal pay for equal work, and were allowed to own and manage businesses. A number of businesses were female owned or operated. The Government prohibits polygamy; however, traditional laws permit men to have more than one wife. No specific office existed to ensure the legal rights of women, but the Ministry of Gender and Development was generally responsible for promoting women's rights.

During the year professional women's groups—including lawyers, market women, and businesswomen—vocally expressed concern regarding government corruption, the economy, security abuses, rape, domestic violence, and children's rights.

*Children.*—The Government generally did not provide for the education and health of children. Due to the poor condition of government schools, many children who attended school, particularly in Monrovia, attended private institutions. Education was compulsory until students reached 16 years of age; however, school fees remained relatively high, thereby making education unattainable for 50 percent of all school-age children. In both public and private schools, families of children often were asked to provide their own uniforms, books, pencils, paper, and even desks. Most schools had more male students than female students.

Medical care was poor, but boys and girls generally had equal access where medical care was accessible.

Widespread child abuse continued, and reports of sexual violence against children increased during the year. Civil society organizations reported increased incidences of rapes against young girls under 12.

On July 3, Musa Solomon Fallah received a life sentence for raping a nine-year old girl. On May 22, Mulbah Brown received a life sentence for raping a 13-year old girl.

FGM was performed primarily on young girls (see Section 5, Women).

Child prostitution and trafficking were problems (see Section 5, Trafficking). During the year, there were reports that young women and girls engaged in prostitution for money, food, and school fees.

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

Despite international and government attempts to reunite children separated from their families during the war, there were still many children who lived on the streets in Monrovia. It was difficult to tell who were street children, former combatants, or IDPs. Nearly all children had witnessed atrocities during the 14-year civil war, and some children had committed atrocities. There were more than 100 registered orphanages; however, the Government closed 70 during the year due to sub-

standard conditions. Many unofficial orphanages also served as transit points or informal group homes for children. Orphanages were under funded and had difficulty providing basic sanitation, adequate medical care, and appropriate diet; they relied primarily on private donations and support from international organizations, such as the UN Children's Fund and the World Food Program, which provided food and care throughout the year. Many orphans lived outside these institutions.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were police reports that persons were trafficked within the country. Victims were trafficked within the country for domestic work, labor, and prostitution. Enforcement efforts were weak.

Young children were at a particularly high risk for trafficking, especially orphans or children from extremely poor families. Trafficking victims often were subjected to harsh living and working conditions.

On December 26, a Guinean woman was arrested in Ganta, Nimba County for attempting to sell a Guinean child in the country. She and the child were returned to Guinean border authorities.

Traffickers enticed their victims with promises of a better life. Parents of trafficking victims were persuaded that their children would have better food and educational opportunities and that they would eventually return home.

Unlike in the previous year, there were no reports of forced labor or of the recruitment of child soldiers. Under the 2005 Anti-Human Trafficking Act, penalties for trafficking range from one year to life imprisonment. Monetary restitution to victims is also provided for in the law. The law was not widely disseminated among law enforcement, lawyers, and judges, and there were no prosecutions of trafficking cases during the year. The ministries of justice and labor have primary responsibility for combating trafficking.

The international NGO AG Charities worked with the Government, local NGOs, and churches to raise awareness about trafficking, and the WCPs continued to address trafficking issues. The Government had limited capacity to provide services to victims; however, a local NGO provided shelter for abused women and girls, including trafficking victims.

Under the 2005 antitrafficking law, the President must appoint an anti-trafficking task force, chaired by the ministries of labor and justice. During the year an ad hoc antitrafficking task force composed of government representatives, international organizations, foreign governments, and local NGOs continued work to develop a national antitrafficking action plan. In October the President appointed a national antitrafficking task force chaired by the minister of labor.

*Persons With Disabilities.*—Although it is illegal to discriminate against persons with disabilities, in practice they did not enjoy equal access to public buildings or government services. No laws mandate access to public buildings. Streets, schools, public buildings, and other facilities were generally in poor condition and inaccessible to persons with disabilities. As a result of the civil wars, a large number of persons had permanent disabilities, in addition to those disabled by accident or illness. Persons with disabilities faced discrimination, particularly in rural areas. There were reports that some babies with deformities were abandoned. Some NGOs provided services to persons with disabilities.

*National/Racial/Ethnic Minorities.*—Although the law prohibits ethnic discrimination, racial discrimination is enshrined in the constitution which provides that only "persons who are Negroes or of Negro descent" may be citizens or own land. Many persons of Lebanese and Asian descent who were born or lived most of their lives in the country were denied full rights as a result of this racial discrimination. Differences involving ethnic groups continued to contribute to social and political tensions.

The country has 16 indigenous ethnic groups; each spoke a distinct primary language and was concentrated regionally. No ethnic group constituted a majority of the population.

During the year ethnic, religious, and other differences between Mandingos and non-Mandingos continued, but unlike in the previous year, such differences did not result in violence.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers, except members of the military and police, the right to associate in trade unions, and workers exercised this right in practice. The law also prohibits unions from engaging in partisan political activity. There were no reports of government interference in union activities.

Union power increased during the year; however, the country's largely illiterate workforce engaged in few economic activities beyond subsistence level.

The law does not prohibit antiunion discrimination, but there were no reports of such discrimination during the year.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. With the exception of civil servants, workers have the right to organize and bargain collectively. There are no export processing zones.

On October 3, the legislature repealed the 1984 People's Redemption Council Decree 12, which nullified labor laws that provided for the right to strike. However, by year's end the President had not signed the repeal legislation because the legislature had not properly transmitted it to the President for her signature. Several unions held strikes during the year, including the Firestone labor union and the University of Liberia Teacher's Union. The Civil Servants Association also held a strike on July 3.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.). There were reports that child labor continued. Unlike in the previous year, there were no reports that local officials forced convicts to work for them.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 16 during school hours; however, the Government did not effectively enforce the law. Due to extreme poverty, child labor was a serious and widespread problem, particularly in the informal sector. The Ministry of Labor lacked the resources to carry out its mandate to monitor child labor. Throughout rural areas, particularly where there were no schools, small children continued to take care of younger brothers and sisters and to work on family subsistence farms. In urban areas children assisted their parents as vendors in markets or they hawked goods on the streets.

During the year there were reports that several rubber plantations employed children. There were also reports that children were forced to work in conditions that were likely to harm their health and safety, such as stone cutting or work that required carrying heavy loads.

An international NGO worked to eliminate the worst forms of child labor by putting at-risk children back into school. Other local and international NGOs worked to raise awareness about the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The law requires a minimum wage of approximately \$0.25 (15 LD) per hour not exceeding 8 hours per day, excluding benefits, for unskilled laborers. The law also requires that agricultural workers be paid \$0.25 per hour (15 LD), excluding benefits. Skilled labor has no minimum fixed wage. The highly competitive minimum wage jobs did not provide a decent standard of living for a worker and family. Families dependent on minimum wage incomes also engaged in subsistence farming, small-scale marketing, and begging. The Government generally paid civil servant salaries and while payment arrears grew between July and October, the arrears were paid by December. The Government downsized and deleted ghost names from the civil service payroll for more efficiency and transparency.

The law provides for a 48-hour, six-day regular workweek with a 30-minute rest period per five hours of work. The six-day workweek may be extended to 56 hours for service occupations and to 72 hours for miners, with overtime pay beyond 48 hours.

The law provides for paid leave, severance benefits, and safety standards, but enforcement was targeted solely at foreign-owned firms that generally observed these standards. The Ministry of Labor lacked the ability to enforce government-established health and safety standards. The law does not give workers the right to remove themselves from dangerous situations without risking loss of employment.

Due to the country's continued severe economic problems, most citizens were forced to accept any work they could find regardless of wages or working conditions. The Ministry of Labor lacked the resources to monitor compliance with labor laws.

## MADAGASCAR

The Republic of Madagascar is a multiparty democracy with a population of approximately 18 million. President Marc Ravalomanana, who was elected to a second term in December, and his party, Tiako-I-Madagasikara (TIM), dominated political life. The Presidential election was generally free and fair, although international

and domestic observers noted the need for a number of electoral reforms. The civilian authorities generally maintained effective control of the security forces.

The following serious human rights problems were reported: use of excessive force by security forces to disperse demonstrators, resulting in death and injuries; harsh prison conditions, which resulted in deaths; arbitrary arrest of demonstrators; lengthy pretrial detention; restrictions on freedom of speech and of the press; official corruption; restrictions on freedom of religion; societal discrimination and violence against women; trafficking of women and girls; and child labor, including forced labor.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, there was one report that a person may have died as the result of blows inflicted on him during his arrest at a political rally. He was released the same day, but died several days later. After a brief investigation, the minister of public security stated that the demonstrator's death was not the result of wounds inflicted on him by the arresting security forces (see Section 2.b.).

On May 15, a woman was killed in a hit-and-run accident by a speeding police car on a road in Antananarivo, according to media reports. The victim's family took the case to court; it was still under investigation at year's end.

During the year several persons were arrested and placed under pretrial detention for their alleged involvement in the 2005 case in which a gendarme in Ikelihorombe killed 10 persons accused of cattle theft.

No investigation had been conducted by year's end into the May 2005 death in police custody of Jone Yvon Hajaniaina Rafanomezantsoa.

On August 11, squatters in the village of Ankorondrano Ampefy lynched two police officers with machetes, knives, and cinder blocks. A small force of national police and gendarmes had arrived to enforce a local tribunal's eviction notice in a land dispute case that had gone on for 30 years. One female member of the mob was also killed in the conflict.

*b. Disappearance.*—There were no reports of politically motivated disappearances or widespread criminal kidnappings for ransom.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law provide for the inviolability of the person; however, security forces subjected prisoners to physical abuse, including rape.

Police forcibly dispersed demonstrators, which resulted in injuries (see Section 2.b.). Unlike in the previous year, no injuries resulted from grenades tossed to intimidate strikers.

*Prison and Detention Center Conditions.*—Prison conditions were harsh and life threatening. The country's 99 facilities, which were designed for approximately 13,000 prisoners, held approximately 17,427 in December, according to the Ministry of Justice. Most prison cells averaged less than one square yard of space per inmate. The most crowded prisons, such as Tsiafahy and Moromanga, forced prisoners to share cramped quarters in stacked bunk beds resulting in sleeping spaces shared by as many as three to four detainees to one square yard. An August report by the Government's National Observatory for Integrity found that inmates in Antanimora prison were exchanging food and other supplies for a place to sleep, while inmates in Fianarantsoa had to take turns sleeping throughout the night for lack of space to lie down. Nongovernmental organizations (NGOs) estimated that more than half of the prisoners were being held in non-prison facilities, including production camps, storage warehouses, and slaughterhouses. The severe overcrowding was due in part to pervasive pretrial detention (see Section 2.d.), and because some defendants, unable to pay the court fee required before receiving their judgment, were returned to jail.

Chronic malnutrition—which affected up to two-thirds of the detainees in some prisons—was the most common cause of death. Prisoners typically survived on 100–250 grams of dry manioc, rice, or cassava per day, which provided less than half of the Ministry of Justice's recommended daily intake for detainees. Families and NGOs, including the Catholic Prison Chaplains, supplemented the daily rations of some prisoners. NGOs claimed that hundreds died from malnutrition, most because they were transferred or detained in a remote location and did not receive visits by family members. Since its inception in October 2005, the Ministry of Justice's "Tefaka" program has transferred more than 100 dangerous detainees to prisons far from their zone of origin to prevent unrest among their accomplices at home,

which has further hindered family access. Tsiafahy maximum-security prison, where the majority of these prisoners were sent, had evacuated more than 100 detainees by October for treatment of advanced medical conditions, usually malnutrition. At least nine of the prisoners transferred from Tsiafahy to Antanimora prison died in October.

Malnutrition, combined with a lack of hygiene, made detainees especially vulnerable to disease and epidemics. Deteriorating prison infrastructure—including a lack of sanitary facilities or potable water—resulted in skin disease, insect infestation, and other health risks; access to medical care was limited. In October a prisoner starved to death in Antanimora prison, reportedly from a combination of malnutrition and tuberculosis. There were media reports of four other deaths and at least 20 cases of tuberculosis at Antanimora.

During the year the Government took steps to address the prison situation. In June the Presidential Prison Task Force proposed increased funding to raise nutritional standards for prisoners, and the Ministry of Justice's budget was augmented by \$470,000 (one billion ariary) to improve nutrition for prisoners through March 2007. There were minor infrastructure improvements, such as the construction of brick walls to separate children from adults in Morondava prisons and additional prison buildings in Betroka. According to some NGOs, these improvements have helped to prevent a higher incidence of prison deaths.

Church leaders and some NGOs reported that rape was commonplace in the prisons and often used by prison guards and other inmates to humiliate prisoners. Other organizations pointed out that while rape cases are the exception, prisoners often prostituted themselves in jail for food. Prisoners could be used as forced labor (see Section 6.c.).

Juveniles were not always held separately from the adult prison population, and some preschool-age children shared cells with their incarcerated mothers. Approximately 455 of the country's 20,106 prisoners were under 18. Pretrial detainees were not always kept separate from the general prison population.

The Government generally permitted independent monitoring of prison conditions by the International Committee of the Red Cross (ICRC) and some NGOs, and such visits occurred during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law provide for due process for persons accused of crimes and prohibit arbitrary arrest and detention; however, the Government did not always respect these provisions in practice.

The minister for public security heads the national police and is responsible for law and order in urban areas. The Gendarmerie Nationale, overseen by the Ministry of National Defense, is responsible for security in all other areas of the island.

Lack of training and equipment, low salaries, and rampant corruption were problems in the national police and gendarmerie. During the year the Government prosecuted a number of security force members for corruption.

In October, 16 non-commissioned military officers and gendarmes were arrested for involvement in trafficking of handguns, grenades, and AK-47s in Diego Suarez. At year's end the case was under investigation and those arrested were awaiting trial.

Although the law provides that arrest warrants must be obtained in all cases except those involving hot pursuit, often persons were detained and jailed on no more than an accusation by another. Defendants have a general right to counsel and the right to be informed of the charges against them, but the Government was only required to provide counsel in cases in which indigent defendants faced charges carrying sentences greater than five years. A system of bail exists, but was not available to many defendants in practice. Magistrates often resorted to an instrument known as a mandat de depot (retaining writ) by which defendants were held in detention for the entire pretrial period. Prisoners generally were allowed prompt access by family members; however, certain prisoners, such as those in solitary confinement, had more limited access.

During the year security forces arrested student demonstrators and opposition politicians (see Sections 2.b. and 3).

Long pretrial detention was a serious problem. The law mandates that a criminal suspect is to be charged or released within 48 hours of arrest; however, during the year the Government detained individuals for significantly longer periods of time before charging or releasing them. According to the minister of justice, the law places no limits on the duration of pretrial detention for specific felonies including cattle theft; the latter can only be tried by a special criminal court, which in certain jurisdictions meets only once a year. In February the Ministry of Justice ordered the release of a pretrial detainee who had been held without charge for 19 years in Tsiafahy prison. Accused of cattle theft, his file had gone missing for years, preventing both his sentencing and release.

The Ministry of Justice reported that approximately 65 percent of the entire prison population was in pretrial detention. Trial delays were caused by poor record keeping, an outdated judicial system that keeps the accused in detention until their trial regardless of the severity of the offense, an insufficient number of magistrates per capita, a lack of resources, and the difficulty of access to remote parts of the country. Despite legal protections, investigative detentions often exceeded one year. Many detainees spent a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced.

The Government took significant steps to address the pervasive pretrial detention problem. A law passed in January providing “conditional liberty” granted eligible detainees the right to be released on parole for good behavior after serving half of their sentences. The minister of justice announced in April that henceforth the mandat de depot would only be used for serious cases. The Ministry of Justice began assessing the efficiency of magistrates and set a goal to try all 2004 cases by year’s end, and the Government started implementing nationwide assessments of tribunals and human rights training for magistrates.

*Amnesty.*—The Government granted 7,279 pardons during the year, in part to reduce prison overcrowding and the judicial backlog. On June 26, President Ravalomanana ordered 1,572 of these pardons, together with a 12-month sentence reduction for 5,707 other convicted prisoners. Most pardons were granted to those who had been incarcerated for nonviolent crimes and had served at least 15 years or were over 70 years of age.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judiciary was susceptible to executive influence at all levels and at times was corrupt. A magistrate strike initiated in 2005 concluded in January with the parliament’s ratification of a statute prohibiting magistrates from going on strike, together with an increase in magistrates’ salaries.

At year’s end one judge was under investigation for corruption by the internal disciplinary committee.

The judiciary is under the Ministry of Justice and has four levels. Courts of first instance hear civil cases and criminal cases carrying limited fines and sentences. The Court of Appeals includes a criminal court of first instance for cases carrying sentences greater than five years. The Supreme Court of Appeals hears appeals of cases from the Court of Appeals. The High Constitutional Court reviews the constitutionality of laws, decrees, ordinances, and electoral disputes. The judiciary also includes specialized courts designed to handle matters such as cattle theft.

Military courts are reserved for the trial of military personnel and generally follow the procedures of the civil judicial system, except that military officers are included on jury panels. Defendants in military cases have access to an appeals process. A civilian magistrate, usually joined by a panel of military officers, presides over military trials.

The law provides traditional village institutions with the right to protect property and public order. An informal, community-organized judicial system called dina was used in some rural areas to resolve civil disputes between villagers over such issues as cattle rustling. The law limits dina remedies to monetary damages. The dina process does not ensure internationally recognized standards of due process; however, there were no reports that dina resulted in sentences involving corporal punishment. Dina decisions may be appealed through formal judicial channels to a court of general jurisdiction or to the Office of the Mediator, which investigates and can seek redress through formal judicial authorities.

*Trial Procedures.*—The constitution and law provide defendants with the right to a full defense at every stage of the proceedings, and trials are public. Defendants have the right to be present at their trials, to be informed of the charges against them, to confront witnesses, to present evidence, and to appeal convictions. The law extends these rights to all citizens without exception.

The Government is required to provide counsel in cases in which defendants face charges carrying sentences greater than five years; the Ministry of Justice was conducting a study to determine whether to extend this right to all other detainees, particularly those who cannot afford their own counsel. Attorneys have access to government-held evidence; however, this right does not extend to defendants without attorneys. The law provides for a presumption of innocence; however, the presumption of innocence was often overlooked. While the law provides that juries can be used in all cases, in practice, juries were used only in labor dispute cases.

In 2003 and 2006, former exiled political leader Pierrot Rajaonarivelo was sentenced in absentia for complicity, abuse of power, and embezzlement. While Rajaonarivelo alleged that the Government used these convictions—which he is appealing—to impede his human and political rights to run for President, the Govern-

ment maintained that these were strictly criminal cases and that he must comply with domestic court decisions and electoral law. He was prevented from entering the country in the run-up to the election period in order to maintain peace and security, and continued to appeal his conviction from abroad (see Section 3).

*Political Prisoners and Detainees.*—During the year opposition leader and National Assembly member Jean Eugene Voninahitsy unsuccessfully appealed his December 2005 conviction for “trafficking influence.” Observers suspected that the charge and conviction were politically motivated, noting that such a charge normally should have involved the Independent Anticorruption Bureau (BIANCO), which played no role in the case (see Section 3).

*Civil Judicial Procedures and Remedies.*—An independent and impartial judiciary deals with all civil matters, including human rights cases. However, the courts often encountered difficulty in enforcing judgments in civil cases.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and unlike in the previous year there were no reports of arbitrary government interference with privacy, family, home, or correspondence without legal process.

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

*a. Freedom of Speech and Press.*—Although the constitution and law provide for freedom of speech and of the press, the Government limited these rights in practice. There were reports that some government officials pressured the media to curb its critical coverage of alleged government malfeasance and intimidated journalists. Journalists practiced self-censorship.

There were 14 privately owned major daily newspapers and many other privately owned national and local news publications that published less frequently. *Le Quotidien*, which is owned by the President, was the newspaper most heavily influenced by the state. Widespread illiteracy and a poorly developed system for distributing publications printed in the capital limited the influence of print media.

The Government owned nationwide television and radio networks. However, the President’s privately-owned television and radio station, MBS, also had national coverage, which in some cases extended to areas not covered by the public networks. Applications from other private television stations for nationwide coverage were suspended by the Ministry of Telecommunications, Post, and Communications at year’s end while the ministry was completing technical tests for a nationwide broadcast via satellite. In addition, there were approximately 232 radio stations, 137 of which were legally licensed, and 29 television stations, 20 of which were legally licensed. International media were allowed to operate freely.

Reporters Sans Frontieres’ annual world press freedom report indicated that the country’s performance improved substantially during the year due to a generally calm year. Nevertheless, there were occasional reports that journalists were subject to arrest and harassment.

Following the failed coup attempt by General Andrianafidisoa (“General Fidy”) On November 17, journalists from Radio Don Bosco and TV Plus complained that government officials warned them to stop reporting on General Fidy’s actions to avoid inflaming the security situation, or risk being shut down. Additionally, in response to allegedly inaccurate coverage of the coup attempt, President Ravalomanana issued a strong public warning to all journalists and media outlet owners not to publish unchecked news, lest he take action against them. The minister of telecommunications subsequently met with journalists from the Crisis Committee for the Defense of the Press to assure them that they were under no threat from the Government. One journalist from a private radio station in Antananarivo was barred by his concerned station chief from reporting until further notice.

On October 7, police reportedly arrested and mistreated Eloi Ravelonjato, despite his journalist badge, in Tamatave at the welcome rally for exiled AREMA leader Pierrot Rajaonarivelo (AREMA is an opposition political party.) Security forces reportedly seized his camera and hit him on the head and neck before taking him away in a truck for questioning. He was released later the same night.

Radio Say in Toliara, shut down by the Government in 2004, remained closed.

In general media were active and expressed a wide variety of views. However, some journalists working for public media refrained from criticizing the Government, and others working for private media were expected to follow the political line of the station owner. There were reports that one journalist working for a privately-owned radio station in Fort Dauphin was not permitted to criticize the Government, as the station owner supported the administration.

Government agencies, private companies, and political parties sometimes bribed journalists, who generally received minimum or below minimum wages, to ensure positive coverage of certain events.

Unlike in the previous year, there were no reports that the Government detained journalists on libel charges.

The Government continued to deny a resident visa to Radio France International correspondent Olivier Peguy, who had criticized the Ravalomanana government's actions during the 2002 political crisis. In June 2005 the international NGO Committee to Protect Journalists sent an open letter to President Ravalomanana urging the Government to reissue Peguy's visa, with no response. Radio France International assigned another correspondent to the country.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Public access to the Internet was limited mainly to urban areas; modern technology and the necessary infrastructure were generally absent in rural areas.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, but the Government at times limited this right. There were reports from different parts of the country that opposition members could not obtain permits to hold public rallies in specific locations, such as stadiums. The mayor of Antananarivo banned all political street demonstrations, citing the need to preserve the city's infrastructure. Police forcibly dispersed several demonstrations during the year, which resulted in one death, several injuries, and numerous arrests.

In the run-up to the Presidential election, there were media reports from opposition candidates that their attempts to organize public meetings were sometimes impeded. On May 21, opposition member Herizo Razafimahaleo reported that local government officials indirectly impeded his ability to gather his supporters by closing the pre-designated meeting location, even after he had obtained official permission to hold the meeting there. On the same day, the television program at which he was slated to speak was reportedly cancelled because of "technical problems."

On October 7, police and gendarmes beat and arrested demonstrators rallying at the Tamatave airport for the return of exiled political leader Pierrot Rajanarivelo. Nirilala Antonio Rakotondralambo, who was among six demonstrators arrested at the protests, died several days later. According to some reports, his death resulted from security force blows sustained during his arrest. In response to this allegation, the minister of public security conceded that Rakotondralambo may have sustained "some minor blows" when security forces were trying to contain the protesters, but stated that Rakotondralambo had signed a statement upon his release affirming that he had not been tortured during his detention, and he had returned to work for the two days prior to his death. Local observers considered it likely that the release statement was probably obtained without coercion.

In February at the University of Antsiranana (also known as Diego Suarez), police used force to disperse student demonstrators protesting for improved university conditions. One student was injured with a broken arm and 104 students were arrested; they were all released by year's end.

No action was taken during the year against security forces responsible for injuring demonstrators in 2005 and 2004.

*Freedom of Association.*—The constitution and law provide for the right of association and permit citizens to organize political parties and associations; however, the constitution also explicitly forbids associations that "call into question the unity of the nation, and those that advocate totalitarianism or ethnic, tribal, or religious segregation." There were numerous political parties.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice; however, the Government continued to ban the New Protestant Church in Madagascar (FVPM) (which had broken away from the mainstream Reformed Protestant Church of Jesus Christ in Madagascar (FJKM)), on the grounds that the breakaway church was illegally occupying property assigned to the FJKM. In April the administrative chamber of the Supreme Court ordered the Government to provide compelling evidence for the need to ban FVPM. The case was still pending at year's end. The Universal Church of the Kingdom of God also remained banned based on the threat to law and order.

The law mandates that religious organizations register with the Ministry of Interior. Religious organizations that fail to meet the ministry's registration require-



ments are free to register as simple associations, which do not have the right to receive gifts or hold religious services. Ministry of Interior officials estimated there were more than one thousand religious organizations in the country operating without official state recognition, either as associations or as unregistered organizations.

*Societal Abuses and Discrimination.*—The country has a very small Jewish population; there were no reports of anti-Semitic incidents during the year.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice; however, during the year the Government continued to prevent the return of self-exiled political leader Pierrot Rajaonarivelo (see Section 3).

The constitution does not explicitly prohibit forced exile; however, the Government did not use it. Former President Ratsiraka and other members of his administration remained in self-imposed exile at year's end.

The law does not include provisions for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum and cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting the small number of refugees in the country.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice by voting in Presidential elections. However, some degree of turmoil has accompanied the three changes of government that have occurred over the last 14 years.

The country held a calm and relatively orderly Presidential election in December with a 61.45 percent voter turnout. A number of domestic and international observer teams deemed the election generally free and fair. Opposition candidates were free to organize meetings and press conferences to publicize their platforms and criticisms of the Government; observers had free access to polling stations during voting and ballot counting; voters cast their ballots without interference; and voting station officials were competent. Contrary to opposition claims, a media observation study by the international NGO PACT showed that state media provided airtime gratis and equally to the 14 Presidential candidates. International observers noted numerous procedural shortcomings but did not consider them to be indications of any systematic effort to disadvantage particular candidates. Still, they called for electoral reforms before the 2007 legislative elections.

While government forces did not engage in intimidation or violence, on election day a group of approximately ten persons set fire to ballot boxes in three polling stations in the Tuléar region. Former AREMA opposition parliamentarian Eloi Valoserana was arrested for this crime, and his case was under investigation at year's end. Former AREMA parliamentarian Eric Lemalade was also arrested for throwing Molotov cocktails at a polling station in Tamatave; that case also was under investigation.

In the run-up to the December election, opposition parties, civil society, and members of the international community began calling for reforms in electoral mechanisms and institutions, namely: replacing the multiple ballot system with a single ballot; creating a more independent national electoral commission; revising the electoral code to include more sanctions against fraud and to incorporate other changes to the electoral machinery; and establishing an electronic voter registration list. Of those requests, the only one undertaken by the Government was the electronic voter registration list. The Government also made efforts to provide identity cards to facilitate voter registration for the approximately 1.5 million citizens with no form of documentation. While administrative delays and material errors in both of these initiatives generated allegations of fraud from opposition groups and some members of civil society, the Government improvised last-minute solutions that did not have a significant impact on the conduct or outcome of the election.

President Didier Ratsiraka and his AREMA party dominated the country's political scene from 1974 through 2001, largely by imposing government restrictions on the political opposition. The Presidential elections of 2001 marked a change in the political landscape with the contested victory of President Marc Ravalomanana and his TIM party. In subsequent elections individuals and parties have been free to de-

clare their candidacy and stand for election with few restrictions. The sole exception is the case of Pierrot Rajaonarivelo, a former senior official of the Ratsiraka regime who fled to Paris in exile following the 2002 election crisis. Sentenced in absentia for complicity in abuse of power and embezzlement, Rajaonarivelo alleged that the Government used these convictions to impede his human and political rights to run for President. In response to Rajaonarivelo's claims that he would return to the country in October to register his candidacy, President Ravalomanana publicly declared that all citizens are free to return to the country but must abide by domestic court decisions and electoral law, which prohibits convicted criminals from running for the presidency. Nonetheless, government officials repeatedly blocked Rajaonarivelo's efforts to return to the country, citing security concerns.

A series of grenade attacks during the year appeared politically motivated. In August and September police arrested seven people in connection with simultaneous grenade attacks on the High Constitutional Court and the homes of Interior Minister Charles Rabemananjara and General Bertini Rajoelson. At least three of those arrested were former "reservists," a term used during the 2002 political crisis for unofficial Ravalomanana security forces, many of whom have since grown disenchanted with Ravalomanana. Except for the non-lethal shooting of one of the attackers by guards, the grenade attacks resulted in no injuries. At year's end those arrested were under preventive detention, and the investigation was proceeding.

There was one woman in the cabinet, eight women in the 160-member National Assembly, and 10 women in the 90-member Senate. One of the 22 appointed regional administrators was a woman.

There were 12 Muslims, one Hindu, and two Chinese-Malagasy members in the National Assembly, and eight Muslims in the Senate. Chinese Malagasy and Muslims also held civil service positions. Residents of Indo-Pakistani origin were not represented in the Government because few had citizenship (see Section 5).

*Government Corruption and Transparency.*—Corruption remained a serious problem throughout the Government, but Transparency International noted that the country improved its performance from the previous year on the corruption perception index.

The Government's first national action plan and new anticorruption laws were adopted in 2004, including the establishment of BIANCO—the Independent Anticorruption Bureau—as an independent agency responsible for anticorruption education, prevention, and investigation. The strategy initially targeted 10 key sectors including justice, customs, and the police, and called for the creation of a new court called the *Chaine Penale*, the establishment of anticorruption cells within each ministry, and a network of drop boxes for public complaints on corruption in each of the country's 111 districts. A follow-on strategy covering the 2005–07 period emphasized reducing corruption in the key economic sectors of tourism, mining, and industry.

For Antananarivo, from January through November, BIANCO received 5,815 complaints. Of those, BIANCO investigated the 640 complaints that were corruption-related, resulting in 137 cases being sent to court and 201 persons being arrested, 56 of whom were placed in preventive detention; the remainder were released on bail.

In March BIANCO opened an office in the regional capital of Fianarantsoa that received 1,081 complaints by the end of the year. BIANCO investigated 327 cases, which led to 63 arrests. Ten of those resulted in preventive detention, and 53 were released on bail.

BIANCO monitored a network of drop boxes for public complaints in each of the country's 111 districts. During the year BIANCO officials continued to visit the regions on a regular basis to publicize its mission and to conduct investigations. BIANCO's public awareness and civic education outreach included radio and television programs; press releases and interviews; posters at airports, public offices, and throughout each city; exhibits; and film screenings. BIANCO developed five types of anticorruption training manuals, and distributed 90,000 of the manuals to students and teachers. BIANCO conducted training for local government officials, journalists, gendarmes and national police, as well as Girl and Boy Scouts. BIANCO also held ethics seminars for magistrates in Mahajunga, Fianarantsoa, and Tamatave. To combat pervasive low-level corruption within the traffic police, BIANCO created reader-friendly educational handbooks for training sessions of local police.

There are no laws providing for public access to government information. Educational material on anticorruption—including statistics updated every trimester—was available to citizens and non-citizens, including foreign media, while cases under investigation were considered confidential. Persons requesting public documents endured a lengthy bureaucratic process, in part due to a lack of standardized record system.

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

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

The constitution and law require the Government to create apolitical organizations that promote and protect human rights. However, the Governmental National Commission for Human Rights has been inactive since 2002, when its members' terms expired. The Government has offered no explanation for the delay in naming replacements.

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

The constitution and law prohibit all forms of discrimination; however, no specific government institutions are designated to enforce these provisions.

*Women.*—The law prohibits domestic violence, but domestic violence against women was a problem. Police and legal authorities generally intervened when physical abuse was reported. According to media reports, a large proportion of women experienced domestic abuse, although most cases went unreported. In one of the few government programs to address domestic violence, the Ministry of Population worked with NGOs in Antananarivo and Fianarantsoa to provide victims with legal advice. The Ministry of Justice had no statistics on the number of domestic abusers prosecuted, convicted, or punished.

The law prohibits rape in general, but does not specifically refer to spousal rape. Penalties ranged from three years to life in prison, depending on factors such as the victim's age, the rapist's relationship to the victim, and whether the rapist's occupation puts him or her in contact with children. Rapes committed against children and pregnant women were punishable by hard labor. An additional two to five years' imprisonment could be added in the case of assault and battery. The Government generally enforced these penalties for reported and convicted cases of rape.

Prostitution is not a crime, but related activities, such as pandering and incitement of minors to debauchery, are criminal. Prostitution was pervasive and particularly visible in areas frequented by tourists.

Sex tourism was a growing problem with the growth of the tourism industry. In September 2005 President Ravalomanana warned foreigners not to visit for sexual tourism. The Government continued with its national awareness campaign by posting signs throughout airports and hotels, and including a full-page warning in the customs booklet given to arriving international passengers. Sex tourism is generally covered under sexual harassment laws.

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

Sexual harassment is against the law, but the practice was widespread, particularly in export processing zone (EPZ) factories. The Government enforced sexual harassment laws when brought to court; however, cases were rarely reported. Early in the year a female employee of the Columbia Clothing Company factory in Antsirabe filed a sexual harassment suit. Seven employees—two Sri Lankan and five Malagasy—were convicted of sexual harassment, fined, and received suspended jail sentences of two years.

Women generally enjoy the same legal status as men. Under the law, wives have an equal voice in selecting the location of the couple's residence and generally received half the couple's assets if the marriage was dissolved. Widows with children inherit half of joint marital property; widows without children take priority only after the husband's surviving kin. In practice these requirements were not always observed. A tradition known as "the customary third," which provided the wife with the right to only one-third of a couple's joint holdings, was occasionally observed. Although the country is party to the International Convention on the Protection of Women, there was no special government office to ensure the legal rights of women.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in private businesses and state-owned companies. In 2003 (the most recent data available), the Ministry of Civil Services and Labor reported that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. Women are not permitted to work in positions that might endanger their health, safety, and morals.

A number of NGOs focused on the civic education of women and girls, and publicized and explained their specific legal protections; however, due to illiteracy, cultural traditions, societal intimidation, and a lack of knowledge about their rights, few women lodged official complaints or sought redress when their legal rights were compromised.

*Children.*—The ministries of health, education, and population are responsible for various aspects of child welfare, but a lack of funding resulted in inadequate services and precluded the compilation of reliable statistics.

The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory. According to a 2004 World Bank study, 68 percent of primary school-age children were enrolled (see Section 6.d.). Children in rural areas generally studied through middle school, whereas children in urban areas commonly finished the baccalaureat examination process for entrance into university. Girls and boys had the same access to education and medical care.

In 2004 the UN Children's Fund (UNICEF) and the Government launched a three-year campaign to improve birth registration rates. The country has no uniform birth registration system, and unregistered children were not eligible to attend school or obtain health care services. According to a 2003–04 study by INSTAT, the Government's office of statistical studies, 25 percent of children in the country under the age of five are not registered.

The legal age for marriage without parental authorization is 18 for both boys and girls. The law allows the marriage of girls at 14 and boys at 17 with parental authorization. Courts may approve marriages at even earlier ages with parental authorization for "serious reasons" such as pregnancy.

In rural areas most couples were united in traditional local ceremonies, outside the legal system and often at an early age. Some of these unions were subsequently formalized in civil ceremonies when the couple had sufficient money or needed evidence of marriage for other purposes. In a small number of rural areas young girls were pressured to move out and marry soon after puberty to test their ability to become pregnant, a virtual prerequisite for marriage. Parents built one-room "homes" for their daughters to begin "courting," and the daughters entered into informal traditional unions soon thereafter.

In major cities underage marriage existed but was far less prevalent. Urban girls tended to stay in school longer than their rural counterparts. There were anecdotal reports that parents arranged marriages for their underage daughters with more affluent older men in exchange for money.

Child prostitution was a problem and constituted one of the primary forms of child labor. According to a continuing study conducted by the International Labor Organization's (ILO) International Program for the Elimination of Child Labor (IPEC), there were approximately 700 to 800 child prostitutes in the city of Nosy Be and more than 2,000 in Tamatave. Some child prostitutes reported earning several times the average per capita monthly income. The Bara latsanta clan in Ivohibe practiced a tradition called "tsenan'ampela"—or "girls market"—where adolescent girls go to the local cattle market, either of their own will or sent by their parents, to be "purchased" for the night by wealthy cattle owners.

There were reports of child trafficking (see Section 5, Trafficking).

Child labor, including forced labor, was a problem (see Section 6.d.).

Although child abandonment is against the law, it was an increasing problem due to acute poverty and lack of family support. There were few safe shelters for street children, and government agencies generally tried to place abandoned children with parents or other relatives first; orphanages and adoption generally were a last resort. To address child abandonment, the multisector network for the rights and protection of children established by the Ministry of Population in 2002 operated in 11 cities throughout the six provinces. In Diego Suarez the network brought together 22 entities from the Government, law enforcement, private, and nonprofit sectors to handle individual cases of child abuse and abandonment from the initial complaint through the trial, including medical assistance and legal advice for victims.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked. The vast majority of trafficking cases were internal, namely children being trafficked from rural areas to work as prostitutes and domestic workers in urban centers. International trafficking was rare, with reports of a limited number of women and girls trafficked for prostitution between the country and the neighboring islands of Mauritius and Reunion. Many trafficking victims were subjected to physical and mental abuse.

The principal traffickers ranged from organized criminals to "friends" to distant family members. Traffickers generally took advantage of young girls and boys in rural areas by promising employment opportunities in urban areas. Victims were generally transported using public taxi-brousses. Traffickers around the Ilakaka area in the south forced children—sometimes their own—from the urban center of Tulear to move to remote areas to work in mines.

Traffickers may be prosecuted under provisions of the penal and labor codes that prohibit pedophilia and sexual tourism. The Ministry of Justice is responsible for

enforcement; however, there were no reports during the year of arrests for trafficking.

The Government listed the fight against trafficking as one of its key objectives for the year and continued its strategy to address child labor and trafficking throughout the country. To raise public awareness about the nature of trafficking and worst forms of child labor, the Ministry of Education conducted training sessions in more than 100 schools and parent associations throughout the country. The Ministry of Tourism and Culture conducted training for 250 tourist industry personnel to raise awareness of the problem of sex tourism, and also conducted outreach directly to individuals at risk of being trafficked. The Ministry of Youth and Sports trained its regional staff who work with youth to be vigilant in the prevention of trafficking. The Ministry of Telecommunications and Communication put up posters with messages against sex tourism and distributed a UNICEF film country-wide on sexual exploitation. The Ministry of Population undertook a massive campaign to issue birth certificates to help prevent possible smuggling of babies. The State Secretary of Public Security conducted educational programs on child exploitation for schools, hotel managers, "red light" districts, police, and gendarmes. In terms of protection and assistance to victims, 36 child workers taken into the country's three welcome centers were either given vocational training or placed back in school; 20 additional child workers were identified for vocational training and 20 others for remedial education.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities, and there were no reports of official discrimination against persons with disabilities in employment, education, or in access to state services. The law broadly defines the rights of persons with disabilities and provides for a national commission and regional subcommissions to promote the rights of persons with disabilities. The Government established a national commission and regional subcommissions that worked to develop identity cards for people with disabilities to assure them a certain level of treatment in public places. International NGOs and numerous local associations, including the Collective of Organizations Advocating for Persons with Disabilities, advocated for legislation mandating equal access for persons with disabilities.

There were more than 30 educational facilities in the country for persons with disabilities. There were reports of mainstream schools rejecting students with disabilities on the basis of inadequate facilities.

The Government continued the effort launched in 2004 to employ persons with disabilities at national and regional levels of government and ordered that persons with disabilities be provided with medical treatment in public and private medical centers; employment without discrimination; eligibility for civil service vacancies; and education at public schools and vocational training centers, which were responsible for ensuring accessibility. Insufficient budgets continued to hamper support for these initiatives during the year. A study conducted in 2005 by Handicap International found that persons with disabilities seldom had access to health care or received professional training and were often the victims of physical violence, particularly women and girls.

*National/Racial/Ethnic Minorities.*—The Malagasy, of mixed Malay-Polynesian, African, and Arab descent, are divided into 18 tribes, a term without pejorative overtones in the country. None of the 18 tribes constituted a majority. The vast majority of Malagasy spoke a single Malagasy language. There also were minorities of Indo-Pakistani, Comoran, and Chinese heritage in the country.

A long history of military conquest has resulted in the political dominance of highland ethnic groups of Asian origin, particularly the Merina, over coastal groups of African ancestry. This imbalance has fueled an undercurrent of tension between citizens of highland and coastal descent. Ethnicity, caste, and regional solidarity often were factors in hiring practices.

An economically significant Indo-Pakistani community, commonly referred to as Karana, has been present for over a century. Traditionally engaged in commerce, the Karana numbered approximately 20,000. Few held citizenship, which must be acquired through a native-born Malagasy mother, and many believed they were denied full participation in society and subject to discrimination.

#### *Section 6. Workers Rights*

*a. The Right of Association.*—The law provides that public and private sector workers may establish and join labor unions of their choice without prior authorization or excessive requirements, and workers did so in practice. However, essential workers, including police and military personnel, may not form unions. Unions were required to register with the Government, and registration was granted routinely.

Ministry of Civil Services and Labor statistics indicate that 14 percent of workers in EPZ companies and 10 percent of all workers were unionized. According to the same ministry, approximately 73 percent of the workforce was engaged in agriculture. The Government had no reliable statistics on the number of public employees participating in unions, but it was generally believed that few public employees were union members despite the existence of several public employees' unions.

The law prohibits discrimination by employers against labor organizers, union members, and unions; however, the Ministry of Civil Services and Labor indicated that some employees did not join unions due to fear of reprisal. In the event of antiunion activity, unions or their members may file suit against the employer in civil court.

*b. The Right To Organize and Bargain Collectively.*—The law provides for unions to conduct their activities without interference, and the Government generally respected this right in practice. The law also provides workers in the private sector the right to bargain collectively, and the country has 34 contracts based on collective bargaining agreements. Civil servants, including workers in essential services, do not use collective bargaining agreements. The Government set civil servant wages and endorsed minimum wages proposed by the private sector (see Section 6.e.).

The law provides most workers with the right to strike, including in EPZs, and workers exercised this right. Civil servants and maritime workers, however, each have their own labor code, and workers in other essential services—such as magistrates—have a recognized but more restricted right to strike. Before resorting to a strike, the law calls for workers to exhaust all options through conciliation, mediation, and arbitration. During the year there were at least five strikes.

*c. Prohibition of Forced or Compulsory Labor.*—The labor code prohibits forced or compulsory labor, including by children, but at times the Government did not respect this prohibition, specifically with respect to prison labor. In January the Ministry of Justice decreed that prisoners and pretrial detainees can no longer be forcibly hired out to government officials for private use, unless the prisoner agrees to the terms of employment and monetary compensation as stipulated in the labor code. Prisoners can still be hired out for public use by government offices and, except for those condemned to forced labor, are entitled to receive a salary. A 2004 interior ministry study highlighted cases of forced labor among pousse-pousse (rickshaw) drivers, petty merchants, and apprentices.

Forced labor by children occurred (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment was 15 years of age and consistent with educational requirements (see Section 5). The law prohibits persons under the age of 18 from working at night and at sites where there is an imminent danger to health, safety, or morals; however, child labor was a problem. The law allows children to work a maximum of eight hours per day and 40 hours per week with no overtime. Employers must observe a mandatory 12-hour period between shifts. Occupational health and safety restrictions include parental authorization and a medical visit before hiring.

The majority of child workers worked in the agricultural and mining industries and as domestic workers (see Section 5). According to the Ministry of Civil Services and Labor, nearly 13 percent of urban children and 36 percent of rural children between the ages of 10 and 14 were intermittently employed, the vast majority on family farms. In addition, 8 percent of urban children and 22 percent of rural children between the ages of six and nine also were employed. Many children in rural areas dropped out of school to help on family farms, and urban children often worked as domestic laborers and servants. In the agricultural sector, children on family subsistence farms may begin work at an even younger age. In cities many children worked in occupations such as transport of goods by rickshaw, petty trading, and begging. Conditions often were harsh. The Ministry of Civil Services and Labor estimated that more than 19,000 children were working in the mines of Ilakaka in the south, both in the formal and informal sector. In 2003 IPEC reported that children as young as eight years of age were being used in mines because they could maneuver in cramped spaces more easily than adults. Children were also exploited as commercial sex workers (see Section 5).

The Ministry of Civil Services and Labor is responsible for enforcing child labor laws and policies in the formal sector, and conducted 397 general workplace inspections during the year in response to a range of complaints, not all related to child labor. The ministry had only 77 inspectors to carry out its responsibilities, making it difficult to monitor and enforce child labor provisions effectively. Enforcement in the much larger informal sector remained a serious problem. Sanctions against violators of child labor laws were significantly increased during the year to include

finest between \$500 and \$1,500 (between 1.05 and 3.15 million ariary) and prison sentences of one to three years.

During the year the Government continued its efforts to combat forced child labor and trafficking (see Section 5). Early in the year, with ILO assistance, the Government launched the “red card” campaign, in which thousands of red cards signaling the negative impact of child labor and trafficking were distributed to school officials, students, and the general public. Printed in a number of Malagasy dialects, the red cards raised public awareness about children’s rights and the protection of minors. The Ministry of Civil Services and Labor continued with its 15-year national plan to combat the worst forms of child labor, namely child prostitution, stone quarry work, salt marsh work, domestic labor, gemstone mining, agriculture, and commercial fishing, as areas of particular concern. A national committee made up of high-level government, donor, civil society, and religious group representatives met during the year to raise public awareness and coordinate the national campaign. The Government’s welcome centers in Antananarivo, Tamatave, and Tulear continued to rescue victims of trafficking and forced labor. The country joined with others in establishing a regional observation committee to create databases for analyses of the worst forms of child labor in the region.

*e. Acceptable Conditions of Work.*—The Labor Code and its implementing legislation prescribe working conditions and minimum wages, which were enforced by the Ministry of Civil Services and Labor. The law has separate provisions for agricultural and nonagricultural work.

The monthly minimum wage was \$27.30 (56,713 ariary) for nonagricultural workers and \$27.58 (57,520 ariary) for agricultural workers. This did not provide a decent standard of living for a worker and family, particularly in urban areas. Although most employees knew what the legal minimum wages were, those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages.

The standard workweek was 40 hours in nonagricultural and service industries and 42½ hours in the agricultural sector. Legislation limited workers to 20 hours of overtime per week, but employees often were required to work until production targets were met. A 2004 Catholic Relief Services report on working conditions in the EPZs indicated that 86 percent of employees surveyed regularly worked more than 40 hours per week. In some cases this overtime was unrecorded and unpaid.

The Government sets occupational health and safety standards for workers and workplaces. CNAPS, the country’s equivalent of the Social Security Administration, conducted inspections and published reports on workplace conditions, occupational health hazards, and workplace accident trends. The Ministry of Civil Services and Labor’s 77 labor inspectors were sufficient to cover only child and adult workers for the capital city effectively. If violators do not remedy cited violations within the time allowed, they may be sanctioned legally or assessed administrative penalties. Workers have an explicit right to leave a dangerous workplace without jeopardizing their employment as long as they inform their supervisor. These standards applied equally to foreign and migrant workers. Sanctions from the 397 workplace inspections during the year ranged from warnings to orders that the company resolve the problem. No workplaces were shut down as a result of workplace complaints.

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## MALAWI

Malawi is a multiparty democracy with a population of approximately 12 million. In 2004 citizens elected Bingu wa Mutharika of the ruling United Democratic Party (UDF) as President, and the UDF won a majority in the parliament. Constitutional power is shared between the President and the 193 National Assembly members, of whom 187 were elected in 2004. International observers noted substantial shortcomings in the elections, including inequitable access to the state-owned media, the ruling party’s use of state resources to campaign, and poor planning and administration by the Malawi Electoral Commission (MEC). In 2005 President Mutharika resigned from the UDF to form the Democratic Progressive Party (DPP). During the year there was a failed attempt to impeach the President for alleged legal violations, and he was widely criticized for failing to observe constitutional procedures in his efforts to remove high-ranking officials, including the vice President. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police use of excessive force, occasional mob violence, and harsh and life-threatening prison conditions continued. Arbitrary arrest and detention, including an upsurge in politically motivated arrests, and lengthy pretrial detention were problems. The Government restricted freedoms of speech, press, and assembly. Societal violence against women, child abuse, trafficking in persons, restricted worker rights, and forced child labor also existed.

During the year the Government took significant steps to punish human rights abusers and investigate corruption; however, these efforts stopped after the President dismissed the country's two top prosecutors, and it had just resumed at year's end. Parliament passed domestic violence legislation to address the rising incidence of gender-based violence in the country.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of politically motivated killings by the Government or its agents; however, police use of excessive force resulted in at least one death. For example, on January 10, a policeman in Thyolo shot and killed a man suspected of stealing cattle and other property.

There were no developments in the June 2005 case in which a 12-year-old boy arrested on suspicion of stealing money from a fellow bus passenger died in police custody in Ngabu. The boy's mother, whom police subsequently beat during interrogation, claimed that he had been tortured and assaulted by police (see Section 1.c.). An autopsy indicated the boy had ingested cypermethrine. Police charged that the boy had died as a result of the pesticide, which they claimed he had ingested at his mother's house while accompanying police on a search of the premises five days after his arrest. The police officer charged with the killing remained in custody awaiting trial at year's end; an investigation was ongoing.

There were no developments in the June 2005 case in which police shot and killed a 16-year-old boy at a demonstration in Ngabu (see Section 2.b.). The Government promised to conduct an investigation of the incident but had taken no action by year's end.

The investigation was ongoing into the August 2005 case in which police allegedly shot and killed a 28-year-old man in Machingi while he was cutting trees for firewood. The police claimed that the man was struck by a stray bullet fired by police to disperse an angry mob of illegal loggers.

In November the President's Office called on former President Muluzi to explain his role in the 2003 death of Kalonga Stambuli, a former private business advisor to Muluzi who died of poisoning and strangulation; Muluzi declined to respond. There were allegations that Stambuli may have had potentially damaging information about the business activities of the former President.

Mobs sometimes resorted to vigilante justice, and beat, stoned, or burned suspected criminals. For example, in December a mob beat to death two foreigners who reportedly had robbed a man at gunpoint.

Police continued to investigate the July 2005 case in which a mob beat a mentally ill man to death in Chitipa after he reportedly killed another man with a pounding stick.

No trial date had been set in the November 2005 case in which a man was beaten to death in Kasungu by villagers protesting the appointment of a village headman; 11 persons were arrested.

Police took no action in any of the 2004 cases of mob killings.

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

An investigation was ongoing into the 2004 disappearance of Peter Mulamba, a key witness in a high-level corruption case; some reports indicated he committed suicide, while others stated he was out of the country.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, police used excessive force and other unlawful techniques in handling criminal suspects. While higher-ranking officials demonstrated familiarity with standards for the humane treatment of prisoners and publicly condemned prisoner mistreatment, their subordinates continued to employ unacceptable techniques. A study released during the year by the Malawi Human Rights Commission (MHRC) found that police frequently subjected suspects to torture and other serious abuse when conducting investigations. Some police mistakenly believed that the law required them to present a case (not just charges) to the court within 48 hours of arrest, and resorted to beatings to obtain



information within that time limit. Lack of financial resources for appropriate equipment, facilities, and training contributed to mistreatment. In 2005 the MHRC called for the introduction of a compensation fund to assist victims of police abuse and relatives or persons who died in police custody; however, no such fund had been established by year's end.

On January 11, in Blantyre, a policeman named Nchingula forced a 29-year-old man out of a pub and shot him in the legs after discovering that both men were dating the same barmaid. The policeman was reassigned, but no further action was taken.

On May 12, police reportedly harassed, beat, and barred entry to 17 UDF members attempting to attend the bail hearing for Vice President Cassim Chilumpha (see Sections 1.d. and 3). No action was taken against police, who denied the allegations.

On June 10, a policeman named Kasinja allegedly assaulted a pregnant woman in her home and later at the police station for frustrating the officer's attempts to make advances on her friend. The woman later miscarried. The policeman was arrested and awaiting trial at year's end.

On September 28, four policemen allegedly entered the house of a man suspected of selling fuel illegally, beat his wife, and then shot the man six times as he fled the scene. The man sustained injuries in both legs, and threatened to take the police to court after his discharge from the hospital.

The MHRC reported several instances of police torture, including a case in which two policemen in Lilongwe broke a suspect's leg and tortured several other persons with a machete, club, and hammer to obtain confessions during interrogations. The man whose leg was broken claimed that police did not take him to a hospital until five days after the injury.

There were no developments in the June 2005 case in which the mother of a 12-year-old boy who died in police custody that month (see Section 1.a.) alleged that police brutally beat her and two of her children during interrogation. James Kachala, the police inspector who was charged with assaulting and wounding the mother, remained in police custody at year's end.

Police beat refugees during the year (see Section 2.d.).

Police violently dispersed demonstrations during the year; however, unlike in the previous year, no deaths resulted (see Section 2.b.).

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and life threatening. Overcrowding, inadequate nutrition, substandard sanitation, and poor health facilities remained serious problems. The prison system, which was meant to accommodate approximately 7,000 inmates, held approximately 11,000 prisoners. Inmates were encouraged to grow vegetables and raise livestock; however, they complained that they did not receive enough food. Construction of a new prison was completed in November; the main Mzuzu Prison was subsequently designated as a remand center. Community service programs were available as alternatives to prison terms.

During the year an average of 20 inmates died in prison each month, mostly due to HIV/AIDS. There were no available statistics on prison deaths at year's end.

In October the press reported that Justice Mbekeani, a prisoner serving an eight-year sentence for robbery, had sued the Attorney General, the minister for home affairs, the minister for internal security, and the commissioner of prisons, claiming that he and fellow prisoners had been subjected to torture and cruel, inhumane, and degrading treatment contrary to the constitution. The case was discontinued during the year.

Although women were not kept in separate facilities, they were segregated within the prison compound and monitored by female guards. In the four maximum-security prisons, there were separate facilities for juveniles; however, the separation was inadequate, and there were reports of sexual and physical abuse of juvenile prisoners. In the other prisons, juveniles were routinely incarcerated with adults. The law requires pretrial detainees to be held separately from convicted prisoners; however, many prisons did not comply with this law due to lack of space and inadequate facilities.

The Government permitted the Inspectorate of Prisons, domestic nongovernmental organizations (NGOs), and international NGOs to visit and monitor prison conditions and to donate basic supplies during the year. The Prison Reform Committee worked in collaboration with the Ministry of Home Affairs and the Inspectorate of Prisons to visit prisons.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government did not observe these prohibitions in

practice, and there was a growing trend toward politically motivated arrests and prosecutions.

*Role of Police and Security Apparatus.*—The National Police, controlled by the Ministry of Home Affairs and Internal Security, has responsibility for law enforcement and maintenance of order within the country. Police occasionally called on the army for support.

The country's police force was inefficient and poorly trained due to inadequate funding. Corruption was widespread, and impunity was a problem. Police continued efforts to improve investigative skills and to introduce the concept of victims' rights through workshops and other training exercises, particularly in the areas of sexual abuse, domestic violence, and trafficking in persons (see Section 5). The Government continued to seek community involvement in its comprehensive reform of the police, and civil society groups conducted workshops for the police on crowd control. The country also received foreign assistance to train officials and procure equipment.

*Arrest and Detention.*—The law provides the accused the right to challenge the legality of detention, to have access to legal counsel, and to be released on bail or informed of charges by a court of law within 48 hours; however, these rights were seldom respected in practice. The use of temporary remand warrants to circumvent the 48-hour rule was widespread (see Section 1.c.). The Government provided legal services to indigent detainees; however, access was often delayed since there were only seven public defenders. Detainees were allowed access to relatives. Bail frequently was granted to reduce prison overcrowding rather than on the merits of an individual case. In 2005 the MHRC received 663 complaints of arbitrary detention; most related to overstay of remand, denial of bail, and unheard appeals.

During the year security forces arrested a number of opposition politicians, primarily from the UDF, on a range of charges. While government actions generally were legal in the strictest sense, courts dismissed or suspended by injunction the majority of these cases. Many of those arrested were charged under antiquated dictator-era laws such as criminal libel and the Protected Names, Flags and Emblems Act, which local legal scholars viewed as unconstitutional.

In January security forces arrested and charged two UDF activists with treason for allegedly plotting to overthrow the Government. The court dismissed the treason charges, but the Government filed sedition charges against one defendant, McDonald Symon, who was later convicted and sentenced to nine months' imprisonment.

On April 15, three senior UDF leaders were arrested for insulting the President during a rally. The men were denied bail and remained on remand at Zomba Prison awaiting trial at year's end.

Between April 28 and May 3, security forces arrested Vice President Chilumpha and 13 other opposition leaders for allegedly plotting to assassinate President Mutharika (see Section 3). Chilumpha's lawyers asserted that the case should be dismissed since the Government failed to identify the alleged assassins or provide any evidence to the defense. Nevertheless, Chilumpha was held under house arrest in Blantyre until November 21, when his bail terms were relaxed, allowing him to travel within the country (provided he informed authorities of his plans) and abroad (provided he obtained permission from the High Court). The arrest and detention of Chilumpha's codefendants coincided with the controversial four-day visit of Zimbabwean President Robert Mugabe and was widely perceived as an effort to prevent the group from protesting the visit. Within hours of Mugabe's departure, 11 of the suspects were released for lack of evidence. Chilumpha and the two other defendants were released on bail on May 15 and remained suspects at year's end.

Also in May security forces arrested Malawi Democratic Party President Kamlepo Kalua and seven others who had threatened to protest during Mugabe's visit. No charges were filed. The men were released after seven days and told they had "no case to answer."

Police arrested journalists, demonstrators, and Muslim leaders during the year (see Sections 2.a., 2.b., and 2.c.).

Twenty-three percent of the prison population were pretrial detainees. Pretrial homicide suspects were typically held in detention for two to three years. Other suspects were held an average of two to three months pending trial.

The Center for Legal Assistance continued to provide free legal assistance to expedite the trials of detainees, with priority given to the sick and young and those subjected to trial delays.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice. However, the judicial system was inefficient and handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and trained personnel, heavy caseloads, and lack of resources.

The law provides for a High Court, a Supreme Court of Appeal, and subordinate magistrate courts. A Constitutional Court (a panel consisting of three High Court judges with jurisdiction over constitutional matters) also existed. The chief justice is appointed by the President and confirmed by the National Assembly. The President appoints other justices, following a recommendation by the Judicial Service Commission. All justices are appointed to serve until the age of 65 and may be removed only for reasons of incompetence or misbehavior, as determined by the President and a majority of the National Assembly.

*Trial Procedures.*—By law, defendants have the right to a public trial but not to a trial by jury; however, in murder cases, the High Court uses a jury of 12 persons from the defendant's home district. Defendants also are entitled to an attorney, and if indigent, to an attorney provided at state expense. Defendants also have the right to present and challenge evidence and witnesses, the right of appeal, and the presumption of innocence.

The judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants. The Department of Public Prosecutions had eight prosecuting attorneys and four paralegals. The paralegals served as lay prosecutors and prosecuted minor cases in the magistrate courts. Lack of funding and a shortage of attorneys created a backlog, mainly in murder cases.

*Political Prisoners and Detainees.*—Vice President Chilumpha was held under house arrest following his April 28 arrest on treason charges although no evidence was presented in the case (see Sections 1.d. and 3). At year's end, Chilumpha was challenging a High Court ruling that blocked him from traveling to the United Kingdom for medical care. There were no other reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, and citizens have access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. The law provides for administrative remedies as well as judicial remedies for alleged wrongs; however, a paucity of resources and legal professionals restricted the number of cases pursued and resulted in a large backlog. During the year the MHRC received 146 complaints related to limited access to justice and 34 complaints related to unfair administrative justice. Resource limitations also restricted the Government's ability to enforce domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice; however, there was one case in September in which four policemen allegedly entered the house of a man suspected of selling fuel illegally and beat his wife (see Section 1.d.).

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, at times the Government limited this right. Journalists and government critics were arrested, and one reporter was convicted of criminal libel for writing a derogatory article concerning a high-ranking politician. These government actions prompted self-censorship on the part of journalists. Private individuals were generally free to criticize the Government without fear of reprisal.

There were no developments in the 2005 case of the man arrested for making derogatory comments about the President at a gas station in Blantyre.

The 2005 case of former DPP vice President Gwanda Chakuamba, whom the Government arrested, charged with insulting the President, and released on bail, remained pending at year's end; Chakuamba had referred to the President as a "brute" and a "drunkard." Chakuamba's arrest occurred two weeks after he was dismissed from the cabinet.

The independent media was active and expressed a wide variety of views. A broad spectrum of political and ideological opinion was available in the country's newspapers. Ten independent newspapers were available, including two independent dailies, four biweeklies, and four independent weekly papers.

The Government restricted press freedoms during the year, particularly before and during the controversial May visit of Zimbabwean President Robert Mugabe.

Government press officers barred The Chronicle newspaper from covering Mugabe's May 2 arrival ceremony, presumably out of fear that the paper's coverage would be negative.

On May 9, the press reported that Ministry of Information officials held a closed-door meeting to decide the fate of Don Napuwa, acting managing editor for the Malawi News Agency, and Thom Khanje, reporter for the Malawi Broadcasting Corporation's (MBC) Lilongwe Bureau, who were reported to have asked Mugabe "sen-

sitive” questions during a May 6 press conference. According to press reports, Khanje was subsequently barred from covering Presidential functions and Napuwa was demoted and threatened with dismissal.

On May 8, security forces arrested The Chronicle editor-in-chief Robert Jamieson, editor Dickson Kashoti, and reporter Arnold Mnelemba and charged them with criminal libel for publishing a May 2 story that accused former attorney general Ralph Kasambara of theft; The Chronicle frequently criticized President Mutharika and his administration. The three journalists were detained overnight and released on bail. In November staff of The Chronicle began operating in hiding after hearing reports that the Government intended to confiscate the newspaper’s computers. The Chronicle closed the following week after senior staff members were offered positions that quadrupled their salaries at The Guardian, which was managed by Duwa Mutharika, the President’s daughter. The Chronicle editor Jamieson charged that Duwa had deliberately poached key staff—including Mnelemba, who still had criminal libel charges pending at year’s end—to squelch The Chronicle. The media sector viewed these actions against The Chronicle as an attack on press freedom.

In May former attorney general Ralph Kasambara threatened to sue Mabvuto Banda, a reporter for the independent newspaper The Nation, if he did not reveal his sources for a story linking three cabinet members to an alleged assassination plot for which Vice President Chilumpha and 13 others were arrested (see Sections 1.d. and 3). The President fired Kasambara a few days later.

On May 29, Health Minister Hetherwick Ntaba sued Jika Nkolokosa, the general manager of Blantyre Newspapers Limited, and one of his reporters, Maxwell Ng’ambi, for publishing an article that alleged that Ntaba was being investigated for failing to account for public funds. On September 3, Ng’ambi was convicted of criminal libel and required to pay a fine; Nkolokosa was acquitted. The State House subsequently barred Ng’ambi from interviewing the President or attending any state functions, saying that it felt “unprotected to have Ng’ambi covering the state President and other senior officials.”

There had been no court action by year’s end against The Nation journalists Raphael Tenthani and Mabvuto Banda, who in 2005 were arrested and detained for 24 hours after they published articles alleging that the President had moved out of his residence for fear that ghosts haunted the building. By year’s end neither journalist had complied with the President’s demand that they apologize and retract the story.

During the year former attorney general Ralph Kasambara obtained several court injunctions against The Nation to prevent it from publishing antigovernment stories. One such story involved a married woman who claimed that Kasambara had impregnated her and failed to support her financially.

There were 15 private radio stations with limited coverage and broadcasting only in urban areas. MBC dominated the radio market with its two stations, transmitting in major population centers throughout the country. Government-owned Television Malawi (TVM) was the sole television broadcaster. News coverage and editorial content of MBC and TVM clearly favored the President and his party, while coverage of other political parties was more critical and received less airtime.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The Internet was accessed by less than 15 percent of the population via a few Internet cafes and offices in the major cities; few individuals could afford Internet access in their homes.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, there were instances in which police limited this right. Authorities at times interfered with opposition party political functions or used violence to disperse crowds. Police were routinely criticized for failing to act impartially with regard to political demonstrations.

On February 7, a man sustained minor injuries when he was accidentally shot by police who fired live ammunition into the air to subdue hundreds of street vendors protesting government orders to move into organized fee-charging market areas; several civilians, including two small children, were injured when they were trampled. The vendors also assaulted a police officer.

On February 24, in Lilongwe, police shot at Muslim demonstrators protesting cartoons depicting the Prophet Muhammad. A 16-year-old boy was injured, but no responsibility was assigned to police.

In March security forces arrested and briefly detained several Muslim leaders sympathetic to Vice President Chilumpha on charges of unlawful assembly.

On May 12, police reportedly harassed, beat, and barred entry to 17 UDF members attempting to attend the bail hearing for Vice President Chilumpha (see Section 1.d.).

No investigation or trial was conducted during the year into the June 2005 killing of a 16-year-old boy; police had fired live ammunition at unarmed villagers who were protesting the death in police custody of another boy (see Section 1.a.).

An investigation continued into the December 2005 case in which Lenjasani Medison, a security guard, opened fire on a crowd at a government food distribution center, injuring a man and a 13-year-old boy. Medison was on bail awaiting trial at year's end.

There were no developments in the any of the 2004 cases in which police used of excessive force to disperse demonstrations.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. The Government required all organizations, including political parties, to register with the Ministry of Justice, and registration was routinely granted.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice. Churches continued to be a significant source of political influence, particularly in rural areas.

There are no separate requirements for the recognition of religions, but religious groups must register with the Government. Foreign Christian missionaries experienced occasional delays in renewing employment permits; however, this appeared to be the result of bureaucratic inefficiency rather than a deliberate government policy. Missionaries and charitable workers paid lower fees for employment permits than did other professionals.

In March security forces arrested several Muslim leaders sympathetic to Vice President Chilumpha on charges of unlawful assembly (see Section 2.b.).

*Societal Abuses and Discrimination.*—There were generally amicable relations among the various religious communities.

There were no reports of societal religious discrimination or of anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution; however, there was one case in which the Government mistreated a group of refugees and forcibly deported them. The Government granted refugee status or asylum; however, there were long delays in the process. By law, the Government does not accept refugees for permanent resettlement. The Government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in assisting refugees and asylum seekers, but restricted refugees' ability to move freely and work outside of refugee camps.

On April 22, security forces raided a UNHCR safe house in Mangochi, beat the 15 refugees residing there, and forcibly deported them for a second time to the Mozambican border. The group included 11 Congolese, three Burundians, and one Rwandan, all of whom had previously lived in the Dzaleka refugee camp and had accused the refugee camp administrator, other government representatives, and the UNHCR of corruption in 2001. Mozambican authorities denied the refugees entry and returned them to the Mangochi police station, where police rearrested and allegedly beat the men. UNHCR staff were allowed to visit the group at Maula Prison, where they were later held, and were permitted to provide food and medical assistance; however, the Government denied a UNHCR request to transfer the group to a safe house, claiming they posed a threat to national security. The men remained in prison until resettlement; between July and October, a total of 80 persons, including the 15 imprisoned refugees and their dependents, were resettled in Sweden.

In November 2005 the Government revoked the refugee status of these same men, claiming they had written a letter threatening the lives of the President and the refugee commissioner, a claim that police investigators determined to be unfounded.

in 2003. Authorities raided the camp, beat the men, and detained them at Maula Prison for 10 days before forcibly deporting them to the Mozambican border. The men managed to return to the country, where they obtained a High Court order restraining the Government from deporting them and granting them the right to apply for judicial review of the refugee committee's decision to revoke their refugee status. Fearing for their safety, the group went into hiding in the "no man's land" along the border with Mozambique in February and later stayed in a UNHCR safe house in Mangochi until the April 22 raid.

Although largely peaceful, there were some reports of ethnic clashes among asylum seekers.

The Government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol.

While no legal framework existed, the Government allowed refugees to seek both employment and educational opportunities, although it restricted these activities outside of the camps. The UNHCR, NGOs, and the Government collaborated to provide education to children in refugee camps.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens 18 years of age and older.

*Elections and Political Participation.*—International election observers found the May 2004 Presidential and parliamentary elections to have substantial shortcomings, including inequitable access to the state-owned media and poor planning by the MEC. The ruling party frequently monopolized resources and used public funds for campaign purposes. Voter turnout was low compared with the two previous Presidential elections. With approximately 36 percent of the popular vote, President Mutharika, chosen by former President Muluzi as the UDF candidate, was elected to serve a five-year term. Election discrepancies prevented parliamentary candidates from taking seats in six constituencies. By-elections for these vacancies took place in January 2005. Observers declared them free and fair and better organized than the national elections. The President and vice President hold parliamentary seats but are constitutionally barred from holding other public office.

The executive branch exerted considerable influence over the unicameral National Assembly, which followed a hybrid parliamentary system loosely based on the British model but which operated in the context of a Presidential-parliamentary model; a number of cabinet ministers also were members of the National Assembly. Although the constitution calls for an 80-member senate as part of a bicameral legislature, the Government has yet to establish a senate.

Although the Government did not prevent the activities of opposition political parties, the parties alleged that the Government used bribery, other inducements, and violence to encourage opposition party divisions. Sporadic minor violence was common between supporters of rival political parties.

In May 2005 President Mutharika dissolved district and municipal assemblies in anticipation of constitutionally-mandated local government elections that were due that same month; however, the Government failed to actually hold elections, citing a budgetary shortfall related to the food crisis. Civil society and the donor community have criticized the Government for delaying the staging of these elections, which had not been held by year's end, and expressed concern that lack of political will was the primary cause for delay.

On February 9, President Mutharika announced his intention to accept Vice President Chilumpha's "constructive resignation," claiming that Chilumpha had essentially tendered his resignation by skipping cabinet meetings and avoiding most government functions. The action was widely viewed as unconstitutional since the vice President, as an elected official, cannot be dismissed from his position except through impeachment. On December 21, the Constitutional Court ruled that the vice President could not constructively resign. Following the ruling, President Mutharika publicly recognized Chilumpha as vice President for the first time since February in a media broadcast. Chilumpha remained on bail for alleged treason at year's end (see Section 1.d.).

There were 27 women in the 193-seat National Assembly and five women in the 30-member cabinet. Women comprised approximately 25 percent of the civil service. There were two female justices among the 23 Supreme and High Court justices, and a woman was appointed as inspector general of police, the highest position in law enforcement.

There were three members of minorities in the National Assembly.

*Government Corruption and Transparency.*—There was widespread public perception of corruption in the executive and legislative branches. President Mutharika continued his reform program, which included passage of anti-money laundering legislation in August; however, these efforts were overshadowed by an increase in politically motivated arrests and prosecutions (see Sections 1.d., 2.a., and 2.b.), controversy over Mutharika's dismissal of senior prosecutors, and the discontinuance of the corruption case against former President Bakili Muluzi.

The Anticorruption Bureau (ACB) continued to launch investigations and indict former high-level government officials. For example, on February 14, former education minister Yusuf Mwawa was sentenced to five years in prison with hard labor for theft by a public servant, abuse of public office, and forgery; however, in September he was granted "bail" on health grounds and released. On June 1, a court sentenced Member of Parliament (MP) Maxwell Milanzi to nine months' imprisonment on embezzlement charges, later commuted to a two-year suspended sentence. In August MP Lucius Banda was convicted of forgery and sentenced to 21 months' imprisonment; however, in November, after serving just two months, Banda was released and his status as an MP restored following a High Court acquittal on the basis that the original verdict was harsh and excessive for a first-time offender. The state was challenging the acquittal at year's end. The arrests of Banda and Milanzi occurred shortly after Banda spearheaded the introduction of parliamentary procedures for impeaching the President, and Milanzi moved an impeachment motion against the President.

On August 2, Sam Safuli, the former principal secretary for education, was sentenced to two years' imprisonment for corruption.

ACB efforts were hampered by increasing interference by President Mutharika. In August the President fired the country's two senior prosecutors, ACB Director Gustav Kaliwo and Director of Public Prosecutions Ismael Wadi, over the handling of the corruption case against Muluzi. Legal professionals, civil society, and the international community sharply criticized the President for compromising the independence of prosecutors and for failing to observe constitutional procedures in the dismissals. A September report on the justice sector jointly published by the Africa Governance Monitoring and Advocacy project and the Open Society Initiative for Southern Africa charged that executive interference with the ACB and the director of public prosecutions had undermined both offices. The Public Appointments Committee stated that the President had breached the Corrupt Practices Act by dismissing Kaliwo. With the two top prosecutor positions vacant for several months, the ACB was unable to investigate and prosecute existing cases during the second half of the year and accumulated a backlog of more than 200 new cases. The courts ruled that some cases be discontinued since the state had failed to provide timely trials or made other procedural mistakes. For example, the corruption case against John Chikago, the country's former ambassador to Japan, was dismissed because the ACB had not obtained the consent of the Director of Public Prosecutions to prosecute. Corruption charges against Ziliro Chibambo, the country's former ambassador to Mozambique, were dismissed due to the ACB's failure to provide evidence.

On July 27, former President Muluzi was arrested on corruption and theft charges and released the same day. On July 31, the former director of public prosecutions, Ismael Wadi, filed a motion for dismissal, noting that with both the director and deputy director positions of the ACB vacant, the case could not continue legally since no prosecutor was present. The President subsequently demanded Wadi's resignation. In late December the press reported that acting ACB director Tumalisye Ndovi had resumed the investigation and traveled to London and Washington, D.C. to investigate whether embassy accounts had been abused under Muluzi.

The Public Accounts Committee summoned officers from various ministries and departments to answer questions raised in a 2005 auditor general's report reviewing compliance with fiscal rules and regulations; however, many failed to appear.

In September a court acquitted Chief Immigration Officer David Kambilonje of corruption and abuse-of-office charges brought against him by the ACB in 2005, stating that the state failed to provide sufficient evidence. The ACB appealed the acquittal.

The trial was still pending for Secretary of the Treasury Milton Kutengule, who was arrested by the ACB in October 2005 on corruption charges. Kutengule asked the High Court to dismiss the charges against him, since the case had yet to be heard at year's end. The case remained pending.

The law provides for public access to government information, and the Government granted access for citizens and non-citizens, including foreign media.

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

A wide variety of domestic and international human rights groups operated without government restriction, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The MHRC was charged with monitoring, auditing, and promoting human rights and conducting investigations regarding violations of human rights; however, a shortage of resources resulted in a backlog of cases, delayed production of reports, and failure to expand human rights monitoring. While complete statistics had not been published by year's end, the MHRC reported that it had received 867 complaints of human rights violations during the year; most were related to labor issues, inadequate access to the judiciary, violations of children's rights, restrictions on property rights and economic activity, and rights of prisoners. The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations.

Ombudsman Enock Chibwana was mandated by the law to investigate and take legal action against government officials responsible for human rights violations and other abuses. The ombudsman's freedom of action was circumscribed by legislation that requires a warrant and a three-day waiting period to gain access to certain government records. The activities of the ombudsman were subject to judicial review.

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

The law specifically provides for equal rights for women, forbids discrimination based on language or culture, and provides for equality and recognition before the law for every citizen. However, the capacity of government institutions to assure equal rights for all citizens was limited.

*Women.*—Domestic violence, especially wife beating, was common, although women seldom discussed the problem openly and victims rarely sought legal recourse. Legal experts and human rights workers attributed victims' reluctance to report their abusers to lack of awareness of their legal rights and fear of retribution and ostracism. In August parliament passed a domestic violence bill that provides a maximum penalty of life imprisonment for domestic violence. The law also recognizes that both men and women can be perpetrators as well as victims of domestic violence. Police regularly investigated cases of rape and sexual assault but did not normally intervene in domestic disputes. The press published frequent accounts of rape and abuse, and the judiciary continued to impose heavier penalties on those convicted of rape—including up to 14-year prison sentences for child rape—and assault.

In February a man was sentenced to five years' imprisonment for wounding his pregnant wife's genitals, and in September another man was sentenced to 14 years' imprisonment for cutting off his wife's hands. During the year the Government announced plans to establish shelters to support abuse victims, and the police service began a sensitization campaign on the dangers of domestic violence.

The law does not specifically prohibit female genital mutilation (FGM), and there were anecdotal reports that a few small ethnic groups practiced it.

Prostitution is legal; however, the law prohibits living off the wages earned through prostitution, owning a brothel, or forcing another person into prostitution. On February 26, prostitutes found loitering in Kasungu were charged with living on earnings from prostitution and ordered to pay a small fine or face three months' imprisonment. In August eight prostitutes in Lilongwe were ordered to pay a small fine for loitering at night. In July 2005, bar and hotel owners, participating in a 4-day workshop to brainstorm on commercial sex activities and the spread of HIV/AIDS, called on the Government to criminalize prostitution. There was no government action during the year.

Sexual harassment is prohibited by law. In December a man who fondled a woman in Mponda village without her consent was found guilty of indecent assault and sentenced to 18 months' imprisonment.

State House Press Officer Chikumbotsu Mtumodzi was accused of indecently assaulting a journalist at her workplace on December 18; the trial was ongoing at year's end.

Women have the right to full and equal protection under the law and may not be discriminated against on the basis of gender or marital status; however, discrimination against women was pervasive, and women did not have opportunities equal to those available to men. Women had significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity.



Women often had less access to legal and financial assistance, and widows often were victims of discriminatory and illegal inheritance practices in which the majority of the estate was taken by the deceased husband's family. Women usually were at a disadvantage in marriage, family, and property rights; however, awareness of women's legal rights continued to increase, and women began to speak out against abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution; 52 percent of the country's full-time farmers were women. Women also had limited access to agricultural extension services, training, and credit. Gender training for agricultural extension workers and the gradual introduction of rural credit programs for women have increased; however, few women participated in the limited formal labor market, where they constituted less than 5 percent of managerial and administrative staff. In 2005 the National Association of Businesswomen supported working women by making small loans to 300 women who successfully completed business management training.

The law provides for a minimum level of child support, widows' rights, and the rights to maternity leave; however, only individuals who utilized the formal legal system benefited from these legal protections. In a few isolated areas, a widow was sometimes forced to have sex with in-laws as part of a culturally-mandated "sexual cleansing" ritual following the death of her husband. In some cases, she was "inherited" by a brother-in-law or other male relative. Although there were no laws specifically prohibiting these practices, the Government and civil society made efforts to abolish them by raising awareness concerning the inherent dangers of such behavior, including the risk of HIV/AIDS transmission.

The Government addressed women's concerns through the Ministry of Women and Child Development.

*Children.*—The constitution protects children from any treatment that is harmful to their physical or mental development or may interfere with their education, and the Government continued a high level of spending on children's health and welfare.

The Government provided free primary education for all children, although education was not compulsory. A 2005 government study found that 80 percent of children attended primary school, although only 12 percent attended secondary school. Families were responsible for book fees and purchasing uniforms. Students from very poor families had access to a public book fund. Girls, especially in rural areas, have historically been unable to complete even a primary education and therefore were at a serious disadvantage in finding employment.

In 2004 the University of Malawi released a report on the status of free primary education since its inception in 1994. The report noted that, over the preceding decade, annual budgetary increases for education had not kept pace with increasing student enrollment. Student dropout rates marginally decreased each year since free education was introduced, but the study concluded that rates remained high. The 2002 Malawi Demographic Household and Education Data Survey's report indicated that gender gaps in primary school attendance were small but that boys were much more likely to attend secondary school than girls. There also were large gaps in achievement levels between girls and boys.

The Government took steps to respond to a March 2004 UN Children's Fund (UNICEF) study that showed a number of girls entered into sexual relationships with teachers for money, became pregnant, and subsequently left school. The study also found that many girls left school because of violent behavior by some teachers. In response the Government expanded legal protection of students subjected to exploitation and inappropriate relationships at school. In November 2005 the Lilongwe magistrate court sentenced a male teacher to six years' imprisonment for defiling a 10-year-old girl in a classroom.

More than half of the country's children lived in poverty, mostly in rural areas. Children in rural households headed by women were among the poorest. Only one-third of children had ready access to safe drinking water, infant mortality was high, and child malnutrition was a serious problem. In June 2005 the Government launched a National Plan of Action for Orphans and Vulnerable Children to mitigate the impact of poverty and HIV/AIDS on the country's estimated one million orphans.

Child abuse was a problem. The press reported several cases of sexual abuse of children, including arrests for rape, incest, sodomy, and defilement. On February 18, a man was sentenced to nine years' imprisonment with hard labor for indecent assault of his 16-month-old daughter in 2004. In June a man was sentenced to 14 years' imprisonment with hard labor for defiling his 12-year-old niece. In July an HIV-positive man was sentenced to 18 years' imprisonment with hard labor for defiling two girls in Mulanje and infecting them with gonorrhea. During the year the

press reported a few alleged rape cases involving female perpetrators who went unpunished since the relevant law only recognizes male rapists.

Abusive practices, including the secret initiation of girls into their future adult roles, were widespread. In a few traditional communities, girls averaging 12 years old were forced to have sex with older men as part of such initiation rites. There was a re-emergence of the Kupimbira, a practice that allows a poor family to receive a loan in exchange for daughters of any age. FGM was performed in some cases (see Section 5, Women).

A local NGO reported an increase in fathers marrying their own daughters in Mangochi District, and the organization urged women to report husbands who slept with their daughters. The MHRC expressed concern over reports of parents forcing their daughters into marriages for food.

The Ministry of Women and Child Development undertook various activities to enhance protection and support of victims. In March a workshop was held in Mangochi to enable stakeholders to develop strategies to combat child abuse. In November 2005 the ministry announced a plan to introduce a child abuse hotline during the year; however, the hotline had not been installed by year's end. The ministry continued its efforts to convert its former regional offices into rehabilitation centers.

In August the National Police conducted a two-day child protection orientation for district police commanders and a two-week training-of-trainers workshop for 16 child protection officers from police units.

Investigations continued into the April 2005 cases in which a boy's genitals were cut off in Chinsapo and another boy's ears were cut off in Mchinji. The Ministry of Women and Child Development provided access to medical care and rehabilitation in these cases.

In 2004 the Government worked with UNICEF, international donors, and various NGOs to create and implement a Child Justice Act to ensure juveniles suitable access to the justice system. During the year some components of the act were implemented, although the bill remained with the cabinet at year's end.

The trafficking of children for sexual purposes was a problem (see Section 5, Trafficking), and child prostitution also occurred. The belief that children were unlikely to be HIV positive and the widespread belief that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, contributed to the sexual exploitation of minors.

Child labor, including instances of forced child labor, was a problem (see Section 6.d.).

A few charitable organizations attempted to reduce the number of child beggars in urban areas; however, the problem of street children worsened as the number of orphans whose parents died from HIV/AIDS increased. Extended family members normally cared for such children and other orphans.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons specifically, and persons were trafficked from and within the country. Although the extent of human trafficking was undocumented, the Government made efforts to combat trafficking and used existing laws to prosecute cases of child trafficking for agricultural labor exploitation. Although the age of sexual consent is 14, there was no age specified for the protection of minors from sexual exploitation, child prostitution, or child pornography. The Government worked with UNICEF and NGOs to refine child protection laws (see Section 5, Children).

The country is a source and transit point for women and children trafficked for sexual purposes locally and to brothels abroad, particularly in South Africa. Victims trafficked to South Africa were typically between 14 and 24 years old, and were recruited with offers of marriage, study, or employment. According to the International Organization for Migration, sex tourists, primarily from Germany, the Netherlands, and the United Kingdom, lured children into sexual relationships while in the country. Poverty and low educational levels contributed to such exploitation. Traffickers involved in land border trafficking to South Africa were typically long-distance truck drivers and local businesswomen.

The penal code contains several provisions relating to prostitution and indecency that the Government has used to prosecute traffickers. During the year the Government prosecuted 10 child traffickers; most of the cases involved trafficking of children for agricultural labor exploitation and cattle herding; the cases were reported to authorities by community labor committees and labor inspectors. A Mozambican man was sentenced to six years' imprisonment for attempting to sell two youths to businessmen. In July a farmer was arrested in Mchinji for allegedly abducting three boys for child labor, and in early August a man was arrested in Dedza for allegedly abducting six young boys to work on tobacco farms as herders. Some convicted child traffickers were required to pay fines; however, some who claimed ignorance of the

law were merely warned and released. The Ministry of Women and Child Development repatriated the victims to their home villages.

Police and the Ministry of Women and Child Development handled cases brought to the attention of authorities and provided services for victims, including counseling and reintegration assistance.

The Government continued to implement a multiyear strategy to protect vulnerable children from exploitation and to develop a nationwide, interministerial plan to identify the extent of the problem and possible solutions.

*Persons With Disabilities.*—The law provides for the support of persons with disabilities through greater access to public places, fair opportunities in employment, and full participation in all spheres of society; however, extremely limited resources prevented the Government from protecting these rights in practice. Reported violations were taken seriously, and the President publicly declared that students with disabilities should have equal access to education and other government services. The Government has not mandated accessibility to buildings and services for persons with disabilities.

There were both public and privately supported schools and training centers that assisted persons with disabilities. There also were several self-supporting businesses run by and for persons with disabilities. The Malawi Rural Development Fund provided loans to persons with disabilities to support these activities.

*Other Societal Abuses and Discrimination.*—Homosexuality is illegal, although there were no prosecutions for homosexuality during the year.

Societal discrimination against persons living with HIV/AIDS was widespread and inhibited access to treatment; many individuals preferred to keep silent about their health rather than seek help and risk being ostracized. In June 2005 the industrial relations court in Lilongwe ruled that an employer had discriminated against an HIV-positive worker, whom he fired after learning of her illness. The employer complied with the court decision to award eight months' compensation to the worker. The Ministry of Labor and Vocational Training (MOLVT) conducted a public relations program to reduce the stigma associated with having HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join trade unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice; however, union membership was low due to the small percentage of the workforce in the formal sector, the lack of awareness of worker rights and benefits, and a resistance on the part of many employees to join unions. Army personnel and police could not belong to trade unions, but other civil servants were allowed to form unions. Union leaders estimated that 12 percent of the formal sector workforce belonged to unions; however, accurate statistics on the numbers of union members were not available. Employers, labor unions, and the Government lacked sufficient knowledge of their legitimate roles in labor relations and disputes, which limited their effectiveness in the implementation and enforcement of the law.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the MOLVT, and registration was routinely granted.

The law prohibits antiunion discrimination by employers and requires that employers reinstate workers dismissed because of union activities. There were no reports of persons who were fired for their membership in unions.

*b. The Right To Organize and Bargain Collectively.*—Unions have the right to organize and bargain collectively, and the Government protected this right in practice. The law requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before such a union can engage in collective bargaining at the enterprise level, and at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions included wage negotiation, dispute resolution, and industry-specific labor policy development. In practice the law was not effectively implemented due to lack of human and financial resources.

The law allows members of a registered union to strike or go through a formal mediation process overseen by the MOLVT, and workers exercised this right in practice. A strike can only occur after all settlement procedures established in a collective agreement (an understanding, not necessarily signed, reached by both parties to attempt mediation) and conciliation efforts have failed. Laws do not specifically prohibit retaliation against strikers. There was no prohibition on actions against unions that were not registered legally. Members of a registered union in "essential services" have a limited right to strike. Essential services were specified as services

whose interruption would endanger the life, health, or personal safety of the whole or part of the population, as determined by the Industrial Relations Court (IRC).

Arbitration rulings were legally enforceable; however, in practice, due to the lack of funding and heavy case backlog, the IRC could not monitor cases or adequately enforce the laws.

At year's end, 16 firms held licenses to operate under export processing zone (EPZ) status, and 15 were operational. The full range of labor regulations applied to the EPZs; however, union organizers stated they had little access to workers in the EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, such labor occurred (see Sections 5 and 6.d.). According to the International Confederation of Free Trade Unions, bonded labor involving entire families was widespread on tobacco plantations. Tobacco tenants have exclusive arrangements, often unwritten, with the estate owners to sell their crop and to buy inputs such as fertilizer, seed, and often food. These costs, in addition to rent charges, often were greater than the artificially low price received for the tobacco crop, leading to a situation of debt and bonded labor to repay the input and other costs.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law defines children as persons under 16 years of age, and the law prohibits the employment of persons under 14; nevertheless, child labor was a problem. The law also prohibits the employment of children under 18 in work that is hazardous, harmful, or interferes with their education. In 2004 the Government published a National Code of Conduct on Child Labor, which defines guiding principles for combating all forms of child labor.

There was significant child labor on tobacco farms, subsistence farms, and in domestic service, largely as a result of extreme poverty and longstanding cultural traditions. Child traffickers attempting to smuggle children for agricultural labor exploitation were occasionally caught and successfully prosecuted and convicted (see Section 5).

A local NGO reported that young girls in urban areas often worked outside of their families as domestic servants, receiving little or no wages. School-age children often worked as vendors. According to a 2002 MOLVT study on child labor released in 2004, 80 percent of children were working either in or outside of their homes. In addition, approximately 38 percent of children five to 14 years of age worked more than seven hours per week.

Police and the MOLVT were responsible for enforcing child labor laws and policies. During the year the MOLVT increased inspections, particularly on agricultural estates, and hired and trained 40 additional labor inspectors. In August the MOLVT conducted a workshop for district labor officers on the roles of the judiciary, NGOs, police, and labor officers in child trafficking. During the year an additional 55 youth activists received training on countering child labor using the 2004 child labor code of conduct. The Government continued to participate in a three-year International Labor Organization project to withdraw and prevent children from engaging in hazardous work on tobacco farms and domestic service. The MOLVT also established 60 additional community child labor committees in six districts. The MOLVT conducted child labor "open days" in six districts and conducted six sensitization workshops for school teachers and estate owners during the year. With support from UNICEF, the Ministry of Women and Child Development also trained 240 child protection workers throughout the country. The MOLVT youth committees in rural areas monitored and reported on child labor. Despite these efforts, enforcement by police and MOLVT inspectors of child labor laws was hindered by budgetary constraints.

*e. Acceptable Conditions of Work.*—The MOLVT sets separate urban and rural minimum wage rates based on recommendations of the Tripartite Wage Advisory Board (TWAB), composed of representatives of labor, government, and the private sector. However, poor functioning of the TWAB resulted in delayed and inadequate wage rate revisions. The urban minimum wage amounted to approximately \$0.71 (MK 97) per day; in all other areas, it was approximately \$0.54 (MK 74) per day. Minimum wage rates, which were last revised in January 2005, did not provide a decent standard of living for a worker and family. Wage earners often supplemented their incomes through farming activities. The MOLVT lacked the resources to effectively enforce the minimum wage. However, the minimum wage largely was irrelevant for the great majority of citizens, who earned their livelihood outside the formal wage sector.

The maximum legal workweek was 48 hours, with a mandatory weekly 24-hour rest period. The laws require payment for overtime work and prohibit compulsory overtime. In practice employers frequently violated statutory time restrictions.

The law includes extensive occupational health and safety standards; however, MOLVT enforcement of these standards was erratic. Workers—particularly in industrial jobs—often worked without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment; however, given the low level of education of most workers and the high level of unemployment, workers were unlikely to exercise this right.

The law protects foreign workers in correct legal status. Illegal foreign workers were subject to deportation.

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## MALI

Mali, with a population of approximately 12 million, is a constitutional democracy that continued to implement a decentralized form of government. International and domestic observers characterized the 2002 Presidential and legislative elections as generally free and fair; however, there were some administrative irregularities. On May 23, Tuareg rebels attacked government military bases in the town of Kidal and Menaka. On July 4, the Government signed a peace agreement with rebel forces. While civilian authorities generally maintained effective control of the security forces, there were isolated instances in which elements of the security forces acted independently of government authority.

The Government generally respected its citizens' human rights; however, poor prison conditions, lengthy pretrial detention, prolonged trial delays, domestic violence and discrimination against women, female genital mutilation (FGM), trafficking in children, hereditary servitude relationships between different ethnic groups, child labor, and forced labor, including by children, were problems.

### RESPECT FOR HUMAN RIGHTS

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

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

On September 1, November 23, and November 28, mob killings occurred in Bamako. In each case local citizens beat and killed suspected thieves.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Unlike in the previous year, there were no reported kidnappings.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were occasional reports that police abused civilians.

There were reports that police arrested and abused student demonstrators (see Section 2.b.).

*Prison and Detention Center Conditions.*—Overall prison conditions remained poor. Prisons continued to be overcrowded, medical facilities and access were inadequate, and food supplies were insufficient.

Men and women were separated in Bamako prisons; however, outside the capital, men and women were held in the same building but in separate cells. In Bamako juvenile offenders usually were held in the same prison as adult offenders, but they were kept in separate cells. Pretrial detainees were held with convicted prisoners.

The Government permitted prison visits by human rights monitors; however, nongovernmental organizations (NGOs) and other monitors were required to submit a request to the prison director, who then forwarded it to the Ministry of Justice. Approvals, which took up to one week, were routinely granted, but the week delay hindered the ability of monitors to ascertain if there were human rights violations, according to one NGO. Several NGOs, including the Malian Association of Human Rights and the Malian Association of Women Lawyers, visited prisoners and worked with female and juvenile prisoners to improve their conditions.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions; however, on occasion, police arrested and detained persons arbitrarily.

*Role of the Police and Security Apparatus.*—Security forces include the army, air force, gendarmerie, national guard, and police. The army and air force are under the control of the civilian minister of defense. The national guard is administratively under the minister of defense; however, it is effectively under the command and control of the minister of internal security and civil protection. The police and gendarmerie are under the Ministry of Internal Security and Civil Protection. The police have responsibility for law enforcement and maintaining order in urban areas, while gendarmes have that responsibility in rural areas.

The national police force is organized into various districts. Each district has a commissioner who reports to the regional director at national headquarters. The police force was moderately effective but lacked resources and training. Corruption was a problem, and some police and gendarmes extorted bribes (see Section 2.d.). Impunity was not a problem, and individual police were charged and convicted of abuses. The gendarmerie conducted investigations of police officers.

During the year police officer Daba Djire was suspended for involvement in a case involving three Lebanese nationals accused of tapping into a local telephone network; the officer was awaiting trial at year's end.

*Arrest and Detention.*—Judicial warrants are required for arrest. Normally complainants deliver warrants, which stipulate when a person is scheduled to appear at a police station. However, police sometimes served warrants, generally in response to an influential relative of the complainant or if they received a bribe. In cases involving a monetary debt, the arrested person frequently resolved the case at the police precinct, and the police received a portion of the recovered money. The law provides that suspects must be charged or released within 48 hours and that they are entitled to counsel; however, in practice, detainees were not always charged within the 48-hour period. Limited rights of bail or the granting of conditional liberty exist, particularly for minor crimes and civil matters. On occasion the authorities released defendants on their own recognizance. Detainees have the right to a lawyer of their choice or a state-provided lawyer, but administrative backlogs and an insufficient number of lawyers often prevented prompt access. Detainees were allowed prompt access to family members.

Police arrested demonstrators during the year, and the Presidential palace's security force briefly detained a journalist (see Sections 2.a. and 2.b.).

Pretrial detention was a problem. In extreme cases, individuals remained in prison for several years before coming to trial. Approximately 77 percent of imprisoned persons were awaiting trial.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the executive branch continued to exert influence over the judicial system, and corruption and limited resources affected the fairness of some trials. Domestic human rights groups alleged that there were instances of bribery and influence peddling in the courts. The minister of justice appoints and may suspend judges, and the Justice Ministry supervises both law enforcement and judicial functions. The President heads the Council of Magistrates, which oversees judicial activity.

During the year the Council of Magistrates temporarily suspended Judge Sidi Keita for the attempted murder of a court clerk in the town of Mopti. No charges were filed against the judge, who was transferred to another district. The council charged and suspended a second judge in Bamako for accepting a bribe in connection with a case involving three Lebanese nationals accused of tapping into a local telephone network; the judge subsequently died.

The deputy public prosecutor, senior magistrate, and judge investigated in 2005 on charges of corruption were suspended and awaiting trial at year's end.

The country has a lower Circuit Court and a Supreme Court with both judicial and administrative powers and a Constitutional Court that oversees constitutional issues and acts as an election arbiter. The constitution also provides for the convening of a high court of justice to try senior government officials in cases of treason.

*Trial Procedures.*—Except in the case of minors, trials are public, and defendants have the right to be present and have an attorney of their choice. Court-appointed attorneys are provided for the indigent without charge. Defendants have the right to consult with their attorney, but administrative backlogs and an insufficient number of lawyers often prevented prompt access. Defendants and attorneys have access to government evidence relevant to their cases. Defendants are presumed innocent and have the right to confront witnesses and to appeal decisions to the Supreme Court. These rights extend to all citizens and all groups.

Village chiefs, in consultation with the elders, decided the majority of disputes in rural areas. If these decisions were challenged in court, only those found to have legal merit were upheld.

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

*Civil Judicial Procedures and Remedies*.—There is an independent and impartial judiciary in civil matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence*.—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press*.—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals criticized the Government publicly and privately, generally without reprisal, and the Government did not attempt to impede this criticism.

The independent media were active and expressed a wide variety of views without restriction.

On June 8, the Presidential palace's security force beat and jailed a journalist, who had argued with security officials over the placement of a security cordon. A few hours later the Government apologized, and the journalist was released.

No charges were filed in connection with the July 2005 kidnapping and beating of a private radio talk show host; the investigation was ongoing at year's end.

*Internet Freedom*.—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. There were numerous Internet cafes in Bamako, although home access in the capital was limited to those able to pay the high installation and monthly fees. Outside of Bamako, there were a few sites where the Internet was available for public use, but many towns in the country had no Internet access.

*Academic Freedom and Cultural Events*.—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association*.—*Freedom of Assembly*.—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice.

On November 13, police fired tear gas into a demonstration of medical students seeking higher stipends from the Government. The students blocked access to one of Bamako's main hospitals during the protest and injected police with an unknown red liquid, later identified as juice. Police and protesters were injured by rocks and other projectiles. Five students were arrested, charged with damaging property, and held for six days before being released. The students' union claimed that the five, including one woman, were physically and sexually abused while in police custody. Their trials were pending at year's end.

*Freedom of Association*.—The constitution and law provide for freedom of association, and the Government generally respected this right in practice; however, the law prohibits association deemed immoral. In June 2005 the governor of the District of Bamako cited this law to refuse official recognition of a gay rights association.

*c. Freedom of Religion*.—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

The Government required that all public associations, including religious associations, register; the process was routine and not burdensome. Traditional indigenous religious groups were not required to register.

*Societal Abuses and Discrimination*.—The Jewish population was estimated at less than 50, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation*.—The constitution and law provide for these rights, and the Government generally respected them in practice. Police routinely stopped and checked both citizens and foreigners to restrict the movement of contraband and to verify vehicle registrations. Some police and gendarmes extorted bribes.

The constitution and law specifically prohibit forced exile; the Government did not use it.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. A national committee in charge of refugees operated with institutional assistance from the office of the UN High Commissioner for Refugees.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to approximately 390 persons during the year.

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

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

*Elections and Political Participation.*—Presidential and legislative elections were last held in 2002; domestic and international observers characterized both elections as generally free, fair, and without evident fraud, but there were administrative irregularities.

There were 15 women in the 147-member National Assembly, five women in the 28-seat cabinet, five women on the 33-member Supreme Court, and three women on the nine-member Constitutional Court; a woman chaired the Supreme Court.

The National Assembly had 14 members of historically marginalized pastoralist and nomadic ethnic minorities representing the northern and eastern regions of Gao, Timbuktu, and Kidal. The cabinet also had two representatives of the northern regions: the minister of health and the minister of state reforms and institutional relations.

*Government Corruption and Transparency.*—The Government continued its campaign to curb corruption; however, corruption hindered development and governmental efforts to improve human rights. On May 30, the auditor general's office released its first annual report, which charged widespread tax evasion and customs duty fraud by private telecommunications companies, the mayor of Bamako's office, and fuel importation officials. No action had been taken against responsible officials by year's end.

On August 15, the auditor general announced that approximately one million dollars (500 million CFA) had disappeared during the last three years from the Office du Niger, which manages the country's rice-growing region. The director of the Office du Niger was subsequently removed, and three mid-level employees were arrested. In November the three mid-level employees were released.

No verdict was reached during the year in the February 2005 case in which employees of the textile parastatal Compagnie Maliennne pour le Development des Textiles were charged with illegally importing cotton.

The law provides for public access to government information, and the Government granted such access. If an information request is refused, the person inquiring can appeal to an administrative court, which must handle the appeal within three months.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. These groups included the Malian Association for Human Rights, a smaller Malian League of Human Rights, and a local chapter of Amnesty International. The International Committee for the Red Cross had offices in Bamako, Timbuktu, and Gao.

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

The constitution and law prohibit discrimination based on social origin, color, language, sex, or race, and the Government generally enforced these provisions effectively; however, violence and discrimination against women, FGM, and trafficking in children were problems.

*Women.*—Domestic violence against women, including spousal abuse, was tolerated and common. Spousal abuse is a crime, but police were reluctant to enforce laws against or intervene in cases of domestic violence. Assault is punishable by prison terms of one to five years and fines of up to \$1,000 (500,000 CFA francs) or



if premeditated, up to 10 years' imprisonment. Many women were reluctant to file complaints against their husbands because they were unable to support themselves financially. The Ministry for the Promotion of Women, Children, and the Family produced a guide on violence against women for use by health care providers, police, lawyers, and judges. The guide provides definitions of the types of violence and guidelines on how each should be handled. The ministry has also begun surveys to assess the frequency of violence, but no results were available at year's end. Action for the Defense and Promotion of Women Rights and Action for the Promotion of Household Maids operated shelters.

The law criminalizes rape, but spousal rape is not illegal. Reports of rape were rare, and most cases went unreported.

FGM was common, particularly in rural areas, and was performed on girls between the ages of six months to six years. According to domestic NGOs, approximately 95 percent of adult women had undergone FGM. The practice was widespread in most regions and among most ethnic groups, was not subject to class boundaries, and was not religiously based. There were no laws against FGM, but a government decree prohibits FGM in government-funded health centers.

The Government continued its two-phased plan aimed at eliminating all forms of FGM by 2008. According to the local human rights organizations fighting FGM, the educational phase (workshops, videos, and theater) continued in cities, and FGM reportedly decreased substantially among children of educated parents. In many instances FGM practitioners agreed to stop the practice in exchange for other income-generating activity. The National Committee Against Violence Towards Women linked all the NGOs active in FGM.

Prostitution is legal and common in cities. Sex tourism was not known to be a problem. There were no confirmed reports of prostitutes targeted for abuse by local authorities.

The law does not specifically address sexual harassment.

Family law favored men, and women were particularly vulnerable in cases of divorce, child custody, and inheritance rights, as well as in the general protection of civil rights. Women had very limited access to legal services due to their lack of education and information, as well as the prohibitive cost. For example, if a woman wanted a divorce, she had to pay approximately \$60 (30,000 CFA francs) to start the process, a prohibitive amount for most women.

While the law gives women equal property rights, traditional practice and ignorance of the law prevented women, even educated women, from taking full advantage of their rights. A community property marriage had to be specified in the marriage contract. In addition if the type of marriage was not specified on the marriage certificate, judges presumed the marriage was polygynous. Traditional practice discriminated against women in inheritance matters, and men inherited most of the family wealth.

Women's access to employment and to economic and educational opportunities was limited. Women constituted approximately 15 percent of the labor force, and the Government, the country's major employer, paid women the same as men for similar work. Women often lived under harsh conditions, particularly in rural areas, where they performed difficult farm work and did most of the childrearing. The Ministry for the Promotion of Women, Children, and the Family was charged with ensuring the legal rights of women.

Under a four-year (2004–2008) national plan of action to promote the status of women, the Government continued efforts to reduce inequalities between men and women and to create links between women within the Economic Community of West African States and throughout Africa.

Several women's rights groups, such as the Association of Malian Women Lawyers, the Association of Women in Law and Development, the Collective of Women's Associations, and the Association for the Defense of Women's Rights, worked to highlight legal inequities, primarily in the family code, through debates, conferences, and women's rights training. These groups also provided legal assistance to women and targeted magistrates, police officers, and religious and traditional leaders in educational outreach to promote women's rights.

*Children.*—The Government was committed to providing for children's welfare and rights. Several laws protect children and provide for their welfare, including an ordinance that provides for regional positions as "child delegates" to safeguard the rights and interests of children.

Education was tuition free and, in principle, open to all; however, students were required to provide their own uniforms and supplies. Primary school was compulsory up to the age of 12, but only 56.6 percent of children from seven to 12 years old (49.3 percent of girls and 64.1 percent of boys) received a primary education during the 2005–06 school year. Girls' enrollment in school was lower than boys' at all

levels due to poverty, cultural tendencies to emphasize boys' education, and early marriages. Other factors affecting school enrollment in general included distance to the nearest school, lack of transportation, and shortages of teachers and instructional materials.

Members of the black Tamachek community reported that Tamachek children were denied educational opportunities because their masters would not allow their children to attend school (see Section 5, National/Racial/Ethnic Minorities).

Approximately 11 percent of students attended private Arabic-language schools, or Medersas. Medersas were encouraged to follow the Government curriculum, and most taught core subjects including math, science, and foreign languages; however, few Medersas fully adhered to the Government's curriculum due to a lack of teacher training and instructional materials.

An unknown number of primary school aged children throughout the country attended part-time Koranic schools; most students were under the age of 10. Koranic schools taught only the Koran and were partially funded by students, known as garibouts, who were required by schoolmasters to beg for money on the streets as part of their religious instruction. A 2005 UNICEF study of Koranic schools in Mopti found that children who attended these schools spent the majority of their time begging on the streets or working in fields.

The Government provided subsidized medical care to children as well as adults, but the care was limited in quality and availability. Boys and girls had equal access to medical care.

Statistics on child abuse were unreliable, and reported cases of abuse were rare, according to local human rights organizations. The social services department investigated and intervened in cases of child abuse or neglect.

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

Women may legally marry at age 18 and men at age 21. The marriage code allows girls under age 15 to marry with parental consent or special permission from a judge. Women's rights organizations opposed this provision as contradicting international conventions that protect children through the age of 18. Underage marriage was known to be a problem in the regions of Kayes, Sikasso, Timbuktu, and Mopti. Parents contracted marriage for girls as young as age 11 in the Fulani, Minianka, and Soninke ethnic groups, even though the practice is illegal.

Local women's rights NGOs, such as Action for the Promotion and Development of Women, the Committee for the Defense of Women's Rights, and the Women's and Children's Rights Watch, educated local populations about the negative consequences of underage marriage. The Government also helped to enable girls married at an early age to continue in school.

Trafficking in children (see Section 5, Trafficking) and child labor (see Section 6.d.) were problems.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons in adults but does prohibit trafficking in children; however, there were reports that persons were trafficked to, from, and within the country.

Most trafficking occurred within the country during the year. Children were trafficked to rice fields in the central regions; boys were trafficked to mines in the south; and girls were trafficked for involuntary domestic servitude in Bamako. Victims were generally trafficked for agricultural work, domestic servitude, and to a lesser extent into begging, gold mining, and prostitution. The victims were usually from the central regions of the country and not a specific ethnic group. Women and girls were trafficked from Nigeria for sexual exploitation, mainly by Nigerian traffickers.

Child trafficking is punishable by five to 20 years' imprisonment. The law also prohibits the contractual use of persons without their consent. Penalties increase if a minor is involved and range from five to 20 years' imprisonment. Although legal protections and measures are in place, parents of child victims were reluctant to file charges, and cases often languished within the justice system.

During the year there also were reports of trafficking in persons between the country and its neighbors, primarily Guinea and Burkina Faso.

During the year a local court convicted Moussa Traore, a citizen of the country, for trafficking two children, ages 13 and 14, to work on his cotton farm in Cote d'Ivoire. Traore was sentenced to one year's imprisonment, but released because he had already served the length of the sentence awaiting trial.

On October 12, gendarmes in the town of Niono discovered 24 citizens of Burkina Faso, including 20 minors, in a minibus driven by Zakaria Ouedrago. According to the police, Ouedrago and Dramane Konta, a citizen of the country, had trafficked the 24 for work in Konta's fields. The children were turned over to a local NGO that cares for victims of child trafficking, and were subsequently repatriated to Burkina

Faso. Ouedrago was arrested and awaiting trial at year's end. Konta remained at large.

The Ministry for the Promotion of Women, Children, and the Family and the Ministry of Labor and Civil Service shared responsibility for combating trafficking. The two ministries, in cooperation with the Ministry of Foreign Affairs and the Ministry of Territorial Administration, developed a program to identify and rehabilitate victims, educate the population, and strengthen the legal system with regard to the movement and trafficking of minors.

In July the Ministry for the Promotion of Women, Children, and the Family released the results of a 2004 study on the sexual exploitation of minors in the regions of Sikasso, Kayes, and Bamako. The study, which involved 450 interviews, found that the children most at risk for sexual exploitation were girls between the ages of 12 and 18 who worked as street vendors or domestic servants, or who were homeless children or the victims of child trafficking. Such exploitation was most prevalent in areas in which the population and economy were in flux, such as border zones or towns on transportation routes or in mining areas. The study noted that most cases of sexual exploitation went unreported and recommended that the country strengthen its laws to protect children.

The Government assists with international trafficking investigations and the extradition of citizens accused of trafficking in other countries, but there were no such cases during the year.

The Government worked closely with international organizations and NGOs to coordinate the repatriation and reintegration of trafficking victims. Three children were repatriated during the year from Cote d'Ivoire.

Welcome centers in Mopti, Segou, Sikasso, and Bamako assisted in returning trafficked children to their families. The Government provided temporary shelter and protection for victims at these centers.

Parents were required to carry travel passes for children, a measure intended to curb child trafficking.

*Persons With Disabilities.*—There was no specific law protecting the rights of persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, the Government did not discriminate against persons with disabilities.

There is no law mandating accessibility to public buildings. There were no reports of societal discrimination against persons with disabilities. The Ministry of Social Affairs is charged with the protection of the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Societal discrimination against "black" Tamacheks and hereditary servitude relationships between Tamacheks and other groups continued during the year (see Section 6.c.). Members of the Tamachek community reported that they did not benefit from equal education opportunities because their masters would not allow their children to attend school. Tamacheks reported they were deprived of civil liberties by other ethnic groups. On November 15, a Tamachek group, known by the acronym TEMEDT, called for an end to all slavery-related practices in the country (see Section 6.c.).

The 2004 case concerning the killing of a customs officer during a confrontation between two Tuareg communities in Kidal was still pending at year's end.

*Other Social Abuses and Discrimination.*—In June 2005 the governor of Bamako refused to grant official recognition to a gay rights association (see Section 2.b.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for workers to form or join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Only the military, the gendarmerie, and the national guard were excluded from forming unions. An estimated 95 percent of salaried employees were organized, including teachers, magistrates, health workers, and senior civil servants.

The law does not prohibit antiunion discrimination, but there were no reports of antiunion behavior or activities during the year.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government respected these rights in practice. The law provides for the right to collective bargaining, and workers exercised this right freely. Unions have the right to strike, and workers exercised this right. There are no export processing zones.

The growth of independent unions led to more direct bargaining between unions and their employers. Wages and salaries for workers belonging to the National Union of Malian Workers Federation (UNTM) and the Syndicated Confederation of Malian Workers were set by tripartite negotiations between the Ministry of Labor,

labor unions, and representatives of the National Council of Employers of the sector to which the wages applied. These negotiations usually set the pattern for unions outside the UNTM. Civil service salary levels were pegged nationally to an index established by the Government.

The law provides for the right to strike; however, there were restrictions in some areas. For example, civil servants and workers in state-owned enterprises were required to give two weeks' notice of a planned strike and to enter into mediation and negotiations with the employer and a third party, usually the Ministry of Labor and State Reforms. The labor code prohibits retribution against strikers, and the Government generally effectively enforced these laws.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

The law prohibits the contractual use of persons without their consent, and penalties include a fine and hard labor. Penalties increase significantly if a minor, defined as someone less than 15 years of age, is involved.

Hereditary servitude relationships continued to informally link different ethnic groups, particularly in the north. There was evidence that members of the Tamachek community continued to live in forced servitude and were deprived of civil liberties by members of other ethnic groups. During the year members of the black Tamachek community, often referred to by the pejorative label *bellah*, reported on the continued existence of feudal slave-related practices in the country.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code has specific policies that pertain to child labor; however, these regulations often were ignored in practice, and child labor was a problem. The labor code permits children between the ages of 12 and 14 to work up to two hours per day during school vacations with parental approval. Children 14 to 16 may work up to 4 hours per day with the permission of a labor inspector, but not during nights, on Sundays, or on holidays. Children 16 to 18 could work in jobs that were not physically demanding; boys could work up to eight hours per day, and girls up to six hours per day.

Child labor predominated in the agricultural, mining, and domestic help sectors and, to a lesser degree, in craft and trade apprenticeships and cottage industries.

Laws against unjust compensation, excessive hours, or capricious discharge did not apply to the vast number of children who worked in rural areas helping with family farms, household chores and herds, apprenticing in trades, or working in the informal sector, such as street vendors.

Trafficking in children was a problem (see Section 5).

The authorities enforced labor code provisions through inspectors from the Ministry of Labor and State Reforms, which conducted surprise inspections and complaint-based inspections; however, resource limitations restricted the frequency and effectiveness of oversight by the Labor Inspection Service, which operated only in the formal sector.

The National Campaign Against Child Labor, led by the International Program for the Elimination of Child Labor (IPEC)-Mali, was responsible for investigating abusive forms of child labor. IPEC relied on labor inspectors appointed by the Government in Bamako and in regional labor offices throughout the country. IPEC investigated cases when NGOs or the media provided information that there was abusive child labor. There were no such reports during the year.

*e. Acceptable Conditions of Work.*—The national minimum wage rate, set during the year, was approximately \$53 (28,000 CFA francs) per month, which did not provide a decent standard of living for a worker and family. The minimum wage was supplemented by a required package of benefits, including social security and health care. While this total package could provide a minimum standard of living for one person, most wage earners supported large extended families and supplemented their income by subsistence farming or employment in the informal sector. The labor code specifies conditions of employment, including hours, wages, and social security; however, many employers either ignored or did not comply completely with the regulations.

The legal workweek was 40 hours (45 hours for agricultural employees), with a requirement for a 24-hour rest period. Workers had to be paid overtime for additional hours.

The law provides a broad range of legal protections against hazards in the workplace, and workers' groups brought pressure on employers to respect parts of the regulations, particularly those affecting personal hygiene. With high unemployment, however, workers often were reluctant to report violations of occupational safety regulations. The Labor Inspection Service oversees these standards but limited en-

forcement to the modern, formal sector. It was not effective in investigating and enforcing workers' safety and was insufficiently funded for its responsibilities. Workers had the right to remove themselves from dangerous work situations and to request an investigation by the Social Security Department, which is responsible for recommending remedial action where deemed necessary; it was not known if any worker had done so.

## MAURITANIA

Mauritania, with an estimated population of three million, is a highly centralized Islamic republic ruled by a military junta led by Colonel Ely Ould Mohammed Vall. On November 19 and December 13, voters turned out in large numbers to elect legislative and municipal representatives; international and domestic observers deemed the elections credible. In August 2005 the military overthrew former President Taya in a bloodless coup and established the ruling Military Council for Justice and Democracy (CMJD), which dissolved the parliament and appointed a transitional government; Taya was reelected in 2003 amid opposition charges of fraud. In October 2005 the junta and transitional government released an election timeline that scheduled Presidential elections in March 2007 and a return to civilian rule by May 2007. The August 2005 coup ended civilian control of the security forces.

The Government's human rights record remained poor; however, there were some significant improvements. At year's end the military continued to control the Government, limiting citizens' ability to change their government. Other abuses included harsh prison conditions, official impunity, arbitrary arrest, prolonged pretrial detention, executive influence on the judiciary, and restrictions on freedoms of speech, press, assembly, association, and religion. There was a widespread public perception of governmental corruption and a lack of access to government information. Discrimination against women and female genital mutilation (FGM) continued. Trafficking in persons, ethnic and racial tensions, and the political marginalization of largely southern-based ethnic groups were problems. Involuntary servitude, particularly in remote regions of the country, and child labor in the informal sector occurred.

Significant milestones in the country's return to democratic rule included successful legislative and municipal elections in November and December, a June 24 constitutional referendum to limit Presidential power, and the creation of the country's first National Commission for Human Rights.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports that the Government or its agents committed arbitrary or unlawful killings.

Unlike in the previous year, there were no deaths resulting from police action against demonstrators.

There were no developments in the 2005 killing of Mamadou Salui Diallo, who died from injuries incurred while in police custody.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such practices, there were reports that police beat and tortured suspects in custody, and there were instances of torture in prisons. Alleged police torture techniques included beating, hanging, burning with cigarettes, electric shock, and cutting. According to reports, those who lacked money or influential family or tribal ties were the most likely to be tortured. Authorities rarely took action against those responsible for such abuse.

The Mauritanian National Lawyers Association, along with various human rights organizations, alleged in June and July that various terrorist suspects had been beaten and tortured while in police custody.

Police use of excessive force to disperse demonstrators resulted in injuries (see section 2.b.).

Ismael Issa, an Islamist who reportedly was tortured while in custody in 2005, remained in prison awaiting trial at year's end.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh, although some facilities improved food and reduced overcrowding during the year. Serious overcrowding and inadequate sanitation facilities in some prisons reportedly

contributed to diseases such as tuberculosis, diarrhea, and dermatological ailments. Medical supplies, mainly provided by an international nongovernmental organization (NGO), remained insufficient in all prisons. Budget allocations to improve prison conditions remained insufficient in all prisons. Prisoners with high-level connections and with families to bring them food, medicines, and reading material fared better than the less privileged or citizens from other countries. Construction of a new central prison was completed in November.

Guard force management generally enforced regulations against beatings and torture; however, there continued to be credible reports of beatings and torture in police detention centers and several prisons throughout the country.

Women and minors were held in two separate facilities. Women's prisons employed both male and female guards. Children of female prisoners remained with their mothers, or the Ministry of Justice gave temporary custody of the children to another family member. The Noura Foundation, an NGO working in the women's prison, provided education and vocational training to female prisoners and partnered with the Catholic charity CARITAS to provide education, sports, and vocational services in the juvenile detention center. Pretrial detainees in all detention facilities were frequently held with convicted prisoners as a result of overcrowding. Pretrial terrorist suspects were held in separate areas from the general prison population in Nouakchott's central prison.

The transitional government permitted prison visits by NGOs, diplomats, and international human rights observers. The International Committee of the Red Cross (ICRC) had access to prisons and conducted multiple prison visits in accordance with its standard modalities.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, there were reports that the police arbitrarily arrested and detained citizens.

*Role of the Police and Security Apparatus.*—The National Police, under the Ministry of the Interior, is responsible for law enforcement and maintaining order in urban areas. The National Guard, under the Ministry of Interior, performs police functions throughout the country in areas in which city police are not present. The gendarmerie, a specialized paramilitary group under the Ministry of Defense, is responsible for maintaining civil order in and outside metropolitan areas.

The police were unprofessional, unresponsive, and lacked equipment and training. Corruption was a problem. Police in some regions arrested former criminals and demanded bribes for their release, and some indicted detainees were released before trial without explanation. The transitional government often did not hold security officials accountable or prosecute security officials for abuses. There were no prosecutions of police during the year.

During the year the transitional government conducted programs to train police on procedures for applying the country's laws, particularly those laws concerning human rights and trafficking in persons.

*Arrest and Detention.*—The application of constitutional safeguards continued to vary widely from case to case. The law requires duly authorized arrest warrants, but they were not commonly used. The law requires that courts review the legality of a person's detention within 48 hours of arrest; however, the police can extend the period for another 48 hours, and a prosecutor or court can detain persons for up to 30 days in national security cases. Only after the prosecutor submits charges does a suspect have the right to contact an attorney. Attorneys for the indigent are provided at state expense. While one article of the law provides detainees with the right to prompt judicial determination of the charges against them, an older law allows the Government to detain persons for up to 30 days without a judicial determination. The transitional government frequently adhered to the older law. There was no functional bail system.

On June 20, security forces arrested without charge five persons, including high-ranking military officers and civilians associated with former President Taya. The Government claimed that the detainees were planning to disrupt the June 25 referendum; the detainees claimed they were arrested for their outspoken views of the junta. The five detainees were released during a November 28 amnesty to celebrate the country's national day.

On December 26, police arrested and detained numerous student demonstrators (see section 2.b.).

The transitional government arrested or detained journalists, Protestant pastors, and members of Protestant groups during the year (see sections 2.a. and 2.c.).

Of the 21 Islamist detainees with suspected links to terrorist organizations held in custody at the beginning of the year, three escaped on April 26, and eight others were released with charges still pending. Between May and August the Government

arrested approximately 10 other persons it claimed had links to terrorist groups, bringing the total in custody to approximately 20.

Lengthy pretrial detention remained a problem. There were credible reports of persons remaining in pretrial detention for months or, in some cases, years.

*Amnesty.*—A November 28 amnesty resulted in the release of five prisoners.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for judicial independence, the executive branch exercised significant influence over the judiciary through its ability to appoint and pressure judges. In addition poorly educated and poorly trained judges who were susceptible to social, financial, and tribal pressures limited the judicial system's fairness. The Government provided training for prosecutors and judges during the year to increase judicial efficiency.

The transitional government continued to work on judicial reform, including training judges, prosecutors, and police on procedures for applying the country's laws, particularly those laws concerning human rights and trafficking in persons. The Government also worked to professionalize its pool of judges by calling for the hiring of judges from academic circles.

There is a single system of courts consistent with modified principles of Shari'a (Islamic law). Departmental, regional, and labor tribunals are the courts of first instance at the lower level. The 53 departmental tribunals, composed of a President and magistrates with traditional Islamic legal training, heard civil cases involving sums less than \$37 (10,000 ouguiya) and family issues, including domestic, divorce, and inheritance cases. A total of 13 regional tribunals accepted appeals in commercial and civil matters from the departmental tribunals and heard misdemeanors cases. At the middle level, three courts of appeal, each with seven chambers (civil, commercial, administrative, and penal chambers, as well as criminal, minors, and labor courts) heard appeals from the regional courts and have original jurisdiction for felonies.

The Supreme Court was nominally independent and was headed by a representative appointed by Colonel Vall. The Supreme Court reviewed decisions and rulings made by the courts of appeal to determine their compliance with law and procedure. Constitutional review was within the purview of a six-member Constitutional Council, composed of three members named by former President Taya, two by the former National Assembly President, and one by the former senate President. The Supreme Council of Magistrates, over which Colonel Vall presided, undertook the annual review of judicial decisions; the President and senior vice President of the Supreme Court, the minister of justice, three magistrates, and representatives from the Senate and National Assembly were members of this council. The annual review was intended to determine whether courts applied the law correctly and followed proper procedures. Reviews also served as a basis for evaluating the reform process and reassigning judges based on their qualifications.

*Trial Procedures.*—The law provides for due process. Defendants have a right to a public trial, but juries are not used. All defendants, regardless of the court or their ability to pay, have the legal right to representation by counsel during the proceedings. If defendants lacked the ability to pay for counsel, the court appointed an attorney from a list prepared by the National Order of Lawyers, which provided a defense free of charge. There is a presumption of innocence and the right to appeal. The foregoing rights generally were observed in practice.

Shari'a provides the legal principles upon which the law and legal procedure are based; the courts did not treat women as the equals of men in all cases (see section 5).

A special court hears the cases of children under the age of 18. Children who appeared before the court received more lenient sentences than adults, and extenuating circumstances received greater consideration in juvenile cases. The minimum age for children to be tried was 12. Those between the ages of 12 and 18 were tried and, if convicted, sentenced to the juvenile detention center.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees during the year.

*Civil Judicial Procedures and Remedies.*—There is no independent judiciary in civil matters to address lawsuits seeking damages for, or a cessation of, a human rights violation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the transitional government generally respected these prohibitions in practice.

There were occasional reports that the Government surveilled opposition political activities.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, but the transitional government partially restricted these rights through the domination of broadcast media and the occasional harassment of journalists. Individuals generally could criticize the Government publicly or privately; however, five military officers claimed their arrest during the year was a result of their outspoken views against the Government (see section 1.d.). There were occasional reports of media groups being refused access to public fora. Some journalists practiced self censorship.

On October 24, Reporters without Borders noted in its annual report on press freedom that the country had made notable progress in lifting press restrictions during the year.

On July 12, a new press law went into effect transferring the responsibility for press registration from the Ministry of Interior to the Ministry of Justice. The new law stipulates that newspapers may begin distribution immediately after depositing one copy of their paper at the office of the Attorney General, eliminating the previous requirement for prepublication governmental approval. The law allows journalists to protect their sources and streamlines the process for officially registering new newspapers.

Two daily newspapers, Horizons and Chaab, were government owned. There were approximately 40 privately owned newspapers that published on a regular basis, in both French and Arabic. NGOs and the privately owned press openly criticized the Government and its leaders. Newspapers, journals, and privately published books were exempt from all taxes on materials used to produce them.

Radio was the most important medium for reaching the public. Except for Radio France International, all broadcast media (radio and television) were government owned and operated, and their content remained tightly controlled.

On October 20, the transitional government created the High Authority for Press and Broadcast Media to examine the current media system and propose ways to improve public access to information, including through the licensing of private broadcast media. During the year the Government referred applications to establish domestic radio stations over to the high authority, which did not take action on any applications during the year; in 2005 the transitional government failed to respond to such applications.

Using satellite receivers and dish antennas, citizens could receive worldwide television broadcasts.

During the year there were occasional reports of journalists being detained. Deddah Ould Abdellah, a correspondent with the Al Hurra television channel, described being temporarily detained on three separate occasions. There also were occasional reports that police mistreated journalists. On May 2, the Arabic language Internet site Ebbarb reported that two journalists from the weekly newspaper Ahira complained of inappropriate and harsh treatment by police while they were covering Colonel Vall's April 26 visit to the town of Laayoune.

The two newspaper employees arrested in October 2005 for publishing a story on a pornographic film reportedly made in Nouakchott's central prison were referred to a regional criminal court in May. Their trial was pending at year's end.

Unlike in the previous year, there were no reports that the transitional government censored or delayed the publication of newspapers.

The Arab-language private newspaper, Al Jawahir, closed by the former government in 2004 as a result of its alleged financial links to Libya, remained closed during the year.

There were reports that the transitional government occasionally restricted opposition access to government radio and television broadcasts.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet access was available in urban areas throughout the country, with home access common among the affluent, and cyber cafes serving the remainder of the population.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the transitional government generally respected this right; however, police forcibly dispersed at least one demonstration during the year. The law requires that organizers apply to the local prefect for permission to hold large meetings or assemblies, and permission was generally approved.



Police forcibly dispersed demonstrations; however, unlike in the previous year, no deaths resulted. On July 4, police used force and tear gas to disperse relatives demonstrating against the June arrest of five military officers (see section 1.d.). The police claimed that the demonstrators, who were protesting in front of the central prison, did not have permits.

On December 26, police used tear gas and batons to disperse a student demonstration at the University of Nouakchott; the students were demanding more financial support from the Government and that teachers appear at a majority of their classes. When the demonstrations continued the following day, police beat and arrested other students, all of whom were released by year's end. Some students detained by police claimed that they had been tortured, and several journals featured photos showing injured and bleeding demonstrators. The university remained closed at year's end (see section 6.a.).

The transitional government briefly detained six Christian pastors and closed their churches during the year (see section 2.c.).

*Freedom of Association.*—The law provides for freedom of association, and the transitional government generally respected this right; however, the Government continued to use laws that prohibit the formation of racially or religious-based organizations to ban Islamist political parties (see section 3). Nevertheless, Islamists were allowed to run for election as independent candidates.

All political parties must register with the Ministry of the Interior.

During the year the Government recognized several human rights organizations (see section 4).

The transitional government also recognized five new political parties during the year, bringing to 35 the total number of licensed political parties. These political parties and numerous NGOs functioned openly, issued public statements, and chose their own leadership. The transitional government did not prevent unrecognized political parties or NGOs from functioning.

*c. Freedom of Religion.*—The constitution establishes the country as an Islamic republic and decrees that Islam is the religion of its citizens and the state; the transitional government limited freedom of religion. The transitional government did not register religious groups, although NGOs—including humanitarian and development NGOs affiliated with religious groups—had to register with the Ministry of the Interior (see section 2.b.).

In May the transitional government arrested six West African Protestant pastors, seized their religious materials, and padlocked their churches. The pastors were released within 24 hours and told by police that their churches were illegal and would remain closed. They were ordered to cease all future religious meetings. Several weeks previously security forces briefly detained three Christian citizens for allegedly proselytizing. The compound of the Catholic Church, where the Catholic Church and the Evangelical Church held regular meetings, remained open during the year.

Although there is no specific legal prohibition against proselytizing by non-Muslims, the transitional government continued to prohibit such proselytizing. The former government restricted proselytizing through Article 11 of the Press Act, which was suspended in April. However, the transitional government continued to prohibit proselytizing and the distribution of any material that is against Islam or contradicts or otherwise threatens Islam. Bibles were neither printed nor publicly sold in the country; however, the possession of Bibles and other Christian religious materials in private homes was not illegal, and Bibles and other religious publications were available among the small Christian community.

Unlike in the previous year, the interim government did not arrest suspected Islamists and released those who were arrested under the Taya government; however, the Government continued to detain Islamists suspected of links to terrorist groups (see section 1.d.).

*Societal Abuses and Discrimination.*—A very small number of expatriates practiced Judaism. In July and August citizens conducted several public protests against Israel's involvement in Gaza and Lebanon. On July 4, thousands of persons gathered to criticize the Government's continued recognition of Israel. The press occasionally criticized Israeli policies and made anti-Semitic statements.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and while the transitional government generally respected them, persons lacking identity cards could not travel freely in some regions. The Government set up roadblocks where gendarmerie, police, or customs officials checked the papers of travelers and often demanded bribes. During

the year the transitional government generally maintained fewer roadblocks and reduced the time taken in questioning and conducting vehicle searches; however, there were periodic reports of more stringent searches in the southern border areas.

The law does not prohibit forced exile, but there were no reports that the transitional government used it.

The Office of the UN High Commissioner for Refugees (UNHCR) estimated that between 15,000 and 20,000 Mauritanian refugees from the 1989–91 crisis remained in Senegal, although refugees continued to return independently in small numbers and have benefited from small-scale agro-forestry, health, and sanitation projects continued by NGOs and humanitarian workers. Cooperation by local authorities in addressing restitution and citizenship matters varied greatly, depending on individual officials and the returnee's region. Many returnees received their original homes, some property, and all or a portion of their land. Throughout the Chemama or the Senegal River valley region, returnee communities were reestablishing their agricultural production; however, recovery of land titles remained the primary issue. Timely restoration of identity papers varied, and some of those who returned in 1995 have not yet received identification cards.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol, or the 1967 African Union Convention on the Status of Refugees, but the former government established a system for providing such protection. In practice the transitional government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum.

The Government continued to provide temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and during the year provided it to approximately 630 persons.

The transitional government cooperated with the UNHCR and other humanitarian organizations in assisting refugees or asylum seekers. The former government accepted the UNHCR's registration of approximately 600 asylum seekers, mostly from Sierra Leone and Liberia, and the transitional government worked with the UNHCR during the year to provide continued assistance for these individuals.

During the year the transitional government worked actively to assist the UNHCR, the European Commission, and the Government of Spain in returning migrants attempting to enter the Canary Islands by sea to their countries of origin. The Spanish Technical Corporation constructed a migrant reception center in the north of the country to process returned migrants and to ensure that they received needed nutritional and medical care. The Government gave the UNHCR access to returned migrants to determine if they were eligible for refugee status.

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

The constitution and law provide citizens with the right to change their government; however, this right was abridged during the year due to the military's continued control of the Government. Consistent with its 2005 timeline for democratic transition that called for parliamentary and Presidential elections no later than March 2007, the transitional government held a constitutional referendum in June and legislative and municipal elections in November.

*Elections and Political Participation.*—On November 19 and December 3, citizens returned to the polls to elect their municipal and legislative representatives in elections deemed credible by international and domestic observers, including political parties, NGOs, and the National Independent Electoral Commission (CENI). While there were continued problems with the inconsistent application of electoral procedures by poll workers (including CENI representatives), and a high rate of invalidated ballots resulting from electoral complexities (each voter was required to complete three separate ballots), the Government maintained its commitment of neutrality, and the vast majority of citizens accepted the election results.

On June 25, more than 96 percent of voters cast ballots in support of a national constitutional referendum, which, among other changes, limits the President to two, five-year terms in office. The election was deemed credible by the international community, including the African Union, Arab League, and the UN, as well as by CENI; however, some irregularities were reported, including the inconsistent application of electoral procedures by poll workers (including CENI representatives), the lack of neutrality by the transitional government, which ran a strong "vote yes" campaign, and indications that the electoral lists (which were established from February to April) excluded many citizens who lacked the required national identification cards.

Following the June referendum, the transitional government and CENI provided training for poll workers, accredited national election observers for the November

elections, and worked to clarify electoral procedures. In September the Government reopened electoral lists, allowing for an additional 85,000 voters.

In August 2005 President Taya, who had ruled the country for 21 years, was deposed in a bloodless coup. Military and other security officers, led by the chief of the national police, Colonel Ely Ould Mohammed Vall, seized power while Taya was abroad. Colonel Vall established the ruling CMJD to run the country and assumed the position of CMJD President. The CMJD dissolved the parliament, suspended parts of the constitution, adopted a constitutional charter allowing it to rule by decree, and appointed a transitional government to replace the Taya government.

In October 2005 the transitional government and the junta held national consultations with over 500 political parties, NGOs, and public figures to debate the roadmap to democracy. Following the consultations, the transitional government released a timeline for a transition to democracy culminating in Presidential elections in March 2007.

The transitional government recognized five new political parties during the year, bringing to 35 the total number of licensed political parties; however, the Government continued to restrict Islamist political parties. On July 8, for example, the Government refused to license the Direct Democracy Movement. The Government did allow Islamist groups, however, to submit legislative and municipal candidates on independent lists. In 2005 The Party of Democratic Convergence, Action for Change, Union of Democratic Forces-New Era, An-Nouhoud, and Taliaa (Vanguard), were banned; none applied for a license during the year.

Women's political participation in government remained poor; however, on July 6, the Government passed a decree requiring all political parties to reserve 20 percent of positions on their legislative and municipal candidate lists for women. As a result of the decree and government efforts to educate voters, women held more than 30 percent of municipal seats and 18 percent of national Assembly seats. Women occupied some senior government positions, including the minister of labor, two secretaries of state, the deputy director of the President's cabinet, and the President's minister-counselor.

While minorities enjoyed greater participation in government and politics than women, their influence remained limited. Minority political participation—particularly among southern minority groups—was weakened by the difficulties in obtaining national identification cards, which were required for voter registration. The inconsistent issuance by police of these identification cards effectively disenfranchised numerous members of southern minority groups, particularly Moors and Afro-Mauritians. The 30-member cabinet, including secretaries of state and the governor of the Central Bank, had three Black Moors, four Halpulaars, and one Soninke. Of the 19 members of the CMJD, there were two Haratines and three Pulars.

*Government Corruption and Transparency.*—Corrupt practices were widely believed to exist at all levels of government, although the transitional government was seen as less corrupt than its predecessor. Government officials reportedly received frequent favors from authorities, such as unauthorized exemption from taxes, special grants of land, and favorable treatment during bidding on government projects. Corruption was most pervasive in government procurement, bank loans, fishing license distribution, land distribution, and tax payments.

The transitional government continued to take steps to curb corruption. In an April 20 speech, Colonel Vall cited anti-corruption measures taken during the year, including the creation of inspectors general in each ministry, the use of a merit-based system for government appointments, and the recovery of more than 100 government cars that were being used illegally. The transitional government also renegotiated its contracts with Woodside, a foreign oil company, under the assumption that corruption had resulted in the existing contracts. During the year the Central Bank also implemented several transparency measures to qualify for debt cancellation, and the transitional government began publishing a quarterly report of its financial operations.

The Government arrested and later released for lack of evidence Zeidane Ould H'meyda, the former minister of energy and petroleum; he was charged with corruption.

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

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

During the year the transitional government officially recognized The Forum of Human Rights Organizations (FONADH), a leading coalition of 17 human rights NGOs, including GERDDES and SOS Esclaves. The Government's recognition of this coalition, which the previous government refused to recognize, was seen as a significant positive step. The transitional government also inaugurated the Mauritanian Observatory for the Promotion of the Rule of Law and Democracy, an NGO responsible for monitoring the executive branch and defending the constitution. Other human rights NGOs operating in the country included the Mauritanian League for Human Rights, the Mauritanian Association for Human Rights, the International Study and Research Group on Democracy and Economic and Social Development in Africa, and SOS-Esclaves. International NGOs included Noura Foundation, Caritas, and World Vision.

On May 17, the transitional government's cabinet adopted a bill establishing the National Human Rights Commission, an independent organization with administrative and financial autonomy. The commission is charged with making proposals on human rights legislation and tracking the conditions of individuals held in detention.

The transitional government cooperated with international governmental organizations and permitted visits by the ICRC on various issues, including prison conditions and refugee services.

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

The constitution and law provide for equality for all citizens regardless of race, national origin, sex, or social status, and prohibits racial or ethnic propaganda; however, the transitional government often favored individuals on the basis of racial and tribal affiliation, social status, and political ties. Societal discrimination against women, trafficking in persons, and racial and ethnic discrimination were problems.

*Women.*—Human rights monitors and female lawyers reported that domestic violence was rare, particularly among the Moor population. Abuse and domestic violence are illegal; however, the transitional government did not always enforce the law effectively. Penalties included imprisonment, but convictions were very rare. The police and judiciary occasionally intervened in domestic abuse cases, but women in traditional society rarely sought legal redress, relying instead upon family and ethnic group members to resolve domestic disputes.

According to NGO reporting, the incidence of unreported rape was high. Rape, including spousal rape, is illegal; however, the transitional government did not enforce the law effectively. Penalties included imprisonment, but convictions were very rare, and there were no known convictions under this law during the year.

Unlike in the previous year, there were no reports that female slaves were raped during the year.

There was no new information concerning Sghaira Mint Tesh, a woman who claimed to have been beaten, raped, and underfed by her master; in 2005 Tesh stated she intended to bring charges against her former master and to pursue the release of her enslaved mother and siblings, but she had not done so by year's end.

The trial into the alleged rape of M'barka, who was forced into domestic servitude and charged with sexual misconduct for being pregnant and unwed after she was allegedly raped by a member of the household, had not begun by year's end.

FGM was practiced among all ethnic groups, most often on young girls, often on the seventh day after birth and almost always before the age of six months. There is no law explicitly prohibiting FGM; however, there is a law that "prohibits acts that could harm children," and some legal scholars believed this could be interpreted to outlaw FGM; however, it had not yet been so used by year's end. According to the most recent internationally sponsored study in 2001, three-fourths of all women between the ages of 15 and 49 had been subjected to FGM. Local experts agreed that the least severe form of excision was practiced and not infibulation, the most severe form. The practice of FGM has decreased in the modern urban sector.

The transitional government and international NGOs continued to coordinate anti-FGM efforts. These efforts focused on eradicating the practice in hospitals, discouraging midwives from practicing FGM, and educating populations. The High Islamic Council of Mauritania, the Islamic Scholar Association, and the National Forum for Women's Rights continued to emphasize the serious health risks of FGM and that FGM was not a religious requirement. Government hospitals and licensed medical practitioners were barred from performing FGM, and several government agencies worked to prevent others from carrying on this practice. According to several women's rights experts, the campaign against FGM appeared to be changing attitudes towards the practice. Unlike in the previous year, there were no reports during the year that midwives performed FGM in local hospitals in violation of the former government's ban.

Traditional forms of mistreatment of women continued, mostly in isolated rural communities, but these practices appeared to be declining. One form of such mistreatment was the forced feeding of adolescent girls (gavage) prior to marriage, which was practiced only among White Moor tribal groups. While there was no law prohibiting gavage, the transitional government continued its efforts to end the practice. Reports during the year indicated that very few women were currently subjected to gavage.

Although prostitution is illegal, NGO reporting indicated that it was a growing problem in some urban areas, particularly among Afro-Mauritanian and Black Moor women.

Women have legal rights to property and child custody, and, among the more modern and urbanized population, these rights were recognized. By local tradition, a woman's first marriage requires parental consent. In accordance with Shari'a as applied in the country, marriage and divorce do not require the woman's consent, polygyny is allowed, and a woman does not have the right to refuse her husband's wish to marry additional wives. In practice, polygyny was very rare among Moors but was common among other ethnic groups. It was common in Moor society for a woman to obtain at the time of marriage a contractual agreement that stipulated that her husband must agree to end their marriage if he chooses an additional wife. Arranged marriages were increasingly rare, particularly among the Moor population. Women frequently initiated the termination of a marriage, which most often was done by repudiation of husband or wife rather than divorce. In July 2004 the National Assembly voted against a proposal to provide women the same rights for a divorce that are available to men.

Women still faced legal discrimination. The testimony of two women was necessary to equal that of one man. The courts grant only half the amount of an indemnity to the family of a woman who has been killed that they award for a man's death. Formulas applied to property distribution varied widely from case to case. In addition the validity of and right to establish prenuptial agreements was not always respected. The personal status code provides a framework for the consistent application of secular law and Shari'a-based family law, but the code has yet to be implemented.

Women did not face legal discrimination in areas not addressed specifically by Shari'a. The law provides that men and women should receive equal pay for equal work. While not applied universally in practice, the two largest employers, the civil service and the state mining company, observed this law. In the modern wage sector, women also received family benefits, including three months of maternity leave.

The transitional government sought to open new employment opportunities for women in areas that were traditionally filled by men, such as health care, communications, police, and customs services. Women became more involved in the fishing industry and established several women's fishing cooperatives.

The Secretariat for Women's Affairs worked with many NGOs and cooperatives to improve the status of women. The transitional government, women's groups, and national and international NGOs organized meetings, seminars, and workshops throughout the year to publicize women's rights.

*Children.*—The law makes special provision for the protection of children's welfare, and there were government programs to care for abandoned children; however, inadequate funding hampered these programs. The national budget nearly doubled during the year, but the percentage of the budget allocated to education dropped from 19 percent in 2005 to 10 percent.

School attendance is mandatory for six years, but full implementation of universal primary education was not scheduled until at least 2007, primarily due to lack of financial resources for facilities and teachers, particularly in remote areas. The 2005–06 official primary school attendance rate was 92 percent. Education was free through university level. Classes were fully integrated, including boys and girls from all social and ethnic groups. Children of slave families were allowed to attend school. There were no legal restrictions on the education of girls. During the 2002–03 academic year, female students made up 21.5 percent of university enrollment, up slightly from 21.2 percent in 2001–02. Female technical student enrollment rose to 31.1 percent in 2002–03 from 30.5 percent in 2001–02. Almost all children, regardless of gender or ethnic group, attended Koranic school between the ages of five and seven and gained at least rudimentary skills in reading and writing Arabic.

Boys and girls have equal access to state-provided medical care. The transitional government relied on foreign donors in such areas as child immunization.

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

Trafficking in children occurred (see section 5, Trafficking).

Child labor was a problem, particularly in the informal sector (see section 6.d.).

Local NGOs estimated that there were approximately 400 street children, largely as a result of poverty and the urbanization of formerly nomadic families. The transitional government and at least one NGO worked to assist families with street children and to encourage their school attendance.

*Trafficking in Persons.*—The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. The transitional government did not prosecute or sentence anyone for trafficking during the year.

The country was a source and destination for men, women, and children trafficked for the purpose of forced labor. Multiple NGO reports suggested that forced labor took several forms (see section 6.c.). Slavery-related practices, and possibly slavery itself, persisted in isolated areas of the country where a barter economy still prevailed. Several reports suggested that young girls from remote regions, and possibly from western Mali, worked as unpaid housemaids in some wealthy urban homes. An unknown number of young boys (talibes), nearly all from Pulaar tribes, begged in the streets as part of a “work-study” arrangement with some “marabouts,” or religious teachers, for receiving religious instruction. There were reliable reports that a small number of marabouts forced their talibes to beg for over 12 hours a day and provided them with insufficient food and shelter.

The Ministry of Justice and the Commissariat for Human Rights, Poverty Alleviation, and Integration were responsible for dealing with trafficking.

The transitional government continued a program to reduce the number of talibes and partnered with several NGOs to provide needy talibes with basic medical and nutritional care. However, government assistance and protection services for trafficking victims remained limited, with most resources going towards prevention, in the form of training for police, gendarmes, and legal officials to better identify, investigate, and convict alleged traffickers. One NGO provided limited assistance to talibes.

During the year the transitional government created the National Commission for Human Rights, which was responsible for coordinating government efforts to prevent trafficking and other human rights abuses and to care for trafficking victims (see section 4). The Government also provided antitrafficking training to security forces and allocated funds to enhance border control. Although no traffickers were apprehended, these measures resulted in arrests for alien smuggling.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in education, employment, or the provision of other state services, and there were no reports of governmental or societal discrimination against persons with disabilities. The Government did not mandate preference in employment or education or public accessibility for persons with disabilities although it did provide some rehabilitation and other assistance for such persons. In October the Government passed a law to increase protections and benefits for persons with disabilities. NGOs have become increasingly active in raising public awareness of issues affecting persons with disabilities. The school for the deaf and the blind in Nouakchott operated 10 classrooms and enrolled 116 students during the year, up from 67 students in 2004. The school lacked sufficient trained staff, having only two permanent and three part-time teachers.

*National/Racial/Ethnic Minorities.*—Racial and ethnic minorities faced governmental discrimination. The inconsistent issuance of national identification cards, which were required for voting, effectively disenfranchised numerous members of southern minority groups (see section 3). Racial and cultural tension and discrimination also arose from the geographic and cultural divides between Moors and Afro Mauritians. The Moors were divided among numerous ethno linguistic tribal and clan groups and further distinguished racially as either White Moor or Black Moor, although it often was difficult to distinguish between the two by skin color. White Moor tribes and clans, many of whom were dark-skinned after centuries of intermarriage with Berbers and sub-Saharan African groups, dominated positions in government and business. The Black Moor subgroup (also called Haratines or freed slaves) remained politically and economically weaker than the White Moor subgroup. Afro-Mauritanian ethnic groups, comprising the Halpulaar (the largest non-Moor group), the Wolof, and the Soninke ethnic groups, were concentrated in the south and in urban areas. Afro-Mauritians were underrepresented in the military and security sectors.

The constitution designates Arabic as the official language and Arabic, Pulaar, Soninke, and Wolof as the country’s national languages; however, successive governments—both civil and military—have pursued various policies of “Arabization” in the schools and in the workplace.

Ethnic rivalry significantly contributed to political divisions and tensions. Some political parties tended to have readily identifiable ethnic bases, although political coalitions among them were increasingly important. Black Moors and Afro Mauritaniens were underrepresented in mid- to high-level public and private sector jobs.

**Other Societal Abuses and Discrimination.**—There was no evidence of either societal violence or systematic transitional government discrimination directed at practicing homosexuals. Although Shari'a outlaws homosexuality under certain conditions, secular laws did not.

There was no evidence of systematic discrimination by either society or government against persons with HIV/AIDS; however, taboos and beliefs associated with the disease caused victims in some areas to face isolation or exclusion.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without authorization or excessive requirements, and workers exercised this right. The law also provides for freedom of association, and workers exercised this right in practice. All workers except members of the military and police were free to associate in and establish unions at the local and national levels. The majority of the labor force was in the informal sector, with most workers engaged in subsistence agriculture and animal husbandry; only 25 percent were employed in regularly paid positions. Nearly 90 percent of industrial and commercial workers, however, were unionized.

To be legally recognized, a union must have the authorization of the public prosecutor who can provisionally suspend a trade union at the request of the Ministry of the Interior if it believes that the union has not complied with the law. The Government, however, has the power to decide whether to recognize a trade union (see section 6.b.).

Laws provide workers with protection against antiunion discrimination; however, the transitional government did not generally enforce these laws.

*b. The Right To Organize and Bargain Collectively.*—The law provides that unions may organize workers freely without government or employer interference, and workers exercised this right in practice. The law provides workers with the right to strike, and workers exercised this right during the year. The Government can dissolve a union for what it considered an illegal or politically motivated strike; however, no unions were disbanded during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but the law only applies to relations between employers and workers; there were credible reports that such practices occurred (see sections 5 and 6.d.). Slavery is illegal although there were still areas where slavery-related practices continued and the attitude of master and slave prevailed. The labor code includes criminal penalties for human trafficking in all of its recognized forms and includes increased criminal penalties for contracting to benefit from forced labor and for exploiting forced labor as part of an organized criminal network.

In May 2005 the International Labor Organization issued a report from their May 2004 country visit to investigate allegations of forced labor. The report concluded that the country continued to face challenges in combating forced labor and recommended that the Government allow an independent investigation into forced labor; reinforce the Ministry of Public Records and Labor; and give labor inspectors greater resources and autonomy. No known action had been taken on these recommendations by year's end.

Slavery-related practices, typically flowing from ancestral master-slave relationships, continued in isolated parts of the country where a barter economy existed, education levels were generally low, and a need existed for herding livestock, tending fields, and other manual labor. Some individuals considered themselves either slaves or masters and were unaware that slavery had been abolished. For example, on March 28, SOS Esclaves reported that Sidi Ould El Mijriya, a Black Moor living in the province of Tagant, bought his "freedom" from N'Dahid Ould Mohamed Dahid for one heifer, five goats, and one billy-goat. When told that he was free without the exchange of animals, Mijriya said he had already made the deal and expressed reluctance to change the arrangement. The gendarmie arrested both Mijriya and Dahid, who was ultimately forced to return the animals.

SOS Esclaves publicized several accounts of recently escaped slaves during the year. These reports strongly suggested that slavery and related practices persisted mainly among a few nomadic groups and small villages in remote rural regions.

Voluntary servitude also persisted, with some former slaves and descendants of slaves continuing to work for former masters in exchange for some combination of money, lodging, food, or medical care. The reasons for the persistence of such practices varied widely among the different ethnic groups; however, a barter economy, poverty, and persistent drought provided few economic alternatives for many and left some former slaves and descendants of slaves vulnerable to exploitation by former masters. Adult females with children faced greater difficulties and could be compelled to remain in a condition of servitude.

There were reports that some former slaves continued to work for their former masters or others without remuneration to retain access to land they traditionally farmed. Although the law provides for distribution of land to the landless, including to former slaves, this law has been enforced in only a few cases. Deeply embedded psychological and tribal bonds also made it difficult for many individuals who had generations of forebears who were slaves to break their bonds with former masters or their tribes. Some persons continued to link themselves to former masters because they believed their slave status had been religiously ordained and they feared religious sanction if that bond were broken.

The Commissariat for Human Rights, Poverty Alleviation, and Integration focused on addressing the consequences of slavery. The transitional government focused on education, literacy, and agrarian reform to remedy the economic consequences of slavery-related practices. The transitional government took a more proactive approach than in previous years to investigating alleged trafficking cases; however, prosecutors remained reluctant to bring these cases to trial.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides that children cannot be employed before the age of 14 in the nonagricultural sector or under age 13 in the agricultural sector unless the minister of labor grants an exception due to local circumstances; however, child labor in some parts of the informal sector was common and a significant problem, particularly within poorer inner-city areas. The law states that employed children between the ages of 14 and 16 should receive 70 percent of the minimum wage and that those between the ages of 17 and 18 should receive 90 percent of the minimum wage.

The law prohibits all forms of trafficking in persons; however, there were reports that children were trafficked to, from, and within the country (see section 5).

Young children in the countryside were commonly employed in herding, cultivation, fishing, and other significant labor in support of their families' activities. Young children in urban areas often drove donkey carts and delivered water and building materials. In keeping with longstanding tradition, many children served apprenticeships in small industries and in the informal sector. Reporting by some human-rights NGOs, including SOS Esclaves, strongly suggested that domestic employment, often unpaid, of girls as young as seven in wealthier homes was a growing problem. There was no child labor in the modern industrial sector.

There was a labor inspectorate with the authority to refer violations directly to the appropriate judicial authorities but the eight regional inspectors and 30 inspector/controllers lacked the basic resources, such as transport and office equipment, needed to enforce existing child labor and other labor laws.

*e. Acceptable Conditions of Work.*—The nationally mandated minimum monthly wage for adults, which was not enforced, was \$77 (21,000 ouguiya), which did not provide a decent standard of living for a worker and family.

The standard, legal, nonagricultural workweek could not exceed either 40 hours or six days without overtime compensation, which was paid at rates that were graduated according to the number of supplemental hours worked. Domestic workers and certain other categories could work 56 hours per week. Employees must be given at least one 24-hour period of rest per week. The Labor Directorate of the Ministry of Labor is responsible for enforcement of the labor laws, but in practice inadequate funding limited the effectiveness of the directorate's enforcement.

The Government set health and safety standards, and the Ministry of Labor was responsible for enforcing these standards, but did so inconsistently due to inadequate funding. In principle workers could remove themselves from hazardous conditions without risking loss of employment, but in practice they could not.

## MAURITIUS

The Republic of Mauritius is a constitutional, parliamentary democracy of approximately 1.2 million citizens governed by a prime minister, a council of ministers, and a national assembly. In July 2005 the Social Alliance, led by Prime Minister



Navin Ramgoolam, defeated the coalition between the Mauritian Militant Movement (MMM) and the Militant Socialist Movement (MSM) in national elections judged by international and local observers to be free and fair. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens. The following human rights problems were reported: police abuse of suspects and detainees; prison overcrowding; violence and discrimination against women; abuse of children; children in prostitution and child labor; some restrictions on workers in the Export Processing Zone (EPZ).

The most serious human rights challenge facing the country was police abuse of detainees and suspects.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces killed one detainee in police custody. On January 14, Rajesh Ramlogun died while in custody of officers of the Major Crime Investigation Unit (MCIU). The Deputy Commissioner of Police investigated the case and reported that the cause of death included violent actions by the MCIT. Charges against three of the seven MCIT officers involved were dropped; the case against the remaining four was still pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there continued to be reports of police abuses.

On September 15, local media reported that a 16-year-old detainee at the Correctional Youth Center was placed in solitary confinement and forced to sleep naked on the floor for 48 hours. One detainee died in the custody of MCIT officers on January 14 (see Section 1.a.).

Disciplinary actions have not yet been taken against three police officers who in 2005 assaulted a man accused of being a drug addict. The National Human Rights Commission (NHRC) established that there was a case for a breach of the Code of Discipline. The NHRC recommended that an outside officer hear the case rather than a police officer from the Office of the Commissioner of Police.

Out of the 179 complaints received by the NHRC, 116 were complaints against police officers for physical brutality, verbal abuse, and other offenses. Ten reports were sent to the Office of the Minister of Human Rights for appropriate action. Five reports were referred to the director of public prosecutions (DPP). The other cases were still under investigation. The Complaints Investigation Bureau received 108 complaints against police officers for assault and one complaint for corruption. Ten cases were referred to the authorities for follow-up measures and the remaining cases were still under investigation.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, although there were reports of drug abuse, commercial sexual activity, and overcrowding. The Central Prison, which has a capacity of 677, held more than 1,000 prisoners.

Unlike the previous year, there were no reports of death due to riots. According to the Commission of Prisons, 10 detainees died from natural causes during the year.

Authorities separated prisoners deemed to be dangerous to the prison population and placed them in a high-security prison. Behavior of the prisoner rather than a conviction or a sentence determined prisoner placement.

The Government permitted visits by independent observers including the press, the NHRC, diplomats, and the UN. One nongovernmental organization (NGO), actively involved in rehabilitating prisoners, was among the 18 NGOs given permission to visit prisoners. The Government permitted Red Cross Mauritius to hold regular training programs in the prisons. For example, 25 prisoners from the Richelieu prison received first-aid training on a part-time basis for six weeks. No prison personnel have been trained thus far.

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

*Role of the Police and Security Apparatus.*—The Mauritius Police Force is a national force headed by a commissioner of police who has authority over all security and police forces, including the Special Mobile Forces, a paramilitary unit that shares responsibility with police for internal security. The National Human Rights

Commission (NHRC), an independent organization, investigates allegations of police abuses and may report such cases to the DPP, an independent entity.

There were reports of police corruption in the forms of bribery and internal corruption within the force. Complaints could be filed either directly through the Complaints Investigation Bureau or to the Independent Commission against Corruption (ICAC). In June a police officer was arrested and formally charged after he was accused of accepting a bribe. In September he was found guilty and sentenced to 12 months in prison.

The orientation training for all new police recruits includes a segment on human rights. A refresher training course is required of all lower and middle management officers who have completed five or 15 years of service. The two-week refresher course is carried out several times every year.

*Arrest and Detention.*—The constitution and law stipulate that warrants be obtained for arrests; that the accused be read their rights, including the right to remain silent and the right to an attorney; and that the accused be brought before the local district magistrate within 48 hours. Police generally respected these rights; however, in some cases police delayed suspects' access to defense counsel. Minors and those who did not know their rights were less likely to be provided prompt access. Indigent detainees were provided an attorney at state expense. A suspect can be detained for up to a week, after which the issue of bail is brought before a magistrate. Alternatively, if police concur, the accused may be released on bail the same day as the arrest. Individuals charged with drug trafficking may be detained for up to 36 hours without access to legal counsel or bail.

In September Ras Natty Baby (Joseph Nicolas Emilien), a popular seggae artist who was known for critical social commentary in his music, was released after having been detained for three years.

Due to a backlogged court system, authorities occasionally held prisoners in remand up to four years before they were tried. Time served in remand did not apply to subsequent sentences. Approximately 22 percent of the prison population were pretrial detainees.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

The country's judicial system consists of the Supreme Court, which has appellate powers, and a series of lower courts. The Supreme Court has a chief justice and six other judges who also serve on the court of criminal appeal, the court of civil appeal, the intermediate court, the industrial court, and 10 district courts. Final appeal may be made to the Privy Council in the United Kingdom.

The DPP determines which court hears particular cases based on the severity of the crime and anticipated punishment. All crimes carrying the death penalty or life imprisonment are sent to the Supreme Court, crimes of a medium level of severity are sent to the intermediate courts, and lesser crimes are heard before district courts.

*Trial Procedures.*—Trials are public and juries are only used in murder trials. Defendants have the right to be present and to consult an attorney in a timely manner. An attorney is provided at public expense when indigent defendants face serious criminal charges. Defendants can confront or question witnesses against them or present witnesses and evidence on their behalf in the district courts. Defendants and attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and right of appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters. The constitution provides for an ombudsman to investigate complaints from the public and members of the parliament against government institutions and to seek redress for injustices committed by a public officer or authority in official duties.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views without restriction. There were four daily and 12 weekly newspapers and three private radio stations that offered diverse political viewpoints and expressed partisan views freely. The Government owned and regulated the domestic television network, but international networks were available by subscription or via a cable box.

The Government has the ability to counter press criticism by using libel laws but did not use these measures.

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

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

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

Religious organizations that were present prior to independence, such as the Catholic Church, the Church of England, the Presbyterian Church, the Seventh-day Adventists, Hindus, and Muslims, are recognized in a parliamentary decree. These groups also receive an annual lump-sum payment from the Ministry of Finance based upon the number of adherents as determined by the census. Newer religious organizations (which must have a minimum of seven members) were registered by the Registrar of Associations and were recognized as legal entities with tax-exempt privileges, following application with the Ministry of Finance and Economic Development to be recognized as a charitable institution. The Government was not known to have refused registration to any group.

Foreign missionary groups were allowed to operate on a case-by-case basis. Although there are no government regulations restricting their presence or limiting their proselytizing activities, groups must obtain both a resident permit and a work permit for each missionary. The Prime Minister's office is the final authority on issuance of these required documents to missionaries. While there are no limits on the ability of missionaries to operate in the country, there are limits on the number of missionaries permitted to obtain the requisite visas and work permits. During the reporting period, the Government refused to grant work and residency permits to two Mormon missionaries; however, at least one other Mormon missionary received a work and residency permit.

*Societal Abuses and Discrimination.*—Underlying tensions between various ethnic and religious groups persisted, but there were no violent confrontations during the year.

There were approximately 50 resident Jews, most expatriates, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

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

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice the Government had no need to provide protection against refoulement, the return of persons to a country where they feared persecution. The Government did not grant refugee status or asylum.

The Government cooperated with the Office of the UN High Commissioner for Refugees in assisting refugees and asylum seekers by donating money.

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

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

*Elections and Political Participation.*—According to international and local observers, the July 2005 national elections were free and fair, with the opposition Social Alliance defeating the ruling MMM-MSM alliance.

There were 12 women in the 70-seat National Assembly, and there were two female ministers in the 20-member cabinet.

Although historically the Hindu majority dominated politics, no groups were excluded from the political system. Authorities required candidates for the National Assembly to identify themselves with one of four distinct ethnic groupings: Hindu, Muslim, Sino-Mauritian, or general population. For these purposes, “general population” described primarily the Creole and Franco-Mauritian communities. Based on these four categories, the 70-seat National Assembly had 42 Hindus, 19 members of the general population, eight Muslims, and one Sino-Mauritian. Among the 20 members of the cabinet, there were 13 Hindus, three Muslims, three members of the general population, and one Sino-Mauritian.

*Government Corruption and Transparency.*—There was widespread public perception of corruption in the legislative and executive branches. The ICAC and the media were the primary outlets to report acts of corruption. The Prevention of Corruption Act regulated such complaints. The ICAC reported 33 complaints filed against police officers: 16 investigations remained under way and 17 were discontinued due to lack of substantiation. Of the three complaints of corruption filed against immigration officials, one investigation was discontinued for lack of substantiation.

The law provides for access to government information, and the Government generally complied with requests.

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

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

The NHRC is authorized to investigate abuses by any public servant who was not already the subject of an inquiry by the DPP, the Public Service Commission, or the Disciplined Forces Service Commission. The NHRC had the authority to visit detention centers or prisons and to assess and make recommendations on conditions. The NHRC tried to resolve complaints through conciliation, but if that was unsuccessful, it could forward cases to the DPP (if criminal in nature), to the service commissions, or to the responsible authority in question. The NHRC is composed of a commissioner, who must be a former judge of the Supreme Court, and three other members.

The Ministry of Foreign Affairs reported no international organization or international NGO requests to access prisons. A large number of domestic NGOs visited the prisons.

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

The constitution and law specifically prohibit discrimination on the basis of race, caste, place of origin, political opinion, color, or sex, and the Government generally enforced these provisions. Some societal discrimination occurred.

*Women.*—The law criminalizes domestic violence and provides the judicial system with power to combat this problem; however, in practice domestic violence against women, particularly spousal abuse, was a major problem. Anyone found guilty of violating a Protection Order is fined \$833 (25,000 rupees) or faces a maximum of two years’ imprisonment. Many victims chose not to prosecute or report their attacker, presumably due to cultural pressures. The law also criminalizes the abandonment of one’s family or pregnant spouse for more than two months, the nonpayment of court-ordered food support, and sexual harassment, although many women remained in abusive situations for fear of losing spousal financial support. A magistrate has the authority to order a spouse to pay child support, but there were reports that some spouses stopped working to avoid payment.

The Sex Discrimination Division of the National Human Rights Commission received 52 complaints, of which six related to sex discrimination and seven related to sexual harassment. The cases remained under investigation.

The law prohibits rape, including spousal rape, and the police and judicial system enforced the laws. Rape is punishable by up to eight years’ imprisonment.

Prostitution is illegal, but there were reports of prostitution. There were no reports of the country as a destination for sex tourism; however, there were instances of prostitutes targeting tourists in addition to wealthy citizens.

Women played subordinate roles in society, and societal discrimination continued; however, women had equal access to education, employment, and government services. The Government had three times as many women in parliament and twice as many female ministers than had its predecessor.

The Sex and Discrimination Act affords women broadly defined wage protections, and authorities generally respected the law in practice.

In the agricultural sector, the law protects women from being forced to carry loads above certain weight limits; however, managers determined remuneration by the amount that one was able to carry during a period of time. As a result, women working in agriculture were often paid less than men because they carried loads that weighed less.

*Children.*—The Government placed strong emphasis on the health and welfare of children and displayed a commitment to expand educational opportunities for children. The ombudsman for children's issues ensured that the rights, needs, and interests of children were given full consideration by government, private authorities, individuals, and associations. The Child Development Unit of the Ministry of Women's Rights was established in 1995 to enforce the Child Protection Act and implement policies and programs with regard to the welfare and development of children. The National Children's Council served as a platform where government institutions and NGOs can work together.

The 2005 Education Act increased the age of free, universal, and compulsory education from 12 years to 16 years. Authorities treated girls and boys equally at the primary, secondary, and post-secondary levels. Most children finished secondary education. More than 90 percent of primary students attended school.

The Government provided full medical care for both boys and girls.

The law criminalizes certain acts compromising the health, security, or morality of a child, although the Government was unable to enforce complete compliance with the law. Private voluntary organizations claimed that child abuse was more widespread than was acknowledged publicly. The state-funded National Children's Council and the Ministry of Women's Rights, Family Welfare, and Child Development administered most government programs. Both provided counseling, investigated reports of child abuse, and took remedial action to protect affected children.

Child prostitution was a problem, and the Government targeted the practice as a law enforcement and prevention priority. There were reports that some schoolgirls, independent of third party involvement, engaged in prostitution for spending money (see Section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to and from the country; however, there were reports of children in prostitution within the country. The Child Protection Act provides for up to 15 years' imprisonment for trafficking in persons. The law defines child as under age 18. There were reports that some schoolgirls voluntarily worked in conjunction with prostitution rings and others were forced into prostitution by family members. The Ministry of Women, Child Development, and Family Welfare ran a hot line for reporting cases of children in prostitution. Government officials and agencies in the Ministry of Women's Rights, in the Attorney General's office, and in the police department sought ways to prevent child prostitution and prosecute cases. NGOs and the Government drop-in center provided shelters, counseling, and education for victims of children in prostitution.

In November the Center for Education and Development of Mauritian Children, a local NGO, launched a booklet as part of its outreach and awareness campaign. Since the December 2005 amendment of the Child Protection Act to include a section on child trafficking, the Ministry of Women's Rights, Child Development, and Family Welfare carried out information campaigns for NGOs, high school students, women, and other community leaders. In addition, three officers of the Ministry of Women's Rights were trained in India on human trafficking in June. The Police Unit for the Protection of Minors also carried out talks on sexual abuse of minors and risk behaviors in high schools and upper primary schools. In November police officers who received training from the International Law Enforcement Academy conducted a class at the Police Training School on trafficking in persons.

*Persons With Disabilities.*—The law prohibits discrimination against people with disabilities, and the Training and Employment of Disabled Persons Board effectively enforced it; however, the law does not require that work sites be accessible to persons with disabilities, making it difficult for persons with disabilities to fill many jobs. There is no law mandating access to buildings for persons with disabilities. The law requires organizations that employ more than 35 persons to set aside at least 3 percent of their positions for persons with disabilities. There were no reports

of overt discrimination in employment, education, or in the provision of other state services against persons with disabilities, including mental disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law explicitly protects the right of workers to associate in trade unions, and workers exercised this right in practice. With the exception of police, the Special Mobile Force, and persons in government services who were not public officers, workers were free to form and join unions and to organize in all sectors, including in the EPZ (see Section 6.b.); however, the law does give the authorities the right to cancel a union's registration if it fails to comply with certain legal obligations. Approximately 350 unions represented 115,000 workers, and 13 major labor federations served as umbrella organizations for smaller unions. The law prohibits anti-union discrimination.

*b. The Right To Organize and Bargain Collectively.*—According to the Mauritius Labor Congress (MLC), labor unions are free to conduct their activities without interference, and the Government protected this right. The law protects collective bargaining, and workers exercised this right. The National Remuneration Board (NRB), whose chairman was appointed by the minister of labor, set minimum wages for nonmanagerial workers, although most unions negotiated wages higher than those set by the NRB. There were no cases in which union activities were prohibited or limited by the Government.

The law provides for the right to strike, but the Industrial Relations Act (IRA) requires a 21-day cooling-off period followed by binding arbitration; in practice, this made most strikes illegal. The Government has 21 days to respond to any labor dispute and refer it to either the Permanent Arbitrary Tribunal or to the Industrial Relations Commission. If the Government does not respond within 21 days, the proposed strike can be carried out. The IRA states that worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek remedy in court if they believe that their dismissals are unjustified. The IRA grants the Prime Minister the prerogative to declare any strike illegal if he considers that it "imperils the economy."

Foreign workers are covered equally by labor laws but language problems interfered with exercising their rights. Those who participated in strikes faced the possibility of deportation. Authorities deported illegal foreign workers when they could be identified.

National labor laws cover EPZ workers, although unions had organized only 10 percent of EPZ workers. There are some EPZ-specific labor laws, including the provision for 10 hours per week of mandatory paid overtime at a higher wage than for ordinary working hours. Some employers reportedly established employer-controlled work councils for EPZ workers, effectively blocking union efforts to organize at the enterprise level. Approximately 65,000 persons worked in the EPZ.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—In August the Government amended the Labor Act to raise the minimum employment age from 15 to 16, eliminating the inconsistency with the compulsory educational requirement through 16 years of age. The law prohibits the employment of children between the ages of 16 and 18 from work which is dangerous, unhealthful, or otherwise unsuitable for young persons. While the Government generally respected this law, child labor occurred. According to the law, the penalties for employing a child are a fine of no more than approximately \$72 (2,200 rupees) and a term of imprisonment not to exceed one year.

Child labor occurred, as children were found working in the informal sector as street traders, in small businesses, in restaurants, and in agriculture. No cases of child labor were reported in the formal sector of the textile or apparel industries. However, there are still cases of children working in small apparel workshops (generally in neighborhood or family businesses).

The Ministry of Labor is responsible for the enforcement of child labor laws and conducted frequent inspections. The ministry employed 45 inspectors to investigate all reports of labor abuses, including those of child labor. The ministry's inspections during the year identified no cases of child labor.

*e. Acceptable Conditions of Work.*—The Government established minimum wages, which varied by sector, and mandated that the minimum wage rise each year based on the inflation rate. The minimum wage for an unskilled worker in the EPZ was approximately \$16 (517 rupees) per week, while the minimum wage for an unskilled factory worker outside the EPZ was approximately \$21 (675 rupees) per week. Al-

though these wages did not provide a decent standard of living for a worker and family, the actual market wage for most workers was much higher due to a labor shortage and collective bargaining.

The standard legal workweek in the industrial sector was 45 hours. According to the MLC, 10 hours of overtime a week is mandatory at certain textile factories in the EPZ (see Section 6.b.). In accordance with the Labor Act, no worker is bound to work more than eight hours a day, six days a week. Those who work more than their stipulated hours must be remunerated at one and a half times the normal salary. Those who work during their stipulated hours on public holidays are remunerated at double their normal salary. For industrial positions, workers are not permitted to work more than 10 hours a day. If the worker has worked up to or past 10 p.m., the employer cannot require work to resume until at least 11 hours have lapsed. These standards were generally enforced. Unions have reported cases of underpayment for overtime in the textile or apparel industries due to differences in existing legislations and remuneration orders for the calculation of overtime hours.

The Government set health and safety standards, and Ministry of Labor officials inspected working conditions; however, the small number of inspectors limited the Government's enforcement ability. Voluntary employer compliance with safety regulations helped reduce the number of occupational accidents, with the ministry reporting a general trend downward in the number of industrial accidents over the past 10 years. Workers had the right to remove themselves from dangerous situations without jeopardizing their continued employment, and they did so in practice.

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## MOZAMBIQUE

The Republic of Mozambique is a constitutional democracy with an estimated population of 19.9 million. President Armando Guebuza was elected in December 2004 in what national and international observers judged to be generally free and fair elections, despite some irregularities. The Front for the Liberation of Mozambique (FRELIMO) has been the ruling political party since independence in 1975, heavily influencing both policymaking and implementation. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

Although there were improvements in a few areas during the year, serious human rights and societal problems remained, including: police use of excessive force resulting in unlawful killings and injuries; lynchings and mob violence; extremely harsh and life-threatening prison conditions, leading to several deaths; arbitrary arrest and detention; lengthy pretrial detention; police harassment and arbitrary detention of journalists; widespread domestic violence and discrimination against women; abuse and criminal exploitation of children, including child prostitution; trafficking in women and children; discrimination against persons with disabilities and HIV/AIDS; child labor in the informal sector and forced child labor; and poor enforcement of labor legislation.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the Government or its agents did not commit any political killings during the year, security forces committed unlawful killings. Unlike in the previous year, there were no reports of deaths due to torture by security forces.

Excessive use of force and abuse by police remained problems. Authorities often failed to take appropriate action to investigate police violence and bring the perpetrators to justice. However, authorities expelled and, in some cases, brought criminal charges against dozens of officers for disciplinary offenses during the year.

On January 15, in Matola, policeman Antonio Alvaro shot and killed unarmed civilian Julencio Gove, who was trying to persuade a group of policemen to stop beating a young woman. Neighborhood residents who witnessed the shooting demonstrated in front of the police station for three days following the killing, complaining of frequent violence and drunkenness among police. On January 19, the Ministry of the Interior's (MOI) director of public order and security met with the residents and announced that measures would be taken to clean up the Matola police force. On January 20, authorities arrested Alvaro and announced that he would be prosecuted for murder and expelled from the police force, and that six policemen,

including the station chief, had been transferred to low-level jobs elsewhere in Maputo Province. There was no further information available by year's end.

During the year police committed killings of suspects during apprehension and of detainees in custody. On January 9, in Maputo, police reportedly killed five members of a gang during a warehouse raid. The gang had stolen money and goods from the warehouse. A sixth member escaped. There was no further information available by year's end. On March 17, in Maxaquene, police shot and killed Aguilas Nguila, Samuel Nhambe, and Candido and Francisco Chimedza, who had escaped a high security prison in Maputo, where they were being held for suspected armed robbery. Police spokesperson Abilio Quive told reporters that the police unit acted in self defense after the men opened fire on them with guns hidden by an accomplice in an escape car.

On May 7, during an escape of more than 40 inmates from the Machava Prison in Maputo city, police killed at least two prisoners. Despite repeated attempts by the NGO Human Rights League (LDH) to visit the prison, the MOI did not allow an independent investigation until nearly two weeks after the escape. There was no further information available by year's end.

On June 6, in Nampula, military police officer Artur Siteo shot and killed secondary student Silvino Lanquistone. The officer reportedly detained Lanquistone because he was wearing boots that the soldier believed belonged to another military officer. He opened fire at point blank range after Lanquistone refused to go with him. Siteo and three policemen who allegedly did nothing to stop the shooting were arrested and the case was sent to the Provincial Military Prosecutor. In October a court sentenced Siteo to 10 years' imprisonment. The case against the remaining three policemen was ongoing at year's end.

On June 24, three members of the Presidential Guard, the police unit charged with protecting the President, allegedly beat and shot to death unarmed citizen Abdul Faruk Monteiro Daude after he disobeyed orders to stop after hitting a Presidential Guard vehicle as he was exiting a Maputo nightclub. Monteiro was reportedly pulled over and handcuffed after voluntarily exiting his vehicle. The deputy minister of the interior stated that the guards did not intend to kill Monteiro, but that the case was under investigation by the Criminal Investigation Police (PIC). On July 3, the PIC reported that one of the suspects, Joaquim Rafael Mungamela, had been arrested for shooting Monteiro. Mungamela remained in prison awaiting trial at year's end. It was unclear whether any action was taken against the other officers allegedly involved in the incident.

In September the murder trial of police who shot six gang members in Matsinho, Manica in April 2005 began, according to the LDH. There was no further update at year's end.

In October a judge in Manica Province sentenced eight policemen to between three and 10 years' imprisonment for killing eight prisoners between 2001 and 2005. Testimony given during the trial indicated that the motive for the killings was to conceal information linking police members to corruption, which was being investigated by the PIC and the provincial ombudsman of Manica. Several of the convicted policemen stated they had been ordered to kill the prisoners.

There were no developments in the 2005 police killings by alleged torture of Joaquim Magaia, Antonio Tamale, and Pedro Chmabo. There were no developments in the September 2005 police killing of a fleeing man in Maputo.

Police authorities continued to withhold information as to whether they were investigating the March 2004 incident in which police in Matola shot and killed two suspected car thieves.

There continued to be reports of abuse by members of the Community Policing Councils (CPC), nonstatutory bodies set up by the Mozambican National Police (PRM) in many districts to prevent crime; however, unlike in the previous year, there were no reports of killings.

The National De-mining Institute (IND) reported 7 mine-related accidents, 8 injuries, and 6 deaths in the first five months of the year. IND reported 23 mine-related accidents, 34 injuries, and 23 deaths in 2005. Of those killed, 10 were children. The Government continued to cooperate with international organizations and donors as well as commercial firms to clear suspected land mine areas, destroying 36,613 mines and 299 unexploded devices in 2005.

IND continued to train mine risk education agents, with the goal of reducing the number of mine accidents and fatalities. In November 2005 IND trained 81 public administrators, teachers, nurses, community authorities, traditional chiefs, rural extensionists, forestry inspectors, policemen and officers, Social Welfare and Red Cross staff. Through mine awareness lectures, IND reached 12,100 people.

During the year there was one high-profile killing by unknown actors. On March 6, the body of Jose Gaspar Mascarenhas, an opposition party deputy in the National



Assembly, was found naked with several gunshot wounds, including a shot in the forehead, near the beach in Beira, Sofala Province. It was not clear whether the murder was politically motivated. There were no further updates by year's end.

There were no developments in the October 2005 killing of the director of the Maputo Central Prison in Boane District by unknown assailants.

Unlike the previous year, there were no reports of deaths resulting from clashes between political party supporters.

Lynchings and other killings by vigilante groups were widespread during the year and represented a growing problem. The LDH linked the increase in lynchings to the populace's belief that the justice system cannot protect them and that the resulting mob justice is the only way to reduce crime. On May 1, in the T3 neighborhood of Maputo, a mob killed a suspected rapist by beating him and then placing a rubber tire on top of him and setting it on fire. By the end of July, the newspaper *Noticias* reported at least four other lynchings in T3. In August in the Sao Damanso neighborhood of Maputo, a mob lynched two persons suspected of witchcraft. Witnesses interviewed by television stations indicated that some of the victims were immigrants of West African origin who had been accused of using witchcraft to break into homes unnoticed to rape women (see Section 5); however, the LDH could not confirm that victims were immigrants. The LDH also reported incidents of mob justice in Gaza Province. In one incident a cow thief was buried alive, while in another village a suspected witch doctor was buried alive. While nationwide statistics were not available, police officials estimated that 18 lynchings occurred in October and November in and around Maputo city.

There were no developments in the July 2005 attacks by a mob of Wackenhut security guards on other guards.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the constitution and law prohibit such practices, police continued to commit abuses. During the year human rights advocates and media outlets reported complaints of torture and other cruel treatment, including several instances involving the sexual abuse of women, beatings, and prolonged detention. However, unlike in the previous year, there were no reports of deaths resulting from police torture.

The LDH reported eight cases of torture in prisons during the first six months of the year, a significant reduction compared with previous years; however, in April, there were reports that recaptured escapees from Maputo's Central Prison were tortured; one hung himself.

Torture and other abusive treatment continued at the police squadrons, particularly at Maputo's 13th Squadron, according to LDH. During the year police detained seven persons from Swaziland and confiscated necessary antiretroviral medicine to fight HIV from two of the detainees; the police only returned the medicine following intervention by LDH. There were no further updates in the case by year's end.

In April security forces beat a foreign citizen for trespassing on the grounds of a monument to Mozambican heroes. The monument area was reportedly poorly marked. Security officials released the individual when they realized he was an American.

In May Alexandre Emilio reported that police from Maputo's 12th Squadron tortured him and several others to force their confessions. The same month, in Gaza Province, the press reported that three police officers at the Macuacua Administrative Post beat Generosa Anselmo Cossa, a delegate of the leading opposition party Mozambican National Resistance (RENAMO), with a stick. According to Cossa, the beating was politically motivated and the perpetrators acted on the orders of the chief of the administrative post and the chief of the police post.

Unlike the previous year, there were no reports that police extorted Zimbabwean citizens who entered the country to sell goods informally or sexually assaulted Zimbabwean women who did not have money to pay bribes.

There continued to be reports of abuse and violence by members of the CPC. In a May speech to the CPCs, the deputy minister of the interior emphasized that they were not authorized to use force except in self defense.

In June a group of security guards at Maputo's Central Hospital denounced the hospital's administrator, Joao Tembe, to the Tribuna Fax. They alleged that Tembe tortured them and incarcerated them in a private cell inside the hospital. The newspaper reported the case of Sergio Judas, who was allegedly handcuffed and spent the night in the cell naked on Tembe's orders.

There were no developments in the other 2005 cases of torture by security forces.

There were reports of violence between FRELIMO and RENAMO (see Section 3).

There were reports of torture by vigilante groups during the year. In July residents in Mavalane, Maputo Province, tortured and then turned over to the police

two members of the CPC, Aurelio Marcos and Cremildo Mucavele, who had assaulted Deolinda Tamele, according to press reports.

Unlike last year, there were no reports that police abused prostitutes and street children.

*Prison and Detention Center Conditions.*—Prison conditions were extremely harsh and life threatening.

Two National Directorates of Prisons, one under the Ministry of Justice (MOJ) and the other under the MOI, operated prisons in all 10 provinces. In March the Council of Ministers approved a decree creating a national Administration for Prison Services, which on May 17 subsumed the 197 prisons under the MOI and the 14 prisons under the MOJ. The Administration for Prison Services is under the MOJ, leaving the MOI and the police responsible for the jails at police stations. The restructuring was designed to improve prisoner rehabilitation.

Overcrowding of MOJ prisons remained a serious problem. LDH noted that prisons habitually held three times the number of prisoners for which they were built, and that in many prisons prisoners slept in bathrooms, standing up, or in shifts. For example, the Central Prison in Beira held 611 prisoners in a facility designed to hold 150. During the first half of the year, LDH visited 104 prisons and detention facilities, which held 10,376 inmates in facilities designed to hold 5,506 persons. During the year the Government invested \$480,000 (12 million meticaís) to improve infrastructure and living conditions at the Nampula industrial penitentiary, which held approximately 500 prisoners. Following the renovations most prisoners, for the first time, slept in beds with mattresses.

LDH found that more than 500 detainees in the Maputo Central Prison (Machava) had been held beyond the 90-day preventive detention period. In addition 120 prisoners remained in jail after the end of their sentences. Of the facilities visited, six offered no medical care or assistance. LDH described 35 facilities as “physically inadequate.” In detention facilities (previously managed by MOI) overcrowding did not appear to be a serious problem. During the first half of the year, LDH visited several police station detention facilities under MOI control and noted that some detainees continued to be held beyond the maximum police station preventive detention period of 48 hours.

Reports continued that most prisoners received only one meal per day. Although by law prisoners were supposed to receive 500 grams of food per meal, at the Brigada Operativa in Inhambane Province they only received 250 grams of food per day. In Matola and Pemba, although there were open jails where prisoners worked to grow food crops, prisoners were not given the food they grew to eat. LDH reported that in Machava, prisoners’ meals consisted of peas and water, and that guards stole rice, flour, oil, and soap intended for the prisoners, selling it outside the prison. The press reported similar circumstances in Nampula Province’s Ribaué district. As a result, authorities suspended eight employees from Maputo’s Central Prison and the Ribaué prison’s director during the year. It was customary for families to bring food to prisoners; however, there continued to be occasional reports that guards demanded bribes in exchange for delivering food to the prisoners. In 2005 the LDH identified five facilities where prisoners relied entirely on outsiders for food: Ilha de Mocimboque, Monapo, Macomia, Mocimboa da Praia, and Palma.

There continued to be many reported deaths in prison, the vast majority due to illness. A senior prison official of the Brigada Operativa told the press that overcrowding was the main cause of sickness and death among inmates. In many facilities, lack of sanitation, potable water, and sufficient food also led to sickness. In October four prisoners (some of whom were detainees awaiting trial) in Manica Province were killed in a mudslide while performing prison labor in a gold mine. Officials ordered an inquiry as to why detainees were performing prison labor.

In July the press reported that Hamid Mateus Mikissene, who was arrested and shot in June 2005 while both his feet and hands were bound while at the Macate Administrative Post in Manica Province, was crippled as a result of receiving no medical treatment during the duration of his six months in prison.

There were no developments in the 2005 cases of prisoner deaths due to neglect and beatings by prison wardens.

In a series of prison visits conducted during the first half of the year, LDH found malaria, scabies, and tuberculosis to be frequent among prisoners in nearly all of the country’s prisons. LDH also found other illnesses caused by malnutrition, including paralysis and blindness. During the first half of the year, LDH found 47 persons with paralysis at Machava Prison. Both healthy and sick prisoners regularly were kept in the same cells. The spread of HIV/AIDS and other sexually transmitted diseases was a serious problem for the prison population.

In 2005 LDH reported a lower number of minors under the age of 16 held with adults from the general prison population than in 2004, the result of action by child

rights nongovernmental organizations (NGOs). However, according to a UN report, juveniles continued to be held with adults during the year. Women were held in separate facilities from men.

In MOI facilities, detainees not charged continued to be held with prisoners sentenced for “maximum security” offenses. In MOJ facilities, detainees who had been charged but not tried continued to be held with prisoners sentenced for “moderate security” offenses.

International and domestic human rights groups had access to prisoners, although at the discretion of MOJ and MOI, and such visits took place during the year. LDH noted continued improvement in the MOI’s openness to their prison visits, although following the unification of the prison system, the MOJ had not responded to numerous LDH requests for visits. The MOJ required LDH to provide it with the date and agenda for intended prison visits in advance, especially in Nampula. Exceptions were the Agricultural Penitentiary of Nampula, where LDH was refused entry, and at the Maputo Central Prison after the 2005 murder and subsequent replacement of its former director. The LDH noted a general improvement in prison officials’ willingness to allow LDH visitors to talk freely with prisoners without the presence of prison wardens.

*d. Arbitrary Arrest or Detention.*—While the constitution and law prohibit arbitrary arrest and detention, in actuality both practices continued to occur.

*Role of the Police and Security Apparatus.*—Forces under the MOI, including the PIC, the PRM, and the Rapid Intervention Force are responsible for internal security. An additional security body, the State Information and Security Service, reported directly to the President. The armed forces are responsible for external security, but in practice hold domestic security responsibilities as well.

The police continued to be poorly paid, despite an increase in pay during the year. Trainee-level officers reportedly received approximately \$80 (2,000 meticaïs) a month, while those at higher rank received approximately \$100 (2,500 meticaïs) a month. Corruption and extortion by police were widespread. Authorities often used violence and arbitrary detention as a means of intimidation to keep persons from reporting abuses. Police impunity remained a problem. The PIC was criticized for being ineffective and, according to press reports, at times PIC officers may have been transferred to prevent them from making progress on some investigations.

Police regularly detained persons for arbitrary reasons and demanded identification documents solely to extort payments. Many crime victims reportedly avoided police assistance because of expected demands for bribes and a lack of confidence that the police would help. During the 12 months preceding April, the Maputo City Police Command initiated disciplinary and criminal proceedings against 113 Maputo policemen, expelling 28 of these from the force. The most common reasons for disciplinary action, according to Maputo’s police chief, were collaboration with criminals, extortion of goods and money, excessive alcohol consumption, and abandonment of post. During the year the MOI expelled at least 160 police. However, the vast majority of police who committed infractions were “recycled,” sent back to school, and then transferred to a new unit. In the three months preceding March, the MOI recycled 178 police. These police included suspected criminals, thieves, and agents suspected of collaborating with criminals. In August President Guebuza dismissed both the chief of police and the chief of the Casa Militar (the Presidential security detail). An August 2005 government-sponsored survey ranked the traffic police and the police force as the country’s most dishonest public institutions.

Professional training for police officers continued during the year; police officers formally trained at the police academy assumed command of several police stations in Maputo from less trained officers.

A strategic plan of action and modernization for the PRM, covering the years 2003 to 2012, continued. Seven of its nine “guiding principles” reflected respect for human rights. While the plan acknowledged the problem of abuse of police powers, it made no specific provision for ensuring greater accountability for such abuses.

*Arrest and Detention.*—Although the law provides that persons must be arrested openly with warrants issued by a judge or prosecutor (except persons caught in the act of committing a crime), police continued arbitrarily to arrest and detain citizens. By law the maximum length of investigative detention without a warrant is 48 hours, during which time a detainee has the right to a judicial review of the case. The individual may be detained another 90 days while the PIC continues its investigation. When a person is accused of a crime carrying a sentence of more than eight years, the individual may be detained up to 84 days without being charged formally. With court approval, such detainees may be held for two more periods of 84 days each without charge while the police complete the investigative process. The law provides that when the prescribed period for investigation has been completed and

no charges have been brought, the detainee must be released. In many cases the authorities either were unaware of these regulations or ignored them, often also ignoring a detainee's constitutional right to counsel and to contact relatives or friends. The law provides that citizens have access to the courts as well as the right to representation, regardless of ability to pay for such services. However, due to a shortage of legal professionals, indigent defendants frequently had no legal representation.

The bail system remained poorly defined. Prisoners, their families, and NGOs continued to complain that police and prison officials demanded bribes for releasing prisoners. The Government's Commission for Strengthening the Law continued to attempt to address the problem of overcrowding of jails and prisons by proposing a series of measures, including converting sentences to fines, creating open prisons, and suspending sentences for those sentenced to less than two years in prison. Neither the National Assembly nor the Attorney General's office publicly considered the commission's recommendations during year, and none were implemented by year's end. During the year the press reported on various alternative actions taken by the Government to reduce overcrowding, including work brigades, conditional release for prisoners who have completed half of their sentence, and traveling tribunals.

There were reports that police harassed and arbitrarily detained persons, including journalists, during the year (see Section 2.a.).

Government statistics indicated that 53 percent of inmates were still awaiting trial. In addition, there continued to be reports of detainees who spent longer in pre-trial detention than the period of the sentence they eventually received. By law a judge has 48 hours to validate a detention in any proceeding; however, this statute often was not enforced. For example, in January the publication Mediafax reported that in the 8th and 10th sections of the Maputo Judicial Court there were at least six persons being held beyond the preventive detention period stipulated by law, including Henriques Banze and Ben Magaia, both held since 2004; Alberto Curva, held since 2003; and Ramos Manamo and Luis Ngovene, held since 2001. The publication indicated that the problem was widespread in the judicial system.

In June 2005 the Commission for the Strengthening of the Law ordered expedited trials for the estimated 755 prisoners in Sofala Province, many of whom had been detained past their preventive detention period.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the executive branch and the ruling FRELIMO party heavily influenced an understaffed and inadequately trained judiciary, particularly in the lower tiers. The judicial system continued to suffer from a lack of transparency and often did not comply with the principles of promotion and protection of human rights. Approximately 112 of the country's 128 judicial districts had functioning courts. A shortage of judges and qualified staff was a major problem. In August Chief Justice Mario Mangaze told the media that the country had only 36 percent of the judges and prosecutors needed to administer justice effectively. There were 204 judges (or approximately one per 100,000 inhabitants), 116 of whom held law degrees as required by law for all judges appointed after 2000. By the end of 2005, 3 percent of the 1,065 staff employed by the courts held university degrees; 53 percent did not have secondary school diplomas. Continuing problems included chronic absenteeism, unequal treatment, low salaries, corruption, deliberate delays, and omissions in handling cases.

The press reported that nine legal proceedings against judges and MOJ officials took place during the year, which resulted in the expulsion of two officials by year's end. Observers believed the problem of unprofessional magistrate behavior was more severe than reported. In December a survey of the judicial sector indicated that 10 percent of judges admitted that corruption existed in the judicial system.

The President appoints both the Supreme Court President and vice President. The Higher Judicial Magistrates' Council (CSMJ) prepares Supreme Court nominations and submits a list of qualified potential Supreme Court nominees to the President. Members of the CSMJ tended to be either FRELIMO members or FRELIMO-affiliated. The President makes all other judicial appointments.

There are two complementary formal justice systems: the civil justice system and the military justice system. The Supreme Court administers the civil system, and the Ministry of National Defense administers military courts. Under the Supreme Court there are province- and district-level courts, and each province has a Court of Appeal. Cases in military courts may be appealed to the Supreme Court. Civilians are not under the jurisdiction of, or tried in, the military courts.

There also are courts that exercise limited, specialized jurisdiction, such as the Administrative Court, the Customs Court, and the Maritime Court. The Constitutional Council is charged with determining the constitutionality of laws and decrees, supervising the electoral process, declaring and validating electoral results, and rul-

ing on electoral disputes. A separate court system exists for minors 16 years of age and younger. The Government may send minors to correctional, educational, or other institutions.

*Trial Procedures.*—Persons accused of crimes against the Government are tried publicly in regular civilian courts under standard criminal judicial procedures. Members of the media may attend trials, although space limitations prevented the general public from attending. A judge may order a trial closed to the media in the interest of national security or to protect the privacy of the plaintiff in a sexual assault case. There is no trial by jury.

In regular courts all accused persons, in principle, are presumed innocent and have the right to legal counsel and appeal; however, authorities did not always respect these rights. Although the law specifically provides for public defenders for the accused, such assistance generally was not available in practice, particularly in rural areas. In 2005 LDH reported that most citizens remained unaware of this right, and many had no access to legal counsel. Some NGOs continued to offer limited legal counsel at little or no cost to both defendants and prisoners. Only judges or lawyers may confront or question witnesses.

In June the revised civil code took effect, aimed at improving the efficiency and efficacy of judicial processes. The code reformed the ability of the Supreme Court to handle appeals against verdicts given by lower courts, allowing the Supreme Court to throw out frivolous appeals as soon as they are received. The code also includes provisions for judges to issue a sentence orally at a trial rather than in writing, ends the requirement for the Attorney General's office to comment on every sentence, allows testimony to be recorded, and permits videoconferencing.

Outside the formal court system, local customary courts and traditional authority figures often adjudicated matters such as estate and divorce cases. Respected local arbiters with no formal training staffed customary courts.

*Political Prisoners and Detainees.*—There were no confirmed reports of political prisoners; however, on May 9, RENAMO alleged that 10 of its party members were being held as political prisoners in Mutarara District in Tete Province. The detentions followed a May 31 clash between RENAMO and FRELIMO supporters during a visit to Mutarara by RENAMO Secretary General Ossufo Momade (see Section 3).

RENAMO continued to claim that all persons convicted and sentenced in connection with the 2000 nationwide demonstrations alleging fraud in the 1999 national elections were political prisoners.

*Civil Judicial Procedures and Remedies.*—Although the law provides for an independent and impartial judiciary in civil matters, in practice the judiciary was subject to political interference.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. However, opposition party members alleged that government intelligence services and ruling party activists continued without warrants to monitor telephone calls, conduct surveillance of their offices, follow opposition members, use informants, and disrupt party activities in certain areas of the country, including in Cabo Delgado and Nampula Provinces. By law police require a warrant to enter homes and businesses and also to monitor telephone calls.

Although there were no national restrictions on the right to marry, according to a press report school administrators in Muecate district in Nampula Province forced single male teachers to marry during the year, reportedly to mitigate the number of sexual assaults of female students by teachers.

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

*a. Freedom of Speech and Press.*—Although the constitution and law provide for freedom of speech and of the press, in practice there were restrictions on these rights. Police continued to harass journalists, and journalists admitted that self-censorship was common. However, according to the NGOs Reporters without Borders and Media Institute of Southern Africa (MISA), press freedom continued to improve. During the year, fewer journalists were detained, public functionaries were more open with journalists, and the Government made greater efforts to divulge information to the public than in previous years.

The independent media were active and expressed a wide variety of views. The Government maintained majority ownership in Noticias, the main newspaper and the only daily with nationwide distribution. Noticias, the daily *Diário de Mocambique*, and the weekly *Domingo* largely reflected the views of the Government but also demonstrated a willingness to critically examine government actions. The government-run news agency, *Agencia de Informacao de Mocambique*, often printed stories critical of the performance of government ministries or agencies.

There were numerous private radio stations that operated throughout the country. Radio Mocambique, which receives 60 percent of its operating budget from the Government, was the most influential media service with the largest audience in the country. While broadcasting debates on important issues of the country, Radio Mocambique tended to invite participants that were not critical of the Government.

MISA noted that the process for obtaining a radio operating license was often long, convoluted, and politically biased. According to MISA, the country required a new law clearly delineating the difference between commercial and public radio.

The Government supplied 80 percent of the operating budget for Televisao de Mocambique (TVM), the television station that broadcasts to the largest percentage of the population. While TVM provided more balanced news coverage than in previous years, it retained a strong government and FRELIMO party bias.

On December 29, law enforcement officers with a warrant from the Maputo City Court related to a \$20,000 (500,000 meticaïs) severance pay dispute seized an estimated \$66,000 (1.6 million meticaïs) worth of equipment from the private television station STV. NGOs, journalists, and other civil society groups expressed suspicion that the seizure was an attempt by the Government to crack down on the country's main independent television station, which frequently criticized the Government.

The international media were allowed to operate freely.

Police harassed and arbitrarily detained local journalists during the year. On May 3, police in Manica Province under orders from Deputy Prosecutor Jose Abede detained without charge journalists Sebastao Canjera, Joao Mascarenhas, and Patreque Francisco of the privately-owned newspaper Mabarwe. Abede ordered the arrest after an influential local businessman accused the Mabarwe of libel. On May 10, local authorities released the three journalists without charge. MISA reported that the detentions were unlawful because the law does not allow pretrial detention of individuals accused of libel.

Unlike in the previous year, there were no reports that police manhandled and threatened reporters. There were no developments in the 2005 harassment by police of reporters covering the return to the country of Anibal dos Santos Junior. In January dos Santos Junior was convicted in a retrial of the 2000 murder of investigative journalist Carlos Cardoso and sentenced to 30 years' imprisonment. In May the public prosecutor's office charged businessman Nyimpine Chissano, oldest son of former President Joaquim Chissano, with "joint moral authorship" in the killing of Cardoso. The trial had not begun by year's end.

There were no developments in the February 2005 detention of journalists by police or the April 2005 assault of journalists by STV security guards.

While defamation of the President is prohibited, it was not invoked during the year.

According to MISA, there were four libel suits brought against newspapers during the year. There were no updates concerning the seven suits for defamation and libel against newspapers in 2005.

Newsprint and other printing supplies must be imported from South Africa and the Government does not exempt these supplies from import duties. Some newspapers found it more cost-effective to print in South Africa and import the final product. Other journals are only published in electronic versions, severely limiting their readership. Journals printed on paper have limited readership beyond Maputo, due to high transportation costs.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. While public access to the Internet continued to expand, particularly in the larger cities, lack of infrastructure in the rural parts of the country and installation costs limited overall use.

*Academic Freedom and Cultural Events.*—While the Government generally did not restrict academic freedom, there were reports that teachers at the university, secondary, and primary school level felt pressure to align themselves with FRELIMO, particularly in the central and northern provinces. According to a press report, FRELIMO pressured school teachers in Sofala Province to join the party during the year.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Although the constitution and law provide for freedom of assembly, there was at least one instance of authorities using force to disperse a demonstration and another instance of authorities preventing a demonstration during the year. While the law regulates public demonstrations, it does not apply to private gatherings held indoors and by individual invitation, nor does it affect religious gatherings or election campaigning.

On February 7, riot police dispersed a peaceful strike in Maputo by an estimated 150 employees of the Delta private security company. Several arrests of protesters were reported.

On November 9, on orders from the Maputo City Council, police prevented a group of RENAMO members from holding a legal demonstration to commemorate the sixth anniversary of the 2000 asphyxiation deaths of 84 RENAMO members imprisoned following a demonstration about the 1999 elections. Press reports indicated that organizers submitted their intention to hold the demonstration on October 31.

By year's end the Government had not followed through on its December 2005 announcement to pay \$48.2 million (1.2 billion meticaais) to the madjermanes, a group of approximately 15,000 citizens who worked in the former East Germany until the early 1990s. The madjermanes staged protests in 2003 and occupied the German Embassy in Maputo in 2004 demanding payment of benefits for their past work. Since 2004, local authorities in Maputo city have prevented a group of madjermanes from holding weekly marches in central Maputo.

There were no developments in the February 2005 investigation of police beating of students during a peaceful demonstration in Nampula.

*Freedom of Association.*—The constitution and law generally provide for freedom of association, although the Government imposed some limits on this right. According to the law a political party is required to demonstrate that it has no regional, racial, ethnic, or religious exclusiveness and must secure at least 2,000 signatures to be recognized (see Section 3). There were approximately 47 registered political parties. A government decree regulates the registration and activities of foreign NGOs. Nonpolitical foreign NGOs and religious groups must register with the Ministry of Foreign Affairs and Cooperation and are required to provide significant details on their organization's projects, staffing, and finances. Domestic NGOs must register with the MOJ. The registration process for foreign NGOs and religious groups reportedly involved significant discretion on the part of government officials and regularly took several months.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice. The law requires local religious institutions and missionary organizations to register with the MOJ, reveal their principal source of funds, and provide the names of at least 500 followers in good standing. The MOJ routinely granted registration to applicants. The Christian Council of Mozambique, an umbrella organization for several Protestant churches, reported that not all religious groups registered but that unregistered groups worshipped unhindered by the Government.

The constitution and the law governing political parties specifically forbids religious groups from organizing political parties and any political party from sponsoring religious propaganda as threats to national unity.

The Catholic Church and some Muslim communities continued to request the return of certain properties nationalized by the Government in the years immediately following independence, including schools, health centers, shops, and residences. According to the Office of the Archbishop of Maputo, the Catholic Church sought the return of approximately 100 facilities throughout the country and awaited an agreement between the Vatican and the Government intended to regulate the return of such properties.

*Societal Abuses and Discrimination.*—The relationships among religions were generally amicable. There were no reports of societal abuses or discrimination, including anti-Semitic acts, reported during the year. There was a very small Jewish population.

On February 17, the independent weekly newspaper Savana reprinted eight of the 12 Danish cartoons that had sparked world controversy and widespread condemnation by Islamic groups. In a violent protest staged by approximately 120 Muslims in front of the newspaper's office building that afternoon, protesters damaged property, and a Muslim journalist reported that the mob attacked black Muslims advocating for peaceful demonstrations and dialogue. The Government issued a statement condemning the paper's decision to reprint the cartoons and underscored the state's commitment to secular principles and religious freedom. On February 19, the Savana editor-in-chief issued an apology on television and stated that the publication of the cartoons was aimed only at showing people the object of the controversy. Subsequent marches of approximately 2,000 Muslims in Maputo on February 25 and March 4 were peaceful.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—While the law provide for these rights, the Government sometimes infringed upon them.

Traffic checkpoints are legal and under the jurisdiction of traffic police. Checkpoints occasionally affected freedom of movement, and according to press reports, authorities sometimes abused and demanded bribes from citizens at checkpoints. In a speech to the public, the general commander of the police recognized that some police stop and charge motorists, in violation of the law, for personal gain. Police sometimes stopped foreigners and ordered them to present original passports or resident papers, refused to accept notarized copies, and fined or detained those who failed to show proper documents. Police, including members of CPCs, also routinely harassed, detained, and extorted bribes from local citizens for failure to carry identity papers.

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

*Protection of Refugees.*—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protections to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum to applicants from many countries in Africa, along with several from outside the continent. The Government cooperated with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

The Government continued to limit refugee movement within the country. Refugees must request authorization to move outside the geographic region in which they have been registered. In addition refugees residing within the Marratane camp in Nampula Province must request authorization to leave its boundaries, which has perpetuated the extracting of bribes by officials.

By October the Government processed 254 cases for refugee status determination (RSD) and retained a backlog in excess of 4,000 cases; in 2005 the Government processed only 150 cases. The backlog was primarily caused by the requirement that the minister of the interior personally approve every case and staffing shortages in the Institute of Refugee Assistance.

Refugee camp conditions met minimal standards. Unlike in the previous year, UNHCR reported no violent conflicts among rival Congolese groups and between Rwandans and Congolese. In response to the violence in 2005, UNHCR and a partner NGO conducted peace and reconciliation activities to bring the communities closer together. While the Government provided police security in the camp, UNHCR recruited additional persons from within the camp to supplement the generally ineffective government police force.

UNHCR focused its efforts during the year on assisting the Government to improve efficiency in the RSD process by providing training to government officials, financial aid to relevant ministries, and a protection officer to work with the Government.

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

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

*Elections and Political Participation.*—In 2004 citizens elected Armando Guebuza of the ruling FRELIMO party as President in the country's third multiparty general elections. While domestic and international observers noted that voting day procedures generally followed international norms, they also documented irregularities in parts of the country during the campaign season and in the subsequent vote count. FRELIMO used significant state funds and resources for campaign purposes, in violation of election law. RENAMO issued complaints of election fraud to several agencies, including the Constitutional Council. In January 2005 the Constitutional Council affirmed Guebuza as the winner.

The Constitutional Council issued a series of nonbinding recommendations for future elections, including the establishment of a single, consolidated voter registration list (there were three in the 2004 election). Other remedies tracked closely with advice given by national and international election observation groups, including the European Union and Carter Center. On May 4, the FRELIMO majority in the National Assembly moved to dissolve the ad-hoc committee established in March 2005 to revise the country's electoral legislation. The decision was made after the committee chair, Alfredo Camito, declared that the group was at an impasse on the com-



position of the National Elections Commission (CNE), one of numerous elections processes under review by the committee. Responsibility for revising electoral legislation was then charged to the Committee on Agriculture, Regional Development, Public Administration, and Local Power in the National Assembly.

On December 20, the FRELIMO majority in the National Assembly passed three new elections laws dealing with the CNE, voter registration, and procedures for provincial and national elections. RENAMO boycotted the vote in protest. The new CNE will have 13 members (three from FRELIMO, two from RENAMO, and eight from civil society), down from 19 during the 2004 national elections. The main task of the CNE is to formulate a new voter registration roll in time for provincial elections in 2007. The new voter registration law requires voters to reregister once every five years and eliminates the multiplicity of voter registers that characterized the 2004 elections. The third law sets guidelines for provincial elections in 2007, municipal elections in 2008, and national elections in 2009.

There were reports of violence between FRELIMO and RENAMO supporters during the year. On June 9, RENAMO alleged that 10 of its party members were being held as political prisoners in Mutarara District in Tete Province following a May 31 clash between FRELIMO supporters during a visit to Mutarara by RENAMO Secretary General Ossuto Momade. According to a RENAMO spokesperson, a RENAMO convoy came under attack by FRELIMO supporters carrying sticks and stones, and in the ensuing clash one RENAMO supporter and eight FRELIMO supporters were injured; offices and homes of party officials were allegedly burned and looted following the incident.

In October local authorities in Pemba, Cabo Delgado Province conditionally released, without charge, 19 of the 21 RENAMO members who had been detained illegally since September 2005 following riots stemming from a disputed mayoral election in Mocimboa da Praia. Two of the RENAMO members arrested following the riots reportedly died in prison. In November, RENAMO leaders threatened to sue the Government for detaining its members without charge or trial, but there were no further updates by year's end.

There were 92 women in the 250-seat National Assembly. Women held seven of the 24 ministerial positions and four of the 18 vice ministerial positions. Luisa Diogo retained her role as prime minister. Women held 30 percent of the seats on FRELIMO's 160-member Central Committee and six seats on the 17-member Political Commission.

Members of many ethnic groups held key positions in both the legislative and executive branches. There was no evidence that specific ethnic groups were excluded.

*Government Corruption and Transparency.*—Corruption was widely perceived to be endemic. Low-level government officials used corrupt practices to supplement low incomes, while high-level elites were believed to employ corrupt practices to enhance their wealth, consolidate their positions, and prevent competition. Corruption largely resulted from a lack of checks and balances among the three branches of government, minimal accountability of elected officials, and a culture of impunity. In the 2005 government-sponsored Governance and Corruption Survey, most respondents cited their unwillingness to report corruption was because "there is no protection" for persons who stand up to corrupt practices.

While the Government continued its strong anticorruption rhetoric, and some mid-level officials were dismissed for alleged corruption, the NGO Transparency International noted that corruption was perceived as "rampant." In addition local NGOs and media groups observed that no corruption cases involving high-profile individuals have been brought to trial during the Guebuza administration. A study undertaken by the anticorruption NGO Center for Public Policy indicated that customs reforms undertaken since 1995 had reduced the levels of corruption in the customs service.

In April the Government launched a National Anticorruption Strategy; however, a September report submitted following a six-month review of the strategy by 18 donor nations stated that there had been "no progress on implementing the Government's anticorruption strategy." The Central Office for the Combat of Corruption (GCCC) functions as an autonomous unit under the Attorney General's office with its own state budget and authority to hire additional permanent full-time staff. Some observers continued to blame the judiciary for hampering efforts by the Attorney General's office to fight corruption, citing the low number of cases accepted by the court system.

According to the GCCC, from March to September prosecutors brought charges in 17 cases of corruption, in which the state was robbed of more than one million dollars (25 million meticaís). In December the National Civil Service Authority reported that from January to October authorities expelled 191 public servants for various irregularities.

According to the Attorney General's annual report, between 2002 and June 2005 the anticorruption unit (the predecessor to the GCCC) received 128 corruption cases: 70 remained under investigation, 30 cases were in court, 15 were dropped, nine were sent to other institutions for consideration, and four were appended to other cases. Of those cases in court, none resulted in convictions by year's end.

There were several new cases of corruption reported during the year. For example, in July, authorities under orders from the GCCC detained a former senior official of the Bank of Mozambique, Adelino Pimpao, and accused him of stealing \$50,000 (1.2 million meticaïs) in 2004 and using the money to make payments to a fictitious institution. There was no further update at year's end.

In October a court in Tete Province sentenced local treasurer Jose Manjolo to 12 years' imprisonment for the theft of approximately \$10,000 (250,000 meticaïs) intended to provide food to people in the province affected by the 2004-05 drought; the judge also ordered Manjolo to repay the money.

In December police arrested Vasco Raiva, head of the Administration and Finance Department of the Provincial Directorate of Youth and Sport in Niassa Province, on suspicion that Raiva stole \$32,000 (800,000 meticaïs). The stolen money was part of a larger sum intended to rehabilitate a sports stadium in the capital of Niassa.

During the year, the CSMJ continued its investigations of Cabo Delgado judges Carlos Niquice and Hirondina Pumule for the alleged extortion of one million dollars (25 million meticaïs) in exchange for releasing from prison Portuguese businessman Amadeu Costa Oliveira in September 2005.

There were no further developments in the 2005 investigations into alleged corruption by government officials.

The NGO Etica Mozambique operated corruption reporting centers in major cities to provide citizens a mechanism to anonymously report incidences of corruption. However, management and resource constraints severely limited their capacity to receive reports. From June to December, Etica Mozambique received information on 28 cases of corruption and transferred the cases to the MOJ. Only one of the 28 cases had gone to trial by year's end. Etica Mozambique also operated a civic education campaign to help citizens identify and protect themselves against corrupt officials or activities. The media continued to be one of the main forces fighting corruption, reporting and investigating numerous corruption cases.

There were no laws providing for the right of public access to information, and in practice the Government restricted citizens' access to public information.

The law requires that all members of the Government declare and deposit their assets to the Constitutional Council, but does not require that such information be made available to the general public.

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

Domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Although at times slow, government officials often were cooperative and responsive. Registration procedures for NGOs often were lengthy (see Section 2.b.).

While an independent ombudsman position to investigate allegations of abuses, including human rights violations, by state officials was created by constitutional amendment in 2005, an ombudsman had not been named by year's end.

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

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status, but in practice discrimination persisted against women, persons with disabilities, and persons with HIV/AIDS.

*Women.*—Although official statistics were not kept, reports indicated that domestic violence against women, particularly spousal rape and beatings, was widespread. The PRM received 5,042 reports of violence against women during the year. In many circles women believed it was acceptable for their husbands to beat them. Cultural pressures discouraged women from taking legal action against abusive spouses. There is no law that defines domestic violence as a crime, but laws prohibiting rape, battery, and assault could be used to prosecute domestic violence. During the year some NGOs called for a draft law on domestic violence.

In August a 15-month survey on violence against women, conducted by the Government, the UN, and several NGOs beginning in June 2005 in Maputo city and the provinces of Maputo, Sofala, Manica, Zambezia, and Nampula, was released. The report revealed that 54 percent of women who responded admitted suffering an act of physical or sexual violence by a man at some point in their lives, 37 percent in the last five years and 21 percent during the past year.

On December 9, police in Tete Province arrested Antineco Chibewa for the murder of his 36-year old wife. According to press reports, Chibewa confessed that he killed his wife because she was too old and might interfere with his relationship with a younger woman. The case was pending at year's end.

A 2005 survey by Project Hope of 255 women in Zambezia Province found that 61 percent of women identified more than one justification for a husband to hit his wife. Many of those surveyed agreed that a man was justified in hitting his wife if she goes out without telling him (48 percent), if she neglects the children (47 percent), if she argues with her husband (36 percent), if she refuses sex (30 percent), and if she burns the food (24 percent).

The Government and NGOs worked together to promote women's rights. Women and children's units in the police force were expressly concerned with the issue of domestic violence. Of the 18 police squadrons in Maputo, 16 had Women and Children's Centers, which provided assistance in cases of physical and sexual assault, including domestic abuse.

The law prohibits rape but not spousal rape. Penalties ranged from two to eight years if the victim is 12 years of age or older, and eight to 12 years if the victim is under the age of 12. While there were no official estimates as to the extent of spousal rape, it commonly was regarded as a problem. The rape law was not effectively enforced, and trials rarely occurred. According to NGO reports, many families preferred to settle such matters privately through financial remuneration rather than through the formal judicial system.

Kukuyana, a national network of women living with HIV/AIDS, reported that many women were expelled from their houses and/or abandoned by their husbands and relatives because they were HIV positive. They also reported that some women who were widowed by HIV/AIDS were accused of being witches who purposefully killed their husbands to acquire their belongings, and for this reason these women were deprived of all of their belongings.

Prostitution is legal, although several laws against indecency and immoral behavior govern prostitution and restrict it to certain areas. The practice was widespread and particularly prevalent along major transportation corridors and in border towns where long-distance truckers stayed overnight. Young women without means of support were at the greatest risk for being drawn into prostitution.

Sexual harassment is illegal; however, it is considered pervasive in business, government, and the education sector. Although no formal data existed, the media reported numerous instances of harassment during the year.

Forced marriage of girls and women was a problem.

With the exception of some ethnic and religious groups, the groom's family provided a dowry to the bride's family, usually in the form of livestock, money, or other goods. For Muslims, the bride's family usually paid for the marriage and provided gifts. These exchanges contributed to violence and other inequalities, due to the perception that the women subsequently were "owned" by the husband.

The Family Law, which took effect in 2005, raises the age of marriage to 18 for both sexes, eliminates husbands' de facto status as heads of families, and legalizes civil, religious, and common law unions. While the law does not recognize new cases of polygyny, it grants women already in polygynous marriages full marital and inheritance rights. The law more precisely defines women's legal rights with regard to property, child custody, and other issues. However, over a year after the law went into effect, the majority of women remained uninformed about it.

Customary law was still practiced in many parts of the country. In some regions, particularly the northern provinces, women had limited access to the formal judicial system for enforcement of rights provided under the civil code and instead relied on customary law to settle disputes. Under customary law, women have no rights to the disposition of land.

The law grants citizenship to the foreign-born wife of a male citizen but not to the foreign-born husband of a female citizen.

Women continued to experience economic discrimination, and women in the workplace often received lower pay than men for the same work.

*Children.*—The Government's focus on children's rights and welfare increased during the year, but significant problems remained.

Education is compulsory through the age of 12, but enforcement of compulsory education laws was inconsistent due to the lack of resources and the need for additional schools. Public education is free, but most families paid enrollment fees for each child and purchased books, uniforms, and other school supplies. Children who have a certificate that testifies that their parents' incomes are below a certain poverty level are exempt from fees, but for most families, fees and associated costs remained a significant financial burden.

During the year, the UN Children's Fund (UNICEF) estimated that 83 percent of children were enrolled in school, primary school enrollment reached 3.8 million, and secondary school enrollment increased from 45,000 to approximately 245,000 since 1992. However, at least 650,000 children remained out of school, and completion rates for primary school students were below 50 percent for boys and 30 percent for girls. A report released by the UN Secretary General's Special Envoy for Humanitarian Needs in Southern Africa in December found that nearly 25 percent of children between the ages of seven and 18 either have never been to school or did not currently attend. Although joint government/NGO initiatives worked in specific localities and districts to improve girls' school attendance, it remained lower than that of boys. Primary schools remained overcrowded, and approximately 70 percent of them lacked adequate sanitation.

Sexual abuse in schools remained a serious and common problem. According to the Center for Public Integrity, secondary school students often paid teachers in exchange for a spot in a class or better grades; boys paid with money and girls with money or sex. The press continued to report on sexual abuse of female students in schools, primarily by teachers. Over a ten-week period from the beginning of June to mid-August, Save the Children and Actionaid registered 30 cases in which girls or their family members reported sexual abuse. In August the education administrators of one municipal district in Maputo, together with the NGO IBIS, launched a campaign against sexual abuse of minors in schools. In the same month, the National Teachers' Organization began a campaign against sexual abuse in schools.

There continued to be reports in newspapers of physical abuse of students by teachers during the year.

During the year, students at a public boarding school in Inhambane reportedly abused incoming students by forcing them to bathe in feces and urine and to have homosexual relations with each other.

Several cases of fathers sexually abusing their daughters were reported during the year.

The Government took steps to address the problems facing HIV/AIDS orphans in the country. In 2005 it was estimated that one in every five households cared for at least one orphan. UNICEF estimated that of the country's 1.6 million orphans, more than 380,000 lost either one or both parents to HIV/AIDS. Several government agencies, including the Ministry of Health and the Ministry of Women and Social Action, implemented programs to provide health assistance and vocational education for HIV/AIDS orphans.

The Family Law sets the minimum age for civil marriage at 21 years, although persons between the ages of 18 and 20 could marry with parental consent. Despite the law, local customs, primarily in the northern provinces and in Muslim and South Asian communities, created a pattern of marriage below the legal age. The NGO Mulheid and others worked to combat this custom through education campaigns on the dangers of the practice, including the spread of HIV/AIDS.

Exploitation of children below the age of 15 continued, and child prostitution remained a problem (see Section 5, Trafficking). The law prohibits pornography, child prostitution, and sexual abuse of children under 16. Persons engaged in child prostitution, use of children for illicit activities, child pornography, child trafficking, or forced or bonded child labor could be punished by prison sentences and fines. In practice perpetrators of these crimes rarely were identified and prosecuted, and punishment was not commensurate with that of the crime.

While the law prohibits the access of minors to bars and clubs, the Government did not have adequate resources to enforce the law effectively.

The trafficking of children for sexual exploitation and labor remained a problem (see Section 5, Trafficking).

Child labor remained a problem, principally in the rural areas (see Section 6.d.).

The country continued to have a problem with street children, but no nationwide figures were available. In 2004 the NGO Rede de Crianca, comprised of 33 community organizations that work with youth in Maputo, identified 3,419 street children in their programs.

Zimbabwean children, many of whom entered the country alone, were particularly vulnerable to abuse. Due to their illegal status, they faced labor exploitation and discrimination and were harassed by authorities on both sides of the border. They lacked protection due to inadequate documentation and had limited access to schools and other social welfare institutions. Coercion of girls into the sex industry was common.

The Maputo City Office of Women and Social Action continued its program of rescuing abandoned orphans and assisting single mothers who headed families of three or more persons. They also offered special classes to children of broken homes in

local schools. NGO groups sponsored food, shelter, and education programs in all major cities.

*Trafficking in Persons.*—There were numerous reports of persons trafficked from and within the country. Although the law does not prohibit trafficking in persons, traffickers could be prosecuted using 13 related articles of the penal code on sexual assault, rape, abduction, and child abuse.

Persons were trafficked both internally and to South Africa. A local NGO reported that each month up to 100 Mozambican and Swazi children were trafficked along the tri-border area to Johannesburg. The head of the PRM's Department of Women and Children reported 68 registered cases of trafficked children during the first six months of the year. The majority of victims were women and children, and they were trafficked for both sexual exploitation and forced labor. Boys were trafficked as laborers on South African farms. Trafficking victims came from both urban and rural backgrounds. Poverty, a history of child migration, and weak border controls all contributed to trafficking.

In April 2005 the International Organization for Migration conducted an inquiry that indicated women continued to be trafficked from the country and sold to mine workers at a mining district west of Johannesburg, known as the West Rand. Taxi drivers commuting between the two countries recruited young women from rural areas such as Macia and Chokwe in Gaza Province, as well as Maputo. The highway running through Maputo was another major recruiting ground for traffickers.

Child prostitution appeared to be most prevalent in Maputo, Nampula, Beira, and at border towns and overnight stopping points along key transportation routes. Child prostitution reportedly was growing in the Maputo, Beira, and Nacala areas, which had highly mobile populations and a large number of transport workers. Child prostitution was reported in Sofala and Zambezia Provinces. Some NGOs were working with prostituted children by providing health care, counseling, and training in other vocations.

Traffickers were principally citizens or South African, but involvement of Chinese and Nigerian syndicates was also reported. Trafficking groups included small networks of citizens based in Maputo and Nampula, and there were reports that organized crime groups were involved. Traffickers often lured victims by promising better jobs in South Africa. Once there, they were threatened with exposure of their illegal status and forced to work for little or no pay. Often women were sexually assaulted en route to their destination or once they arrived in South Africa.

The Government's law enforcement efforts increased over the previous year, though a paucity of training resources hindered greater efforts. In March the MOJ signed an agreement with an NGO to jointly draft anti-trafficking legislation. During the year the MOI conducted anti-trafficking training for almost 90 police officers in three provinces, after which the officers conducted public awareness campaigns for community police and school leaders; however, such training has not been extended force-wide. Many lower-ranking police and border control agents were suspected of accepting bribes from traffickers.

During the year police broke up several trafficking schemes, apprehending at least nine traffickers and rescuing more than 90 victims. For example, in February police arrested six men attempting to traffic 43 people across the South African border. In March the country's first trafficking case was prosecuted, resulting in the conviction of Jose Vasco Ngulele and Armando Rafael for kidnapping and attempting to sell a 13-year-old boy; the two were sentenced to eight and nine months in prison respectively.

In November 2005 police in Manica Province arrested Antonio Joao Catine for selling 35 children as farm laborers; 18 of the children have been recovered, and police investigations were ongoing at year's end.

There were no developments in other 2005 trafficking cases.

The Government's efforts to protect victims of trafficking continued to suffer from a lack of resources, and government officials regularly called on NGOs for assistance in the provision of shelter, food, counseling, and rehabilitation. In 2005 the MOI expanded the number of Offices for Attending to Women and Child Victims of Violence from 84 to 96, and provided victims' assistance training for police officers who dealt with such cases; some of these offices provided emergency shelter and food for trafficking victims.

On May 2, the civil society organization Civic Education Forum (FECIV) opened the country's first permanent shelter for trafficking victims in Moamba. The Moamba District government donated 20 hectares of land to be used to grow food for the shelter. During the ceremony FECIV announced it would start screening for victims of trafficking among the 800 to 1,000 illegal immigrants repatriated by South African immigration authorities, on average, every two weeks.

The Kulaya Healing Center in the Maputo Central Hospital assisted a small number of trafficking victims with medical care and counseling for up to three months each.

*Persons With Disabilities.*—Although the constitution and law stipulate that citizens with disabilities shall fully enjoy the same rights as all other citizens, the Government provided few resources to implement this provision. Discrimination was common against persons with disabilities in employment, education, access to health care, and in the provision of other state services. The law does not mandate access to buildings for persons with disabilities. The Ministry of Public Works and Habitation worked to ensure that public buildings in Maputo city provided access to persons with disabilities, although enforcement was lacking in the provinces. Electoral law provides for the needs of voters with disabilities in the polling booths.

Concerns of persons with disabilities included lack of access to socioeconomic opportunities and employment, limited accessibility to buildings and transportation, and a lack of wheelchairs. Special access facilities were rare. There were few job opportunities for persons with disabilities in the formal sector.

A Ministry of Women and Social Action (MWSA) representative emphasized that persons with disabilities often were victimized by their own families, who hid disabled family members in their homes and kept them from going to school. The Association of Parents and Friends of Mentally Disabled Children reported that families sometimes hid their mentally disabled children, and that during visits the organization found two families in Mossuril kept their mentally disabled children chained.

The head of the Ministry of Health's Mental Health Program recognized that the Government had a responsibility for the mentally ill, but stated that the psychiatric hospital lacked the means to guarantee even basic nutrition, medicine, or shelter. Disabled veterans continued to complain about not receiving their pensions.

MWSA is responsible for protecting the rights of persons with disabilities. In April MWSA hosted the second National Conference on Disabilities in coordination with the Forum of Associations of Disabled Mozambicans. At this conference, MWSA announced a four-year National Action Plan in the Area of Disabilities, which was approved by the Council of Ministers on April 18.

Public transportation authorities in Maputo began offering free bus passes persons with disabilities during the year.

*National/Racial/Ethnic Minorities.*—There were reports of tension between newly arrived Chinese guest workers, often used in construction, and citizens in Maputo city and Beira, Sofala Province.

There were reports of violence and discrimination by police against Zimbabwean immigrants during the year (see Section 1.c.).

There were reports of mob lynchings of West African immigrants during the year (see Section 1.a.).

*Other Societal Abuses and Discrimination.*—The law prohibits discrimination on the basis of HIV/AIDS, and the Ministry of Labor intervened in cases of perceived discrimination by employers. The NGO Pfunani reported that although the law protects citizens with HIV/AIDS from discrimination in the workplace, persons infected with HIV/AIDS suffered discrimination at home, in their communities, and in the workplace, and that many workers preferred to keep their diagnosis a secret and not seek treatment to avoid risking losing their jobs. In November the news daily Canal de Mocambique reported that some businesses obliged workers to take HIV/AIDS tests twice a year and, in most cases, publicly revealed test results. The report also noted that individuals who tested positive often were fired.

The law does not specifically address discrimination against homosexuals, and there were occasional reports of discrimination. Actions were taken by media and civil society groups during the year to promote the rights of homosexuals. In July a major newspaper published, for the first time, an article arguing in favor of homosexual rights. In the article, prominent journalist Emilio Manhique editorialized that homosexuals "have a right to be different." In October the LDH organized the country's first seminar on homosexual rights. The two-day event proposed the creation of an official homosexual rights association, recommended the inclusion of information on sexuality in the school system, and criticized the censorship of homosexual issues in the media.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution and law provide that all workers are free to join a trade union of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Labor laws guaranteeing the right of association do not cover government employees. As of December the Mozambican Workers' Association (OTM) estimated that of the approxi-

mately 500,000 workers in the formal sector 103,000 were unionized. Some unions alleged that the OTM was under the influence of FRELIMO.

The law prohibits antiunion discrimination; however, there were reports that many companies continued to engage in antiunion discrimination by replacing persons at the end of contracts, dismissing workers for going on strike, and not abiding by collective bargaining agreements.

*b. The Right To Organize and Bargain Collectively.*—Although the law provides for the right of workers to organize and engage in collective bargaining, collective bargaining contracts covered less than 2 percent of the work force. The Government did not set private sector salaries. Unions were responsible for negotiating wage increases.

The law explicitly provides for the right to strike, and workers exercised this right in practice; however, civil servants, police, military personnel, and workers in other essential services (including sanitation, firefighting, and health care) do not have the right to strike. Repeated government promises to amend the law to provide full organizing and collective bargaining rights to public officials remained unfulfilled. There were 15 registered labor strikes from January to October. The law specifies that strikers must notify police, the Government, union, and employers 48 hours in advance of intended strikes. The law forbids retribution against strikers, the hiring of substitute workers, and lockouts by employers.

Workers in the small number of export processing zones were subject to the same labor regulations as other workers, and worker rights in these zones generally were respected in practice.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children, and while there were few reports that such practices occurred in the formal economy, forced and bonded labor, particularly by children, was common in rural areas (see Sections 5, 6.d., and 6.e.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—While the law prohibits child labor, it remained a problem. In the formal economy, the minimum working age without restrictions is 18 years of age. The law permits children between 15 and 18 to work, but the employer is required to provide for their education and professional training and ensure conditions of work are not damaging to their physical and moral development. Children between the ages of 12 and 15 are permitted to work under special conditions authorized jointly by the ministries of labor, health, and education. For children under the age of 18, the maximum workweek is 38 hours, the maximum workday is seven hours, and they are not permitted to work in unhealthy or dangerous occupations or those requiring significant physical effort. Children must undergo a medical examination before beginning work. By law children must be paid at least the minimum wage or a minimum of two-thirds of the adult salary, whichever is higher.

Although the law prohibits forced and bonded labor by children, a 2004–05 survey by the National Statistics Institute showed that 32 percent of children between the ages of seven and 17 were involved in some form of economic activity. Many children in rural areas were forced to work, particularly in commercial agriculture, as domestics, and in prostitution. The major factors contributing to the worst forms of child labor were chronic family poverty, lack of employment for adults, breakdown of family support mechanisms, the changing economic environment, lack of education opportunities, gender inequality, and the impact of HIV/AIDS. Children, including those under the age of 15, commonly worked on family farms independently in seasonal harvests or commercial plantations, where they were paid on a piece-work basis and picked cotton or tea leaves. During the year the Eliminating Child Labor in Tobacco Foundation issued the results of a study conducted during the latter months of 2005 to measure the incidence of child labor in the tobacco growing industry in Tete and Niassa provinces. The study found that 80 percent of tobacco farms employed children, and the majority of these children were under age 15. In the urban informal sector children performed such tasks as guarding cars, collecting scrap metal, working as vendors, and selling trinkets and food in the streets.

Children orphaned by HIV/AIDS often were forced to work because they were left without family support.

The Ministry of Labor regulates child labor in both the informal and formal sectors. Labor inspectors may obtain court orders and use police to enforce compliance with child labor provisions. Violations of child labor provisions are punishable with fines ranging from one to 40 monthly salaries at minimum wage. Enforcement mechanisms generally were adequate in the formal sector but remained poor in the informal sector. The Labor Inspectorate and police forces lacked adequate staff, funds, and training to investigate child labor cases, especially in areas outside of the capital where a majority of the abuses occurred. Although the Government pro-

vided training for police on child prostitution and abuse (including pornography), there was no specialized child labor training for the Labor Inspectorate. The Government disseminated information and provided education about the dangers of child labor.

*e. Acceptable Conditions of Work.*—In June the Government granted a 13 percent increase in the statutory minimum wage for industry and services bringing it to approximately \$58 (1,440 meticaïs) per month. The Government granted an 11.5 percent increase in the minimum wage in the agricultural sector bringing the monthly total to \$40 (1,020 meticaïs). Despite the increase, which was slightly above the 9.4 percent inflation rate reported during the year, neither minimum wage provided a decent standard of living for a worker and family. Although the industrial sector frequently paid above minimum wage, there was little industry outside of the Maputo area. In addition less than 10 percent of workers held salaried positions, and the majority of the labor force worked in subsistence farming. Many workers used a variety of strategies to survive, including finding a second job, maintaining their own gardens, or depending on the income of other family members.

The Ministry of Labor is responsible for enforcing the minimum wage rates in the private sector and the Ministry of Planning and Finance in the public sector. Violations of minimum wage rates usually were investigated only after workers registered a complaint. Workers generally received benefits, such as transportation and food, in addition to wages.

The standard legal workweek is 40 hours but can be extended to 48 hours. After 48 hours, overtime must be paid at 50 percent over the base hourly salary. Overtime is limited by law to two hours per day and 100 hours per year. Foreign workers are protected under the law.

Worker complaints continued during the year concerning: employers deducting social security contributions from wages but failing to pay them into accounts; lack of access to the social security system; not adhering to the law concerning firings; and intimidation of union members.

There were no developments in the May 2005 investigation in Nampula into worker complaints of beatings, arbitrary firings, forced labor while sick or injured, and extremely low wages in several private companies, particularly the Ramiane Sisal Company.

In the small formal sector, health and environmental laws were in place to protect workers; however, the Ministry of Labor did not effectively enforce these laws, and the Government only occasionally closed firms for noncompliance. There continued to be significant violations of labor legislation in many companies and services. Workers have the right to remove themselves from work situations that endanger their health or safety without jeopardy to their continued employment; in practice threats of dismissal and peer pressure restricted this right.

As of mid-September, the Ministry of Labor reported 62 labor accident victims, 40 of whom were temporarily incapacitated and 22 were permanently incapacitated. While the law imposes fines for recurring accidents, no fines were imposed during the year. The law also requires that companies insure workers, but Ministry of Labor estimates indicated that only between 50 and 60 percent of companies actually provided coverage.

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## NAMIBIA

Namibia is a multiparty, multiracial democracy with a population of 2,030,000. On March 21, Hifikepunye Pohamba became the country's second democratically elected President; Pohamba was elected in November 2004 and replaced Sam Nujoma, the country's first President and leader of the ruling South West Africa People's Organization (SWAPO). International and domestic observers agreed the 2004 general elections, in which SWAPO won three-quarters of the national assembly seats, were generally free and reflected the will of the electorate despite some irregularities. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Human rights problems included: unlawful killings, torture, beatings, and abuse of criminal suspects and detainees by security forces; overcrowded prisons; prolonged pretrial detention and long delays in trials; government attempts to curb media and nongovernmental (NGO) criticism; violence against women and children, including rape and child abuse; discrimination against women, ethnic minorities, and indigenous peoples; and child labor.



## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces killed persons during the year. The Government took action against some perpetrators.

On January 21, police shot and killed Collen Goliath after he was caught trying to break into the offices of the Ministry of Labor. Goliath and an unidentified accomplice fled the scene and police fired several warning shots, one of which ricocheted off a burglar bar and struck Goliath in the chest. The police officer was under investigation at year's end.

On January 30, seven police officers from the southern town of Keetmanshoop allegedly beat five men suspected of theft. One of the suspects, Makarius Iikali, died from injuries; another suspect, Ben Basson, jumped from the first floor of the police building during interrogation but survived with serious injuries and was treated at a local hospital. The surviving suspects alleged that police assaulted them with batons and used an electric device to shock them. On February 23 and 24, police officers Marthinus Punye, Johannes Mushelenga, Niklaas Hoaseb, Heidi Dean, Jacobus Otto, Cyroll Serogwe, and Daniel Nicodemus were charged with murder. The trial was ongoing at year's end.

On May 27, in Okakarara, Linus Muhimba died while in police custody awaiting trial. Local police claimed that Muhimba fell from the ceiling through which he was trying to escape; however, representatives from the National Police Force (NAMPOL) discovered extensive bruising on Muhimba and cellmate John Muhenje and begun investigation into the death.

There were no developments in the 2005 police killings of Hilda Tjitana and her grandmother, Albertina Tjitana by Constable "Kalisto" Mukeve; and of Marvin Tseib by Detective Ferdinand Jacobs.

Unlike in previous years, there were no deaths that resulted from unexploded ordnances; however, persons were injured by them (see Section 1.c.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, police frequently used excessive force, including torture, when apprehending, interrogating, and detaining criminal suspects. Despite a police directive that prohibited the use of sjamboks (heavy leather whips), security forces continued to use them. The Government took action against some perpetrators.

Suspects in the Caprivi treason trial complained of intimidation and humiliation while in detention.

On February 17, two off-duty members of the Okahao Police's Special Field Force (SFF) constables Amadhila and Kamanya allegedly led a mob in the assault of two women accused of witchcraft, Nashipolo Agashe and Rachel Kapolo. On March 29, Constable Amadhila and four others implicated in the attack were arrested; Kamanya was not arrested because her involvement was being investigated. The case was ongoing at year's end.

On May 2, police sergeant Sakeus Amuele and three civilians Mutilifia Keeleleni, Andreas Nghiwhekwa, and Nakanyala Akuunda were arrested and charged with assault and kidnapping after they allegedly chained and beat Hofenie Angomo Ikolola with sjamboks at a village near Ondangwa to force him to confess to housebreaking and theft. The case was ongoing at year's end.

There were reports that the SFF paramilitary units used excessive force. On March 2, members of the SFF police unit and the Namibian Defense Force (NDF), who were sent to Mariental to maintain law and order after a flood, randomly assaulted residents of the town. Residents filed charges; an investigation was pending at year's end.

During the year two ethnic Mafwe claimed that their testimony in the Caprivi treason trial was made under duress (see below and section 1.e.).

On February 24, the court postponed the case against police officers Geoffrey Scott, Willem Dax, and Dawid Fy, who in July 2005 allegedly tortured Ralph Cloete, a suspected thief.

There were no developments in the January 2005 cases of Elihana Nghimwenas and Pakratius Kawana, who respectively filed civil complaints against the police for torture.

Human rights groups continued to report on ongoing civil court cases filed by individuals against the Government as a result of alleged security force abuses during the 1999 secessionist attacks (see Sections 1.d. and 1.e.). During the year five of the

120 previously reported civil cases were settled out of court and 115 were pending at year's end.

Unlike in previous years there were no reports of sexual misconduct by its peacekeepers on UN missions.

Mob violence occurred; however, unlike in the previous year, no deaths resulted (see above).

During the year civilians were injured as a result of contact with unexploded ordnances. For example, on January 4, two men were injured by a hand grenade while herding goats near Otjiu village.

*Prison and Detention Center Conditions.*—Prisons and detention centers were overcrowded and poorly maintained. During the year the ombudsman conducted a review of police holding cells and noted poor sanitary conditions, overcrowding, insufficient food supplies, unsafe infrastructure, stagnant water, lack of access to medical care facilities and potable water, and insufficient bathroom and shower facilities. The ombudsman also noted police stations were understaffed and that officers could not tend to detainees in addition to their regular police duties. Victims of prison abuse were able to pursue legal remedies.

Some detainees were held with convicted prisoners. In many rural areas juveniles continued to be held with adults. There were several pilot programs that provided alternatives to incarceration for juvenile offenders, such as placing youths in homes. The NGO Criminals Return into Society also offered a number of rehabilitation programs to build vocational skills. The Polytechnic of Namibia also conducted an entrepreneurship training program at most prisons in the country.

Although the Government continued to grant NGOs regular access to prisons and prisoners, during the year there was no published review of prison conditions in the country. In May the International Committee for the Red Cross (ICRC) closed its local office and responsibility was transferred to the ICRC Regional Delegation Headquarters in Harare, Zimbabwe.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest or detention; however, security forces did not observe these prohibitions.

*Role of the Police and Security Apparatus.*—The police, including the paramilitary SFF, are under the Ministry of Safety and Security, and the NDF is under the Ministry of Defense. All are responsible for internal security. NAMPOL has 10,000 members and is highly centralized with regional commands responsible to the inspector general of police, who reports to the minister of safety and security. Approximately half of NAMPOL's overall complement is assigned to the SFF, a paramilitary unit made up primarily of combatants from the former People's Liberation Army of Namibia. SFF members were assigned to guard duty, checkpoints, and the maintenance of public order. NAMPOL lacked the resources, training, and personnel to deter or investigate street crime consistently.

During the year the police received human rights training designed by the Legal Assistance Center (LAC) and some officers attended training programs with human rights components at the International Law Enforcement Academy in Gaborone, Botswana. Although some security force members accused of abuse and corruption were arrested and tried in military courts or the civilian criminal justice system, the Government took no action against others.

During the year the Government took action against corrupt officials. The police's Special Branch Commanding Officer Lottinelomba Uusiku and Finance Division Commanding Officer Joseph Kamati were investigated for fiscal impropriety. During the year the two officers were suspended pending the verdict of their corruption trial. Their docket was delivered to the prosecutor general, and by year's end the two officers remained on suspension.

*Arrest and Detention.*—Persons arrested must be informed of the reason for their arrest and brought before a magistrate within 48 hours of their detention, but the Government did not always respect these provisions in practice. Arrest warrants were not required in all cases, such as if a suspect was apprehended during the commission of a crime. Those accused are entitled to defense by the legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel. In practice many accused persons in remote and rural areas were not represented by counsel, primarily due to lack of resources. Prisoners generally had access to legal counsel and family during regular visiting hours. Detainees had access to their lawyers prior to trial. There is a functioning bail system, and the LAC reported that it generally was observed except in rural areas, where persons often were unaware of their legal rights. Under a state of emergency, the constitution permits detention without trial, although the names of detainees must be published in the Government's gazette within 14 days, and an advisory board appointed by the President must review their cases.

On occasion authorities held detainees incommunicado.

During the year there were reports that family members were denied access to detainees. For example, the relatives of the two witnesses forced to testify in the Caprivi trial claimed they were denied access; the Government stated that it had sequestered the individuals for their security.

Unlike in the previous year, there were no reports of arbitrary arrest and detention.

During the 1999 state of emergency declared in response to Caprivi Liberation Army (CLA) attacks in Katima Mulilo, security forces detained several hundred suspected CLA members and sympathizers, most of whom were released after two weeks. Trial proceedings began in 2003 in Grootfontein and were moved to Windhoek in 2005, where they resumed and continued during the year. At year's end 131 suspects remained in detention in Windhoek, 12 of whom were extradited from Botswana and Zambia in 2002 and 2003. All were charged with treason.

The Government remunerated persons who were arbitrarily arrested in the past. For example, on June 14, the High Court awarded \$10,000 (N\$65,000) in damages to Ethiopian national Dereje Demmase Getachew, who was illegally arrested in 2004 and held in detention for three months.

A trial must take place within "a reasonable time," or the accused must be released; however, lengthy pretrial detention was a problem. The lack of qualified magistrates and other court officials, the high cost of legal aid, and slow or incomplete police investigations resulted in a serious backlog of criminal cases, which often translated into delays of up to one year or more between arrest and trial. Human rights organizations have criticized lengthy pretrial detentions. At the time of the Ombudsman's visit to police holding cells nationwide during August and September, there were 2,950 detainees awaiting trial.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and while the courts continued to act independently and at times made judgments and rulings critical of the Government, the judicial system was hampered by inefficiency and a lack of resources. In September nearly all of the country's magistrates received human rights training in a week-long seminar conducted by the University of Namibia.

The formal court system has three levels: 30 magistrate courts; the High Court; and the Supreme Court. The latter served as a court of appeals and constitutional review court. Customary courts heard most civil and petty criminal cases in rural areas. The law delineates which offenses may be dealt with under the traditional system.

Most rural citizens first encountered the legal system through the traditional courts, which deal with minor criminal offenses such as petty theft and infractions of local customs among members of the same ethnic group. The law delineates role, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with provisions of the constitution.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, with a presumption of innocence until proven guilty, but this right was limited by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the traditional system (see Section 1.d.). The law provides for public trials, but not juries. Defendants are presumed innocent, can confront witnesses, and have the right of appeal. The state provides attorneys for indigent defendants.

During the year procedural problems continued to dominate the high treason trials of detainees arrested in connection with the 1999 attacks on government institutions at Katima Mulilo (see Section 1.d.). For example, the defendants contested the legitimacy of any local court to try them, contending that Caprivi is not part of the country.

On July 31, two ethnic Mafwe witnesses, Harrison Muleta Kwala and Gabriel Matengu Sakutiya, appeared in court on charges of perjury and obstruction of justice for denying statements they had made to investigators in the Caprivi treason trial. The two claimed their statements were obtained under duress inflicted by security forces.

Several state witnesses in the Caprivi treason trial were allegedly kept at two guesthouses in Windhoek for four months during the trial. Human rights activists charged that the men were not allowed to move around freely and that the prolonged sequestering amounted to intimidation of the witnesses; however, the Government claimed it had sequestered the witnesses for their safety. Their relatives complained to a local human rights body that they were denied access to the detainees.

In response to a UN investigation into sexual misconduct by peacekeeping troops in Liberia, the Government recalled three peacekeepers in 2005 and launched its own inquiry. During the year the soldiers were cleared of any wrongdoing.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees; however, numerous persons were held on treason charges.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant before conducting a search; government authorities generally respected these rights in practice. Violators were subject to legal action.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and while the Government generally respected these rights, high-level government officials sometimes responded to criticism of the Government and ruling party with verbal abuse. Journalists working for the government-affiliated media practiced self-censorship, although reporters for independent newspapers continued to criticize the Government openly.

There were four daily national newspapers, three of which were independent, and two weekly newspapers, both of which were independent. The Government contributed financially to the New Era newspaper and the Namibia Press Agency, both parastatals. The ruling SWAPO party owned one publication, Namibia Today.

The Government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television. NBC television and nine radio services, that broadcast in English and indigenous languages, were the most widely heard and influential media in the country. During the year there were reports of government influence on NBC operations and editorial content as well as self-censorship by the staff. There were 11 private radio stations. There were two private television networks, One Africa TV and MultiChoice Direct Satellite TV, and a private cable and satellite television service that broadcast international news and entertainment programs. The ruling SWAPO party owned 51 percent of this direct satellite television service.

During the year Minister of Information Netumbo Nandi-Ndaitwah reprimanded the media for publishing a letter that criticized former President Nujoma. The minister also called on NBC to control the content of talk shows in which callers criticized former President Nujoma, the ruling party, and the Government.

During the year former President Nujoma filed a libel suit against The Namibian newspaper for a series of articles that characterized Nujoma as corrupt.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail and Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. While Internet access was unrestricted, usage was limited in rural areas due to poverty.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom and cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There was a very small Jewish community; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally enforced these rights in practice; however, the Government reportedly has a bilateral agreement with Cuba that limits the freedom of travel of Cuban assistance professionals working in the country through Cuban bilateral assistance. These Cubans are not allowed to travel within or from the country without consent from the Cuban Embassy, which holds the passports of these professionals.

The constitution prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees, although the country is not a signatory to its 1967 Protocol; the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country

where they feared persecution, and granted refugee status or asylum. The Government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 Convention and 1967 Protocol.

Approximately 6,000 refugees resided in Osire Refugee Camp and another 500 lived outside the camp among the general population. Approximately 4,500 of the refugees were from Angola; the others primarily were from the Democratic Republic of the Congo, Burundi, and Rwanda. The Government generally did not permit refugees and asylum seekers to work or live outside the Osire refugee camp. Education through grade 10 was available to all refugees at the camp, and the Government facilitated further secondary education for students with financial sponsorship at schools outside the camp. Some tension with local farmers persisted, fueled by frequent intrusion of refugees into farmers' properties. On March 30, the Government launched an initiative to provide antiretroviral therapy to refugees infected with HIV/AIDS.

The Government continued to maintain strict control over civilian access to the Osire refugee camp; however, the ICRC, the UNHCR, and the UNHCR's NGO partners had regular and unrestricted access to the camp.

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

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

*Elections and Political Participation.*—Presidential and parliamentary elections were held in November 2004. SWAPO candidate Hifikepunye Pohamba was elected President with 76.4 percent of the vote; SWAPO won 55 of 72 elected National Assembly seats. International and domestic observers characterized both elections as free and reflecting the will of the electorate despite some irregularities. Observers criticized the inefficient vote tabulation system and the unequal access to media coverage and campaign financing. In the National Assembly, six opposition parties won a total of 17 seats.

During 2005 opposition parties challenged the results of the 2004 parliamentary elections, which resulted in a court-ordered recount. The recount produced the same parliamentary seats for all parties but failed to allay some opposition concerns regarding irregularities. The Republican Party subsequently launched another court challenge of the recount, which remained pending before the high court at year's end.

Women held 20 seats in the 78-seat National Assembly. There were six female ministers, including the deputy prime minister, and five female deputy ministers among the 45 ministerial and deputy ministerial positions.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics; however, a member of the San community represented the SWAPO party in the National Assembly. Virtually all of the country's other ethnic minorities were represented in parliament and in senior positions in the cabinet. Members of smaller ethnic groups held the offices of deputy prime minister and speaker of the National Assembly.

*Government Corruption and Transparency.*—The law prohibits corruption; however, it was a problem. Government institutions including the Anti-Corruption Commission, the Office of the Ombudsman, and the Office of the Auditor General were in place to combat public corruption. President Pohamba continued to encourage the nation to be vigilant against corruption and to report financial impropriety to the authorities. The President often publicly reiterated his support for the Anti-Corruption Commission.

During the year the Government took action against corrupt officials. For example, on September 17, police working with the Anti-Corruption Commission arrested Deputy Director of Wildlife Management Sackey Namugongo, who faced charges of issuing fraudulent gambling licenses.

There were notable cases of malfeasance in several of the country's parastatals. Reports of corruption in the Roads Contractor Company, the National Petroleum Corporation of Namibia, Game Management Division of the Ministry of Environment and Tourism, and the Ministry of Health and Social Services received widespread media coverage and were being investigated by government agencies at year's end.

Gerry Munyama, the former director general of NBC who was suspended in November 2005 for alleged embezzlement, was released on bail during the year and his case remained pending.

No laws provided for public access to government information, but the Government generally provided such access in practice.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials continued to disapprove publicly of NGO criticism of the ruling party and government policies. NGOs continued to criticize government policies freely. During the year human rights organizations noted greater openness by the Government to opposing viewpoints. For example, President Pohamba met with civil society and NGO leaders during the year, including some deemed to be antigovernment.

During the year the ICRC closed its local offices, however visits by the ICRC and other international NGOs occurred during the year.

There was an autonomous ombudsman, with whom the Government cooperated; he was considered effective in addressing some corruption and human rights problems.

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

The constitution and law prohibit discrimination based on race, creed, gender, or religion, and specifically prohibits "the practice and ideology of apartheid"; however, the Government did not effectively enforce these prohibitions.

*Women.*—Domestic violence against women, including beating and rape, was widespread. Traditional attitudes regarding the subordination of women exacerbated problems of sexual and domestic violence. Domestic violence is against the law, and the law defines rape in broad terms and allows for the prosecution, of spousal rape. The penalties for rape ranged from five years to 45 years imprisonment, and the Government generally enforced the law. Numerous rapists were prosecuted during the year. In some magistrates' courts, there were special courtrooms to protect vulnerable witnesses from open testimony; the courtrooms featured a cubicle made of one-way glass and child-friendly waiting rooms.

There were 15 women and children protection units staffed with police officers trained to assist victims of sexual assault. During the year the People's Education, Assistance, and Counseling for Empowerment Center and other NGOs continued to provide training to these units. The media continued to report on rape and domestic violence.

The law does not prohibit prostitution, and it occurred.

The law prohibits sexual harassment; however, it was a problem.

The law prohibits discrimination against women, including employment discrimination; however, men dominated positions in upper management. The Ministry of Labor and Social Welfare and the Employment Equity Commission, which report to the minister of labor, were responsible for problems involving discrimination in employment; however, neither was effective due to the backlog of cases. The law prohibits discriminatory practices against women married under civil law, but women who married under customary (traditional) law continued to face legal and cultural discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children still existed. During the year the Legal Assistance Center successfully litigated on behalf of several widows and orphans who were victims of property grabbing; most cases were settled out of court.

The Ministry of Gender Equality and Child Welfare was responsible for advocating for women's rights. The Ministry of Justice's Law Reform and Development Commission advocated for women's rights in legislation.

*Children.*—The law enumerates children's rights, including those in the area of education and health, and the Government dedicated approximately 21 percent of its budget for education and 9 percent for health care. However, resource constraints and untrained support staff resulted in inadequate attention to child welfare. During the year the Government passed the Children Status Bill that provides for equal treatment of children born outside marriage, and regulates custody, guardianship, and inheritance. This legislation for the first time grants children born outside marriage the right to inherit from their parents. Civil society opposed a provision in the act whereby if parents of a child born outside of marriage cannot agree on the primary custodian of the child, the child would be without a legal custodian and guardian. At year's end the court was ruling on the matter.

Although the constitution provides children with the right to primary and junior secondary education (grades one to 10), the numerous fees, which included fees for uniforms, books, boarding costs, and school improvement, placed a heavy burden on

students' families and precluded some children from attending school. Education was compulsory until the age of 16. The country has a net school enrollment rate of 94 percent for grades one through seven and of 93 percent for grades one through 10. In general, more girls than boys were enrolled in secondary schools. Many San children did not attend school.

During the year the Government took several steps to provide medical care and other assistance to the approximately 108,500 HIV/AIDS orphans and other vulnerable children. For example, the Government reduced or eliminated school fees and provided social grants.

Child abuse was a serious problem, and authorities vigorously prosecuted crimes against children, particularly rape and incest. The law protects children under 18 years of age by criminalizing sexual exploitation, child pornography, and child prostitution. The age of sexual consent is 16 years. During the year the Government continued to provide training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children worked actively to reduce the trauma suffered by abused children.

During the year Supreme Court Judge of Appeal Pio Teek was acquitted on charges of attempted child molestation. In 2005 Teek was forced to resign to face the charges.

Child prostitution occurred, and parents as well as perpetrators were liable in such cases. The growing number of HIV/AIDS orphans increased the vulnerability of children to sexual abuse and exploitation.

Numerous children orphaned by HIV/AIDS engaged in prostitution as a means of survival.

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

*Trafficking in Persons.*—The law specifically prohibits trafficking in persons, and there were no reports of persons being trafficked to, from, or within the country; however, child prostitution occurred. The law also prohibits slavery, kidnapping, and forced labor, including forced prostitution, child labor, and alien smuggling. Traffickers were subject to fines of up to \$166,000 (N\$ one million) or up to 50 years' imprisonment.

Child prostitution occurred (see Section 5 children).

*Persons With Disabilities.*—While discrimination on the basis of disability is not addressed in the constitution, the law prohibits discrimination against persons with disabilities in employment. Enforcement in this area was ineffective. Societal discrimination also persisted. The Government does not legally require special access to public buildings for persons with disabilities, and some ministries remained inaccessible to them. Although some municipal governments have installed ramps and special curbing for persons with disabilities at street crossings, physical access for those with disabilities remained a problem. Disability concerns continued to receive greater public attention than in previous years, with wider press coverage of the human rights problems that confront persons with disabilities.

*National/Racial/Ethnic Minorities.*—Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted. Many citizens continued to complain that the Government was not moving quickly enough to provide education, health, housing, employment, and access to land. Some citizens continued to accuse the Government of providing more development assistance and professional opportunities to the majority Ovambo ethnic group. There also were reported cases of black farm workers suffering discrimination in remote areas at the hands of white farm owners.

On January 12, the High Court found unconstitutional the Walvis Bay Municipality exclusion of white persons from bidding for open plots during a municipal property auction in 2003.

*Indigenous People.*—The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. By law all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, the San and other indigenous citizens have been unable to exercise these rights fully as a result of minimal access to education, limited economic opportunities, and their relative isolation. The Government took measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communally held lands and increasing their access to education. During the year the deputy prime minister repeatedly sought to raise awareness about the needs of the San. Despite these measures, many San children did not attend school. In 2004 the LAC filed charges on behalf of 18 members of the San community against more than 20 communal farmers who allegedly beat them after accusing the San of stock theft. After the case had been postponed for lack of evidence on numerous occasions, in May the LAC abandoned the civil case

and opened several criminal cases. NGOs reported a decrease in complaints that the San were unable to obtain proper identification documents; however, problems continued due to lack of birth records and lack of government officials with the necessary language skills.

The Government has authority to confer recognition or withhold it from traditional leaders, even in opposition to local preference. This authority was controversial because of the local leaders' influence on local events, including local police powers. In some cases the Government withheld recognition from genuine traditional leaders for political reasons. For example, the Government recognized traditional leaders from the Mafwe community, reportedly because their leaders were close to SWAPO; however, the Government had not recognized leaders of the Khwe in West Caprivi or the Herero in several other regions throughout the country.

During the year 40 Herero chiefs, who were not officially recognized by the Government as traditional authorities, sent a petition to the UN and several western governments to protest what they viewed as ongoing marginalization by the Government.

*Other Societal Abuses and Discrimination.*—Discrimination of homosexuals occurred. During the year senior government officials continued to make disparaging public remarks about homosexuals or used the word "homosexual" as an epithet. For example, Sam Nujoma the SWAPO President and former President of the country, reportedly called the director of the National Society for Human Rights and members of the Shabene Owners Association "homosexuals" for criticizing government action on the closure of illegal shebeens. His remarks sparked wide criticism in the media and by human rights groups. Observers believed the slur generated greater societal pressure on homosexuals and undermined the human rights organization.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution provides for the freedom to form and join trade unions without previous authorization or excessive requirements, and workers exercised this right in practice. The law provides a process for employer recognition of trade unions and protection for members and organizers.

Farm workers and domestic servants working on rural and remote farms often did not know their rights, and unions experienced obstacles in attempting to organize these workers. As a result, farm workers reportedly suffered abuse by employers. They also had poor access to health care. During the year the Government continued efforts to train labor inspectors and educate workers on their rights.

The law prohibits antiunion discrimination. There were no instances of companies failing to reinstate workers who were fired for union activities.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides employees with the right to bargain individually or collectively and to recognize the exclusive collective bargaining power of the union when a majority of the workers were members of that union; workers exercised these rights in practice. Collective bargaining was not practiced widely outside the mining, construction, agriculture, and public service sectors. Almost all collective bargaining was at the workplace and company level. The Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully.

Except for workers providing essential services, such as jobs related to public health and safety, workers have the right to strike once conciliation procedures are exhausted and 48-hour notice has been given to the employer and labor commissioner. Legal strikes were conducted during the year. Under the law, strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must be referred to a labor court for arbitration. The law protects workers engaged in legal strikes from unfair dismissal. The law also specifically protects both union organizers and striking workers from employer retaliation; however, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays in such cases. Legal strikes were conducted during the year.

There are export processing zones (EPZs) at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs, and unions have been active in the EPZs since their establishment.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, there continued to be media reports that farm workers, including some children on communal farms, and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers. Given the ministry of labor's resource constraints, labor in-



spectors sometimes encountered problems in gaining access to the country's large communal and family-owned commercial farms to investigate possible labor code violations.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace; however, child labor continued to be a problem. Criminal penalties and court orders were available to the Government to enforce child labor laws, but such action involved a complicated legal procedure. Under the law, the minimum age for employment is 14 years, with higher age requirements for night work and in certain sectors such as mining and construction. The minimum age was inconsistent with the age for completing education requirements (see Section 5). Children below the age of 14 often worked on family-owned commercial farms and in the informal sector, and some also worked in communal areas.

Child prostitution occurred (see Section 5).

The Ministry of Labor is responsible for enforcing child labor laws and investigates child labor as part of its regular labor inspections. Approximately five complaints of child labor were lodged with the ministry during the year.

The Ministry of Labor's National Initiative to Eliminate the Worst Forms of Child Labor continued its baseline study of the extent of child labor in the country. The Ministry of Gender Equality and Child Welfare conducted several programs aimed at encouraging parents and guardians to allow children to attend school.

The Government has introduced several programs aimed at supporting children to stay in school and away from the labor market. The Ministry of Gender Equality and Child Welfare, and the Ministry of Health and Social Services coordinated welfare programs for orphans, including those affected by HIV/AIDS, by providing grants and scholarships to keep them in school. Additionally, the Government also collaborated with the Namibia Agricultural Union and the Namibia Farm Workers Union in efforts to eliminate child labor through awareness campaigns. The Government also continued to work with NGOs such as Project Hope to assist the victims of child labor.

*e. Acceptable Conditions of Work.*—There was no statutory minimum wage law, but the mining, construction, and agricultural sectors set basic levels of pay through collective bargaining. Average wages for unskilled workers did not provide a decent standard of living for a worker and family, especially since the average wage earner supported the extended family. Wage levels for the less educated majority remained very low.

The standard legal workweek is 45 hours with at least one 36-hour rest period per week. An employer may require no more than 10 hours per week of overtime. The law mandates 24 workdays of annual leave per year, at least 30 workdays of sick leave over a three-year period, and three months of maternity leave paid in part by the Social Security Commission. The Ministry of Labor did not always enforce these provisions.

During the year government officials and the media criticized Chinese firms for allegedly not adhering to the country's labor code, including claims of hiring and firing workers at will, failure to pay established minimum wages and benefits in certain industries, and failing to respect work-hour regulations for public holidays and Sundays.

The ministries of labor and social welfare mandate occupational health and safety standards, and the Labor Act empowers the President to enforce these standards through inspections and criminal penalties. Labor laws generally were implemented efficiently, but the Ministry of Labor lacked an adequate number of trained inspectors to monitor adherence to such labor regulations as providing overtime pay and social security by some companies, especially small, family-owned operations. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations; however, some workers did not have this right in practice. The Government has not fully implemented the 2004 Labor Act. In September the Government submitted to parliament a new draft bill that would eventually replace the previous labor act; however, it has been tabled for future action.

The law accords the same rights to legal foreign workers as to citizens.

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## NIGER

Niger is a multiparty republic that returned to democracy in 1999 following coups in 1996 and 1999; it has a population estimated at 14 million. In 2004 Mamadou

Tandja was elected to his second five-year Presidential term in an election that international observers deemed generally free and fair. Four parties joined the ruling coalition of the National Movement for the Development of Society (MNSD) and the Democratic and Social Convention (CDS) to win a majority of national assembly seats. Civilian authorities generally maintained effective control of the security forces.

Human rights abuses included: alleged extrajudicial killings; use of excessive force by police and security forces; poor jail and prison conditions; arbitrary arrest and detention; prolonged pretrial detention; executive interference in the judiciary; forcible dispersal of demonstrators; interference with press freedoms; official corruption; societal discrimination and violence against women and children; female genital mutilation (FGM); trafficking in persons; the practice of slavery by some groups; and forced child labor.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year the Government or its agents did not commit any politically motivated killings; however, security forces were allegedly responsible for detainee deaths during the year.

On May 28, the gendarmerie reported the death of Alpha Harouna Hinsia, a used car parts dealer, who was under their custody and died at the Niamey general hospital, after suffering what the gendarmes described as “a health problem.” After conducting their own investigations, human rights associations, including the non-governmental organization (NGO) Nigerien Association for the Defense of Human Rights, and Hinsia’s family charged that Hinsia had died before his hospital admission, after being tortured by gendarmes, and requested an independent investigation. An autopsy was commissioned by the victim’s family, but no results were released by year’s end. The Niamey prosecutor reportedly was investigating the case (see Section 1.c.).

On July 30, Moussa Douka died while in police custody in Agadez, after being arrested on charges of stealing a cell phone and gold jewelry from his employer, a local businessman. At year’s end the Procurator General (prosecutor) of the Appeals Court of Zinder reportedly was investigating the case (see Section 1.c.).

On March 16, the court of appeals of Niamey reviewed the case of a customs officer killed by police in 2003. The court ordered the Government to pay \$48,000 (26 million CFA francs) in damages to the victim’s family. The customs union considered the judgment insufficient and appealed the case to the Supreme Court, where it was pending at year’s end.

During the year bandits set up roadblocks along highways and attacked and robbed persons (see Section 2.d.). On August 11, bandits attacked a convoy of cigarette trucks in the northern region, killing one of the soldiers escorting the convoy and injuring several others. Another soldier was reported missing.

At year’s end the two bandits arrested for killing a French tourist in December 2005 were still in prison awaiting trial.

Unlike in the previous year, there were no disputes between herders and farmers that resulted in deaths. A court case against the alleged instigator, who remains incarcerated, of a May 2005 incident in which 11 persons were killed and 12 injured, was still pending at year’s end.

There were no further developments regarding a 2005 riot over subsidized food distribution that resulted in one death; at year’s end one of three suspects detained in the case remained in detention.

There were no further developments in the case of the 2004 killing of local political leader Adam Amenge. Of the 23 persons arrested in connection with the killing, four—Amadou Ibrahim, aka “Bambino,” Attaher Rhissa, Boubacar Ando, and Alhassane Adam Ibrahim—remained in pretrial detention at year’s end.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Unlike in 2005, there were no reports of kidnappings and violence between Malian and Nigerien herders along the border between the two countries.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that security forces beat and abused persons in Niamey and Agadez.

Security force use of excessive force resulted in deaths and injuries (see Section 1.a.).

Police forcibly dispersed demonstrations, which resulted in injuries (see Section 2.b.).

No action was taken against members of security forces who arrested and beat a health worker for having refused medical treatment to the child of a Republican Guard in 2005.

The investigation into the 2004 abuse by security forces of civilians in Tesker remained open at year's end, although the investigation was no longer being actively pursued; during the year a reconciliation forum had brought affected families together with government officials.

On August 21, armed persons claiming to represent the Revolutionary Armed Forces of the Sahara, a former rebel group, abducted and robbed a group of 22 Italian tourists in the country's northeastern desert. The following day the assailants released all but two of the tourists. The remaining two were released on October 14, after reported Libyan mediation.

Unlike in the previous year, disputes between farmers and herders in western Dosso region did not result in reported deaths or injuries.

During the year authorities held a series of meetings with their Malian counterparts to address cross-border kidnappings, banditry, and cattle rustling that had occurred in 2005. From March 7 to 9, elected officials from both countries held a forum in Meneka, Mali, to exchange views on cross-border security and decentralized cooperation and prepare for another meeting in Niger to develop strategies to address the frontier security situation.

On May 28, the gendarmerie reported the death of Alpha Harouna Hinsu, who was under their custody. According to the gendarmerie, Hinsu passed away at the Niamey general hospital, where he was taken after suffering what the gendarmerie described as "a health problem." After conducting their own investigations, human rights associations dismissed the gendarmerie's claim that Hinsu died in the hospital, contending that he died before his admission, after being tortured by gendarmes. Hinsu's family and human rights groups condemned the alleged torture and requested an independent investigation. A forensic report was commissioned, but results had not been released. The case was under investigation at year's end (see Section 1.a.).

On July 30, Moussa Douka died while in police custody in Agadez, after being arrested on charges of stealing a cell phone and gold jewelry from his employer, a local businessman. His death was under investigation at year's end.

*Prison and Detention Center Conditions.*—Conditions in all 35 of the country's prisons were poor and life threatening. Prisons were underfunded, understaffed, and overcrowded. For example, in Niamey's civil prison, there were approximately 720 prisoners in a facility built for 350; at year's end an estimated 550 of them were awaiting trial. Family visits were allowed, and prisoners could receive supplemental food, medicine, and other necessities from their families; however, nutrition, sanitation, and health conditions were poor, and deaths occurred from AIDS, tuberculosis, and malaria.

Corruption among prison staff was rampant. Prisoners could bribe officials to leave prison for the day and serve their sentences in the evenings. Some prisoners bribed officials to serve their sentences in the national hospital in Niamey.

Pretrial detainees were held with convicted prisoners.

Human rights observers, including the International Committee of the Red Cross (ICRC), the National Human Rights and Fundamental Liberties Commission, and various NGOs, were granted unrestricted access to prisons and detention centers and conducted visits during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the law prohibits detention without charge in excess of 48 hours; however, police at times violated these provisions.

*Role of the Police and Security Apparatus.*—The armed forces, under the Defense Ministry, were responsible for internal and external security. The gendarmerie, also under the Defense Ministry, had primary responsibility for rural security. The national forces for intervention and security, under the Interior Ministry, were responsible for domestic security and the protection of high-level officials and government buildings, and the national police, also under the Interior Ministry, were charged with urban law enforcement.

The police were ineffective, primarily because of inadequate resources. Basic supplies such as vehicle fuel, radios, uniforms, handcuffs, batons, and badges were scarce. Patrols were sporadic, and emergency response time in Niamey could take 45 minutes. Police training was minimal, and only specialized police units had basic weapons-handling skills. Corruption remained pervasive. Citizens complained that security forces did not adequately police border regions. The gendarmerie is responsible for investigation of police abuse; however, impunity was often a problem.

*Arrest and Detention.*—The constitution and law require a warrant for an arrest and provide for a 48-hour investigative detention period. If police fail to gather sufficient evidence within that period, the prosecutor can give the case to another officer, and a new 48-hour investigative detention period begins. Poor communication hindered accurate identification of detainees and could result in prolonging the 48-hour detention period. A defendant has the right to a lawyer immediately upon detention, and bail is available for crimes carrying a penalty of less than 10 years' imprisonment. Widespread ignorance of the law and lack of financial means prevented many of the accused from taking full advantage of these rights. Detainees are brought before an independent judiciary. They have a right to prompt judicial determination. They were promptly informed of charges against them. Indigents are provided a lawyer by the Government.

There were no further developments in the arbitrary arrests in March 2005 of five civil society leaders. The men were released in April 2005; however, charges were still technically pending, although no further move to prosecute the five had been taken by year's end.

Security forces arrested journalists and numerous demonstrators during the year (see Sections 2.a. and 2.b.).

Police occasionally conducted sweeps to detain suspected criminals.

There were serious backlogs in the judicial system. Despite legal limits on the pretrial confinement period of indicted persons, pretrial detention frequently lasted months or years; some persons had been waiting as long as six years to be tried. Approximately 76 percent of those incarcerated were pretrial detainees.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the executive branch sometimes interfered with the judicial process. Judges sometimes feared reassignment or having their financial benefits reduced if they rendered a decision unfavorable to the Government. In civil matters there were credible reports that family and business ties influenced lower court decisions. In some instances judges granted provisional release pending trial to high-profile defendants. Persons in such status had complete freedom of movement and could leave the country, but the charges against them remained pending, and the courts could recall them at any point. However, such persons were seldom called back for trial, and some observers charged that provisional release amounted to a denial of fair public trial.

The Court of Appeals reviews questions of fact and law, while the Supreme Court reviews only application of the law and constitutional questions. The High Court of Justice deals with cases involving senior government officials. There also were customary courts and a military court. The military court provides the same rights as civil criminal courts; however, customary courts do not. The military court cannot try civilians.

*Trial Procedures.*—Trials were public, and juries were used. Defendants have the right to counsel; the right to counsel at public expense for minors and indigent defendants charged with crimes carrying a sentence of 10 years or more; to be present at trial; to confront witnesses; and to present witnesses on their own behalf. Defendants have access to government-held evidence, and the Government has a legal obligation to inform defendants of all evidence against them. Defendants may appeal verdicts, first to the court of appeals, then to the Supreme Court. The law affirms the presumption of innocence. The above rights extended to all citizens, but widespread ignorance of the law prevented many accused from taking full advantage of these rights.

Although lawyers complied with government requests to provide counsel, the Government generally did not remunerate them. There were no defense attorneys outside of the capital, although lawyers traveled to other locations to provide legal assistance as requested.

On March 9, the military court sentenced six of 70 soldiers from Niamey charged with high treason in 2002 to jail terms of three to seven years for "illegally breaking into an armory, failure to observe hierarchy, and mutiny." A total of 63 soldiers were released without charge, and six others originally charged in the case were sentenced in absentia to prison terms of three to seven years.

On September 30, the military court sentenced 47 of 113 soldiers charged with high treason in 2002 to prison terms. The 66 others were convicted on the same charges, but were released because their time already spent in preventive detention (2002–06) exceeded their sentences.

On October 16, the tribunal heard the cases of one active duty soldier, one retired officer, and one civilian accused of coup plotting in 2002. The men had been imprisoned awaiting trial for approximately four years. The court discharged the case against the active duty soldier, but sentenced the officer to two years imprisonment

and the civilian to four years. The officer was released, since he had been under preventive detention for more than three years.

Traditional chiefs could act as mediators and counselors and had authority in customary law cases as well as status under national law, where they were designated as auxiliaries to local officials. Chiefs received government stipends but had no police or judicial powers and could only mediate, not arbitrate, customary law disputes. Customary courts, located only in large towns and cities, try cases involving divorce or inheritance. They are headed by a legal practitioner with basic legal training who is advised by an assessor knowledgeable in the society's traditions. The judicial actions of chiefs and customary courts are not regulated by law, and defendants could appeal a verdict in the formal court system. Women did not have equal legal status with men in the traditional and customary courts and did not enjoy the same access to legal redress (see Section 5).

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Courts of civil procedure (tribunaux civils) exist in each major city. These courts hear lawsuits related to civil matters and can apply judicial remedies, while a single appellate entity—the Conseil d'Etat—is responsible for administrative remedies.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions. Under the state security law, police may conduct searches without warrants when they have strong suspicion that a house shelters criminals or stolen property.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government restricted these rights in sentencing several journalists to jail terms and intimidating others into practicing self-censorship.

The Government published a French-language daily newspaper, *Le Sahel*, and its weekend edition. There were approximately 15 private French-language weekly or monthly newspapers, some of which were affiliated loosely with political parties. The private press criticized government actions.

Since literacy and personal incomes were both very low, radio was the most important medium of public communication. The government-owned radio station *La Voix du Sahel* provided news and other programs in French and several local languages. There were several private radio stations; eight were owned locally and featured popular news programs in local languages. The private radio stations generally were less critical of the Government than were the private newspapers. The government-operated multilingual national radio service generally provided equitable broadcasting time for all political parties; however, opposition parties complained of unequal coverage of their activities by government-owned media.

Television was a far less important medium than radio. The government-owned *Tele-Sahel* and *TAL-TV* broadcast programming in French and other major national languages. A private television station, *TV Tenere*, also broadcast local and foreign programming. The director of a private radio station operated a wireless cable television service in the capital, offering access to international channels.

International media were usually allowed to operate freely. Radio France International operated FM relays in Niamey and in Maradi and Zinder provinces. BBC World Service was available on FM in Niamey and Zinder. Local private radio stations also carried Voice of America and Deutsche Welle.

During the year the Government closed a private newspaper, imposed a three-month ban on a radio talk show, and brought criminal libel charges against journalists who alleged corruption in its management of a donor-funded public education initiative.

On February 2, Ibrahim Manzo, editor of *L'Autre Observateur*, was imprisoned following a lawsuit for defamation by a politically well-connected businessman, Moussa Dan Foulani. The newspaper had alleged that Dan Foulani had sold a weapon to a carjacker in a criminal case. Manzo was incarcerated for 10 days. He was released following the February 13 signature of a code of conduct by politicians and journalists.

On February 13, political parties and journalists signed a code of conduct that called for general forgiveness of defamation charges. As a result, all defamation suits, including government-initiated ones, filed prior to that date were withdrawn.

On April 3, authorities expelled a three-person BBC crew that was investigating hunger and malnutrition in the country, although the crew had all required accredi-

tations and authorizations. It was apparently expelled by the governor of Maradi because he opposed reporting on the food crisis. The governor almost certainly acted with the consent of superiors at the national level. The Government banned media organizations from reporting on the humanitarian crisis in the country. Other officials also said international and local media would not be allowed to do stories about the food situation, as they did not want the subject touched.

On June 28, the High Council of Communication (CSC), the Government organ charged with regulation of the media, closed the private weekly *L'Opinion* for "insults and defamatory language toward the President of Niger and his family; inciting revolt; and immoral offense." On June 21, the newspaper had published an article entitled *L'Imposture* (deception) in which it called the President a "wretched lieutenant" and a "dormouse." The same article also called for regime change in the form of a transition government—supposedly a vague allusion to a coup d'état. On April 25 in another article, the newspaper had published a list of houses that the President allegedly purchased for his seven children for an amount that exceeded his declared legal earnings.

On July 18, the CSC issued a "last warning" to the Tenere FM private radio station for hosting talk shows in which insults had allegedly been made. The show had a reputation as a forum for harsh critics of the Government.

On July 21, the CSC banned *Fati*, a talk show on the Horizon FM private radio station, for three months because the host of the show allegedly broadcast "insults, propaganda, incitement to violence and insurgency, and violation of ethics." The show reportedly featured inflammatory political commentary with ethnic overtones. Its criticism tended to be directed toward civil society, the political opposition, and other presumed opponents of the Prime Minister and his political party.

On August 4, Mamane Abou and Oumarou Keita, respectively director and editor of *Le Republicain* newspaper, were arrested and placed in police custody on charges of disseminating false news and defamation of the Government. This stemmed from a July 27 article alleging that Prime Minister Hama Amadou was attempting to shift the country's foreign policy emphasis toward non-Western countries. The case was also linked to public concerns over corruption. Many civil society critics and opposition politicians stated that the two men were targeted for earlier articles relating to corruption in the Government's management of a donor funded public education program. On August 8, Abou and Keita appeared before the Regional Court of Niamey and were then transferred to separate prisons outside the capital. The trial began on August 14. On September 1, the two men were convicted. Abou and Keita were sentenced to 18 months' imprisonment, a \$573 (300,000 CFA francs) fine, and \$9,560 (five million CFA francs) in damages. Their lawyers appealed the case; however, on September 25, the court of appeals confirmed the lower court's verdict. On November 27, the Niamey court of appeals reviewed the judgment. The court granted provisional release to the journalists, adjourned the judgment for further consultation, and announced that its verdict would be delivered on December 11. At the court's request, the delivery of the verdict was again postponed until 2007. The journalists remained on provisional release at year's end.

On August 28, Salif Dago, editor of *L'Enqueteur* newspaper, was placed in police custody on charges of disseminating false news following an article alleging the ritual killing of a baby in a Niamey cemetery by a high profile person. On September 25, Dago was sentenced to six months' imprisonment and a \$600 (300,000 CFA francs) fine. However, on November 27, the Niamey court of appeals ruled that Dago was not guilty of the charges against him.

In December Amadou Issoufou, a journalist for the national television network, was suspended for one month after he included in the evening news an international television brief on Abou and Keita's release.

On April 4, the Government submitted a bill to amend the prerogatives, composition, and functioning of the CSC. Under the bill, the Government would select seven of the 11 CSC members to be appointed. The bill would extend the powers of the CSC President to include the authority to close press agencies without notice and without consulting other CSC members, and to nominate directors for public media organs. It would subject all CSC members to a religious oath when taking office, subject all CSC decisions to the approval of the council of ministers, and provide that journalist members of the CSC should have a minimum of 15 years of experience. Media associations and civil society groups charged that the proposed law did not comply with the spirit of the constitution. They argued that the proposed bill infringed on the independence of the CSC and would give the Government full control over the press.

Civil society organizations convinced the National Assembly to make substantial amendments to the bill before passing it unanimously on May 22. Of the controversial measures, only the religious oath was maintained, despite strong opposition

from a number of deputies. Under the new law, the CSC is to be composed of 11 members—four appointed by the Government and seven by media, communication, and civil society groups.

On January 27, Abdoukarim Salifou, an independent journalist, was released from prison after serving a two-month sentence for criminal libel. In 2005 Salifou had accused the national treasurer of embezzling funds.

On May 5, the court of appeals of Zinder dismissed as groundless defamation cases filed against two journalists—Raliou Hamed Assalek and Abdoulaye Harouna—by the governor of Agadez in 2005.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet availability was limited by a lack of infrastructure, a single Internet service provider, and limited personal computer ownership, although all cities offered Internet cafes that were heavily utilized. Niamey boasted a steadily expanding wi-fi network, and some public libraries offered patrons Internet access. While the Internet was not part of most citizens' daily lives (1.8 users per 1,000 people in 2004, according to the World Bank) it was available in Internet cafes at moderate rates.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and while the Government generally respected this right, during the year police forcibly dispersed demonstrators. The Government retained the authority to prohibit gatherings either under tense social conditions or if 48-hour advance notice was not provided.

On February 3, police used force to disperse violent student demonstrators. Police arrested 17 students; they were all released on March 3. On July 28, police used force to disperse an unauthorized protest march relating to events in Lebanon. Several persons sustained minor injuries in these incidents.

No action was taken against security forces responsible for injuries that resulted from the violent dispersal of demonstrators in 2005 and 2004.

*Freedom of Association.*—The law provides for freedom of association; however, citizens may not form political parties based on ethnicity, religion, or region.

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

Islam was the dominant religion and the Islamic Association, which acted as an official advisory committee to the Government on religious matters, broadcast bi-weekly on the government-controlled television station. On government-controlled media, Christian programs generally were broadcast only on special occasions, such as Christmas and Easter, although the independent media regularly broadcast such programs.

Religious organizations must register with the Interior Ministry. Registration was a formality, and there were no reports that the Government refused to register a religious organization.

On February 10, the Government established an Islamic Council composed of 10 leaders drawn from Islamic associations including the Islamic Association of Niger and other NGOs, and 10 members from various government agencies. The Islamic Council advised the Government on Islamic issues including preaching, mosque construction, payment of zakat, etc. The council's avowed goals were to "work toward promoting a culture of tolerance and social peace and encourage Nigeriens to participate in the country's economic, social, and cultural development." During the installation of the council, the Prime Minister said that the purpose of the council was in part "to address behaviors and practices inspired by foreign countries," a remark widely interpreted to mean Nigerian and middle-eastern-inspired theological change and mosque construction projects.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for freedom of movement, and the Government generally respected this right. Security forces at checkpoints monitored the travel of persons and the circulation of goods, particularly near major population centers, and sometimes demanded bribes. During the year transportation unions and civil society groups criticized such practices, and the Anticorruption Commis-

sion called for an investigation into checkpoint corruption; however, no investigation had been conducted by year's end. There were reports during the year that bandits set up roadblocks along highways and robbed persons, although, unlike in 2005, no deaths occurred. The December 2005 case of three armed bandits who attacked persons returning from a regional market near the border with Mali, stole their camels, cash, and other valuables, and fled, remained under investigation at year's end.

The law prohibits forced exile, and there were no reports that the Government used it.

On October 23, the Government announced it would expel a group of nomadic Arabs of Chadian origin who had settled in the eastern Diffa region in the 1970s and 1980s. Known as Mahamid Arabs, the community (which numbered between 17,000 and 50,000 persons) had neither refugee status nor, in most cases, Nigerien citizenship. On October 27, after protests from leaders of the Mahamid community, the Government rescinded the order, and stated that it would establish a commission to study land use and conflict issues between the Mahamids and Diffa's indigenous population. At year's end no Mahamid Arabs had been forced to move, and the Government reportedly was contemplating moving at least some community members to adjoining regions of Niger. The Mahamid Arabs had moved into the country from Chad in the 1970s and 1980s to escape drought (1968–73) and then armed conflict (early 1980s). The vast majority had settled in the arid eastern region of Diffa, where disputes over land use, access to wells, and animal grazing rights had reportedly been simmering for several years.

*Protection of Refugees.*—The law does not provide for granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, although the country is a signatory to the convention. The Government has not established a system for providing protection to refugees, but in practice provided protection against refoulement, the return of persons to a country where they feared persecution. The Government did not routinely grant refugee or asylum status, although it cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR's regional office in Benin was responsible for refugee assistance and protection in the country; the Government's interministerial National Refugee Eligibility Committee performed refugee prescreening duties. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and its 1967 Protocol and has offered asylum to several thousand persons, primarily from Mali and Chad. Approximately 500 refugees from Chad and other neighboring countries remained in the country.

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

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

*Elections and Political Participation.*—In December 2004 Mamadou Tandja was elected to his second five-year Presidential term with 65 percent of the vote in an election that international observers described as generally free and fair, despite some irregularities on election day. A coalition composed of the MNSD, CDS, the Rally for Social Democracy, the Rally for Democracy and Progress, the Nigerien Alliance for Democracy and Progress, and the Social-Democratic Party of Niger backed Tandja and, in legislative elections held at the same time, won 88 of the 113 seats in the National Assembly. The opposition Nigerien Party for Democracy and Socialism won 25 seats. Tandja reappointed MNSD party President Hama Amadou as prime minister.

Individuals and political parties can freely declare candidacies and stand for election.

Women traditionally have played a subordinate role in politics. The societal practice of husbands voting their wives' proxy ballots effectively disenfranchised many women in the 1999 elections; however, female voter turnout substantially increased during the local, legislative, and Presidential elections held in 2004. There were 14 women in the National Assembly and six female ministers in the cabinet; six of the country's 20 ambassadors were women. The law mandates that women receive 25 percent of senior government positions and fill 10 percent of elected seats; women held at least 10 percent of the 3,747 local council positions.

All major ethnic groups were represented at all levels of government. There were eight seats in the National Assembly designated for representatives of "special constituencies," specifically ethnic minorities and nomadic populations. President Tandja, who reportedly is half Peul (Fulani) and half Kanouri, is the country's first



President who is not from either the Hausa or the Djerma ethnic groups, which make up approximately 56 percent and 22 percent, respectively, of the country's population.

*Government Corruption and Transparency.*—The Government publicly acknowledged that corruption was a problem and prosecuted numerous officials for corruption during the year. There was a widespread public perception that corruption was a problem in the executive and legislative branches.

Corruption was prevalent within government and the informal sector of the economy. The political turbulence of the 1990s—a period of weak democratic governments and military coups—rendered the Government increasingly dysfunctional. Civil service salaries went unpaid for months at a time, and the morale and resources of the public service declined rapidly. Since the return of stable, democratic government in 1999, public administration has improved, and salaries have been paid on time, but corrupt practices and expectations that took root during the period of turmoil remained prevalent. Citizens sometimes paid bribes to civil servants to circumvent bureaucratic obstacles and obtain advantageous treatment. The problem of corruption is compounded by a poorly financed and trained law enforcement system and weak administrative controls. Other major underlying causes of corruption were rampant poverty, low salaries, the politicization of the public service, the influence of traditional kinship, ethnic, and family ties on decision-making, a culture of impunity, and a lack of civic education. Nevertheless, during the year mounting pressure from foreign donors and many citizens led to some progress in the fight against corruption.

On June 27, the President replaced Minister of Basic Education Hamani Harouna and his predecessor in that position, Minister of Public Health Ary Ibrahim. The two were dismissed to prepare their defense in a case stemming from allegations of corruption in their management of a World Bank-led, multi-donor, 10-year educational development program. On October 1 and 2, the National Assembly voted to waive both former ministers' immunity from prosecution. They were charged with infringing on bidders' equal opportunity to seek government contracts; embezzlement of public funds; and aiding and abetting forgery. The two former ministers and several civil servants from the Ministry of Basic Education were jailed, and at year's end remained in prison awaiting trial. The ministers were likely to stand trial before the High Court of Justice, established to deal with cases involving senior government officials. Their case would be the first to be tried before the High Court since its creation. At year's end, no action had been taken against three National Assembly deputies—Bonkano Maifada, Intarou Hassane, and Raja Chaibou—who were also allegedly involved in the scandal. Donors suspended payments to the fund in June, after an audit revealed a pattern of overbilling and unjustifiable expenses.

On July 14, the Council of Ministers terminated 19 teachers who had initially been suspended without pay on January 18 for fraud, forgery, and influence peddling in connection with public school exams.

On August 5, three school principals and two teachers were arrested in Agadez and charged with committing fraud during the middle school leaving exams in June. The principals were granted provisional release. No trial date had been announced by year's end.

The 15 civil servants sentenced to five months' imprisonment for corruption in 2005 were all released during the year. Some served their full sentences, while others benefited from a Presidential pardon on the country's Independence Day.

The corruption case against Almoustapha Soumaila, the country's former Francophone Games director general, continued during the year. On July 27, the Supreme Court annulled a court of appeals judgment from April, citing faulty procedure. The Supreme Court ordered another trial before the court of appeals. On October 5, the court of appeals reclassified the charges against Almoustapha from abusing public property to embezzlement of \$271,510 (142 million CFA francs), a criminal offense. Almoustapha remained in prison, and his case was pending at year's end.

The Ministry of Finance deputy director, who was arrested for fraud in July 2005, was still in prison awaiting trial at year's end.

The National Commission on Corruption selected priority sectors for investigating corruption: justice, health care, education, and transportation. While the commission obtained office space and a modest budget of \$76,000 (40 million CFA francs), its ability to investigate corruption remained limited.

There were no laws that provided for public access to government information; however, many documents could be obtained from individual ministries and the National Archives. The Government granted access to government information to both citizens and noncitizens, including foreign media.

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

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

The government-established National Commission on Human Rights and Fundamental Liberties, a majority of whose commissioners were drawn from the private sector and NGOs, operated without government or party interference; however, it often lacked the resources necessary to conduct its work, was generally considered ineffective, and issued little in the way of reports or recommendations.

In 2005 a coalition of human rights NGOs sued the Government to reverse a Presidential decree that had named new members to the commission. The Supreme Court annulled the Presidential decree late in 2005. During the year new elections were held but controversy over the selection process continued, with representatives of two human rights associations contesting each other's participation. The controversy continued at year's end, with the Government attempting to mediate between the two groups.

There were no further developments in the case of Nouhou Arzika, a civil society activist who in 2005 was attacked and severely beaten by bodyguards of politically well-connected businessman Moussa Dan Foulani.

The Government cooperated with international organizations and permitted visits by UN representatives and other organizations such as the ICRC. The ICRC visited during the year. Also during the year the International Labor Organization (ILO) issued a report on forced labor practices in the country. The Government officially accepted the report in November, which led to the establishment of a joint ILO-government-civil society working group on forced labor (see Section 6.c.).

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

Although the law prohibits discrimination based on sex, social origin, race, ethnicity, or religion, societal discrimination against women, children, ethnic minorities, and persons with disabilities was widespread.

*Women.*—Domestic violence against women was widespread, although reliable statistics were not available. Wife beating reportedly was common. The law does not explicitly prohibit domestic violence; however, a woman can sue her husband or lodge criminal charges for battery, penalties for which ranged from two months in prison and a \$19 (10,000 CFA francs) fine to 30 years' imprisonment. The Government tried with limited success to enforce these laws. There was no data available on how many abusers were prosecuted or convicted during the year. Charges stemming from family disputes were often dropped in favor of traditional dispute resolution mechanisms. Families often intervened to prevent the worst abuses, and women may (and did) divorce because of physical abuse. While women have the right to seek redress for violence in the customary or modern courts, few did so due to ignorance of the legal system, fear of social stigma, or fear of repudiation. Some women's rights organizations reported that prostitution often was the only economic alternative for a woman who left her husband. Several women's rights organizations provided counseling and training to women in this situation and undertook sensitization efforts.

Rape is a crime punishable by 10 to 30 years' imprisonment, depending upon the circumstances and age of the victim; authorities sought to enforce the law. However, in many cases, spousal rape did not lead to prosecution, as victims often sought to resolve the issue within the family, or were pressured to do so. Reliable statistics on its prevalence were not available. The law does not explicitly recognize spousal rape, but appears to cover it in practice. Women's rights NGOs provided counseling and training services to rape victims.

Certain ethnic groups practiced FGM, predominantly the Peul (Fulani) and Zarma in the western region of the country. Approximately 20 percent of women had undergone FGM, usually when they were girls between seven and 10 years of age, according to a 1999 World Health Organization global study. Clitoridectomy was the most common form. FGM is against the law, and those convicted of practicing it and their accomplices face prison sentences ranging from six months to three years. If a victim of FGM dies, the practitioner can be sentenced to 10 to 20 years' imprisonment. There were no statistics available on the number of cases of FGM prosecuted during the year. The Government took an active role in combating FGM and worked closely with local NGOs, community leaders, the UN Children's Fund (UNICEF), and other donors to develop and distribute educational materials at government clinics and maternal health centers and participated in information seminars and dissemination of publicity (see Section 5, Children).

Prostitution is illegal, but remained prevalent in big cities and near major mining and military sites.

Women and girls were trafficked both internally and from the country to North Africa, the Middle East, and Europe for sexual exploitation (see Section 5, Trafficking).

Sexual harassment is a crime punishable by prison sentences from three to six months and fines from \$20 to \$200 (10,000 to 100,000 CFA francs). If the violator is in a position of authority, the prison sentence is from three months to one year, and the fine is increased to \$40 to \$400 (20,000 to 200,000 CFA francs). No statistics were available on the number of arrests or prosecutions.

Despite the constitution's provisions for women's rights, deep-seated traditional and religious beliefs resulted in discrimination in education, employment, and property rights. Discrimination was worse in rural areas, where women helped with subsistence farming and did most of the childrearing, water- and wood-gathering, and other work. Despite constituting 47 percent of the formal sector work force, only 26 percent of civil service workers and 22 percent of professionals were female. Women do not have the same rights as men under family law. The country still lacks a modern family code. Family law and laws governing inheritance still derive largely from Islamic traditional practice. In matters of inheritance, this dictated that, in the absence of a formal will stating otherwise, women received only one-third of a deceased parent's property, while male siblings received two-thirds. However, women enjoyed the same rights as men with respect to property ownership.

Legal rights as heads of household applied only to men; divorced or widowed women, even with children, were not considered to be heads of households. In the east there were reports that some women were cloistered and could leave their homes only if escorted by a male relative and usually only after dark.

National service, which lasted from 18 months to two years, was mandatory for all young men and women who completed university studies or professional training. Men were allowed to serve in the military as part of their national service obligation; however, although women were allowed to serve in the military, they could meet their national service obligation only by serving as teachers, health service workers, or technical specialists.

*Children.*—The constitution and law require that the Government promote children's welfare; however, financial resources for this purpose were extremely limited. In principle education was compulsory, free, and universal for a minimum period of six years, although for a variety of reasons only a fraction of children attended school. The Government's draft poverty reduction strategy paper, released in December, estimated that the gross national primary school enrollment rate was 52 percent during the year, while the net primary school enrollment rate was 41 percent; 60 percent of those who finished primary school were boys. Most young girls were kept at home to work and were married at a young age, rarely attending school for more than a few years. This resulted in estimated literacy rates of 15 percent for girls and 42.9 percent for boys, according to a 2006 UN Development Program report. Literacy rates, particularly for girls, were even lower in rural areas.

FGM was performed on young girls in certain ethnic groups (see Section 5, Women).

Underage marriage was a problem, especially in rural areas and in traditional communities. Some families entered into marriage agreements under which young girls from rural areas were sent by the age of 10 or 12 and sometimes younger to join their husband's family under the tutelage of their mother-in-law. Since 2005 the Ministry of Women's Promotion and Child Protection cooperated with women's associations to sensitize rural communities and their traditional chiefs and religious leaders to the problem of underage marriage. In November the ministry and women's NGOs organized a three-week program of country-wide town hall meetings and educational caravans to address issues including child marriage, FGM, HIV/AIDS, and domestic violence.

On June 3, the National Assembly rejected a bill (42-31 with heavy absenteeism and four abstentions) for the ratification of the Additional Protocol to the African Human and People's Rights Charter relating to Women's Rights in Africa. The measure's principal effect on family law would have been to raise the legal marriage age to 18. Under existing law, a girl deemed to be "sufficiently mature" can marry as young as 15.

Trafficking and commercial sexual exploitation of children were problems (see Section 5, Trafficking). Child labor also was a problem (see Section 6.d.).

Infanticide occurred, and 80 percent of the female prison population had been charged with the crime. According to the Ministry of Justice, infanticide resulted from severe economic conditions.

There were many displaced children, mostly boys, begging on the streets of the larger cities. Most of these boys came from rural areas and were indentured to Koranic schools by their parents due to economic hardship (see Section 5, Trafficking).

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons (TIP), and persons were trafficked to, from, and within the country. Traffickers could be prosecuted under a 2004 revision of the penal code that criminalizes slavery and other forms of coerced labor; sentences for conviction ranged from 10 to 30 years' imprisonment. No reliable statistics were available on the extent of trafficking.

The ministries of justice, interior, and the promotion of women and protection of children shared responsibility for combating trafficking in persons. The National Commission for the Coordination of the Fight Against Trafficking in Persons existed on paper but had no budget. During the year 38 child victims of TIP were rescued and rehabilitated as part of a cooperative effort between UNICEF, a local NGO partner, and the police and court systems in the city of Agadez. Nine traffickers were arrested in connection with these cases. Of these, three were released without charge, while six were arrested and charged with the abduction of minors. Of the six traffickers charged, four were released when the Agadez Regional Court found no grounds for prosecution. Two remained in custody awaiting trial at year's end.

There were no international investigations and no requests for extradition of persons made to the Government during the year.

In 2005 the Government and eight neighboring countries signed a multilateral cooperation agreement to combat child trafficking. Signatories agreed to prosecute and punish traffickers, develop antitrafficking legislation, share information on victims and traffickers with international authorities, and develop partnerships with civil society groups and NGOs to combat child trafficking.

The country was a transit point for persons trafficked between Nigeria, Benin, Togo, Ghana, Burkina Faso, and Mali; final destinations also included North African and European countries. The country was a destination for a small number of trafficked persons, and a source of persons trafficked to North Africa, Europe, and the Middle East for domestic servitude and sexual exploitation. Internal trafficking also occurred, and there was credible anecdotal evidence that clandestine networks victimized young girls who worked as household helpers.

A 2005 NGO survey found that 5.8 percent of households interviewed claimed that at least one member of their household had been a victim of trafficking. Internal trafficking of young boys for labor and young girls for work as maids and in some cases for prostitution from rural to urban areas occurred. There were credible reports of underage girls being forced or falsely enticed into prostitution, sometimes with the complicity of the family. There also were reports that child prostitution was especially prevalent along the main East-West highway, particularly between the cities of Birni n'Konni and Zinder. Child prostitution is not criminalized specifically, and there was no precise age of consent; however, the law prohibits "indecent" acts toward minors. It is left to a judge to determine what constitutes an indecent act. Such activity and a corollary statute against "the incitement of minors to wrongdoing" were punishable by three to five years in prison.

There also was internal trafficking that included the indenturing of boys to Koranic teachers. As a result of economic hardship, some rural parents sent their sons to learn the Koran in the cities where, in return for their education, the boys supported their teachers by begging on the streets or doing manual labor.

Trafficking in persons generally was conducted by small operators who falsely promised well-paid employment in the country. Victims from neighboring countries were escorted through immigration formalities and found that their employment options were restricted to poorly paid domestic work or prostitution. Victims had to use a substantial portion of their small income to reimburse the persons who brought them to the country for the cost of the trip and to provide the traffickers' profit. Compliance was enforced by "contracts" that were signed by illiterate victims before they departed their countries of origin; traffickers also seized victims' travel documents.

The Government provided some services for trafficking victims, including basic health care and assistance in returning to their home villages. The regional government of Agadez established a "welcome committee" to assist illegal immigrants expelled from Libya to return to their countries or regions of origin. During the year the committee, which consisted of police and local administrative officials, provided approximately 450 such persons with basic accommodations, food, and assistance in finding transportation home. While no reliable statistics on these persons were available, many may well have been victims of human trafficking. The Government

also supported the efforts of NGOs and international organizations in providing food, temporary shelter, and primary health care to victims of trafficking.

During the year the Government undertook several initiatives to prevent trafficking. The Government continued to sponsor public outreach sessions on trafficking and child abuse, while local authorities assisted UNICEF and a local NGO partner to identify and rehabilitate child victims of TIP in the Agadez region. Local police and prosecutors arrested and prosecuted traffickers identified by the project, and ensured that rescued victims were handed over to a local NGO for rehabilitation. The Government also worked with the Nigerian embassy to ensure that consular access was provided to Nigerian TIP victims present in Niger. During the year media coverage of trafficking increased, largely because of the activities undertaken by the Agadez project. Coverage of trafficker arrests and victim rehabilitation efforts stemming from this activity appeared in private and government-affiliated newspapers and on the radio.

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical and mental disabilities in employment, education, and access to health care and other state services, and the Government generally enforced these provisions. The law mandates that the state provide for persons with disabilities, but implementing regulations to mandate accessibility to buildings, transportation, and education for those with special needs had not been promulgated or legislated. Limited government health care benefits were available to persons with disabilities, and NGOs provided many services and programs. Societal discrimination existed against persons with disabilities, particularly mental disabilities and leprosy. The Ministry of Population and Social Welfare was responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Hausa and Djerma ethnic groups made up approximately 56 percent and 22 percent, respectively, of the population. These two groups also dominated government and business, and many believed that nepotism existed along ethnic lines.

*Other Societal Abuses and Discrimination.*—There were no reports of violence against homosexuals; however, social discrimination was routinely practiced. Most homosexuals hid their sexual preference to avoid this. The Government took no action on discrimination against homosexuals.

There were strong government efforts to discourage discrimination against persons with HIV/AIDS. Prime time radio and television skits were aired several times daily beginning in October to sensitize families of persons with HIV/AIDS and the population at large to care for such persons. The announcements emphasized that persons with HIV/AIDS constituted no threat and that they needed support and understanding. They also stressed the availability of free drugs. However, societal discrimination against such persons continued.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution and law recognize workers' right to establish and join trade unions without previous authorization or excessive requirements, and workers exercised this right. However, more than 85 percent of the workforce was employed in the nonunionized subsistence agricultural and small trading sectors.

On February 2, the regional court of Niamey ordered the national power company to reinstate labor union activist Diamyo Elhadji Yacouba, who had been dismissed in 2004 for attempting to organize an alternative union within the company; Diamyo resumed his employment.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and unions exercised their right to bargain collectively for wages above the legal minimum and for more favorable work conditions. Collective bargaining also existed in the public sector.

There are no export processing zones.

The law provides for the right to strike, except by police and other security forces, and workers exercised this right.

*c. Prohibition of Forced or Compulsory Labor.*—The labor code prohibits forced or compulsory labor, except for legally convicted prisoners, and prohibits slavery; however, it does not specifically prohibit forced or compulsory labor by children, and slavery occurred. A traditional form of caste-based servitude was still practiced by the Tuareg, Djerma, and Arab ethnic minorities, particularly in remote northern and western regions and along the border with Nigeria.

Persons born into a traditionally subordinate caste worked without pay for those above them in the traditional social structure. At least 43,000 persons worked under such conditions, according to a study conducted in 2003 by the NGO Anti-Slavery

International (ASI) and the local NGO Timidria, which surveyed 11,000 persons, mostly born into servitude. According to the report, people were born into slavery, and were forced to work without pay for their masters throughout their lives, primarily herding cattle, working on farmland, or as domestic servants. Children become the property of their masters and can be passed from one slave owner to another as gifts or as part of a dowry. Girls are forced to start work as domestic servants at a very young age. Girls may be sexually abused by men in the household or forced to marry at a young age.

Since the Government publicly banned keeping slaves in 2003, some former slaves have been liberated and given certificates to show that they are now free. Individuals had the legal right to change their situations, and it was illegal for their masters to retain them; however, in practice, most victims of slavery did not act on their rights. Fear and physical or social coercion likely played roles, although a lack of viable economic alternatives for freed slaves was also a factor.

During the year Timidria used the 2003 law to initiate a case against a slave master, who was convicted and sentenced to prison. The slave was freed, and the slave owner also was obliged to pay \$2,800 (1.5 million CFA francs) to the NGO and the victim.

On July 27, in the case of Timidria and Haoulata Ibrahim (plaintiffs/victim) vs. Seidimou Hiyar (defendant), the tribunal of Abalak convicted Seidimou Hiyar of enslavement and sentenced him to five years in prison and a fine of approximately \$1,000 (500,000 CFA francs). Hiyar appealed the judgment and his appeal was pending at year's end.

Three other cases were also under investigation at year's end: Timidria, Assibit Wanagoda, and Ilguimate Anakoye (plaintiffs) vs. Tafane Abouzeidi (defendant) was pending before the Abalak tribunal; Timidria and Maimouna Miko (plaintiffs) vs. Djamila Attawel, Attahirou Attawel, and Ali Mamoudou (defendants) was pending before the Konni tribunal; and Boudal Bologi (plaintiff) vs. Azarori chief (defendant) was pending before the Madaoua tribunal.

In January the minister of culture acknowledged on television the existence of slavery, although on many prior occasions the Government had denied the problem.

On November 15, the Government announced the creation of a joint working group on traditional slavery. The working group consisted of officials from the Ministry of Labor, the ILO, local antislavery activists and NGOs, labor unions, and traditional chiefs. The minister of labor announced the Government's support for this initiative. The group planned to focus its initial efforts on sensitizing former slaves and masters.

The labor code does not specifically prohibit forced or compulsory labor by children, and there were credible reports of forced child labor by underage girls and boys; girls were forced into prostitution and domestic service, and boys worked in mines, quarries, and rice fields (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law permits child labor in nonindustrial enterprises under certain conditions, the law prohibits child labor in industrial work. The Government effectively enforced the law in the industrial sector. However, child labor was a problem.

Children under the age of 14 must obtain special authorization to work in the nonindustrial sector, and those 14 to 18 years of age are limited to a maximum of four and one-half hours per day and certain types of employment so schooling may continue, although most children by that age were no longer in school. Children under 12 are prohibited from working. The law requires employers to ensure minimum sanitary working conditions for children. Inspectors of the Ministry of Labor are responsible for enforcing child labor laws; however, resource constraints limited their ability to do so.

Children worked in the unregulated agricultural, commercial, and artisanal sectors, and youths, some of them foreign, were hired in homes as general helpers for very low pay. The majority of rural children regularly worked with their families from a very early age—helping in the fields, pounding grain, tending animals, gathering firewood and water, and doing similar tasks. Some children were kept out of school to guide a blind relative on begging rounds. Others were indentured to Koranic teachers to beg in the streets and for manual labor (see Section 5). Child labor also occurred in the largely unregulated gold mining sector, and also in trona (a mineral used as a source of sodium compounds), salt, and gypsum mines. In 2000 the ILO estimated that 57 percent of workers in the country's small quarries were children, some 250,000 in total. Children working in gold mines were particularly vulnerable to poor ventilation, collapse hazards, and insufficient lighting; they also were susceptible to alcohol and substance abuse.

Trafficking in children, prostitution of children as young as 10, child drug trafficking, forced child labor, and involvement of children in traditional caste-based servitude or slavery occurred (see Sections 5 and 6.c.).

The Ministry of Labor, which is responsible for implementing ILO Convention 182 on the Worst Forms of Child Labor, and for enforcing other child labor laws and policies, continued working with UNICEF and the ILO's International Program on the Elimination of Child Labor to determine the extent of child labor. A survey conducted in 2001 by UNICEF and the Government indicated that approximately 70 percent of children between the ages of 5 and 14 were economically active; 61 percent of children between the ages of five and nine and 83 percent of children aged 10 to 14 worked; 40 percent of child workers were not paid; 70 percent of children did household work for four or fewer hours per day, while 17 percent worked for more than four hours per day.

The Ministry of Labor and the Ministry of Basic Education and Literacy collaborated with international NGOs to remove children from exploitative work situations, encourage school attendance, and continue to provide vocational training for 702 at-risk children and former child laborers. During the year one such joint program directly affected 2,143 children, and created indirect benefits for 24,000 others in the form of investments in local schools. During the year the project also succeeded in withdrawing 160 children from mining sites. The Government also worked with international partners to provide economically relevant education as an inducement to parents to keep their children in school. The Ministry of Basic Education conducted training sessions to help educators meet the special needs of child laborers. In 2005 the Government also created a special child labor division within the Ministry of Labor to coordinate government initiatives in the area.

*e. Acceptable Conditions of Work.*—The labor code establishes a minimum wage only for salaried workers in the formal sector with fixed (contractual) terms of employment. Minimum wages are set for each class and category within the formal sector; however, minimum wages did not provide a decent standard of living for workers and their families. The lowest minimum wage was \$40 (20,000 CFA francs) per month, with an additional \$2 (1,000 CFA francs) added per month per child. Most households had multiple earners (largely in informal commerce and in subsistence agriculture) and relied on the extended family for support.

The formal sector legal workweek was 40 hours with a minimum of one 24-hour rest period; however, for certain occupations, such as private security guards, the Ministry of Labor authorized longer workweeks of up to 72 hours. There were no reports of violations during the year. Premium pay must be paid for overtime, although the rate is not set by law; employees of each enterprise or government agency negotiate with their employer to set the rate. These formal sector standards were effectively enforced.

The labor code establishes occupational safety and health standards. The Ministry of Labor is charged with enforcing these standards, although due to staff shortages inspectors focused on safety violations only in the most dangerous industries: mining, building, and manufacturing. The standards were effectively enforced within those three industries, except that gold mining was largely unregulated. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, union workers in many cases were not well informed of the risks posed by their jobs. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs. It is not known whether authorities effectively enforced this right; no known instances of this occurred.

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## NIGERIA

Nigeria is a federal republic composed of 36 states and a capital territory, with a population of approximately 140 million. In April 2003 President Olusegun Obasanjo of the People's Democratic Party (PDP) was re-elected to a four-year term after being declared the winner in elections that were marred by what international and domestic observers characterized as fraud and serious irregularities, including political violence. The elections also resulted in the ruling PDP claiming 70 percent of the seats in the national legislature and 75 percent of the state governorships. An extended legal challenge to the 2003 election verdict ended in July 2005 when the Supreme Court upheld the election result. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted outside the law.

The Government's human rights record remained poor, and government officials at all levels continued to commit serious abuses. The most significant human rights problems included the abridgement of citizens' right to change their government; politically motivated and extrajudicial killings by security forces; the use of excessive force, including torture, by security forces; vigilante killings; impunity; beatings of prisoners, detainees, and suspected criminals; harsh and life-threatening prison conditions; arbitrary arrest and prolonged pretrial detention; executive influence on the judiciary and judicial corruption; infringement on privacy rights; restrictions on freedom of speech, press, assembly, religion, and movement; domestic violence and discrimination against women; female genital mutilation (FGM); child abuse and child sexual exploitation; societal violence; ethnic, regional, and religious discrimination; and trafficking in persons for the purposes of prostitution and forced labor.

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life There were politically motivated killings by the Government or its agents. National police, army, and other security forces committed extrajudicial killings and used excessive force to apprehend criminals and to disperse protesters during the year (see Sections 1.c., 1.d., 2.b., and 2.c.).

Police and the armed forces were instructed to use lethal force against suspected criminals and suspected vandals near oil pipelines in the Niger Delta region. Multinational oil companies and domestic oil producing companies often hired private security forces and subsidized living expenses for police and soldiers from area units assigned to protect oil facilities in the volatile Niger Delta region. Freelance and former security forces accounted for a portion of the violent crime committed during the year.

On August 20, military security forces in the Niger Delta opened fire on a boat conveying suspected militants. Ten persons were killed during the attack, including a kidnapped Nigerian employee of Royal Dutch Shell who was being led out of captivity by alleged members of the Movement for the Emancipation of the Niger Delta, which vowed to avenge the killings.

In most cases police officers were not held accountable for excessive or deadly force or for the deaths of persons in custody. Police generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects (see Section 1.d.).

Abuses by poorly-trained, poorly-equipped, and poorly-managed police against civilians were common, and the police were rarely held accountable. During the year police, military, and anticrime personnel continued to use lethal force against suspected criminals.

For example, on January 10, police officers killed two suspected thieves in the Rivers State city of Port Harcourt. A police spokesperson said the suspects, dressed in fake army uniforms, robbed several persons before they were killed by police. The Government had not opened an investigation into the incident by year's end.

On February 13, military and police officers stormed the Ariaria market in Aba, Abia State on the pretext of preventing vigilantes from operating there. A firefight ensued, and four persons were reportedly killed. No investigation had been opened by year's end.

In June the media reported that brothers Juth and Romanus Akpowbo were arrested in Kano State after having been accused of armed robbery of the staff quarters of Bayero University. Two weeks later, Juth Akpowbo died in the hospital without having been released from custody. Romanus Akpowbo was also in the hospital and said the two brothers had been severely beaten by police. The Government did not open an investigation into the allegations by year's end.

In August police in Umuahia North Local government Area killed 12 suspected robbers and left their bodies at a local mortuary. No charges were filed in the case.

There were no developments in the 2005 case of the youths who were held incommunicado for 17 days by Rivers State police.

One officer involved in the 2005 police shooting of Suleiyol Hiikyaa was charged with manslaughter, but the trial had not begun by year's end.

By year's end no trial date had been set in the March 2005 case of the police officer accused of shooting and killing a bus driver in Makurdi, Benue State. The officer remained in jail while authorities considered which charges to file against him.

There were no developments in the 2005 case in which Gabriel Agbane died after being beaten by police in Kubwa.

There were no developments in the May 2005 deaths of six men who were found dead in the mortuary of the University of Nigeria Teaching Hospital after police presented them as robbers to the media.



During the year the Government did not act on the recommendations forwarded in March 2005 by an investigative panel that determined that Kaduna State police in 2004 had killed and secretly buried 12 persons who attempted a jailbreak.

Violence and lethal force at police and military roadblocks and checkpoints continued during the year, despite the January 2005 announcement by the acting inspector-general of police that police roadblocks would be eliminated. Police generally ignored the order, and a policy of establishing roadblocks was formally reinstated in December after a police commissioner was killed in Abuja. Security forces occasionally killed persons while trying to extort money from them.

For example, on June 13, Delta State police officers beat Peter Osimiri and left him for dead when he refused to pay a \$156 (20,000 naira) bribe demanded of him for carrying eight rolls of electrical cable they believed to be stolen. A passing motorist discovered Osimiri and attempted to take him for medical help, but police saw him en route and beat him again. He died shortly after arriving at the hospital. The officers involved reportedly were detained, but no information was available.

On December 25, police officers in the Federal Capital Territory outside Abuja shot and killed a driver who refused to pay a \$0.16 (20 naira) bribe. A retaliatory mob formed and killed an assistant superintendent of police who was driving past the area but had not taken part in the attack. The mob chased police officers away from the checkpoint and attempted to burn down the local police station before being dispersed. The Government had made no arrests by year's end.

There were no developments in the January 2005 case in which Edo State police stopped a taxi to demand a \$0.30 (40 naira) bribe and killed a passenger after the driver reportedly paid only 20 naira.

The murder trial of a Delta State police officer in October 2005 who shot and killed a commercial bus driver who was unable to pay a bribe had not begun by year's end.

The trial of six police officers from the Apo area continued, although with frequent and extended breaks. The officers were charged with murder for allegedly killing six traders at a vehicle checkpoint in June 2005. Two persons involved in the case were granted bail in August on grounds of ill health, three were granted bail without claim of ill health, and one suspect was denied bail after failing to prove a claim of poor health.

There were no known developments in the trial of the police officer accused of killing taxi driver Malam Danjari in Zamfara State in May 2005.

The naval officer arrested in Lagos for the July 2005 shooting of a motorcycle taxi driver was dismissed from the navy and arraigned before a Lagos court during the year.

Police and military personnel used excessive force and sometimes deadly force in the suppression of civil unrest, property vandalism, and interethnic violence (see Sections 2.b., 2.c., and 5). There were reports of summary executions, assaults, and other abuses carried out by military personnel and paramilitary mobile police across the Niger Delta.

There were several killings by unknown assailants that may have been politically motivated. For example, on January 14, unknown gunmen killed Hajiya Saudatu Rimi, the wife of former Kano State Governor Alhaji Abubakar Rimi. Charges against Rimi's stepson, who had been charged with the crime, were dismissed in October, and no others were filed by year's end.

Plateau State gubernatorial aspirant Jesse Aruku of the Advanced Congress of Democrats party was abducted on June 30 or July 1 and killed on July 2. Police stated that the motive was assassination rather than robbery and arrested several persons. The trial had not begun by year's end.

On July 20, violence erupted between gangs controlled by rival political leaders in Rivers State, resulting in the deaths of four persons in Emohua and six in Gokana.

On July 27, Lagos State gubernatorial candidate Funsho Williams, who had been seeking the nomination of the ruling PDP, was tied up, stabbed several times, and strangled to death. The two police officers responsible for guarding Williams' home did not report for work on July 27. An investigation was ongoing at year's end.

In the early morning hours of August 14, Ekiti State PDP gubernatorial candidate Ayodeji Daramola was killed in the bedroom of his home by unknown assassins. On November 16, eight persons, including an advisor to former Ekiti State governor Ayo Fayose, were arraigned before an Ekiti high court on charges of conspiracy and the murder of Daramola. Their trial was ongoing at year's end.

The five men accused of killing PDP politician Alhaji Lateef Olani-yan in Ibadan, Oyo State in July 2005, were being detained at year's end, although no formal charges had been brought against them.

There were no known developments in the case of the man in Kogi State who was arrested and charged with murder in 2005 after confessing to the March 2004 killing of Bassa Local government Area (LGA) chairman Luke Shigaba.

Killings carried out by organized gangs of armed robbers remained common during the year. In Oshodi, Lagos State, a group of armed robbers, popularly known as “area boys,” operated illegal highway checkpoints at which they demanded money from motorists. When Federal Road Management Agency officers attempted to stop them in July, the robbers responded by attacking them with homemade weapons. There were unconfirmed reports of two deaths. Six area boys were arrested, but no trial had begun by year’s end.

Soldiers arrested 62 suspected area boys and remanded them to police for prosecution on charges related to a May 2005 clash between soldiers and area boys. The incident followed the killing of a soldier near a military command in the Ikeja suburb of Lagos. Twelve of the area boys were arraigned before a magistrate’s court and placed in custody to await trial. The remaining 50 were released due to insufficient evidence.

In Anambra, Abia, Imo, and Ebonyi in the southeast, state governments provided funding to vigilante groups, the most well-known of which was the “Bakassi Boys,” officially known as the Anambra State Vigilante Service. Like most vigilante groups, the Bakassi Boys sometimes detained and killed suspected criminals rather than turn them over to police. On June 30, Attorney General Bayo Ojo pledged to seek justice for the families of 32 persons who died in August 2005 while being detained by the Bakassi Boys, but no arrests were known to have been made.

Other organized vigilante groups continued to detain and kill suspected criminals. Police generally did not have a significant impact upon vigilante groups. They sometimes detained members of these groups during the year, but those arrests were sporadic, and none was known to result in prosecution. Initiatives announced to control the vigilante groups were not successful during the year. There continued to be numerous reports of street mobs apprehending and killing suspected criminals during the year. There were no arrests reported from these mob actions, and there were no developments in cases from previous years. The practice of “necklacing” suspected criminals (placing a gasoline-soaked tire around a victim’s neck or torso and then igniting it to burn the victim to death) by street mobs continued.

Lethal societal violence (including interethnic, intraethnic, and interreligious violence) continued (see Section 2.c.). For example, on February 18 and 19, riots broke out in Maiduguri and Katsina in the north in response to the publication of Danish cartoons depicting the Prophet Mohammed; in Maiduguri rioters burned churches and the homes and businesses of some local Christians.

In oil-producing areas, tensions remained high between members of resident ethnic groups and employees and contractors of oil companies. Local groups frequently kidnapped oil company employees, but most of these kidnappings did not result in death (see Section 1.b.). However, on November 22, a British national was killed in crossfire between the military and kidnappers.

On May 10, a foreign oil-service contractor was shot and killed by unknown persons in Port Harcourt, Rivers State.

There were no developments in the case of two students who died in April 2005 clashes between rival cult groups at the Federal University of Technology in Minna, Niger State.

*b. Disappearance.*—Unlike in the previous year, there were no reports of politically motivated disappearances. The Government still had not responded to a court order to release a Kaduna central mosque imam detained since May 2003. It was not known whether the imam was still alive, and there were no updates on his case during the year.

Numerous hostage situations occurred during the year. In oil-producing areas, tensions remained high between members of resident ethnic groups and employees and contractors of oil companies. Local groups frequently kidnapped oil company employees during armed attacks on oil company facilities. Kidnappings generally were related to longstanding disputes between ethnic groups and the Government over resources. Some kidnappings were conducted for financial gain; others, perpetrated by militant groups, sought to force the Government to develop local economies, increase local control of oil revenues, or release prisoners. These kidnappings sometimes resulted in the deaths of oil facility guards and of military personnel. The Government responded to the poor security situation by implementing Operation Restore Hope, a military operation whose forces often used excessive force during the year, resulting in an escalation of violence on both sides and an overall degradation in security in the southern region.

On January 10, militants kidnapped four oil workers from an offshore Shell Company platform. The workers were freed 20 days later. Bayelsa State government and

the federal government were active in negotiating with the militants to secure the hostages' release.

On June 2, eight foreign oil workers were kidnapped from a rig operated by Dolphin Oil; they were released two days later.

On June 7, five South Koreans were abducted from a natural gas facility run by Shell after a gun battle between militants and the military in which five military personnel reportedly were killed. The abductors demanded the release of the jailed leader of their militant group, Alhaji Asari Dokubo, but released the hostages after an unconfirmed plea from the leader to reach their goals through peaceful means. Asari Dokubo was not released from prison as a condition of the hostage's freedom.

On or about August 3, a group calling itself the Movement of the Niger Delta People kidnapped a German citizen and demanded the release of Alhaji Asari Dokubo and Diepreye Solomon Peter Alamiyeseigha in exchange for the hostage. Dokubo, the leader of the Niger Delta People's Volunteer Force, remained in detention at year's end following his October 2005 arrest on charges of treason. At year's end Alamiyeseigha was in detention while awaiting trial on money laundering charges. Dokubo released a statement saying he had no hand in the kidnapping and that the hostage should be released unconditionally. The hostage was released without incident.

Between August 1 and 17, 16 persons representing 10 nationalities were abducted in six separate incidents; all were released.

From October through year's end, there was a series of kidnappings of expatriate and local oil workers. Most were released by year's end. However, on November 22, of the seven expatriates taken hostage from an Agip vessel, one Briton was killed during an exchange of gunfire between the hostage-takers and a military patrol boat that succeeded in freeing the other six hostages.

Due to limited manpower and resources, police and armed forces rarely were able to confront the perpetrators of these acts, especially in the volatile Delta region.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such practices and provide for punishment of such abuses, police, military, and security force officers regularly beat protesters, criminal suspects, detainees, and convicted prisoners. Police physically mistreated civilians regularly in attempts to extort money from them. The law prohibits the introduction into trials of evidence and confessions obtained through torture.

Unlike in the previous year, there were no reports that persons died from torture in custody.

Different formulations of Shari'a (Islamic law) were in place in 12 northern states (see Section 2.c.). Shari'a courts delivered hudud sentences such as caning for fornication and public drunkenness, and death by stoning for adultery during the year, but it was unknown if any of the sentences was carried out by year's end. The term hudud refers to those crimes mentioned explicitly in the Koran, but which do not necessarily carry a specific punishment. Sentences of amputation were handed down in some cases for offenses other than theft, but no sentences were carried out. Several other stoning or amputation sentences were pending appeal or sentence implementation, but no such sentences were carried out during the year. Numerous sentences under Shari'a were not carried out by year's end because of the lengthy process for appeals. No death sentences were carried out in cases originating in earlier years. Because no applicable case had been appealed to the federal level, federal appellate courts had yet to decide whether such punishments violate the constitution (see Section 1.e.); stoning and amputation sentences previously had been overturned on procedural or evidentiary grounds but had not been challenged on constitutional grounds. Caning is also a punishment under common law in the Northern Region Penal Code and had not been challenged in the courts as a violation of the statutory law. In some cases convicted persons are allowed to choose to pay a fine or go to jail instead of being caned. These sentences were usually carried out immediately, while Shari'a allows defendants 30 days to appeal sentences involving mutilation or death. In practice appeals often took much longer than 30 days.

There were no known developments in the May 2005 case in which a Shari'a appeals court in Kaduna overturned amputation sentences that had been passed in 2003 against six Zaria men who had been accused of stealing a cow and a motorcycle.

There were fewer reports than in previous years that security forces tortured persons and used excessive force during the year. For example, on July 18, the newspaper Vanguard reported that on April 17, police in Delta State arrested Segun Pioko, tortured him, and killed him in May.

On October 23, at the Durbar festival outside the Emir's Palace in Kano, police beat unruly youth with sticks and whips to clear the way for the motorcade of the

governor of Kano State. Although the crowd was unruly, participants were peaceful and posed no serious threat to public order.

In April police in the Njaba local government area of Imo State carried out reprisal attacks after youths rioted outside the local police station to protest police roadblocks in the area. Police arrested 50 persons, and at least four protestors died. Villagers reported that police were responsible for burning property in the area, resulting in damage estimated at over \$11.7 million (1.5 billion naira). The Government did not announce formal prosecution proceedings against the arrested youths, who were believed to remain in detention at year's end.

There were credible reports during the year that security forces carried out rape and other forms of sexual violence on women and girls with impunity. Police officials acknowledged that rape was a problem.

No prosecution was expected in the November 2005 incident in which bodyguards for the Kebbi State governor beat and robbed a diplomat's driver at the Abuja airport.

There were no developments in the November 2005 case in which Abuja police attacked, beat, and arrested a diplomatic driver, allegedly for driving his vehicle too soon after the vice President's motorcade had passed through the area.

Unlike in the previous year, there were no reports that security forces beat journalists during the year.

There were numerous ethnic or communal clashes during the year (see Section 5). Police in rural areas generally lacked the resources to control societal violence.

Vigilante groups such as the Bakassi Boys held detainees in informal detention centers, and detainees died during the year (see Section 1.a.).

*Prison and Detention Center Conditions.*—Prison and detention conditions remained harsh and life threatening. Most prisons were built 70 to 80 years ago and lacked basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in unhealthy and dangerous sanitary conditions. Some prisons held 200 to 300 percent more persons than their designed capacity. The Government acknowledged overcrowding as the main cause of the harsh conditions common in the prison system. Excessively long pretrial detention contributed to the overcrowding (see Section 1.d.). A working group assigned by the Attorney General to investigate prison conditions in the country released its report in March 2005. The group found that 64 percent of inmates were detainees awaiting trial, and only 25 percent of those detainees had legal representation. Nearly two-thirds of the country's prisons were more than 50 years old. All of the prisons were built of mud brick, and their sewers, food, health care, education, and recreational facilities were well below standard. In June President Obasanjo appointed Olusola Adigun Ogundipe comptroller general of prisons. Although Ogundipe pledged to introduce reforms, improvements in prison conditions did not materialize by year's end. The Government continued interagency discussions on how to reduce prison overcrowding.

Disease was pervasive in the cramped, poorly ventilated facilities, and chronic shortages of medical supplies were reported. HIV/AIDS was of particular concern within the prison population, and pre-existing infections were exacerbated by the substandard living conditions imposed on inmates. Prison inmates were allowed outside their cells for recreation or exercise only irregularly, and many inmates had to provide their own food. Only those with money or whose relatives brought food regularly had sufficient food; petty corruption among prison officials made it difficult for money provided for food to reach prisoners. Poor inmates often relied on handouts from others to survive. Beds or mattresses were not provided to many inmates, forcing them to sleep on concrete floors, often without a blanket. Prison officials, police, and security forces often denied inmates food and medical treatment as a form of punishment or to extort money from them. The International Committee of the Red Cross (ICRC) continued to provide health and hygiene items to prisoners during the year.

Harsh conditions and denial of proper medical treatment contributed to the deaths of numerous prisoners. According to the nongovernmental organization (NGO) Prisoners Rehabilitation and Welfare Action (PRAWA), dead inmates were promptly buried on the prison compounds, usually without notifying their families. A nationwide estimate of the number of inmates who died in the country's prisons was difficult to obtain because of poor record-keeping by prison officials.

In practice women and juveniles were held with male prisoners, especially in rural areas. The extent of abuse resulting from these conditions was unknown. In most cases, women accused of minor offenses were released on bail; however, women accused of serious offenses were detained. Although the law stipulates children shall not be imprisoned, juvenile offenders were routinely incarcerated along with adult criminals. The prison service officially required separation of detainees and con-

victed prisoners, but the method of confinement depended solely on the capacity of the facility. As a result detainees often were housed with convicted prisoners.

The Government allowed international and domestic NGOs, including PRAWA and the ICRC, regular access to prisons. PRAWA and the ICRC published newsletters on their work. The Government admitted that there were problems with its incarceration and rehabilitation programs and worked with groups such as these to address those problems.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, police and security forces continued to employ these practices.

*Role of the Police and Security Apparatus.*—The National Police Force (NPF) is responsible for law enforcement. Internal security is the duty of the State Security Service (SSS), which reports to the President through the national security advisor. Police were unable to control societal violence on numerous occasions during the year, and the Government continued its reliance on the army in some cases. Each NPF state unit was commanded by an assistant inspector general. The law prohibits state and local-level governments from organizing their own police forces. The NPF committed human rights abuses and did not noticeably decrease the incidence of violent crime nationwide (see Section 1.a.). Police generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects. The SSS also was responsible for a variety of human rights abuses, particularly in limiting freedom of speech and press (see Section 1.a.).

Corruption was rampant, most often taking the form of bribes at highway checkpoints. Police in Abuja routinely stopped drivers who had committed no traffic infraction. The police officers typically waved down the motorist or stepped in front of the car to compel the driver to stop. Police then entered the car and did not leave until the driver agreed to pay a bribe. Police often worked in groups and stepped in the middle of a slow moving traffic flow to stop several vehicles picked at random.

Although citizens could report incidents of police corruption to the National Human Rights Commission, this agency was not empowered to act in response to such complaints.

In January Lagos State police chief Emmanuel Adebayo announced “Operation Keep Moving,” a directive under which police were not to impede traffic flow by extorting money or making unnecessary demands of drivers. In early January five Lagos police officers were arrested for extorting money from motorists at checkpoints. Police did not release the names of those arrested, and it was not known whether they were being prosecuted.

*Arrest and Detention.*—Police and security forces were empowered to arrest without warrant based on reasonable suspicion that a person had committed an offense; they often abused this power. Under the law police may detain persons for 24 hours before charging them with an offense. The law requires an arresting officer to inform the accused of charges at the time of arrest and to take the accused to a police station for processing within a reasonable amount of time. By law police must provide suspects with the opportunity to engage counsel and post bail. However, suspects were routinely detained without being informed of the charges, denied access to counsel and family members, and denied the opportunity to post bail for bailable offenses. Detainees often were kept incommunicado for long periods. Provision of bail was often arbitrary or subject to extrajudicial influence. In many areas there was no functioning bail system, so suspects were held in investigative detention for prolonged periods. Numerous suspects alleged that police demanded payment before they were taken to court to have their cases heard. If family members attended court proceedings, police often demanded additional payment.

Persons who happened to be in the vicinity of a crime when it was committed were sometimes held for interrogation for periods ranging from a few hours to several months. After their release, those detained were frequently asked to return repeatedly for further questioning.

Members of the Movement for the Actualization of the Sovereign State of Biafra (MASSOB), a separatist group espousing Igbo unity and the secession of Igbo states as its prime tenets, initiated frequent violent clashes with the Government, particularly in Onitsha and Anambra states. Police sometimes reacted by arresting large numbers of MASSOB members. For example, in June police in Anambra State suspected MASSOB of kidnapping four police officers and responded by arresting 69 people. Two others were killed in the arrest sweep. Formal charges against the 69 arrested persons were not announced by year’s end.

MASSOB leader Ralph Uwazurike and six of his deputies, who were arrested in October 2005 on treason charges, remained in detention as they awaited trial. Public pretrial hearings were conducted in the case, but no announcements were made

about the progress of the trial, which had been scheduled for September. There were no reports that the trial had begun by year's end.

Unlike in the previous year, there were no politically motivated arrests of members of the Oodua People's Congress (OPC), a militant Yoruba group operating in the southwest that claims its objective is to protect the collective rights of the Yoruba within the federation.

Several OPC members continued to be detained for most of the year on charges stemming from October 2005 clashes between rival OPC factions, but OPC leader Fredrick Fasehun was released in April on bail for medical reasons. In December charges were dismissed against Fasehun, Gani Adams, and four others, and all of those who had been detained were released from prison.

Mujaheed Asari Dokubo, the leader of the Niger Delta People's Volunteer Force, remained in detention at year's end following his October 2005 arrest on treason charges.

The treason trial against Hamza Al Mustapha and two other defendants did not begin by year's end, and the defendants remained in a military prison in Lagos. Al Mustapha was accused of plotting to shoot down President Obasanjo's helicopter.

There were no developments in the pending trial of Hamza Al Mustapha and four codefendants charged with the 1996 attempted murder of Alex Ibru, the minister of internal affairs under the Abacha regime. One defendant, Ishaya Bamaïyi, was granted temporary bail at the end of the year to seek medical treatment abroad.

The Economic and Financial Crimes Commission (EFCC) arrested and detained numerous government officials on corruption charges during the year, but critics charged that some arrests were politically motivated (see Section 3).

Security forces detained journalists during the year (see Section 2.a.).

During the year police arrested numerous demonstrators (see Sections 2.b. and 2.c.).

Lengthy pretrial detention remained a serious problem. Serious backlogs, endemic corruption, and undue political influence continued to hamper the judicial system (see Section 1.e.). In March 2005 a working group assigned by the Attorney General to investigate prison conditions in the country found that 64 percent of inmates were detainees awaiting trial. Multiple adjournments in some cases led to serious delays. Police cited their inability to securely transport detainees to trial on their trial dates as one reason why so many were denied a trial. The National Human Rights Commission (NHRC) reported that some detainees were held because their case files had been lost. Some state governments released inmates detained for significant periods of time without trial. Although detainees had the right to submit complaints to the NHRC, the commission had no power to respond. Detainees could also complain to the courts, but they often lacked the means of communicating with the court. Even detainees with legal representation often waited for years to gain access to the courts.

*Amnesty.*—Despite the federal government's announcement in early January that it planned to relieve prison overcrowding by granting amnesty to 25,000 of the country's 45,000 prisoners, little progress was made on implementing this plan during the year. On November 30, President Obasanjo again ordered an audit of the cases of all prisoners awaiting trial with an announced goal of releasing those who had been detained for long periods of time, those in ill health, or those over 60.

In August a judge granted 22 prisoners in Adamawa State amnesty for good behavior.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judicial branch remained susceptible to executive and legislative branch pressure. Political leaders influenced the judiciary, particularly at the state and local levels. Understaffing, underfunding, inefficiency, and corruption continued to prevent the judiciary from functioning adequately. Citizens encountered long delays and frequent requests from judicial officials for small bribes to expedite cases.

The Ministry of Justice implemented strict requirements for levels of education and length of service for judges at the federal and state level; however, there were no requirements or monitoring body for judges at the local level, leading to corruption and miscarriages of justice.

The regular court system is composed of federal and state trial courts, state appeals courts, the federal court of appeal, and the Supreme Court. There are Shari'a and customary (traditional) courts of appeal in states that use those bases for civil or criminal law, including in the Federal Capital Territory (Abuja). Courts of first instance include magistrate or district courts, customary or traditional courts, Shari'a courts, and for some specified cases, the state high courts. The constitution

also provides that the Government establish a Federal Shari'a Court of Appeal and Final Court of Appeal, but these courts had not been established by year's end.

The nature of the case usually determined which court had jurisdiction. In principle customary or Shari'a courts had jurisdiction only if both plaintiff and defendant agreed on this; however, delays, distance to alternative venues, community pressure, fear of legal costs, and individual preference caused many litigants to choose the customary and Shari'a courts over other venues. In some states, cases involving only Muslims must be heard by a Shari'a court. The return to the Shari'a courts that had existed in precolonial times in the north of the country stemmed at least in part from a failure of governance on the part of the federal government. State organs, including judicial bodies, were notorious for an extreme lack of responsiveness as a result of widespread graft and corruption.

Other states with Shari'a law permitted Muslims to choose common law courts for criminal cases, but societal pressure forced most Muslims to use the Shari'a court system.

*Trial Procedures.*—According to the constitution, persons charged with offenses have the right to an expeditious trial. Criminal justice procedures call for trial within three months of arraignment for most categories of crimes; however, there were considerable delays, often stretching to several years, in bringing suspects to trial (see Section 1.d.). The law did not provide for juries to be used in trials. Most detainees were poor and could not afford to pay the informal costs associated with moving their trials forward, and as a result they remained in prison. Wealthier defendants employed numerous delay tactics and in many cases used bribes to persuade judges to grant numerous continuances. Such practices clogged the court calendar and prevented trials from starting or progressing.

Trials in the regular court system were public and generally respected constitutionally protected individual rights in criminal cases, including a presumption of innocence, and the right to be present, to confront witnesses, to present evidence, and to be represented by legal counsel. Although an accused person is entitled to counsel of his choice, there is no law preventing a trial from going forward without counsel, except for certain offenses such as homicide or other offenses for which the penalty is death. The legal aid act provides for the appointment of counsel in such cases, and a trial does not go forward without counsel. However, there was a widespread perception that judges were easily bribed or "settled," and that litigants could not rely on the courts to render impartial judgments. Many courts were understaffed, and personnel were paid poorly. Judges frequently failed to appear for trials, often because they were pursuing other source of income, and sometimes because of threats against them. In addition court officials often lacked the proper equipment, training, and motivation to perform their duties, with lack of motivation primarily due to inadequate compensation.

In both common law and Shari'a courts, indigent persons without legal representation were more likely to have their sentences carried out immediately upon being sentenced, although all accused persons have the right to appeal. The federal government instituted a panel of legal scholars in 2003 to draft a uniform Shari'a criminal statute to replace divergent Shari'a statutes adopted by various northern states; however, the panel did not produce its report during the year, and states continued to apply their individual codes, as they were reluctant to cede legislative control.

There were no legal provisions barring women or other groups from testifying in civil or criminal proceedings or giving their testimony less weight, but the testimony of women and non-Muslims usually was accorded less weight in Shari'a courts. In violation of mainstream Shari'a jurisprudence, some kadis (Muslim judges) subjected women to harsh sentences for fornication or adultery based solely upon the fact of pregnancy, while men were not convicted without eyewitnesses unless they confessed to these crimes (see Section 1.c.). However, Shari'a courts did provide women with some benefits, including increased access to divorce, child custody, and alimony, because it was significantly easier, faster, and cheaper to get an audience in a Shari'a court.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees; however, persons arrested in previous years for alleged treason remained in detention at year's end.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent judiciary in civil matters; however, the executive and the legislature also exerted undue influence and pressure in civil cases. A widespread lack of will to implement court decisions interfered with due process even when the executive branch did not attempt to compel a civil court to make a particular decision. The law provides for access to the courts for the redress of grievances, and courts can

award damages and issue injunctions to stop or prevent a human rights violation. However, the decisions of civil courts were extremely difficult to enforce.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, but authorities at times continued to infringe on these rights. Police raided homes without warrants during the year.

The Federal Capital Development Authority (FCDA) continued to demolish homes and businesses in the Federal Capital Territory in spite of multiple court injunctions prohibiting further demolitions. The Government typically claimed that the homes or offices that were demolished lacked proper permits and consequently did not provide compensation to the owners, who were sometimes able to produce paperwork indicating the structures were built legally. There was no transparent legal process for deciding which homes would be bulldozed, and those who had their homes bulldozed had no recourse to appeal and received no compensation. The FCDA maintained the public position that the homes and offices did not comply with the master plan for the city. Hundreds of thousands of persons had been left homeless by demolitions that occurred over the past two years, and estimates of the number of homes and offices destroyed varied widely.

On February 14, the FDCA demolished three houses in the Asokoro District of Abuja. A former President of the Senate owned one of the houses, and the former governor of Anambra State owned another.

Soldiers also destroyed homes to avenge killings of military personnel. For example, on August 24, soldiers burned a slum outside of Port Harcourt following the killing of an army sergeant by militants in the area. An estimated 3,000 persons were displaced. The military denied responsibility, and the Government was not expected to pay compensation to the victims.

Unlike in the previous year, there were no known reports that police and security forces continued the practice of placing relatives and friends of wanted suspects in detention without criminal charge to induce suspects to surrender to arrest.

Purdah, the Islamic cultural practice of secluding women and pubescent girls from unrelated men, continued in various parts of the north. Although women's movement was restricted during daylight hours, many women pursued economic and social activities outside the home in the evening. As a result of decades of cultural mixing, purdah was also widely practiced by many non-Muslims in the north.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government sometimes restricted these rights in practice. While there were numerous private presses that published freely, there also were numerous attacks carried out by security forces during the year. Some journalists practiced self-censorship.

At year's end the trial had not yet begun in the case of seven university students who were arrested in May 2005 and charged with sedition for distributing leaflets critical of Jigawa State Governor Saminu Turaki.

There was a large and vibrant private domestic press that was frequently critical of the Government. Only one national, government-owned daily newspaper was published. Several states owned daily or weekly newspapers that also were published in English. These publications tended to be poorly produced, had limited circulation, and required large state subsidies to continue operating. There are more than 14 major daily newspapers, six weekly newsmagazines, and several sensationalist evening newspapers and tabloid publications.

Because newspapers and television were relatively expensive and literacy levels were low, radio remained the most important medium of mass communication and information. The Government owned and controlled much of the electronic media. The National Broadcasting Commission (NBC) was the body responsible for the de-regulation and monitoring of the broadcast media.

The national television station, Nigerian Television Authority, was federally owned. The law requires local television stations to limit programming from other countries to 40 percent and restricts the foreign content of satellite broadcasting to 20 percent; however, the Government did not restrict access to, or reception of, international cable or satellite television.

International broadcasters, including Voice of America, BBC, and Deutsche Welle, broadcast in English and Hausa and were an important source of news in the country.

The NBC's 2004 ban on live broadcast of foreign news and programs continued throughout the year.

Unlike in the previous year, there were no known reports that security forces beat journalists.



There were no further known developments in the several instances in which security forces beat or detained journalists in 2005.

Security forces detained journalists during the year. For example, on June 14, in a case that drew substantial nationwide attention, SSS officers detained journalists Gbenga Mike Aruleba of Africa Independent Television and Rotimi Durojaiye of the Daily Independent newspaper in Lagos, who had reported earlier in the month that President Obasanjo had purchased a secondhand airplane. The journalists were charged with sedition and released on bail during a June 29 hearing. Observers noted that attendance at a June 25 hearing was closely monitored by SSS. At an October 10 hearing, the charges against Aruleba were dismissed, but those against Durojaiye and his newspaper were not. At year's end Durojaiye remained free on bail while an appeals court considered the constitutionality of the sedition charge.

The Government suspended radio stations or confiscated newspapers during the year. In March the Government restricted Freedom Radio in Kano from broadcasting between 5:00 and 10:00 PM for several days after the station aired a live call-in show in which callers criticized the Government.

There were no known developments in the 2005 cases in which the Government suspended radio stations or confiscated newspapers.

Editors reported that government security officers sometimes visited or called to demand information regarding a story or source. Local NGOs suggested that newspaper editors and owners underreported actual human rights abuses and killings due in part to selfcensorship. State broadcasters and journalists remained important tools for governors; these officials used the state-owned media to showcase the state's accomplishments and to promote their own political goals.

The law criminalizes libel and requires defendants to prove the truth of opinion or value judgment contained in news reports or commentaries. This limits the circumstances in which media defendants can rely on the defense of "fair comment on matters of public interest" and restricts the right to freedom of expression. Penalties for libel ranged from one to seven years' imprisonment (seven years, if the libelous material was published to blackmail a person).

There were no developments in the October 2005 case in which Chief Owei Sikpi, publisher of the Weekly Star newspaper, was detained for alleged libel against the federal government and the Rivers State government. At year's end Sikpi remained in custody, and no trial date had been announced.

There were no developments in the December 2005 case in which an editor and a presenter at privately-owned radio station Rhythm FM were arrested and charged with intent to cause public panic and fear. They remained in custody at year's end.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. A 2006 survey revealed that only 1.3 percent of households owned a personal computer and that 1.5 percent of households had fixed line telephone service. However, these limits were tied to poverty rather than government restriction. Cybercafes were widely available and unmonitored by the Government.

*Academic Freedom and Cultural Events.*—State governments continued to restrict academic freedom by controlling curriculum at all levels, including mandating religious instruction. Student groups alleged that numerous strikes, inadequate facilities, and the rise of cultism on campuses, particularly in the south, continued to hamper educational progress.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right for progovernment rallies, while opposition gatherings continued to be restricted. In areas that experienced societal violence, police and security forces permitted public meetings and demonstrations on a case-by-case basis.

Police frequently cited the 1990 Public Order Act to disband meetings critical of the Government, in spite of the Abuja high court's June 2005 decision to strike down the Act, which required a police permit to be issued for all public rallies and processions. Although the acting inspector general of police announced following the court's decision that the police would appeal the ruling, he also stated that police would respect the court's injunction prohibiting police from interfering with peaceful rallies.

The Government occasionally banned gatherings whose political, ethnic, or religious nature might lead to unrest. Open-air religious services held away from places of worship remained prohibited in many states due to fears that they might heighten interreligious tensions. The Kaduna State government ban on processions, rallies, demonstrations, and meetings in public places still was enforced on a case-by-

case basis. A security forces committee ban on all political, cultural, and religious meetings in Plateau State continued to be implemented on an ad hoc basis.

Security forces forcibly dispersed demonstrations during the year, which resulted in numerous injuries and at least one death. Police and army units used force to quell widespread ethnoreligious violence in February (see Section 2.c.).

In January police in Oyo State used tear gas to disperse a high-profile demonstration protesting Governor Ladoja's impeachment and removal from office. Police claimed to have broken up the demonstration, which was peaceful, because no permit had been issued.

In the spring police disbanded meetings protesting a proposed constitutional amendment to allow the President a third term in office.

There were major riots in northern states from February 18 to 19 after police used tear gas and live ammunition to break up peaceful demonstrations to protest the constitutional amendment to allow the President to run for a third term. In Maiduguri a riot ensued after police fired tear gas and live ammunition to disperse a demonstration organized ostensibly to protest Danish cartoons of the Prophet Muhammad. In Katsina police shot into a rally of 20,000 persons, reportedly shooting and killing the demonstration's leader.

On February 21, police arrested and detained 24 civil society representatives protesting the President's proposed third term agenda during a zonal constitutional review conference held in Oshogbo, Osun State. Police arraigned the protestors before an Oshogbo magistrate court under charges of unlawful assembly. The court granted all 24 persons bail, and the matter was pending before the court at year's end.

In July SSS agents in Abuja sealed off the intended venue of a meeting called to protest the firing of Bukhari Bello as chair of the NHRC.

On November 27, police disrupted a meeting of opposition politicians and activists in a multipurpose hall in Kaduna State. While former governor Alhaji Balarabe Musa was addressing a crowd of several hundred persons, police entered the building and arrested the meeting organizers, who were informed at police headquarters that the summit was "confrontational" and should be disbanded peacefully or the police would halt it by force.

There were no developments in the 2005 cases of security forces using excessive force against protesters. No action was taken against security forces who killed or injured persons while forcibly dispersing protesters in 2005 or 2004.

*Freedom of Association.*—The constitution and law provide for the right to associate freely with other persons in political parties, trade unions, or special interest associations, and the Government generally respected this right in practice. The constitution and law allow the free formation of political parties. There were 46 parties registered with the Independent National Electoral Commission (INEC) at year's end, with the majority of those parties formed during the year to contest the 2007 elections.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion; although the federal government generally respected religious freedom, there were instances in which limits were placed on religious activity to address security and public safety concerns.

The law prohibits state and local governments from adopting an official religion. Some Christians alleged that Islam has been adopted as a de facto state religion in several northern states, citing criminal law aspects of Islamic law (Shari'a) and the continued use of state resources to fund the construction of mosques, the teaching of kadis, and pilgrimages to Mecca (hajj). However, several states, including northern states, used government revenues to fund Christian pilgrimages to Jerusalem. States, whether dominated by Christians or Muslims, generally favored the faith practiced by the majority of residents.

The law provides that states may elect to use Islamic laws and courts. Twelve northern states had adopted at least parts of Shari'a-Sokoto, Kebbi, Niger, Kano, Katsina, Kaduna, Jigawa, Yobe, Bauchi, Borno, Zamfara, and Gombe. Adherence to Shari'a provisions is compulsory for Muslims in some states and optional in others. Non-Muslims are not required in any state to submit to Shari'a jurisdiction, although in some states they have the option to do so, which may work to a defendant's advantage when the penalty under Shari'a is less severe than under civil law. For example, some crimes carry a punishment of a fine under Shari'a but would receive a prison sentence under civil law.

Although several northern state governments continued to ban public proselytizing to avoid ethnoreligious violence, some Christian proselytizing groups remained active despite these formal bans, which generally were enforced on a case-by-case basis.

The law does not require students to receive instruction in a religion other than their own; however, the Ministry of Education requires public school students throughout the country to undergo either Islamic or Christian religious instruction. State authorities claimed that students were permitted not to attend classes taught in a religion other than their own, and that students may request a teacher of their own religion to provide alternative instruction. However, there were often no teachers of "Christian Religious Knowledge" in many northern schools nor those of "Muslim Religious Knowledge" in some southern schools.

Although distribution of religious publications was generally unrestricted, the Government sporadically enforced a ban against broadcasting religious advertisements on state-owned radio and television stations.

Although Shari'a technically does not apply to non-Muslims, the non-Muslim minority has been affected by certain social provisions of Shari'a, such as the separation of the sexes in public schools and in the health and transportation services. Many social provisions associated with Shari'a have roots in the country's pre-Islamic societies and were in practice before the states adopted Shari'a. Although most states had not criminalized alcohol consumption by non-Muslims, in 2004 Kano State announced that non-Muslims would be fined approximately \$380 (50,000 naira) or sentenced up to one year in prison for drinking or selling alcohol in certain public places. There were no reports of non-Muslims in Kano State being penalized under this restriction during the year, and alcohol was available in some restaurants and hotel bars. Some states continued to offer only gender-segregated transportation (see Section 5).

A number of states with expanded Shari'a have long sanctioned private vigilante Shari'a enforcement groups (*hisbah*); in some cases these groups had authority to make arrests. The *hisbah* groups were not very active during the year, although they often served as traffic wardens, especially in Kano.

Unlike in the previous year, no Shari'a death sentences generated controversy, and there were no reports of persons being sentenced under Shari'a law for fornication or adultery, regardless of their religious affiliation.

There were no updates in the 2005 case of Saleh Dabo, who was sentenced to death by stoning for adultery, even though he was not married. The appeal had not yet been heard by year's end.

There were numerous Shari'a cases pending appeal or implementation of sentence, including pending amputation and stoning sentences in Jigawa, Bauchi, Niger, Kano, and Zamfara states. Many of these cases had been delayed continuously for various reasons.

*Societal Abuses and Discrimination.*—The law prohibits religious discrimination in employment and other practices; however, private businesses frequently discriminated on the basis of religion or ethnicity in their hiring practices and purchasing patterns. In nearly all states, ethnic rivalries between "indigenous" and "settlers" led to some societal discrimination against minority ethnic and religious groups.

Religious differences often mirrored regional and ethnic differences. For example, persons in the North and in parts of the Middle Belt were overwhelmingly Muslim and from the large Hausa and Fulani ethnic groups that tended to dominate these areas. Many southern ethnic groups were predominantly Christian. In many areas of the Middle Belt, Muslim Fulani tended to be pastoralists, while the Muslim Hausa and most Christian ethnic groups tended to be farmers or to work in urban areas. Consequently ethnic, regional, economic, and land use competition and confrontations often coincided with religious differences between the competing groups (see Section 5). It was not unusual for two ethnic groups with a long history of conflict to have adopted different religions, with the effect of exacerbating existing tensions.

Ethnoreligious violence resulted in numerous deaths and the displacement of thousands of persons.

In February the Nigerian Red Cross reported that up to 50,000 persons were displaced and approximately 150 killed by a wave of sectarian violence sparked by protests over caricatures of the Islamic Prophet Muhammed. The special assistant to the country's President of Migration and Humanitarian Affairs estimated that at least 500,000 persons, and perhaps millions of persons, were displaced within the country. The Nigerian Red Cross reported that approximately 8,600 Internally Displaced Persons (IDPs) had sought protection in an army barracks in Anambra State, and an additional 2,000 persons remained in refuge in army barracks in Niger State. The majority of deaths occurred in the mainly Christian southeast city of Onitsha, where groups of armed youths attacked Muslim Hausa-speakers from the north in revenge for the killings of Christian Igbos several days earlier in the north of the country. Spiraling violence spread across at least six states, with thousands of IDPs taking temporary refuge in police and army barracks or churches. Wide-

spread destruction of property took place, with numerous churches, mosques, and houses burned down. State governments in the affected areas dispatched police and army reinforcements and imposed curfews in an attempt to contain the situation. The curfews were later lifted.

On February 18, rioting in Maiduguri, Borno State, left more than 50 persons dead in six hours of attacks against Christians and their property. Approximately 40 churches also were destroyed.

Also in February Muslim students at a secondary school in Bauchi State reportedly threatened a Christian teacher for handling the Koran when she took it from a student who was reading it during class. A subsequent demonstration resulted in the burning of two churches and the killing of approximately 20 Christians; approximately 25 persons reportedly were arrested. The Government handled the case as a state security matter and had released little information publicly by year's end. There were reports that some of the defendants were taken to Jos in Plateau State, where they were granted bail, and that others were taken to Abuja. Christian religious leaders in Bauchi have been unable to make contact with the teacher, who was reportedly transported out of the state for her protection.

In February unidentified Muslim students at a nursing school in Sokoto threatened a female Christian student after she used inflammatory language denigrating the prophet Muhammed. A riot ensued, and the school was closed for a few weeks for security reasons. The female student was given refuge at a local police station. A police investigation had not located the perpetrators by year's end.

On September 10, churches in Jigawa State were burned during an interreligious conflict that reportedly developed when a Christian student and a Muslim student exchanged comments denigrating each other's religious figures.

During the year local authorities in Abia State were presented with a petition by members of Jehovah's Witnesses who were victimized in June 2005 when their worship center and the homes of 24 families were destroyed. The petition requested aid in rebuilding and the arrest of the perpetrators. The Government took no action on the request.

There were no known developments in the February 2005 case in Numan, Adamawa State, in which police killed at least two persons and arrested at least 30 others who were protesting the appointment of the new Bachama ethnic group traditional leader.

There were no arrests or prosecutions in the 2004 case in which Muslim students at a major university in Bauchi State abducted and killed the head of a Christian campus organization in retaliation for perceived insults to Islam by Christian students.

There were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and while the Government generally respected them, police occasionally restricted freedom of movement by enforcing curfews in areas experiencing ethnoreligious violence.

Law enforcement agencies used roadblocks and checkpoints to search for criminals and to prevent persons traveling from areas of conflict to other parts of the country where their presence might instigate retaliatory violence. There were no reports that government officials restricted mass movements of individuals fleeing ethnic unrest. Security and law enforcement officials continued to use excessive force at checkpoints and roadblocks and engaged in extortion and violence (see Sections 1.a. and 1.d.). On some stretches of road police maintained checkpoints every few kilometers.

Kano State's 2005 ban prohibiting commercial motorcycle taxis from taking female passengers continued during the reporting period (see Section 5).

The law prohibits the expulsion of citizens, and the Government did not use forced exile. Ismaila Gwarzo, national security advisor to former President Abacha, remained restricted to his hometown in Kano State after President Obasanjo issued the informal injunction to prevent Gwarzo from allegedly plotting against him.

The FDCA continued to demolish homes and businesses in the Federal Capital Territory, which left numerous persons homeless (see Section 1.f.).

*Internally Displaced Persons (IDPs).*—Ethnoreligious violence in February resulted in numerous deaths and the displacement of thousands of persons during the year (see Sections 2.c. and 5).

*Protection of Refugees.*—The law provides for the granting of asylum and refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system

for providing protection to refugees. The Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers through the National Commission for Refugees, its federal commissioner, and the National Emergency Management Agency. The Eligibility Committee (on which the UNHCR had observer status), governed the granting of refugee status, asylum, and resettlement, and reviewed refugee and resettlement applications.

Refugee camps, which housed approximately 9,000 refugees, were generally overcrowded, and refugees' requests for police and judicial assistance generally received little attention. Refugees had poor access to the courts, but observers noted that it was no worse than that of citizens.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to a small number of persons during the year.

Government forces withdrew from the Bakassi Peninsula near the border with Cameroon in August after a June agreement between the Presidents of Cameroon and Nigeria. Cameroon was given administrative control of the region following an extended legal dispute that resulted in the 2002 decision by the International Court of Justice to award the Bakassi to Cameroon. Some citizens remained in what became Cameroonian territory, and others were offered resettlement within the country.

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

The constitution and law provide citizens with the right to change their government peacefully through periodic, free, and fair elections held on the basis of universal suffrage; however, citizens' right to change their government was abridged during the most recent national elections in 2003. The political system remained in transition. The three branches of the Government acted somewhat independently, although the executive branch dominated the other two branches.

*Elections and Political Participation.*—The 2003 legislative elections were marred by widespread fraud. The turnout was significantly low for the 2003 Presidential and gubernatorial elections, which were also marred by widespread fraud. A total of 31 parties participated in the 2003 national assembly elections, and 19 parties fielded candidates in the Presidential election. The European Union observer mission categorized the quality of the Presidential election as extremely poor, stating that in the worst six states, elections effectively were not held, and in the rest of the country the elections were seriously marred. All major independent observer groups, international and domestic, issued negative statements about the fairness of elections and cited problems throughout the country. Problems included ballot stuffing, intentional miscounting, underage voting, multiple voting, intimidation, and violence, including political killings. Although all parties participated in the misconduct, observers cited violations by the ruling PDP significantly more often than those other parties.

Although in 2004 an election tribunal voided part of the 2003 Presidential election results, including the entire result of Ogun State, President Obasanjo's home state, and found that there was significant rigging, the tribunal declined by a three-to-one vote to overturn the election. The opposition appealed the verdict to the Supreme Court, which in 2005 not only upheld the election results, finding that the 2003 election had been "substantially" in compliance with the election law, but also reinstated the results that had been voided by the tribunal. The justice delivering the dissenting opinion in the appeals court was dismissed from the judiciary and continued to live without retirement benefits in the east. On August 12, following a two-year court battle, the Anambra State Elections Tribunal overturned the 2003 gubernatorial election results and declared the All People's Grand Alliance candidate Peter Obi the winner. The previously-recognized winner, Chris Ngige, who had run as a member of the ruling PDP but was later expelled from the party, appealed the ruling and refused to leave office pending his appeal.

The Government took steps to prepare for elections scheduled to be held in April 2007. The slow pace of these preparations, however, caused widespread concern about the ability of the INEC to support the election. The media issued conflicting reports as to whether the INEC had actually received the funding allotted to it to prepare for the elections, though the INEC continued to insist that it had adequate funds to proceed. The Government did not complete voter registration by the December 14 deadline mandated by law when an effort to electronically register voters fell far short of completion. At year's end the Government was discussing whether to

address the situation by continuing to register voters electronically, by substituting manual registration for electronic registration, or by revalidating the 2003 voter rolls, which were widely held to be seriously flawed.

On November 18, violence marred PDP local government congresses in several states. Fourteen persons were believed to have been killed in Rivers State, and at least five PDP members were wounded during gun battles in Akwa Ibom after armed police were brought to PDP headquarters to quell protests over allegedly doctored lists of delegates for the State Assembly primary election.

From December 8 to 10, approximately six persons in Benue State were killed during riots that broke out after a gubernatorial primary was delayed and the PDP selected an unpopular candidate for the State House of Assembly. No prosecutions were announced in the case.

In November there were reports that at least five persons in Enugu State were mutilated and killed for ritual purposes by perpetrators who worked for local politicians.

Internal pressure, including threats, was exerted on members of the ruling PDP to limit their ability to select the party's leadership. Party leadership was imposed from the presidency, and Obasanjo was given a lifetime party leadership post. The process for selecting party candidates was not transparent, and rifts between President Obasanjo and Vice President Atiku Abubakar led to the disenfranchisement of a number of persons in the party's internal political processes. Most party candidates were pressured to step down, and those who remained were not allowed to campaign at the party convention in December. The PDP required persons interested in running for President on the party's ticket to pay \$39,060 (five million naira) for a PDP nomination form. The PDP offered the forms to female candidates for an "expression fee" of \$78 (10,000 naira).

The country's electoral law allowed those who felt they had been disenfranchised to leave their existing party and form a new one.

In March the SSS detained and questioned Alhaji Lawal Kaita, leader of the Advanced Congress of Democrats, a political party that had recently been formed by former members of the ruling PDP. The minister of information defended the SSS action and called the 74-year-old Kaita a threat to public safety and national security for allegedly recruiting thugs for political activities.

On April 4, eight leaders of the Turaki Vanguard, a campaign group supporting the vice President, were charged with belonging to an unlawful society. No further hearings were announced in the case by year's end.

The EFCC continued a strong anticorruption campaign during the year, arresting a number of federal, state, and local officials and seizing millions of dollars in assets. Some observers lauded the commission's actions as a centerpiece of the Obasanjo administration's war on corruption, but critics claimed that some EFCC investigations were politically motivated, singling out political opponents of the administration, and that the EFCC did not always follow proper criminal procedure. During the year the EFCC brought or threatened criminal charges against several persons intending to run as Presidential candidates.

Although there were more than 500 ministerial and National Assembly positions, there were only eight female ministers, three female senators, and 12 female representatives at the end of the year.

To promote national unity and loyalty, the law mandates that the composition of the federal, state, and local governments and their agencies, as well as the conduct of their affairs, reflect the diverse character of the country. The Government was an example of this diversity: President Obasanjo is a Yoruba from the southwest, the vice President is a Fulani from the northeast, and the senate President is an Igbo from the southeast. The Government also attempted to balance other key positions among the different regions and ethnic groups. The political parties also engaged in "zoning," a practice of rotating positions within the party among the different regions and ethnic groups to ensure that each region was given adequate representation. Despite this effort, with more than 250 ethnic groups, it was difficult to ensure representation of every group in the Government (see Section 5).

*Government Corruption and Transparency.*—Corruption was massive, widespread, and pervasive, at all levels of the Government and society (see Section 1.e.). The constitution provides immunity from civil and criminal prosecution to the President, vice President, governors, and deputy governors.

During the spring debate over a constitutional amendment allowing a third term for President Obasanjo, many members of the National Assembly were offered bribes in return for their votes on the amendment. Credible reports indicated that at least some of the members accepted the payments.

At year's end 31 of the country's 36 governors had been or were being investigated, most on suspicion of corruption. Three governors were impeached during

the year, although the Supreme Court later ruled that one governor should be returned to office because of procedural flaws in his impeachment. Although allegations of gubernatorial corruption were generally credible, some observers believed that persons were targeted for investigation for political reasons.

On January 12, the Oyo State House of Assembly impeached Governor Rasheed Ladoja on charges of corruption and abuse of office. Underlying the impeachment was a political feud pitting the governor against the state's traditional political strongman, whom the President reportedly supported. On December 7, the Supreme Court upheld the decision of the Ibadan appeals court to nullify Ladoja's impeachment.

In October the governor of Ekiti State, Ayo Fayose, was impeached following an investigation that determined that he and others had embezzled \$9.4 million dollars (1.2 billion naira) from the state. At year's end a court case was pending to prevent the EFCC from pressing charges against Fayose.

In November Plateau State Governor Joshua Dariye was impeached for corruption. Dariye skipped bail in London on money laundering charges and was widely reported to have embezzled money intended for the Plateau State treasury. Observers found the charges against him both credible and politically motivated.

The EFCC and the Independent Corrupt Practices Commission (ICPC) won no convictions of high-level officials during the year, although numerous investigations and arrests were conducted. In November 2005 former inspector-general of police, Tafa Balogun, pled guilty to minor obstruction charges and received a six-month prison sentence.

On September 26, the Senate adopted a resolution to launch an investigation into allegations of high-level corruption at the Petroleum Technology Development Fund (PTDF). In December the courts dismissed charges against the vice President because of his immunity while from prosecution while in office. The President and the vice President continued to publicly trade accusations of PTDF-related corruption against one another through the end of the year.

Complicit prison and hospital officials reportedly forged death certificates for convicted drug offenders to aid their escape from prison. In the 18-month period between January 2005 and August, approximately 200 convicted drug offenders escaped in this manner. In some cases drug offenders paid other persons to serve their prison sentences. President Obasanjo reportedly ordered the Attorney General to form a commission to further investigate these preliminary findings.

Bayelsa State Governor Diepreye Alamieyeseigha, who in September 2005 was arrested in the United Kingdom and charged with money laundering, had been denied bail and was in jail pending trial. At year's end the court was considering a motion to allow him to leave prison to seek medical treatment abroad. His case was adjourned until 2007 due to his failing health.

There were no known developments in the June 2005 arrests of Bauchi State government employees for their role in embezzling \$2.1 million (281 million naira) of state government funds.

There were no known developments in the June 2005 case in which the EFCC arrested five Kebbi State government employees for embezzling up to \$22 million (three billion naira) of state government funds through schemes involving fake vouchers and the private sale of state bonds.

There were no developments in the 2003 prosecution of the former labor minister and other senior government officials on corruption charges. The former officials remained free as the trial, which began in 2004, continued to be delayed.

There were no laws providing for access to information, and the Government provided limited access in practice.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Criticism of the Government's human rights record was abundant in various media. Human rights activists reported that their interactions with the federal government were acceptable, but should be more frequent. However, the environment for interaction was still tense, and human rights groups were reluctant to form a close relationship with the Government.

Numerous domestic and international NGOs were active in the country. Significant NGOs included Amnesty International (AI), the Campaign for Democracy, the Center for Law Enforcement Education (CLEEN), the Committee for the Defense of Human Rights, Global Rights, Human Rights Watch (HRW), Women Trafficking and Child Labor Eradication Foundation (WOTCLEF), and the Women's Consortium

of Nigeria. The NGOs were generally independent of the Government although some, such as WOTCLEF, which the vice President's wife chaired, had close government ties.

The Government met with NGOs, and civil society organizations facilitated government/NGO communications.

There were no known developments in the 2004 case in which the customs service did not comply with a court decision against it. Although CLEEN won its September 2004 lawsuit against the Government over the 2002 seizure of its human rights reports and was awarded \$69,230 (9 million naira), the customs service neither paid the award nor returned the seized books.

International NGOs actively addressed human rights issues in the country during the year. The ICRC in Abuja and Lagos provided assistance to victims of interethnic violence in the north and conducted presentations and trainings on human rights for police and military personnel. HRW also reported on a protest against the firing of the executive secretary of the NHRC, Niger Delta violence and abuses, and discrimination against non-indigenes.

The NHRC, which the Government tasked with monitoring and protecting human rights, strove to improve its credibility with the general public and NGO community as an independent monitoring body. The NHRC had zonal affiliates in each of the country's six political regions. Since its inception, the NHRC's operations were limited by insufficient funding. The commission also lacked judicial authority and could only make nonbinding recommendations to the Government.

In June the Government removed NHRC Executive Secretary Bukhari Bello. There was widespread condemnation of the move, which observers believed was intended to punish the NHRC for its previous protests against unfair detentions.

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

The constitution and law prohibit discrimination based on community, place of origin, ethnic group, sex, religion, or political opinion; however, societal and religious discrimination against women persisted, societal discrimination on the basis of both religion and ethnicity remained widespread, and ethnic and regional tensions continued to contribute to serious violence both between citizens and the security forces and between groups of citizens.

*Women.*—Domestic violence was widespread and often considered socially acceptable. Reports of spousal abuse were common, especially those of wife beating. Police normally did not intervene in domestic disputes, which seldom were discussed publicly. The law permits husbands to use physical means to chastise their wives as long as it does not result in "grievous harm," which is defined as loss of sight, hearing, power of speech, facial disfigurement, or life-threatening injuries. In more rural areas, courts and police were reluctant to intervene to protect women who formally accused their husbands of abuse if the level of alleged abuse did not exceed customary norms in the areas. According to the 2003 Nigeria Demographic and Health Survey (NDHS), 64.5 percent of women and 61.3 percent of men agreed that a husband was justified in hitting or beating his wife for at least one of six specified reasons, including burning food and not cooking on time.

AI estimated that two-thirds of the women in certain communities in Lagos State experienced physical, sexual, or psychological violence in the family, with husbands, partners, and fathers responsible for most of the violence. Discriminatory laws exacerbated the problem. For example, the penalty for sexual assault of a man is more severe than the penalty for the same offense against a woman.

The law criminalized rape and provided for substantial penalties for convictions, but societal pressures and the stigma associated with being a rape victim reduced both the percentage of rapes reported and the penalties imposed for conviction. The law recognizes spousal rape as a separate offense; however, spousal rape was difficult to prove in court, and no such prosecutions were reported during the year. Rape and sexual harassment continued to be problems. There were no statutes against sexual harassment, but violent forms were adjudicated under assault statutes. The practice of demanding sexual favors in exchange for employment or university grades continued to be common, and rape continued to be epidemic in universities. In November AI issued a report criticizing the judicial system for a conviction rate of only 10 percent of the total number of rape prosecutions.

The NDHS estimated that approximately 19 percent of the female population had been subjected to FGM, although the incidence had declined steadily in recent years. While practiced in all parts of the country, FGM was much more prevalent in the south. Women from northern states were less likely to undergo the most severe type of FGM known as infibulation. The age at which women and girls were subjected to the practice varied from the first week of life until after a woman delivered her first child; however, three-quarters of the NDHS 2003 survey respondents



who had undergone FGM had the procedure before their first birthday. According to the survey, the principal perceived “benefits” of FGM included maintaining chastity/virginity before marriage, giving the victim better marriage prospects, providing more sexual pleasure for men (primarily according to male respondents), and aiding safe childbirth.

The federal government publicly opposed FGM but took no legal action to curb the practice. Because of the considerable impediments that anti-FGM groups faced at the federal level, most refocused their energies on combating the practice at the state and local levels. Bayelsa, Edo, Ogun, Cross River, Osun, and Rivers states banned FGM. However, once a state legislature criminalized FGM, NGOs found that they had to convince the local government area authorities that state laws were applicable in their districts. The Ministry of Health, women’s groups, and many NGOs sponsored public awareness projects to educate communities about the health hazards of FGM. They worked to eradicate the practice, but financial and logistical obstacles limited their contact with health care workers on the medical effects of FGM.

During the year there were no known prosecutions resulting from a 2005 Osun State law intended to punish persons who encourage FGM. The law criminalizes the removal of any part of a sexual organ from a woman or a girl, except for medical reasons approved by a doctor. According to the provisions of the law, an offender is any female who offers herself for FGM; any person who coerces, entices, or induces any female to undergo FGM; and any person who other than for medical reasons performs an operation removing part of a woman or girl’s sexual organs. The law provides for a fine of \$385 (50,000 naira), one year’s imprisonment, or both for a first offense, and doubled penalties for a second conviction.

Prostitution was a serious problem, particularly in urban areas. There are statutes at both the federal and state levels criminalizing prostitution. All states that had adopted Shari’a had criminalized prostitution, and this ban was enforced with varying degrees of success. The police frequently used the antiprostitution statutes as tools for harassment, arresting offenders and holding them until they paid a bribe, but rarely prosecuting the cases in court.

Trafficking in women was a problem (see Section 5, Trafficking).

In some parts of the country, women continued to be harassed for social and religious reasons. Purdah continued in parts of the far north (see Section 1.f.).

Women also experienced considerable economic discrimination. While there are no laws barring women from particular fields of employment, women often experienced discrimination under traditional and religious practices. The Nigerian NGOs Coalition expressed concern regarding continued discrimination against women in the private sector, particularly in access to employment, promotion to higher professional positions, and salary equality. There were credible reports that several businesses operated with a “get pregnant, get fired” policy. Women remained underrepresented in the formal sector but played an active and vital role in the country’s informal economy. While the number of women employed in the business sector increased every year, women did not receive equal pay for equal work and often found it extremely difficult to acquire commercial credit or to obtain tax deductions or rebates as heads of households. Unmarried women in particular endured many forms of discrimination.

The NDHS survey showed that women had significant control over the income they generated (73.4 percent made sole decisions on how such income was to be used), but that men largely controlled decisions regarding areas such as children’s and women’s own health care.

Although some women made considerable individual progress in both the academic and business worlds, women overall remained marginalized. Although women were not legally barred from owning land, under some customary land tenure systems only men could own land, and women could gain access to land only through marriage or family. In addition many customary practices did not recognize a woman’s right to inherit her husband’s property, and many widows were rendered destitute when their in-laws took virtually all of the deceased husband’s property.

In some parts of the country, widows experienced unfavorable conditions as a result of discriminatory traditional customs and economic deprivation. “Confinement,” which occurred predominantly in the east, was the most common rite of deprivation to which widows were subjected. Confined widows were under social restrictions for as long as one year and usually were expected to shave their heads and dress in black as part of a culturally mandated mourning period. In other areas a widow was considered a part of her husband’s property, to be “inherited” by his family. Shari’a personal law protects widows’ property rights, and an NGO reported that many women succeeded in protecting their rights in Shari’a courts.

Polygyny is legal and continued to be practiced widely among many ethnic and religious groups.

Women in the 12 northern states were affected to varying degrees by Shari'a. In Zamfara State local governments enforced laws requiring the separation of Muslim men and women in transportation and health care. Kano State's 2005 ban prohibiting commercial motorcycle taxis from taking women as passengers continued during the reporting period. The state government did not cite any specific Koranic references in announcing the ban. Both Muslim and non-Muslim women were affected by the ban.

The testimony of women was not given the same weight as that of men in many criminal courts (see Section 1.e.).

*Children.*—The Government seldom enforced even the inadequate laws designed to protect the rights of children. Public schools continued to be substandard, and limited facilities precluded access to education for many children. The law calls for the Government, "when practical," to provide free, compulsory, and universal primary education; however, compulsory primary education rarely was provided. The 2004 NDHS EdData survey showed primary school net attendance rates of 64 percent for boys and 57 percent for girls, with approximately 96 percent of those attending completing five years of primary education. Secondary school net attendance was considerably lower, at 38 percent for males and 33 percent for females. In many parts of the country, girls were discriminated against in access to education for social and economic reasons. When economic hardship restricted families' ability to send girls to school, many girls were directed into activities such as domestic work, trading, and street vending. Many families favored boys over girls in deciding which children to enroll in secondary and elementary schools. The literacy rate was 58 percent for men but only 41 percent for women.

While most schools in the north traditionally separated children by gender, the law required this practice in Zamfara, Sokoto, and Kebbi state schools (see Section 2.c.).

The UN Children's Fund (UNICEF) collaborated with the Government on a Strategy for Acceleration of Girls Education in the country to produce a smaller gap between boys' and girls' access to education. Donor governments undertook similar initiatives.

Girls and boys had equal access to government health care. However, girls were much more likely than boys to receive complete immunizations from childhood diseases. Complete immunization rates were 17 percent for girls and 9.1 percent for boys.

FGM was commonly performed on girls in southern areas of the country (see Section 5, Women).

Cases of child abuse, abandoned infants, child prostitution, and physically dangerous child labor practices remained common throughout the country (see Sections 5, Trafficking, and 6.d.). The Government criticized child abuse and neglect but did not undertake any significant measures to stop traditional practices harmful to children, such as the sale of young girls into marriage. There were credible reports that poor families sold their daughters into marriage as a means to supplement their incomes. Young girls sometimes were forced into marriage as soon as they reached puberty, regardless of age, to prevent the "indecency" associated with premarital sex or for other cultural and religious reasons. Human rights groups reported sexual assaults and rapes of young girls, especially in the north.

Numerous children were homeless and lived on the streets. According to the Consortium for Street Children, there were no known statistics on numbers of street children in the country. Major factors that caused children to turn to the streets included instability in the home, poverty, hunger, abuse and violence by parents, and displacement caused by clashes in the community. AIDS also had a tremendous impact on the numbers of orphaned street children.

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, persons were trafficked to, from, and within the country.

The country was a source, transit, and destination country for trafficked persons during the year. No government or NGO estimates on the extent of trafficking were available, but the magnitude of the problem was believed to be significant. This was based on several factors, including the number of deportees returned to the country and reports of Nigerians stranded along trafficking routes, particularly in North African countries. The majority of trafficking victims rescued by NAPTIP came from Akwa Ibom and Edo states. In August the executive director of the Women's Consortium for Nigeria stated that the country, and Ogun State in particular, was a strategic location for traffickers engaged in sourcing, transit, and exporting persons to other countries. In 2005 the International Labor Organization (ILO) estimated that 40 percent of child street peddlers were trafficking victims.

Nigerians were trafficked to Europe, the Middle East, and other countries in Africa for the purposes of forced labor, domestic servitude, and sexual exploitation. Girls and women were trafficked for forced prostitution to Italy, France, Spain, Norway, Belgium, the Netherlands, Cote d'Ivoire, Benin, and Niger. Children were trafficked for involuntary domestic and agricultural labor and street peddling within the country and to countries in West and Central Africa. Both women and children were trafficked to Saudi Arabia for the purposes of prostitution, sexual exploitation, and labor. There also were reports that trafficked children were used as camel jockeys in the Middle East. The country was a destination country for children trafficked for forced labor from other West African countries, primarily Benin.

Women and children were most at risk of being trafficked. Boys were trafficked primarily to work as forced bondage laborers, street peddlers, and beggars, while girls were trafficked for domestic service, street peddling, and commercial sexual exploitation. Trafficking in children, and to a lesser extent in women, occurred within the country's borders. Children in rural areas were trafficked to urban centers to work as domestics, street peddlers, merchant traders, and beggars.

The UN Office of Drugs and Crime reported that individual criminals and organized criminal groups conducted trafficking, often involving relatives or other persons already known to the victims. Traffickers employed various methods during the year. Many were organized into specialties, such as document and passport forgery, recruitment, and transportation. To recruit young women, traffickers often made false promises of legitimate work outside the country. Traffickers also deceived child victims and their parents with promises of education, training, and salary payments. Once away from their families, children were subjected to harsh treatment and intimidation. Traffickers subjected victims to debt bondage, particularly victims forced into prostitution. In some cases traffickers employed practitioners of traditional magic, or juju, to threaten victims with curses to procure their silence. NAPTIP estimated that 90 percent of the girls trafficked through Benin routes were threatened by juju practitioners. Victims were transported by air, land, and sea. Established land routes to Europe transited Benin, Togo, Ghana, Cote d'Ivoire, Guinea, Mali, Niger, and Morocco.

The law prohibits human trafficking and provides for penalties including monetary fines, imprisonment, deportation, forfeiture of assets and passport, and liability for compensation to victims in civil proceedings. Imprisonment terms range from 12 months to life, while fines range from \$375 (50,000 naira) to \$1,500 (200,000 naira).

The National Agency for Prohibition of Trafficking in Persons (NAPTIP), a 200-employee agency with 60 investigators and 30 prosecutors dedicated to trafficking, bears primary responsibility for combating trafficking. The NPF and the Nigerian Immigration Service (NIS) also have antitrafficking units. In addition the President had a special assistant for human trafficking and child labor.

The Government devoted more resources to curb trafficking during the year and took several steps to address the problem more effectively. Enforcement efforts continued to improve, the number of trafficking cases investigated and prosecuted during the year increased, and record-keeping improved as NAPTIP, NPF, and NIS roles were more clearly defined through a series of NAPTIP-sponsored meetings, conferences, training sessions, and networking events.

Preliminary data indicated that during the year NAPTIP investigated 65 new cases and prosecuted 25 cases. At year's end, many of these cases were pending, and eight convicted traffickers were serving prison sentences. Observers attributed the low conviction rate to witnesses' reluctance to testify and the slow progress of cases through the courts.

Charges were dismissed in the 2005 case in which an alleged trafficker and a truck driver were awaiting trial on charges of trafficking 40 children between the ages of seven and 19. Parents of the girls testified that they were going to Lagos to work as domestic employees in order to save money for their marriage ceremonies.

The NPF Antitrafficking Task Force was established in 2005 and staffed 22 units in states with the worst trafficking problems. Officials complained of inadequate resources, citing insufficient funding to support investigative field work.

The Government increased collaboration on investigations with concerned law enforcement agencies in France, Spain, Italy, and Benin. Officials attended international workshops on trafficking, and the Government collaborated with Benin to arrest traffickers and repatriate trafficking victims. In May the Government participated in a Libreville summit hosted by the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS) at which a regional multilateral agreement and action plan to combat trafficking was developed. In July ECOWAS and ECCAS hosted a follow-up conference in

Abuja at which the multilateral agreement and action plan were adopted by 24 countries, including Nigeria.

At the institutional level, government authorities did not facilitate or condone trafficking; however, reports continued to surface from informants and foreign officials that law enforcement officers and individuals in the immigration and airport authorities collaborated in trafficking persons across the country's borders. On August 21, the Ministry of Foreign Affairs closed its authentication unit which provided falsified seals in exchange for bribes greatly exceeding the official rate. Credible reports indicate that much of the authentication was for young women who were being trafficked out of the country. The majority of instances were attributed to ignorance of the trafficking law and difficulties overcoming traditional practices. NAPTIP was very active in providing sensitization, including to police and customs in attending training. The law provides punitive measures for officials who aid or abet trafficking; however, NAPTIP and NPF had found no evidence of official complicity, and no officials were prosecuted, tried, or convicted of trafficking-related charges. One police inspector was arrested in Abuja for releasing two trafficking suspects after receiving specific orders to hold them. The inspector was not suspected of collaborating with the traffickers and their activities.

The Government provided limited funding for assistance to victims. NAPTIP served as the point of contact for immigration and police officials when victims were found; 500 victims passed through the agency during the year. NAPTIP directly provided overnight shelter to victims, and agency officials connected victims to non-governmental or international organizations for shelter, counseling, and reintegration assistance. NAPTIP established a hot line for victims and anyone seeking or wanting to provide information regarding trafficking. The hot line received an estimated 500 calls during the year. During the year the Government helped victims in some cases to repatriate to their home countries and reunited trafficked children with their families. NAPTIP also conducted a sensitization exercise to increase awareness of the risks of trafficking.

The Ministry of Labor and Productivity, in collaboration with the ILO, NAPTIP, the police, and other federal agencies, provided food, transportation, and other logistical assistance to reunite internally and externally trafficked children with their families. The Government continued to operate the 120-bed shelter in Lagos, with involvement by the International Organization for Migration and the American Bar Association. NAPTIP also operated shelter facilities at secure locations in Abuja and Benin City, and in Akwa Ibom and Kano states.

The Government provided some funding for protection activities. For victims serving as witnesses, divisional police officers were appointed to serve as witness protection officers. NAPTIP officials and the officer worked together to provide assistance. NAPTIP outreach efforts were based on a series of "town hall" meetings organized in conjunction with NGOs to bring together community leaders, traditional leaders, teachers, school children, and other groups to raise awareness of the dangers of trafficking, legal protections, and available resources. Several state governments in the south continued strong efforts to protect victims. In Edo State Idia Renaissance operated a youth resource center, funded by UNICEF and foreign organizations, that provided job-skill training and counseling to trafficking victims and other youths.

The Government increased efforts and substantially increased funding to prevent trafficking in persons during the year. The stakeholder forum, established by NAPTIP in 2003, met monthly in each state, conducted training of security and immigration officials and held meetings with local government leaders to raise awareness of trafficking issues. NAPTIP officials met with several major traditional leaders to raise their awareness regarding trafficking and the antitrafficking law. NAPTIP also worked with the media to raise awareness among the public, and officials appeared on national talk shows and state programs. The Government continued implementing the ILO International Program on the Elimination of Child Labor (IPEC) West Africa Cocoa Agriculture Project to prevent the trafficking or employment of children in commercial agriculture, especially cocoa production.

NAPTIP led the establishment in 2005 of state-level antitrafficking committees that consisted of immigration officials, civil society organizations, law enforcement agents, and federal ministries in 22 states. These groups were charged with coordinating action in trafficking cases among their respective organizations. During the year these committees were established in 11 northern states established such committees following the establishment of 11 committees in 11 southern states in 2005 and 2004.

The Government established economic and education programs to improve economic conditions and indirectly prevent trafficking. Despite these and other programs, poverty, lack of access to education, and lack of economic opportunities remained pervasive problems that fueled the trafficking problem.

Several state governments continued to make significant prevention efforts during the year, including awareness campaigns among at-risk populations. NAPTIP's Public Enlightenment Unit also conducted several awareness events throughout the country.

Nongovernmental and international organizations organized conferences and stakeholder meetings on trafficking and established prevention and awareness programs in schools. Groups also worked through the media. A faith-based foundation in Akwa Ibom State sponsored awareness programs on television and radio. The ILO continued a program in partnership with the News Agency of Nigeria to raise awareness and build media capacity to help eliminate child trafficking and child labor.

International organizations worked closely with the Government and the community during the year to prevent child trafficking. UNICEF continued a children's parliament program that discussed civil rights and the dangers of human trafficking. A foreign government worked with NAPTIP on an antitrafficking program to strengthen local capacity to arrest and prosecute traffickers, and to provide assistance to victims through the Lagos shelter.

The ILO continued to support information coordination and monitoring by providing internet connectivity to the national monitoring center. UNICEF continued to provide additional funding for NAPTIP zonal officers.

*Persons With Disabilities.*—There are no laws that prohibit discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. There are no laws requiring physical accessibility for person with disabilities.

Children and women with disabilities faced social stigma, exploitation, and discrimination, and were often regarded as a source of shame by their own families. Children with disabilities who could not contribute to family income were seen as a liability, and in some cases were severely neglected. Significant numbers of indigent persons with disabilities begged on the streets. Literacy rates among various categories of persons with disabilities were significantly lower than among the general population, for both men and women.

The federal government ran vocational training centers in Abuja to provide training to indigent persons with disabilities. The individual states also provided facilities to assist blind and physically incapacitated individuals to become self-supporting, and persons with disabilities established a growing number of self-help NGOs such as the Kano Polio Victims Trust Association.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically diverse, and consisted of more than 250 groups, many of which were concentrated geographically and spoke distinct primary languages. There was no majority ethnic group. The four largest ethnic groups, which comprised two-thirds of the country's population, were the Hausa and Fulani of the north, the Yoruba of the southwest, and the Ibos of the southeast. The Ijaw of the South Delta were the fifth largest group, followed by Kanuri in the far northeast, and the Tiv in the Middle Belt. Societal discrimination on the basis of ethnicity was practiced widely by members of all ethnic groups and was evident in private-sector hiring patterns, de facto ethnic segregation of urban neighborhoods, and a low rate of intermarriage across major ethnic and regional lines. There was a long history of tension among some ethnic groups (see Section 2.c.).

Many groups complained of insufficient representation in government office.

The law prohibits ethnic discrimination by the Government, but claims of marginalization continued, particularly by members of southern groups and Igbos. In particular the ethnic groups of the Niger Delta continued their calls for high-level representation on petroleum problems and within the security forces. Middle Belt and Christian officers dominated the military hierarchy, and some persons in the North believed that the northern Hausa were underrepresented in the military. Northern Muslims accused the Government of favoring Yorubas or Christians from the Middle Belt for those positions. Traditional relationships continued to be used to impose considerable pressure on individual government officials to favor their own ethnic groups for important positions and patronage.

In April HRW published a report describing discrimination against non-indigenes. While all citizens have the right to live in any part of the country, state and local governments frequently discriminated against those not judged to be indigenous to the area, occasionally compelling individuals to return to a part of the country where their ethnic group originated from but to which they have no personal ties. On different occasions, individual non-indigenes were compelled to move by government use of bulldozers, clubs and torches, and discrimination in hiring and employment. When they were allowed to stay rather than be removed, these persons expe-

experienced discrimination including denial of scholarships and exclusion from employment in the civil service, police, and the military.

In Plateau State, the Hausa and Fulani, most of whom were Muslim and considered non-indigenes, claimed to face significant discrimination from the local government in scholarships and government representation.

Ethnic groups claimed environmental degradation and government indifference to their status in the oil-producing Niger Delta region. Groups such as the Ijaw, Itsekiri, Urhobo, Isoko, and Ogoni continued to express unhappiness regarding their perceived economic exploitation and the environmental destruction of their homelands, and incidents of ethnic conflict and confrontation with government officials and forces continued in the Delta area (see Sections 1.a. and 1.b.).

Religious difference often mirrored regional and ethnic differences and resulted in numerous deaths and the displacement of thousands of persons during the year (see Section 2.c.). There were no developments in previous years' incidents of ethno-religious violence.

Interethnic fighting has long been a problem in Warri, Delta State, resulting in casualties and the displacement of tens of thousands of local inhabitants. Despite a ceasefire in Warri that was negotiated in 2004, fresh violence broke out during the year.

Interethnic fighting elsewhere in the Delta also displaced tens of thousands of local inhabitants. In 2004 militia groups operating in Port Harcourt and other areas around the Delta region carried out violent operations that ended when officials from the presidency negotiated directly with militant leaders and reached a ceasefire agreement. Following the October 2005 arrest of Dokubo, leader of the Niger Delta People's Volunteer Force (see Section 1.d.), tensions remained high for several weeks with increased threats and instances of crime, particularly against foreign interests, that could have been politically motivated. However, these threats also may have resulted from groups taking advantage of the heightened tensions for monetary gain. The situation remained largely unchanged from the previous year.

Conflict over land rights and ownership continued among members of the Tiv, Kwalla, Jukun, and Azara ethnic groups; each of these groups resided at or near the convergence of Nassarawa, Benue, and Taraba States. The Tiv, who were claimed by their opponents to have migrated to the country later than other inhabitants of the disputed area, were regarded as interlopers by the other groups, which considered themselves "indigenes." Tivs were the largest ethnic group in much of Benue and parts of other states.

No charges were expected in the case of 20 persons arrested in a February 2005 land-use dispute between farmers and herdsmen in Demsa, Adamawa State.

*Other Societal Abuses and Discrimination.*—Homosexuality is illegal under federal law; homosexual practices are punishable by prison sentences of up to 14 years. In the 12 northern states that have adopted Shari'a, adults convicted of having engaged in homosexual intercourse are subject to execution by stoning, although no such sentences were imposed during the year. Because of widespread taboos against homosexuality, very few persons were openly homosexual.

During the year the National Assembly considered an antigay marriage bill that would duplicate existing laws on marriage and sexual relations while making it more difficult for advocacy groups to operate. The bill had not passed by the end of the year.

There was widespread discrimination against persons living with HIV/AIDS, which the public considered a disease resulting from immoral behavior. Persons living with HIV/AIDS often lost their jobs or were denied health care services. However, public education campaigns were implemented to reduce stigma and change perceptions of the disease.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides all citizens with the right to form or belong to any trade union or other association for the protection of their interests, and while workers exercised this right in practice, some statutory limitations on the right of association and on trade unions restricted this right. Some of these restrictions were put in place to curb the practice of forming thousands of small unions with as few as three or four employees each.

Workers, except members of the armed forces and employees designated as essential by the Government, may join trade unions. Essential workers included government employees in the police, customs, immigration, prisons, the federal mint, and the Central Bank. The Government's application of the "essential worker" designation was broad compared to the ILO definition. Employees working in a designated Export Processing Zone (EPZ) may not join a union until 10 years after the establishment of the enterprise (see Section 6.b.).

According to figures provided by the two largest union federations, the Nigeria Labor Congress (NLC) and Trade Union Congress (TUC), total union membership totaled between 7 and 7.5 million during the year. Less than 10 percent of the total workforce was organized. With the exception of a small number of workers engaged in commercial food processing, the agricultural sector, which employed the majority of the work force, was not organized. The informal sector, and small and medium enterprises, remained largely unorganized.

The March 2005 Trade Union (Amendment) Act eliminated the previously mandated single-labor-federation structure for workers, organized under the NLC. Trade union federations, now called "central labor organizations," must be registered formally by the Government. Each federation must consist of 12 or more trade unions, and trade union membership in a federation must be exclusive. A minimum of 50 workers per enterprise is required to form a trade union. All unions and federations officially recognized prior to the law's passage were allowed to retain their status. The Government formally recognized two union federations: the NLC, whose 29 formally recognized member unions represented lower-level and unskilled employees; and the TUC, whose 21 formally recognized member unions represented senior staff and managers. The TUC also had three additional member unions that the Government had not recognized by year's end. The Government did not formally recognize the Congress of Free Trade Unions (CFTU), which represented senior-level employees in certain sectors, although its member unions were recognized. Individual member unions can participate in collective bargaining and represent their members.

The TUC was recognized as a central labor organization under the new law, while the CFTU was not because it lacked the requisite number of affiliate unions. While lifting some restrictions on freedom of association by allowing more labor centers, the new law weakened the NLC, previously the country's only labor federation, by allowing the recognition of other labor federations representing groups of unions. Unlike in the previous year, abuses of labor standards did not increase during the year.

On July 10, dock workers disrupted a meeting between the Nigerian Port Authority and the Bureau of Public Enterprises held at Apapa port in Lagos. The dock workers reportedly protested both employer and union actions in ongoing privatizations. The police, whose presence was requested by union leaders, used tear gas on the crowd of over 500 persons and made several arrests.

The law prohibits antiunion discrimination.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference; however, the law also narrowly defines what union activity is legal. The law provides for the right to both organize and bargain collectively between management and trade unions, and collective bargaining occurred throughout the public sector and the organized private sector. However, collective bargaining in the private sector was restricted. The new law limits the right to strike to matters pertaining to breach of contract or wages and conditions of work, thereby prohibiting strikes over matters of national economic policy.

Workers outside the legally defined category of "essential" had the right to strike, although they were required to provide advance notice of a strike. A worker under a collective bargaining agreement cannot participate in a strike unless his union complied with the requirements of the law, which included provisions for mandatory mediation and for referral of the dispute to the Government. Workers can bring labor grievances to the judicial system for review; however, the courts were of limited utility in ensuring due process in the protection of workers' rights. Workers are specifically prohibited from forcing persons to join a strike or from closing airports or obstructing public by-ways. Stiff fines and/or prison sentences are imposed on law-breakers. While strikes continued to occur in localized areas after the law passed in 2005, no national strike was called. Instead a new strategy of organizing peaceful protest rallies was implemented by the Labor and Civil Society Coalition to solicit the Government's response to and settlement of labor issues. A few rallies took place during the year and received favorable responses from the Ministry of Employment, Labor, and Productivity.

In June at least four representatives of the National Association of Telecommunications Employees were arrested when employees of the national telephone company, NITEL Nigerian Telecommunications Limited, went on strike because they had not been paid in months. The workers were later released without charge.

Unlike in the previous year, there were no reports that unions used threats against members and their families to force them to stay at home during planned strikes.

During the year there were no reports of deaths or injuries related to strikes. No action was taken against security forces who killed or injured strikers in 2005.

There are no laws prohibiting retribution against strikers and strike leaders, but strikers who believed they were victims of unfair retribution could submit their cases to Industrial Arbitration Panel (IAP), with the approval of the labor ministry. The IAP's decisions were binding on parties but could be appealed to the National Industrial Court. In practice the decisions of these bodies infrequently carried the force of law. Union representatives described the arbitration process as cumbersome and time-consuming, and an ineffective deterrent to retribution against strikers.

EPZs in Calabar, Cross River State, and Onne Port, Rivers State operated during the year. Workers and employers in these zones were subject to sections of the national labor laws pertaining to EPZs, which provided for a 10-year prohibition on trade unions, strikes, or lockouts following the commencement of operations within a zone. In addition the law allows the EPZ Authority, instead of workers' organizations or unions, to handle the resolution of disputes between employers and employees.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, there were reports that it occurred (see Sections 5 and 6.d.). Enforcement of the law was not effective in many parts of the country. During the year the Government undertook training and sensitization programs in several regions to improve enforcement.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—In most sectors the minimum work age is 15 years, which is consistent with the age for completing educational requirements; however, child labor remained a problem. The law prohibits employment of children less than 15 years of age in commerce and industry and restricts other child labor to home-based agricultural or domestic work. The law states that children may not be employed in agricultural or domestic work for more than eight hours per day. Apprenticeship of youths at the age of 13 is allowed under specific conditions.

Awareness of the problem increased throughout civil society, and the Government demonstrated its commitment to the issue of child labor throughout the year. The Ministry of Employment, Labor, and Productivity drafted a National Policy on Child Labor as well as a National Plan of Action for the Elimination of the Worst Forms of Child Labor in Nigeria. By year's end both drafts had been submitted to the Federal Executive Council for approval.

The Government's child labor policy focused on intervention, advocacy and sensitization, legislation, the withdrawal of children from improper labor situations, and rehabilitation and education for children following their withdrawal. The Ministry of Employment, Labor, and Productivity was responsible for enforcement of the law. During the year the ministry trained approximately 120 labor inspection officers on child labor laws. Eighty officers were trained to perform inspections in high-risk sectors such as agriculture, mining, and the informal sector. Approximately 20 officers were trained to perform rapid assessment surveys in these critical sectors; reports of the surveys conducted by these officers were not yet available at year's end. The ministry also sponsored awareness-raising and law-familiarization training programs for local law enforcement, customs, and other government officials. Despite these advances, forced child labor and trafficking in children continued during the year (see Section 5).

Economic hardship resulted in high numbers of children working to enhance meager family income. Children frequently were employed as beggars, street peddlers, bus conductors, and domestic servants in urban areas. Little data was available to analyze the incidence of child labor. The National Modular Child Labour Survey Nigeria, which conducted the only survey available between 2000 and 2001, reported approximately 15 million children working in the country. Of these, more than six million were not attending school and more than two million were working 15 or more hours per day.

The Ministry of Employment, Labor, and Productivity dealt specifically with child labor problems, and had an inspections department whose major responsibilities included enforcement of legal provisions relating to conditions of work and protection of workers. Although the inspectorate employed nearly 400 total inspectors for all business sectors, there were fewer than 50 factory inspectors for the entire country. The ministry conducted inspections mostly in the formal business sector, in which the incidence of child labor was not a significant problem. NAPTIP bears some responsibility for enforcing child labor laws, though it primarily rehabilitates trafficking victims and child labor victims. The agency reportedly received no complaints of child labor, although it did pursue cases of trafficking in children (see Section 5). The ministry repatriated 350 trafficked child laborers to their countries of origin during the year.



Private and government initiatives to stem the incidence of child employment continued but were ineffective. The Government continued to implement the ILO/IPEC West Africa Cocoa Agriculture Project in the cocoa and other agricultural sub-sectors to combat hazardous child labor and to prevent child trafficking for labor exploitation. Several programs managed by NGOs and international organizations worked to address child labor in the country.

UNICEF continued a program to remove young girls from the street peddling trade and relocate them to informal educational settings.

*e. Acceptable Conditions of Work.*—The law sets a minimum wage, which was reviewed infrequently by a tripartite committee which provides recommendations to the National Assembly. Real wages greatly exceeded the minimum wage. The minimum wage was \$41.70 (5,500 naira) per month (with a 13-month year as the law mandates an extra month's pay for the Christmas holiday). The national minimum wage did not provide a decent standard of living for a worker and family. The Government directed each state administration to establish its own salary structure based on its ability to pay, with a floor of at least the national minimum wage. Some federal ministries, states, and private sector companies raised their minimum wage to \$56.70 (7500 naira) for all employees. The Ministry of Employment, Labor, and Productivity is responsible for enforcing the minimum wage which was strictly enforced for companies with more than 50 employees. When a company with fewer than 50 employees was found to pay less than the minimum wage, the ministry reviewed the company's records to determine whether it was capable of paying the minimum wage and then issued a ruling.

The law mandates a 40-hour workweek, two to four weeks' annual leave, and overtime and holiday pay, except for agricultural and domestic workers. The law prohibits excessive compulsory overtime for civilian government employees. Labor leaders reported that the law can be interpreted as prohibiting some forms of excessive, compulsory overtime; however, workplace health and safety conditions were not properly patrolled, and enforcement was irregular due to insufficient police and the small number of factory inspectors. The law also establishes general health and safety provisions, some of which were aimed specifically at young or female workers. It requires that the inspectorate division of the Ministry of Employment, Labor, and Productivity inspect factories for compliance with health and safety standards. However, this agency was greatly underfunded, lacked basic resources and training, and consequently did not sufficiently enforce safety oversight at many enterprises, particularly construction sites and other nonfactory work locations. The law requires employers to compensate injured workers and dependent survivors of those killed in industrial accidents; however, the law was not strictly enforced. The Factories Law provides for the protection of employees in hazardous situations, including the right to remove themselves from such situations; however, the law did not provide similar provisions for other workers.

The labor laws apply to legal foreign workers, but not all companies respected these laws in practice.

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## RWANDA

Rwanda is a constitutional republic dominated by a strong presidency. The population was 8.4 million. The Rwandan Patriotic Front (RPF) took power in 1994 and formed a government of National Unity that functioned during the transitional period following the civil war and genocide until 2003, when President Paul Kagame was elected to a seven-year term in largely peaceful but seriously marred elections. Some armed rebel groups from the country continued to operate with impunity in the Democratic Republic of the Congo (DRC). Unlike in the previous year, there were no reports that Rwanda Defense Forces (RDF) troops were at times present in the eastern part of the DRC. The Democratic Forces for the Liberation of Rwanda (FDLR), largely made up of Rwandan Hutus who fled to the DRC in 1994 after the genocide, continued to be led by many individuals responsible for leading the genocide, and it continued to actively oppose the Kagame government. While there were fewer disciplinary problems with security forces than in the previous year, there were instances in which government authorities did not maintain effective control of the security forces and security forces acted independently of government authority.

Significant human rights abuses occurred, although there were important improvements in some areas. Limits on political party activities continued to restrict citizens' rights to peacefully change their government. There were reports that secu-

rity forces committed extrajudicial killings and tortured and abused suspects with impunity. Prison and detention center conditions remained harsh despite positive measures taken by the Government. Security forces arbitrarily arrested and detained persons, including street children and other “vagrants,” and members of Jehovah’s Witnesses. Prolonged pretrial detention, limits on judicial independence, unfair public trials, and the holding of former political figures—including former President Pasteur Bizimungu—remained problems. There continued to be limits on freedom of speech, press, and association. Government corruption and restrictions on civil society remained problematic. In addition, societal violence and discrimination against women, trafficking in persons, child labor, and restrictions on labor rights continued to be problems.

The Government took significant steps during the year to address human rights deficiencies and institute reforms. For example, the Government formed a unit in the National Police to investigate citizens’ reports of official abuse and corruption, and police authorities fired more than 70 police officers on various counts of indiscipline. The judiciary demonstrated increased independence in its growing willingness to rule against the executive branch, its release of some political prisoners, and in its use of the Judicial Council to conduct investigations into judicial corruption.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reported political killings by the Government or its agents; however, police officers and local defense forces (LDF) allegedly committed several unlawful killings during the year, and there were credible allegations of extrajudicial killings by police, some of which were still under investigation at year’s end. The Government regularly investigated killings committed by police officers and members of the LDF, and reports generally indicated that the LDF members accused of killings were arrested and charged.

On December 21, 2005, military police in Kigali killed at least three RDF soldiers and wounded between eight and 20 others who were being held in the Mulindi military prison; authorities did not publicly acknowledge the incident until mid-February. The prisoners had reportedly complained of ill treatment and harsh conditions in the overcrowded prison, which, according to Amnesty International (AI), held more than 2,000 prisoners despite an official capacity of 1,000 (see Section 1.c.). Although its findings were later contradicted by two other investigations, an investigation by military prosecutors found that, following an attempt by prison officials to investigate marijuana trafficking at the prison, physical altercations resulted between guards and prisoners, and prisoners locked themselves inside the facility. As military police scaled the prison walls to regain control of the facility, prisoners attempted to disarm them. Military police used firearms to repel the prisoners and bring them under control. Although acknowledging that authorities had “mis-handled” a prisoner during the drug trafficking investigation, the military prosecutor’s office found that there had been an appropriate use of force by the military police in confronting violent prisoners and recommended that none of the military police or guards be prosecuted.

However, according to an investigation conducted by the National Human Rights Commission (NHRC), military police officers involved in the killings had committed a “violation of the right to life,” and the NHRC recommended that military leadership and the public prosecutor’s office pursue legal proceedings against those responsible. Senators also expressed concern about the killings and requested information from the ministers of justice and interior. According to AI’s sources, police surrounded a prison courtyard that prisoners had locked; prisoners were reportedly protesting an assault by prison guards on a prisoner who had consumed cannabis. After prisoners refused to unlock the courtyard, military police fired on the prisoners with Kalashnikovs and machine guns, killing at least three and seriously wounding 20 others. Calling for an independent investigation, AI reported that if its sources were correct, actions by the military police would constitute excessive use of force and extrajudicial executions.

According to local media, on December 31, 2005, police arrested Saidi Hakizimana, a Rastafarian for smoking marijuana at a concert. Police detained Hakizimana at Ramera police station in Kigali, where he was allegedly beaten. Hakizimana’s condition worsened while in police detention and he later died in a Kigali hospital of unknown causes while still in police custody. The police denied allegations of misconduct but had not released the results of a police investigation into the matter by year’s end.

On November 24, police officers took into custody and subsequently killed three men—Jean Hakizamungu, John Rukundo, and Francois Ndagijimana—who were

suspects in the November 23 killing of Egide Ndabakuranye, the President of one of the local jurisdictions comprising a community-based justice system (gacaca), in Rwamagana District, Eastern Province. Deputy Police Commissioner Mary Gahonzire stated that, according to an investigation by an internal police investigatory agency, police killed the suspects in self-defense while they were attempting to escape. However, after conducting numerous interviews with local residents, Human Rights Watch (HRW) called the investigation inadequate and said police may have committed extrajudicial killings.

According to HRW, during a December 15 interview Gahonzire said that while in custody, one of the three suspects, Rukundo, confessed to killing Ndabakuranye with the other two suspects. The three suspects then offered to show police officers where other persons were hiding to “escape justice” and avoid appearing before gacaca jurisdictions. While being escorted to this supposed destination, Rukundo grabbed the weapon of one of the police officers and threatened one or more of the other officers, who then shot all three suspects. According to HRW, Gahonzire, who referred several times to a document before her during the interview, said the incident happened in broad daylight but could not provide more details on the time or exact location. She said the three suspects outnumbered the police officers but could not say how many officers there were or provide information on the kind of weapons involved or the number of shots fired, according to HRW.

HRW said that the information it collected from local residents did not support the official police investigation findings. According to a local resident, at dusk on November 24 a police pick-up truck carrying the three suspects parked on a little-used road, and an armed police officer in the back stood up as the three men exited the vehicle next to a thick clump of bamboo. A short time later, numerous residents heard at least three shots in close succession, and some residents subsequently saw the occupants of the truck retrieve the bodies before the truck headed toward Rwamagana (police officers reportedly did not visit relatives of the victims to inform them of the deaths or explain how they had died). HRW concluded that the reported location of the bullet entry wounds (each one in the front or side of the head or neck) and the proximity of the killings to each other seemed inconsistent with a situation in which officers were responding in self defense to escaping prisoners.

The case of the LDF member accused of killing a suspect in November 2005 in Cyangugu Province, Gitambi Sector was being heard in the High Court at year's end.

In January a military court sentenced Corporal Gapira Ndengeye to 15 years in prison for killing a prostitute and her two daughters in December 2005, in Butare. The military prosecutor has appealed, seeking a longer sentence.

Two LDF members arrested and charged in 2005 with the 2004 killing of Jean Baptiste Nsekanabo were on trial at year's end.

Unlike in the previous year, there were no reports from UN entities that the Government continued to maintain a “residual presence” in the DRC or that the Government continued to provide military support to insurgent proxy groups in the DRC that reportedly committed killings and other human rights abuses.

At year's end, the Government had not opened any new inquiries into the abuses by its troops in previous years in the DRC.

The appeals of RDF Sergeants Nkusi and Sebuhero, both convicted of two 1998 murders by a military court in 2003, had reached the Supreme Court by year's end.

According to reports, during the year unidentified individuals killed several witnesses to the genocide throughout the country to prevent testimony and undermine the rural community-based justice system (gacaca), which the Government established to address certain categories of crimes related to the 1994 genocide (see Section 1.e.). According to genocide survivor organizations, individuals killed between 12 and 20 genocide survivors during the year.

HRW reported that, according to witnesses, in late November Innocent Habinshuti, who was released from prison in 2003 pending trial before a gacaca jurisdiction, killed genocide survivor Frederic Murasira, the nephew of a gacaca judge, with a machete in Ngoma District in the east. Genocide survivors from a nearby town then killed eight individuals, including children, in reprisal (the town in which the reprisal killings occurred was reportedly inhabited by a sizable number of persons awaiting trial for genocide-related crimes). By year's end police had arrested one suspect for the killing of Murasira and detained several others for the reprisal killings.

The Government investigated and prosecuted individuals accused of threatening or killing genocide witnesses. At year's end police were investigating 210 cases. A group of genocide survivors criticized the Government for not doing enough (see Section 1.e.). In December the President chaired a National Dialogue on Unity and Reconciliation, which included local government officials and members of the three

branches of the national government. The meeting participants addressed the killings of genocide survivors, and the President and minister of internal security directed local officials to take increased responsibility for genocide survivors. The meeting outlined new security measures to be undertaken, including the use of enhanced surveillance of genocide survivors who were deemed most at risk and surveillance of genocide suspects considered most likely to commit violent attacks; increased joint patrols in rural areas by survivors and security personnel; the possible use of preventive detention of genocide suspects to prevent attacks deemed imminent by security officials; the expansion of hotlines by both the Gacaca Service and the Prosecutor General's Protective Service for Witnesses and Survivors; and expedited gacaca hearings for those cases deemed most likely to involve the risk of violence against survivors and witnesses.

The International Criminal Tribunal for Rwanda (ICTR), based in Tanzania, continued to prosecute genocide suspects during the year (see Section 4).

During the year, according to its stated policy, the Government welcomed and repatriated hundreds of former FDLR combatants who had fled the tight control of the FDLR's leadership. The Government reiterated its policy that the FDLR members would not receive special treatment and would be subject to genocide trials, like the general population, if they were over 14 years of age at the time of the 1994 genocide.

*b. Disappearance.*—There were no reports of politically motivated disappearances within the country, and unlike in the previous year, there were no reports that a government official threatened a staff member of an international nongovernmental organization (NGO) while it was investigating the disappearance of individuals.

During the year a military court sentenced Jean Leonard Kagabo to five years' imprisonment for attempted desertion; Kagabo, an RDF captain, disappeared for at least two months after police arrested him on charges of attempted desertion in 2004.

Government officials continued to claim that they were unaware of the case of Jean Damascene Tuyizere, who disappeared after security forces arrested and questioned him for several days in 2004 in Gisenyi Province.

Regarding the cases of Jean de Dieu Kwizera, David Habimana, Block Mugambira, and Jean Paul Kamondo—campaign workers of 2003 Presidential candidate and former Prime Minister Faustin Twagiramungu—the Government stated that the four men were arrested in 2004, remained out on bail, and that criminal proceedings were ongoing at year's end. By year's end these statements had not been verified, and the whereabouts of the four men had not been confirmed.

There were no developments in the 2003 disappearances of two prominent citizens and four high-level government officials, including former supreme court vice-President Lieutenant Colonel Cyiza and former parliamentarian Leonard Hitimana, a member of the Democratic Republican Movement (MDR); the MDR had been a part of the multi-party government but had become increasingly critical of it prior to the parliament's recommendation to ban the MDR in 2003—shortly before Hitimana disappeared—and the party's subsequent dissolution. Unlike in the previous year, there were no reports that the family and friends who have been supporting the children of Hitimana were harassed.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit torture; however, local media reported allegations of torture by the LDF during the year and a local NGO providing assistance to victims of torture reported that it received between 180 and 240 clients during the year, although an undetermined number of these victims may have been tortured in previous years. In addition police on occasion abused suspects and detainees. During the year there were fewer reports of police officers abusing suspects at the time of arrest, and authorities dismissed or disciplined some police officers for excessive use of force.

According to the New Times, on November 7, the LDF allegedly tortured a 17-year-old boy accused of theft in Muhanga District, Southern Province. District residents said the LDF had been involved in "many cases of torturing residents" in the area, and the district's mayor had reportedly warned the LDF in October over their lack of discipline.

There were no developments in the alleged torture of former parliamentarian and MDR party member Jean Leonard Kavutse. According to AI, Kavutse told a court in 2005 that he had only confessed to charges of sectarianism after having been tortured. The Government denied this allegation during the year and said that no torture claims were made during the trial. In April 2005 a court sentenced Kavutse to three years in prison (including a suspended prison sentence of two years), and authorities released him in the same month after giving him credit for time served.

During the year the Senate investigated reports of secret detention centers allegedly run by security officials, and questioned the ministers of justice and internal security in an open session. During a February hearing senators cited repeated NHRC reports (dating back to 2002) about the existence of government-run secret detention centers; the ministers claimed they were unaware of such centers. Police officials denied the existence of any secret detention centers.

According to HRW, in January Kigali municipal officials who had just taken office learned of the existence of a government-run unofficial detention center in the Gikondo neighborhood of Kigali. On May 14 HRW reported that authorities continued to use the center to illegally hold hundreds of street children and other “vagrants” in “deplorable conditions,” usually incommunicado, without charging them. According to HRW, in late March a Kigali police spokesman acknowledged the center’s existence and told domestic human rights activists it had been used for more than a year; he said the two large buildings, one of which was a former warehouse, were officially meant to be a “transit center” in which persons were detained for no more than three days before authorities transported them back to their home districts. (Several thousand persons were so transported.) However, authorities and former detainees reportedly told HRW that some detainees spent weeks or months in the center before being released without any judicial procedure. Detainees were subject to beatings, guards raped women, and on April 13 a 13-year-old boy died there of severe malnutrition, according to accusations investigated by HRW. Detainees reportedly were not separated by gender or age; received inadequate food, water, and medical care; and often slept on the floor without blankets. Shortly after the HRW report was published, authorities closed the Gikondo center, and it remained empty at year’s end. There were no reports of any officials being sanctioned for running the center. City authorities said there were no plans to open another center.

There were reports that police arrested, detained, and later beat at least three members of Jehovah’s Witnesses while they were in police custody because they refused—on religious grounds—to participate in nighttime security patrols (see Section 2.c.). Reports of prison and detention center beatings of Jehovah’s Witnesses were less numerous than in the previous year.

There were reports that unknown assailants on occasion harassed and threatened journalists and citizens (see Sections 2.a., 2.c., and 4).

Unlike in the previous year, there were no credible reports that the Government provided military supplies to combatants in the eastern DRC who committed numerous, serious human rights abuses.

Mob violence during the year resulted in injuries (see Section 1.d.).

*Prison and Detention Center Conditions.*—Prison and detention center conditions were below international standards and were harsh. The Government remained committed to improving prison and detention center conditions. However, due to the large number of individuals newly accused of genocide since gacaca hearings began nationwide in July, the prison population rose 18 percent in five months, worsening the severe overcrowding problem.

The Government estimated that there were more than 82,000 prisoners in the country’s 16 central prisons (compared to 67,000 in 2005), including approximately 66,000 accused of genocide-related crimes and approximately 16,000 detained on criminal charges unrelated to the genocide. Sanitary conditions in prisons and detention centers were poor but improving at the beginning of the year; however, the rapid increase in the prison population beginning in August negated the prior improvements, and prison conditions were worse at year’s end. The Government continued to improve prison healthcare but was unable to provide adequate medical treatment. Although it did not provide food to prisoners in smaller jails, the Government provided food to those in prisons, but it was not sufficient, and family members supplemented food provisions. The International Committee of the Red Cross (ICRC) no longer assisted the Government by providing a percentage of food in the 16 main prisons; however, the Government increased its food budget to replace the ICRC contribution. In police stations, the Government did not feed detainees awaiting hearings or transfers. Police regularly told the victims of crimes that if they did not provide food to the accused, then the accused would be released. In other cases, prisoners transferred from police jails to national prisons had not been fed for several days. The ICRC provided additional expertise and medical, logistical, and material support to improve conditions for inmates.

There were an undetermined number of deaths in prison during the year, largely the result of preventable diseases and suspected cases of HIV/AIDS. The Government began an HIV/AIDS counseling and treatment program in three prisons.

According to HRW, police and LDF abused individuals detained illegally in an unofficial facility; security personnel reportedly raped women, and adult detainees abused children (see Section 1.d.).

National prison policy prohibits the hiring of prisoners to perform work at private residences and businesses. However, community service was often part of a prison sentence for those who confessed to genocide-related crimes, and prisoners may work (uncompensated) on community projects such as building roads and bridges (see Section 6.c.). Prisoners charged with criminal offenses unrelated to the genocide were not eligible to volunteer for work details. Prisoners often volunteered for such details, which provided time away from overcrowded prisons, and in some cases extra privileges. During the year authorities relieved a prison director of his duties and were investigating him for illegally hiring out prisoners for private work.

In August 2005 the Government released all minors who had been detained for genocide-related crimes in a provisional prisoner release. The 740 minors who remained in prison were detained for crimes not related to the genocide. The Government also made efforts to better ensure that minors were incarcerated separately from adults; 13 of 16 prisons no longer housed minors and adults together, and work was underway to build facilities at the remaining three prisons for minors. In addition, courts continued to give minors special treatment, taking into consideration their ages during sentencing. Pretrial detainees generally were separated from convicted prisoners; however, there were numerous exceptions as a result of the large number of genocide detainees awaiting trial. Some high-profile political prisoners, such as former President Bizimungu, were kept in special sections of regular prisons (see Sections 1.d. and 1.e.).

Women were detained and imprisoned separately from men. In addition there was at least one prison (Miyove Prison in Byumba district) exclusively for women. At another prison (Cyangugu Prison), living conditions for women were better than those for men. Female prisoners were fewer in number and were housed in their own block with separate beds. (Male prisoners often shared large sleeping platforms.)

The Government generally permitted independent monitoring of prison conditions, and the ICRC, diplomats, and journalists usually had access to the prisons. The ICRC continued its visits to communal jails and military-supervised jails. After some delays, authorities granted a domestic human rights NGO, the Rwandan League for the Promotion and Defense of Human Rights (LIPRODOHR), access to prisons, and the NGO released a report in May. No information was available regarding the report's content.

*d. Arbitrary Arrest or Detention.*—The constitution and law provided legal safeguards against arbitrary arrest and detention; however, in many instances, security forces arrested and detained persons arbitrarily and without due process. Some police officers were disciplined and dismissed for such activities.

*Role of Police and Security Apparatus.*—The RDF maintains external security. The National Police, under the minister of internal security, has responsibility for internal security and is headed by a commissioner general and two deputy commissioners, one for operations and another for administration. Five assistant commissioners oversee the various units, such as traffic, intelligence, criminal investigations, protection, and the provincial areas. The police lacked basic resources such as handcuffs, radios, and patrol cars. However, they participated in extensive training programs, and the police academy curriculum included training on human rights, nonlethal use of force, and professionalism. During the year there were reports of corruption, arbitrary arrest, and lack of discipline within the police force, and the police's office of internal affairs investigated and addressed many of them. For example, in October authorities fired more than 70 police officers on various counts of indiscipline, including the solicitation of bribes, unlawfully beating persons, and absconding from duty.

During the year the police and senators investigated reports of police abuse, and senators questioned the ministers of national security and justice about "several arbitrary arrests and illegal detentions in various parts of the country," which had been raised as concerns by the NHRC (see Section 1.c.). One senator accused the ministers, who had been summoned to the hearing, of being evasive, and he criticized as improper and unlawful the police's continued practice of arbitrarily re-arresting and detaining persons acquitted by courts of law. The senator also criticized the Government for being "secretive," failing to make its activities known to the public, and failing to hold regular press briefings, particularly in regard to human rights abuses by police.

The Government enforced ill-defined laws against vagrancy and illegal street vending. On several occasions police and the LDF detained street children, vendors, and beggars in Kigali, Butare, and other larger towns, charging them with illegal street vending or "vagrancy." For example, in early July, according to the New Times, police in Butare arrested more than 30 persons—including many street chil-

dren—on charges of being idle, and a police spokesperson said police would continue to make similar arrests. The police claimed to be responding to local citizens' complaints that undocumented nonresidents were contributing to an increase in insecurity, petty crime, and gender violence. Authorities reportedly released adults after they produced identification, and authorities took street children to government centers or NGO-sponsored shelters (see Section 5). During the year the Commission of the European Union expressed concern over the Government's illegal detention of street children.

An HRW report released in May profiled an unofficial government-run detention warehouse where police and LDF members illegally held up to 600 vagrants at a time; the report underlined the police's common practice of arbitrarily arresting and detaining street children and other vagrants, highlighted allegations of authorities abusing and raping individuals detained in the warehouse, and called on the Government to respect due process rights (see Section 1.c.).

During the year, although efforts were taken to professionalize the national police, there were some cases of beatings of suspects by police. The prosecutor general's office under the Ministry of Justice was responsible for prosecuting police abuse cases. A special internal affairs office that reported directly to the national police commissioner general conducted investigations. There were 15 internal investigations referred to the courts by internal affairs at year's end. Several cases remained under investigation by the police. The National Police advertised a toll free number in the local radio and written press encouraging citizens to report problems regarding police and the LDF.

During the year there were instances of mob justice, due in part to a lack of police presence in most villages. For example, in Rukumberi District, local citizens attacked and killed eight individuals after a gacaca judge was killed. It was later determined that none of the eight victims were involved in the killing (see Section 1.a.). In another case, in September police arrested five persons, including a member of the LDF, for severely beating a 15-year-old accused of stealing clothes. There was no additional information on this case.

Members of local communities chose community volunteers to serve in the LDF, a statutorily established law enforcement organization of approximately 20,000 members under the Ministry of Local government that assisted police. The national police exercised tactical control of the LDF while local appointed and elected officials had responsibility for operational oversight. LDF members performed basic security guard duties throughout the country, including maintaining a presence at gacaca proceedings. LDF members were ordinarily unpaid and received less training than the national police. They did not have powers of arrest, but in practice they made arrests on orders from local administrative officers and on their own. Among its various duties, the LDF chased illegal street vendors, petty criminals, and prostitutes away from public areas. There were reports that the LDF acted with impunity when dealing with street vendors. During the year the Government prosecuted individual LDF members who committed crimes; however, some human rights groups accused the Government of not taking sufficiently strong action against some LDF members and considered the organization to be abusive.

*Arrest and Detention.*—The law requires that authorities investigate and obtain a warrant before arresting a suspect. Police may detain persons for up to 72 hours without a warrant, and prosecutors must bring formal charges within 10 days of arrest. However, these provisions were often disregarded during the year. At times police used extrajudicial punishment when minor criminals confessed and the victims agreed to the police officer's recommended penalty, such as week-long detention or restitution. The law permits investigative detention if authorities believe that public safety is threatened or that the accused might flee. There is bail for minor crimes (with a maximum sentence of five years); authorities may otherwise release a suspect pending trial if they are satisfied that there is no risk that the person may flee or become a threat to public safety and order. Family members generally were promptly allowed to visit detained relatives; however, there were several reports that police used incommunicado detention during the year, and according to HRW police maintained one unofficial detention center in Gikondo, where police detained some suspects, including children, for up to four months. By law detainees are allowed access to lawyers. In practice, however, access to legal representation was problematic due to the scarcity of lawyers in the country (only 250 total, most of them in Kigali). The Government did not provide indigent persons with free access to lawyers, and the Kigali Bar Association lacked the resources to provide lawyers to every indigent. The law requires the Government to provide minors with legal representation, which judicial observers cited as a factor in juvenile trial delays.

During the year security forces sometimes used arbitrary arrest and detention.

Several members of Jehovah's Witnesses were arbitrarily arrested and detained by local authorities when their beliefs conflicted with national laws requiring community service. In 2005 a few judges ruled that the laws did not in fact require participation in nighttime security patrols, and that police effectively had no legal authority to arrest or detain persons for not participating in the patrols (see Section 2.c.).

At year's end approximately 66,000 prisoners accused of genocide-related crimes continued to be imprisoned while awaiting trial. The majority of those detained for genocide-related crimes were men who had not confessed and were accused of "category I" crimes (the most severe), which include rape, murder, genocide instigation, or playing a leadership role in the genocide. The law permits the continued detention of genocide suspects long enough to allow them to face trial either in a conventional court or in the gacaca system (see Section 1.e.). Lengthy pretrial detention, including the detention of persons whose unresolved cases dated from 1994, was a serious problem and a consequence of the large number of persons suspected of committing genocide who continued to be held in prisons and detention centers. The Government did not have the capacity to process cases within a reasonable time. On July 15, gacaca trials began nationwide. During the year the lead government agency that coordinates the gacaca system, the National Service of Gacaca Jurisdictions, made a concerted effort to expedite genocide-related cases.

By year's end, the number of criminal and civil cases pending in the regular courts had been reduced from 77,000 to approximately 17,000, according to the Ministry of Justice. This reduction resulted from several factors, including culling of old and inactive cases, the substitution of single judge proceedings in the place of three-judge panels for all levels of trial courts, the establishment of monthly case completion targets for all courts, and streamlined case management practices.

Mobile groups, whose mandate was to establish or complete files that indicated the basis for charges for all genocide-related detainees, continued to operate during the year. Approximately 90 percent of detainees in custody during the year had files; however, the vast majority of those files were incomplete.

*Amnesty.*—Approximately 1,000 of the 22,000 prisoners conditionally released by the Government in August 2005 were re-arrested and returned to prison after being accused of additional crimes in gacaca. The Government did not release or grant amnesty to prisoners during the year.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, there were constraints on judicial independence. There were some credible reports of government interference, mostly regarding gacaca cases. In addition, ministers in the executive branch continued to play important roles in defining the judicial budget. However, the judiciary made significant progress toward increased independence during the year by assuming more control over the judicial budget and providing continued training for new judges. Members of the national bar association who were interviewed said they believed that the judiciary was more independent during the year than in 2005, citing the increased willingness of judges to rule against the Government and a higher standard of judicial training and education.

The judiciary operated in most cases without government interference, and there were no reports of direct pressure on judges; however, some members of the executive branch said they still thought that calling judges to discuss ongoing cases privately and express executive preferences was appropriate. In a few cases viewed as politically sensitive, including those dealing with "genocide ideology" (the promotion of the tenets of genocide), "divisionism," and the killing of genocide survivors, indirect public pressure may have influenced the judiciary. While judges appeared to be more assertive in ruling against the executive, problems remained.

The justice system collapsed during the war and genocide of 1994. With help from the international community, it continued to undergo a slow rebuilding process and had made significant progress over the past decade.

After the Government implemented a nationwide redistricting plan in January, the legal system was closed from January to April to align court jurisdictions with the newly established government administrative territories. The four-month suspension resulted in a temporary increase in crime and complications for police as there was no legal apparatus to process accused criminals. However, after the reorganization, the Ministry of Justice and Courts significantly reduced the backlog of criminal and civil cases (see Section 1.d.).

The Government did not always have the capacity to enforce the law, and due process protections were sometimes not respected. However, during the year there were cases in which judges ruled against senior political figures and government bodies. In addition the Justice Ministry continued to implement reforms and



prioritized efforts to reduce the backlog of genocide-related and non-genocide cases. Several judges were dismissed during the year for abuse of office or corruption after investigations by the judicial council, a body charged with oversight and discipline of the judicial branch.

An ombudsman was mandated to conduct investigations into judicial corruption; by year's end the ombudsman's office had conducted four such investigations and referred them to the prosecutor general's office.

The constitution provides for the adoption of a system of ordinary and specialized courts. Ordinary courts include the Supreme Court, a high court, provincial courts, and district courts. Specialized courts include gacaca courts and military courts.

During the year there were reports of government officials influencing gacaca judges.

*Trial Procedures.*—In the regular court system, the law provides for public trials with the right to a defense (but not at public expense), a presumption of innocence, and a right to appeal, and these provisions were generally respected in practice; however, some appeals cases were subject to lengthy delays. Most trials were public, and, in the regular court system, defendants had the right to question witnesses used against them and present witnesses and evidence on their own behalf, although this right was sometimes limited. By year's end there were approximately 250 lawyers and 259 judges in the country, and the poverty of most defendants made it difficult for many of them to obtain legal representation. An estimated 10 percent of defendants were able to afford a private lawyer. Lawyers without Borders continued to train gacaca judges but lacked the resources to provide defense counsel to those in need. New court officers continued to be sworn in and assigned to courts across the country, but the Government did not have a sufficient number of prosecutors, judges, or courtrooms to hold trials within a reasonable period of time.

During the year there were trials in the regular courts that did not meet internationally accepted standards due to factors such as the lack of defense counsel for many accused persons, and in one high-profile appeals case—that of former President Bizimungu and former transport minister Charles Ntakirutinka—the Supreme Court based its verdicts of guilt on a previous trial widely criticized by observers for its lack of compelling evidence and limits on the right to cross-examine witnesses and to present witnesses.

The RDF continued to dismiss soldiers for indiscipline and criminal offenses. The RDF routinely tried military offenders in military courts, which handed down sentences of fines, imprisonment, or both during the year. Military courts provided defendants with an attorney at public expense, and defendants have the right of appeal and had access to government-held evidence relevant to their cases. The law stipulates that civilians who were accomplices of soldiers accused of crimes be tried in military court. Military courts tried several dozen civilians during the year.

On July 15 the gacaca courts transitioned from the pilot phase to nationwide hearings in order to resolve the enormous genocide caseload. Gacaca officials set the end of 2008 as the deadline for completing all gacaca hearings. Of genocide-related cases, less than 10 percent involved suspects in category I—those accused of the most severe genocide crimes—and were to be tried in conventional courts. The majority of individuals charged with genocide-related crimes have been classified as categories II or III, and their cases were handled by the gacaca system, either tried in gacaca courts (category II cases) or settled through gacaca mediation (category III cases). Between 2002, when the first gacaca courts began operating, and year's end, approximately 51,000 genocide-related cases had been completed in gacaca courts.

Gacaca courts served as the Government's primary judicial process for adjudicating hundreds of thousands of genocide cases. The Government's stated goal for gacaca was to assure that those who participated in the genocide were brought to trial, furthering the ends of justice and ending impunity. Given the heavy volume of genocide-related cases, which the Government estimated would take 100 years to resolve in the conventional court system, most observers agreed in principle with the need for gacaca courts.

Lawyers were not permitted to participate officially in gacaca but could testify as private citizens. There were 169,442 gacaca judges (seven per gacaca court), or "persons of integrity" elected by the community and provided with gacaca law training, serving in 12,103 gacaca courts across the country, including 1,545 appellate courts.

During the year an increased number of gacaca judges were implicated in the genocide and subsequently replaced. There were reports that some government officials unduly influenced gacaca judges during the course of some hearings.

Defendants in gacaca courts had the right to present witnesses and evidence on their own behalf. There was a right of appeal in gacaca proceedings at sector-level

courts. The registration procedure for observing gacaca trials made it time-consuming for human rights groups to monitor the trials, which were public.

The gacaca process was generally considered to be more effective at providing justice than at fostering reconciliation, and it was not always perceived as fair. For example some gacaca judges denied defendants the right to present witnesses and ordered the imprisonment of those who questioned the impartiality of gacaca judges (see Section 2.a.). Furthermore, poorly qualified or trained judges and ill-defined guidelines on evidence and hearsay were problems. During the year there reports that local gacaca officials and citizens abused the process to pursue personal matters and settle grudges unrelated to the genocide, including making false accusations in order to acquire land.

For example, according to the *New Times*, a senator and a local district mayor accused both local leaders and gacaca judges in Gicumbi District, Northern Province, of engaging in corruption, including the transfer of bribe money, related to gacaca trials. The governor of the Northern Province urged local leaders not to attempt to influence the outcomes of gacaca trials.

According to local human rights groups, during the pilot phase, which ended in June, interference by government officials at all levels of gacaca was a major problem, and gacaca law did not provide sufficiently for fair and impartial justice. According to Lawyers without Borders the courts that were operating under the original pilot phase, which continued operating after the nationwide expansion of gacaca, had obtained an appreciably higher level of performance, compared to their opening efforts, by year's end.

The gacaca law provides for reduced sentences including community service, for cooperation, and credit for time served. However, many of the accused have been held since 1994.

In addition because the Government had not given the gacaca courts the authority to consider human rights abuses allegedly committed by the RPF during the 1994 genocide, some human rights groups have criticized the gacaca courts for representing a form of incomplete or one-sided justice, and for being biased against those who acted on behalf of the former government. The Government countered that RPF abuses have been addressed by requisite civil and military authorities, and that such abuses could not be equated with the genocide. During the year military courts did not hear any cases relating to abuses allegedly committed by the RPF during or shortly after the 1994 genocide.

Although the great majority of gacaca hearings are held without incident, there were 328 incidents of violence involving gacaca trials during the year, and threats against genocide witnesses hampered the gacaca process; persons accused of genocide-related crimes, including some individuals who had been released by the Government from pretrial detention, reportedly made these threats. The Government held local communities responsible for protecting witnesses, and relied on the LDF, local leaders, police, and community members to ensure the safety of witnesses. Early in the year the Government established a task force to review the situation of genocide survivors. Despite these efforts, however, unidentified individuals killed between 12 and 20 genocide survivors and injured 32 in attacks during the year (see Section 1.a.).

During the year the Government continued to conduct criminal investigations of organized groups that targeted and killed genocide witnesses in certain provinces. Criminal investigations resulted in the prosecution of some persons.

According to the Ministry of the Interior, at year's end conventional courts were handling the cases of hundreds of persons accused of participating in the assassination of witnesses, survivors, and judges. During the year, the police processed 215 cases involving the charge of genocide ideology, and 172 cases of divisionism. Nearly all cases involved gacaca proceedings; persons accused of attacking or abusing genocide survivors or witnesses to genocide were charged with genocide ideology or divisionism as well as with substantive criminal offenses such as attempted murder or assault.

IBUKA, an umbrella association for genocide survivors, criticized the Government during the year for not doing enough to prevent the killings of genocide witnesses, saying the lack of adequate action encouraged additional killings. IBUKA also criticized the Government for not having provided a report promised by the Prime Minister in early 2004 about the situation of genocide survivors and gacaca witnesses; it also called for increased cooperation between gacaca courts, police, conventional courts, and mediators.

In December the President presided over a meeting that addressed the killings of genocide survivors (see Section 1.a.).

Some citizens were still too frightened to testify in gacaca courts. However, while thousands of citizens left for Burundi, preliminary reports indicating that their

movement was partly due to fears of gacaca appeared to have been overstated, and the large majority did not claim fear of gacaca as their reason for leaving the country, according to the Office of the UN High Commissioner for Refugees (UNHCR) (see Section 2.d.). Nevertheless there were reports of more than 20 suicides among genocide survivors.

Near the end of 2005, gacaca officials reported that 69 persons accused of genocide-related crimes had committed suicide during the year out of fear of appearing before a gacaca court. Although gacaca officials reportedly continued to monitor suicides by genocide suspects during the year, no additional information was available by year's end.

A section of the Organic Genocide Law is designed to encourage confessions in exchange for reduced sentences for individuals accused of genocide-related crimes other than category I crimes (see Section 1.d.). Following efforts by the Government, international donors, and NGOs to advertise widely the confession provisions, by year's end over 300,000 individuals had confessed to genocide-related crimes since the law was implemented in 1996. According to gacaca officials, 90 percent of the prison population had confessed to some category of genocide crime. Their testimony may implicate up to one million additional persons in the genocide who have not yet been detained by police; in January the Government estimated that gacaca may implicate a total of between 700,000 and 1 million citizens, one-eighth of the country's total population.

The Government continued to implement a policy of incentives and disincentives to elicit more confessions from detained genocide suspects. Under the policy, if a genocide suspect does not confess to the genocide-related crime of which he is accused, then he could lose some of his privileges, including his right to see his family. During the year there were continuing concerns among observers and analysts over what was believed to be a sizable number of cases where persons had provided false testimony, despite the penalties for providing such testimony. In 2005, many detained genocide suspects reportedly told a human rights NGO they had confessed just to avoid losing their privileges.

A gacaca law passed in June 2004 stipulates that anyone who is convicted of a Category I or II genocide-related crime is no longer eligible to vote. The gacaca law does not specifically prohibit those convicted of genocide from entering certain professions; however, the codes of ethics for certain professions, including that of teachers, doctors, lawyers, and civil servants, did not allow convicted criminals to enter those professions.

During the year the National Unity and Reconciliation Commission (NURC) postponed until April 2007 the release of a survey on gacaca (relating to the status of unity and reconciliation in the country) that had been scheduled for June.

The ICTR continued to prosecute genocide suspects during the year (see Section 4).

*Political Prisoners and Detainees.*—There were some short-term political detainees during the year. HRW reported that local officials briefly detained some individuals who disagreed publicly with government decisions or policies. Such individuals were usually not charged and released after a day in detention.

Former President Bizimungu and one of his co-defendants, former transport minister Ntakirutinka, remained in prison after a court convicted them of three counts—incitement of civil disobedience, formation of a criminal association, and embezzlement of public funds—in a 2004 trial that did not meet international standards. In March the Supreme Court upheld the sentences of 15 years for Bizimungu and 10 years for Ntakirutinka and reversed the lower court's not-guilty verdict on the charge of plotting against the Government using violence; however, the court ruled in favor of the appeals of the six co-defendants in the case, who were immediately released. Prior to their arrest in 2002, Bizimungu and Ntakirutinka had sought to establish the Party for Democratic Renewal, a new opposition party; authorities claimed Bizimungu had used inflammatory rhetoric based on ethnicity, considered divisionism. The Government permitted the ICRC access to Bizimungu and Ntakirutinka.

During the year local human rights NGOs criticized the trial privately, saying the verdicts of guilt were politically motivated, resulting from Bizimungu's intended candidacy for the 2003 Presidential election, and illustrated the Supreme Court's lack of independence. HRW also criticized the ruling that the Supreme Court upheld for Bizimungu and Ntakirutinka, stating that the lower court had committed "egregious errors" in 2004 and that evidence presented by the prosecution was weak and contradictory. HRW added that the lower court had limited the defendants' rights to present a legal defense and refused to allow them to cross-examine the prosecution's witnesses and to call other witnesses.

In May authorities arrested Colonel Patrick Karegeya, former RDF spokesman and head of the National Security Services, and charged him with insubordination. Several weeks after his arrest, authorities also charged him with desertion. A military tribunal found him guilty in June and sentenced him to 18 months in prison. The defining evidence in the trial was the testimony by the RDF chief of general staff that Karegeya refused a direct order to report for duty. Local media reported that the army prevented friends and relatives from seeing Karegeya after his conviction, although authorities denied such reports. In April 2005, authorities arrested Karegeya and detained him incommunicado for six months reportedly for “indiscipline,” although authorities never charged him before releasing him in late September 2005.

Pierre Gakwandi and Kavutse, both former members of the MDR, were released from prison after completing their jail terms, Gakwandi in January, and Kavutse in April 2005 (see Section 1.c.). Following the 2003 arbitrary arrest and detention of Gakwandi, then secretary general of the MDR, a court convicted and sentenced him to four years in prison.

*Civil Judicial Procedures and Remedies.*—There are mechanisms for citizens to file lawsuits in civil matters including violations of their constitutional rights. There continued to be problems enforcing domestic court orders; however, unlike in the previous year, there were no reported instances of authorities refusing to release prisoners despite orders to do so.

*Property Restitution.*—There were reports that property restitution was denied to individuals who had not gone through the gacaca process.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The constitution and law prohibit such practices, and authorities generally respected these prohibitions; however, there were some reports that the Government monitored homes and telephone calls.

Between 1997 and the end of 2001, more than 600,000 persons were relocated to government-designated resettlement sites in compliance with a “villagization” policy. While villagization remained government policy, the the Government did not compel these persons to remain in the villages; however, some individuals continued to reside on the settlement sites because of restrictions on where houses could be built.

Unlike in the previous year there were no reports that residents in one province were refused land rights unless they provided a gacaca certificate attesting that they were not implicated in the genocide.

Due in part to the insurgency in the late 1990s, government policy requires male citizens above the age of 18 to participate in night watch patrols. During the year the Government sometimes arrested, detained, and allegedly beat individuals who refused to participate (see Section 2.c.).

The UNHCR reported one instance of suspected recruitment of children for forced labor or child soldiering from a Rwandan camp for Congolese refugees by a DRC-based armed group (see Section 2.d.).

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press “in conditions prescribed by the law”; however, the Government at times restricted these rights in practice by enforcing overly broad and vaguely defined laws. International press freedom NGOs reported instances in which the Government harassed, convicted, fined, and intimidated independent journalists who expressed views that were deemed critical of the Government on sensitive topics, or who were believed to have violated journalistic standards monitored by a not-wholly independent media regulatory council. Some journalists practiced self-censorship.

The law prohibits “any propaganda of ethnic, regional, racial, or divisive character or based on any other form of divisionism,” and public incitement to “divisionism” is punishable by up to five years in prison, heavy fines, or both. Individuals could criticize the Government publicly and privately on most topics; however, a law prohibiting the promotion of ethnic divisionism and genocide ideology continued to discourage citizens from expressing viewpoints unacceptable to the Government on sensitive subjects, such as criticism that might be considered to “attack the dignity of a high authority” and statements that might be considered to promote societal divisions. During the year the expression of such viewpoints sometimes resulted in the imprisonment, harassment, or intimidation of citizens by government authorities. For example, on October 6, a court sentenced Father Jean-Marie Vianney Uwizeyeyezu, a Catholic priest who headed a parish in southern Rwanda, to 12 years in prison for “having downplayed the [1994] genocide.” Authorities arrested and detained Uwizeyeyezu in May after he allegedly quoted several traditional

sayings during mass that were interpreted as a negation or denial of the genocide, which is prohibited by law. Unions reportedly told the International Trade Union Confederation (ITUC) that the Government continued to pressure them not to express opinions publicly.

During the year there were positive and negative signs regarding the ongoing development of an independent domestic media and press freedom. Some international human rights NGOs perceived deterioration in certain areas of press freedom and freedom of speech; however, some domestic journalists said there was more press freedom during the year. Although there were still considerable constraints on press freedom, some Rwanda observers said the domestic press corps was more outspoken in its criticism of the Government on many topics. A number of domestic journalists spoke out freely against the Government, and articles critical of the Government appeared regularly. The number of publications reportedly increased and the Government issued new radio licenses; however, few domestic radio stations broadcast hard news programs, and there continued to be a lack of trained journalists. Other observers said they perceived a lack of trust between the media and the Government, noting that government criticism of the domestic media during the year may have illustrated residual concerns about the media stemming in part from the role the media played in provoking the 1994 genocide.

There were both privately and government-owned newspapers, published in English, French, and Kinyarwanda. The *New Times*, an English-language paper with close ties to the Government, whose shareholders reportedly included senior government officials, was the only newspaper published daily. There were 37 newspapers, journals, and other publications registered with the Government. The country's independent newspapers—including *Newsline*, *Umuseso*, *Umuko* (published twice each month), and the sporadically published *Umuwugizi*—regularly maintained positions contrary to or critical of the Government, although such criticism was usually limited to less sensitive topics, such as issues of local government and health. The *New Times* also criticized government policies and officials. Unlike in 2005, there were no reports that officials seized newspaper editions; however, some journalists said government officials pressured government institutions to withhold advertising from independent newspapers.

The law authorizes private radio and TV broadcasting, subject to the approval of the Government; although some have complained that the licensing fees remained prohibitively high. Although the Government authorized the licensing of private TV stations, it owned and operated the country's only TV station. In addition to Radio Rwanda, which was owned and operated by the Government, there were nine independent FM radio stations broadcasting during the year, focused primarily on music. Foreign media groups, including Voice of America (VOA), BBC, and Deutsche Welle broadcast in Kigali throughout the year and were among the few stations in the country that regularly broadcast independent news. The Government allowed radio stations to broadcast increased criticism of its policies during the year, including through the use of popular citizen call-in shows featuring criticism of the Government on certain topics such as local government, health, and other less sensitive issues. However, the Government forced a foreign radio station to shut down as part of a severing of diplomatic relations with France.

On several occasions the Government restricted the operations of international media, particularly foreign news organs that disseminated views critical of the Government. During a January 26 government-sponsored conference two days after President Kagame criticized the media and accused some journalists of engaging in defamation and extortion, the head of Radio Rwanda accused two VOA and BBC correspondents of "treason." The country's police spokesman said their "ideology must be reviewed" due to excessive coverage of negative press freedom assessments by international human rights groups. On June 8, the Government did not renew the visa of a Radio France Internationale (RFI) reporter, but indicated it would accept a new reporter. International press freedom advocacy groups such as New York-based Committee to Protect Journalists (CPJ) criticized the Government's action; CPJ said it was "a grim reminder of the difficulties that many journalists face" in the country. In August, the Government reauthorized VOA broadcasts, despite having criticized VOA for what it called VOA's unbalanced reporting of Rwandan politics. In November, after a French judge implicated President Kagame in the assassination of former President Habyarimana, the Government broke off diplomatic links with the Government of France. As a result, all official French organizations in country, including RFI were ordered closed in country.

During the year the Government continued to closely monitor the press, and police occasionally summoned journalists for questioning after critical articles were published in the independent press. Unlike in 2005, authorities did not arrest a journalist. Journalists had to abide by overly broad laws that governed the media.

In April, the President publicly admonished authorities not to harass journalists and to investigate any such reports. However, according to local media, a police spokesperson reportedly threatened Radio Contact and said he would summon the station manager for broadcasting “false information” after the station broadcast allegations that police had beaten and killed Hakizimana (see Section 1.a.). It was unknown whether police had summoned the station manager by year’s end.

On July 28, after imprisoning him for nearly 11 months (including eight months for contempt of court for questioning the impartiality of a gacaca judge), authorities released Jean-Leonard Rugambage, an Umuco journalist who was arrested in September 2005 for alleged involvement in the 1994 genocide, due to a lack of evidence and procedural abuses in his case. The Gacaca Service executive secretary noted that the genocide-related charges should not have been filed by the local officials because there was no evidence to support them; the executive secretary, who reviewed the case, said that another court had already acquitted Rugambage of the same charges prior to his arrest in 2005. CPJ said they believed authorities had used “abusive procedures designed to punish him for critical reporting.” CPJ and other human rights groups called on the Government to sanction any gacaca officials found guilty of abuses; by year’s end, authorities had not sanctioned any gacaca officials connected with the case.

On August 3, the police summoned Bonaventure Bizumuremyi, chief editor of Umuco to appear before the police and the High Press Council in connection with articles deemed potentially libelous in the July 26 edition of Umuco. Instead of responding to the summons, Bizumuremyi, who claimed to have received anonymous threats after the articles were published, went into hiding and fled the country while police sought him; Bizumuremyi said he did not respond to the summons because he was given only one hour to do so, a lawyer was not available, and he was afraid to go to court alone. In his absence, the council ruled that the four articles were “unethical” and needed correcting. By August 10, when Bizumuremyi published a letter of apology for unintentionally insulting President Kagame, the council’s President said the matter had been settled. Bizumuremyi returned to Rwanda in November and resumed his editorial position.

The High Press Council, which reports to the office of the President and has four government representatives among its nine members, occasionally requested clarification from journalists on articles that potentially violated the media law or criminal libel statutes. Some domestic and international press freedom advocates continued to criticize the High Press Council for lacking independence and focusing its energy and resources on monitoring the country’s journalists while failing to defend journalists’ rights or to investigate possible infringements of press freedom.

By year’s end no action had been taken against security force members responsible for the February 2004 harassment of and death threats against five journalists, including two Umuseso editors.

In some cases journalists were harassed and threatened by unidentified individuals. For example, on January 15 four unidentified armed men forcibly entered the house of Umuco editor Bizumuremyi. The men reportedly told him to stop criticizing the Government after Umuco had published an article critical of the ruling party. The men reportedly left abruptly without harming Bizumuremyi when neighbors intervened. Police said they would conduct an investigation, but by year’s end there were no reports of any arrests in connection with the incident.

In August Bosco Gasasira, the editor of Umuvugizi, told international press freedom advocacy group Reporters without Borders (RSF) that he had received anonymous telephone threats and believed he was under constant surveillance by military intelligence agents. Gasasira’s allegations followed the publication of an article in which he criticized the country’s economy and finance minister for “influence trafficking” and trying to control the country’s economy.

On August 14, unidentified persons in Kigali attacked and beat a journalist’s brother, Olivier Tibasumba. Tibasumba’s sister, Lucie Umukundwa, a VOA stringer and head of the country’s VOA office, reported that she had received threats and, following the beating of her brother, left the country fearing for her safety. One of the assailants reportedly told Tibasumba to tell his sister to “stop interfering with our work.” The High Council of the Press conducted lengthy interviews with the stringer and her brother and provided information to the police. By year’s end Umukundwa remained outside the country and a police investigation had not resulted in any arrests.

Unlike in 2005, authorities did not seize any publications.

According to some of the country’s journalists, government officials pressured some government institutions to withhold advertising from independent newspapers. According to Freedom House, the Government continued to influence the printed press through its purchase of advertising space, upon which many private

publications were financially dependent; government agencies generally did not advertise in independent newspapers. RSF reported in August that during the year only three newspapers—the New Times, Umuvugizi, and Focus—received advertising revenues from government entities and companies linked to the ruling party. Print media often published abroad to avoid local publishing costs, which were more expensive than publishing abroad, and, according to Freedom House, to avoid direct government control of their content. However, local journalists say explicitly that it is done to avoid expensive publishing costs in Rwanda.

The Government continued to use a media law that imposes criminal sanctions on the media for libel and other forms of defamation to suppress criticism and limit press freedom. In July the country's highest court upheld a lower court's 2005 decision to sanction Umuseso editor Charles Kabonero with a suspended sentence of a year in prison (which Kabonero had already served during the appeals process) and a fine of approximately \$1,900 (one million Rwandan francs) in damages and court fees for "public insult." The defamation charge resulted from a series of analytical articles published in 2004 that criticized the deputy speaker of parliament and the Government, and from Kabonero's refusal to publish a "correction" and reveal his sources.

Unlike in previous years, the Government did not cite national security as grounds to suppress views that were unrelated to security issues but politically embarrassing or objectionable. Press freedom advocates attributed tensions between the Government and the media to the Government's reluctance or incapacity to share information. The Government attributed tensions to journalists' lack of experience and professionalism.

*Internet Freedom.*—There were no government restrictions on the Internet or reports that the Government monitored email or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet cafes were common and used regularly in the largest towns but the Internet was generally unavailable to the majority of people living in rural areas.

*Academic Freedom and Cultural Events.*—The Government did not restrict academic freedom or cultural events. Unlike in the previous year, there were no reports of authorities arresting, detaining, or suspending students on accusations of engaging in genocide ideology. By year's end authorities had released from detention all of the 60 teachers and students whose names the Ministry of Education, Science, and Technology submitted in 2004 to authorities for prosecution on charges involving genocide ideology.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice; however, there were some exceptions. Authorities legally may require advance notice for outdoor rallies, demonstrations, and meetings. There were no reports that authorities prohibited nighttime meetings, although some groups avoided nighttime meetings to avoid possible disruption.

In September the governor of the Eastern Province reportedly cancelled a march planned by local citizens to protest the acquittal of a genocide suspect by the International Criminal Tribunal for Rwanda, citing concerns that the march might become violent.

Unlike in the previous year, there were no reports that the Government prevented Landnet, an umbrella group of NGOs, from meeting, or that other civil society organizations were discouraged from meeting due to the Government's actions (see Section 4).

The Government continued to limit the type of locations where religious groups could assemble, at times citing municipal zoning regulations as the reason. Unlike the previous year, there was no national ban on the building of structures for the meetings and worship services of Jehovah's Witnesses; however, there were still local government officials who prevented the new construction of Kingdom Halls (see Section 2.c.).

*Freedom of Association.*—The constitution provides for freedom of association; however, the Government limited this right in practice. Private organizations were required to register, and in practice the Government generally granted licenses without undue delay; however, there were some exceptions.

To obtain a provisional six-month approval, domestic NGOs must present their objectives, plan of action, and financial information to local authorities of every district in which the organizations intended to work. After obtaining provisional agreement, domestic NGOs must apply for registration (legal recognition) each year under the authority of the Ministry of Justice. If a local NGO is initially denied registration, the NGO sometimes must renew its registration documents. These re-

quirements made registration extremely difficult for some organizations. Domestic NGOs were required to submit financial and activity reports each year to the national government.

The Government also requires international organizations to register each year, and to obtain yearly provisional authorization from the local governments of every district in which the organizations intend to work, followed by final authorization from the requisite ministry. This requirement made registration difficult for some organizations. In addition, the Government requires international organizations to submit yearly reports with the relevant local governments and national level ministries. The paperwork involved was burdensome.

According to a report released in 2005 by Frontline—International Foundation for the Protection of Human Rights Defenders, local and international NGOs are required to give “all data and documents concerning [their] activities” within one month of a request by “the concerned authorities.”

Consistent with its antidivisionism policy of not acknowledging individual ethnic groups, the Government did not recognize the Batwa as an “indigenous group.” However, it recognized and conducted joint health and education projects with the Community of Indigenous Peoples of Rwanda (CAURWA), a Batwa advocacy organization (see Section 5).

The constitution provides for a multiparty system of government and for the free operation of political organizations; however, the Government restricted political party activities, and all political organizations were constitutionally obliged to join the Forum for Political Organizations, an organization designed to define and regulate party behavior and enhance interparty communication and coordination (see Section 3). During the year there were no reported efforts to form a political party opposed to the Government, and there were no reports of the Government denying parties registration. The MDR remained inactive during the year as a result of a May 2003 recommendation by parliament to ban the MDR shortly before Presidential and legislative elections. Although the Supreme Court never acted upon the recommendation, the MDR was dissolved shortly thereafter when all existing political parties were required to re-register under a new political party law. There were no signs during the year that the MDR would reconstitute itself or that authorities would allow it to do so.

Former MDR members denied reports that the Government continued to harass them.

*c. Freedom of Religion.*—The constitution provides for freedom of religion and the Government generally respected this right in practice; however, there were some exceptions. The Government failed to prevent local authorities and security forces from arresting, detaining, beating, or harassing more than 50 Jehovah’s Witnesses, although there were fewer reports of such abuses than in the previous year.

The law requires that all nonprofit organizations, including churches and religious organizations, register with the Ministry of Local government and with the Ministry of Justice to acquire the status of “legal entity.”

During the year a foreign pastor reported difficulties registering his church, and there were reports that some religious organizations operated without legal recognition because the registration process was arduous, which government officials confirmed. Members of unregistered groups were vulnerable to censorship and possible detention. The Government did not deny any new applications during the year; however, the Government continued the 2003 suspension of two local splinter organizations, the United Methodist Church of Rwanda, led by Jupa Kaberuka, and the International Union Methodist Community, led by Louis Bwanakweli. Both attempted to register as the primary Methodist group in the country and claimed to be the regional representative of the World Methodist Church.

The Government continued to suspend the registration of two Pentecostal churches led by foreign pastors, and one of the pastors left the country during the year. The suspension began in 2004 presumably because of immigration irregularities allegedly engaged in by the pastor, and due to an ongoing dispute over the naming of his church.

There were reports of police beating, detaining, and arresting members of Jehovah’s Witnesses because they refused—due to religious beliefs—to participate in nighttime security patrols and sing the national anthem. In May, prison guards beat two members of Jehovah’s Witnesses, who were detained for two weeks in Huye District and released without charge.

In May a local government official, the executive secretary of Kirehe-Kigaramwe Sector (Kibungo District), severely beat a member of Jehovah’s Witnesses who authorities detained for three weeks before releasing him on May 30. The Government reported that the individual was detained for unlawful financial practices and not because of his status as a member of Jehovah’s Witnesses; it was not clear if au-



thorities ever charged the man. The Government reported that it investigated the executive secretary for administering the beating and temporarily detained him; however, authorities later released him without charge.

According to the Jehovah's Witnesses' Office of General Counsel in New York, between February and May, authorities in the Kibungo Province imprisoned 48 members of Jehovah's Witnesses for not participating in night patrols. At year's end three remained in prison. The Office of General Counsel also reported that two members of Jehovah's Witnesses were detained, released and fined for not participating in the national anthem.

All but 11 of the 93 members of Jehovah's Witnesses imprisoned or detained in 2005 for failure to participate in night patrols were released without charge; their detentions, during which police beat 12 individuals, usually lasted between two days and three months. The 11 whose cases went to court were sentenced from three to six months in prison. Another member of Jehovah's Witnesses who did not participate in the night patrols was accused of rebellion, sentenced to six months in prison, and released on January 14.

In 2005 a few judges ruled that the charges against Jehovah's Witnesses were inappropriate; they held that there was no law requiring mandatory nighttime patrols and that the prosecutor's office had wrongly applied a law requiring some form of "community work." However, at year's end three members of Jehovah's Witnesses remained in prison.

There were no reports that authorities closed a Jehovah's Witnesses Kingdom Hall and dispersed worshippers; however, the Government did not allow new Kingdom Halls or churches to be built.

In October a court sentenced a Catholic priest to 12 years in prison for comments made during a Mass in May that were interpreted as a negation of the 1994 genocide, which is against the law (see Section 2.a.).

The Government continued to require religious groups to hold services at their established places of worship and to ban the use of private homes for this purpose. Some small religious groups that met in private homes were forced to move to new locations.

Government officials presiding over wedding ceremonies generally required couples to take an oath while touching the national flag, a practice that Jehovah's Witnesses object to on religious grounds. This practice made it difficult for church members to marry as they had to find officials willing to perform the ceremony without the flag requirement. In March, two couples in Bugarsera District were denied marriage certificates due to their refusal to take the marriage oath while touching the national flag. In addition, authorities in Kigali-Muhima denied a couple marriage certificates in a public ceremony for refusing to take the oath with the flag.

According to church officials, six primary student children of Jehovah's Witnesses were suspended from school for refusing to attend Christian services. Active engagement by local Jehovah's Witnesses leaders with government officials resulted in the resolution of the issue and the readmission of the students.

During the year the Government and Jehovah's Witnesses authorities continued to address problems and misunderstandings through a collaborative mechanism begun in 2005. Jehovah's Witnesses leaders reported a better relationship between their church and the Government during the year.

On January 1 the Government consolidated the country's territorial administrative structure into four provinces, 30 districts, and 416 sectors. The subsequent change in leadership at the district and sector levels required the leadership of religious denominations to deal with new officials. During the year Jehovah's Witnesses said that ministerial-level decisions regarding the church were positive, but church leadership reported a lack of communication between the national government and some local leaders.

Unlike in the preceding year, there were a few reports that religious groups changed their location or tailored their activities to avoid confrontation with authorities due to the citing of religious figures and groups in the 2004 parliamentary report on genocide ideology.

In April authorities released and dropped the charges against the eight members of a dissident Catholic congregation ("Mouvement Marial") in Gisenyi Province who were accused of "subversive activities" and arrested in February 2004.

Unlike in the previous year, none of the groups cited by parliament in its 2004 report on genocide ideology reported difficulties approaching local authorities about concerns or topics that could be construed as "sensitive."

*Societal Abuses and Discrimination.*—Some religious leaders were perpetrators of violence and discrimination during the year, and several clergy members of various faiths faced charges of genocide in the country's courts and in the ICTR (see Section 4).

There was a very small Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice. Unlike in the previous year, there were no reports that the Government refused to provide refugee or asylum-seeker protections.

The law prohibits forced exile, and the Government did not use forced exile; however, some individuals remained in—or secretly left the country to live in—self-imposed exile because they believed their lives were in danger (see Sections 2.a. and 4).

From late 2005 to February more than 19,000 Rwandans crossed into Burundi and requested asylum. The Government of Burundi and the UNHCR determined that less than 3 percent qualified for refugee status, and the UNHCR began transporting the denied applicants back to Rwanda. During the year, more than 17,000 asylum seekers returned to the country from Burundi. There were no reports that these repatriates were mistreated upon their return. The UNHCR reported that at year's end there were 48,400 Rwandan refugees and about 4,700 asylum seekers in 23 other African countries, including 521 refugees and 2,320 asylum seekers in Burundi.

In June the Government of Tanzania expelled approximately 800 Rwandan nationals from Tanzania. The Rwandans had been living in western Tanzania for up to 40 years and accused the Tanzanian government of using harsh expulsion methods including rape, beatings, and the theft of cattle and other property. The Government of Tanzania claimed that the Rwandans had not applied for refugee status and declared them “illegal immigrants.” In September the Governments of Tanzania and Rwanda formed a high level commission to address the issue; however, the Tanzanian government again began to expel Rwandan nationals (some of whom were naturalized Tanzanians) during the same month, with approximately 200 persons arriving at the Rwandan border each day. Between March and year's end, the Tanzanian government expelled more than 13,000 Rwandans, most of whom were settled in their districts of origin. The Government worked with UNHCR and other aid organizations to assist the returnees who were resettled. Government mediators handled land disputes resulting from the large number of returnees.

The Government continued to accept former combatants who returned to the country from the DRC as part of the ongoing peace process between the two countries. A total of 6,123 former combatants from armed groups in the DRC had been demobilized and peacefully resettled in Rwanda since the beginning of the disarmament, demobilization, and reintegration program in 2001. During the year, 1,234 RDF soldiers, 575 adult former combatants from armed groups, and 58 children were demobilized. With international support, the Government's Demobilization and Reintegration Commission, the lead government agency for the reinsertion of returned former combatants, placed such persons in a two-month re-education program at demobilization and reintegration centers in the Northern Province. There also was a center solely for former child combatants (see Section 5) in the Eastern Province. After the two-month re-education period, each adult former combatant was given approximately \$90 (50,000 Rwandan francs) and allowed to return to his village. Returnees who were accused of committing genocide and over 25 years of age (or 14 years old at the time of the genocide) were subject to gacaca trials, as were all citizens.

*Protection of Refugees.*—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. The constitution recognizes the right to asylum “under conditions determined by law,” and there was a law in place to recognize refugees. However, the Government was slow to implement refugee registration procedures, and most persons seeking asylum or refugee status had to seek private assistance (finding housing, food, and other supplies) while awaiting formal recognition by the Government.

In practice the Government provided some protection against refoulement, the return of persons to a country where they fear persecution. The Government granted refugee status and asylum during the year. Unlike in the previous year, there were no reports that the Government pressured the Government of Burundi to forcefully repatriate Rwandan asylum seekers, sent soldiers to Burundi to repatriate them, or denied the UNHCR access to returning asylum seekers.

Unlike in the previous year, there were no reports that the Government declared Burundian asylum seekers in Rwanda “illegal immigrants.” The UNHCR continued to assist refugees and asylum seekers and provided temporary protection to 47,170 persons, the vast majority of whom were refugees from the DRC. The Government generally cooperated with the UNHCR.

During the year there was one report of a DRC-based armed group recruiting between 20 and 30 children from a Rwandan refugee camp to be used as combatants or forced laborers. The Government responded to the alleged incident by sending counselors from the National Demobilization and Reintegration Committee to the camp to educate the refugee population on the dangers of child soldiering.

Unlike in the previous year, there were no reports that the RDF was involved in the recruitment by Congo-based militias of children from Rwandan refugee camps for use as soldiers.

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

The constitution and law provide for the right of citizens to change their government peacefully; however, this right was effectively restricted.

*Elections and Political Participation.*—In 2003 President Paul Kagame won a landslide victory against two independent Presidential candidates, receiving 95 percent of the vote. In legislative elections the same year, President Kagame’s political party, the RPF, won the majority of the seats in the Chamber of Deputies and Senate. International election observers, representing both foreign governments and NGOs, noted that the country’s first post-genocide elections, though peaceful, were marred by numerous serious irregularities—including ballot stuffing, “guarded” polling booths, and irregular ballot counting in at least two of the 12 provinces—and fraud. There also were numerous credible reports that during the 2003 Presidential and legislative campaigns, opposition candidates and their supporters faced widespread harassment and intimidation, including detention.

Between February and March the country held three phases of non-partisan local elections. In district, sector, and cell elections, the law prohibits candidates from making any reference to their political party while campaigning, and the elections held at these three levels during the year were conducted on a non-partisan basis, although some observers believed that voters were generally well aware of candidates’ party affiliation. During elections at the lowest level (the cell), voters cast their votes by lining up behind candidates rather than by secret ballot; government officials said they used the line-up voting system due to significant resource constraints and the expense of providing ballots and ballot boxes. There were no reports of intimidation or of security forces pressuring citizens to vote for particular candidates, but some observers expressed concerns, noting that citizens had criticized the line-up voting system when it was first used in 1999 because it made voters susceptible to influence and possible repercussions due their votes. In elections for key district officials, voters used the secret ballot, while other elections were indirect.

Candidates in the district level elections were legally required to have a minimum education level to stand for election. All the local elections generally were conducted efficiently and peacefully, and although there were some organizational problems and confusion among voters, voter participation rates were high, according to officials. In February the pro-government newspaper the *New Times* published at least six articles containing allegations of coercion of voters, a few claims of fraud from losing candidates, and other irregularities, as well as criticism from the National Electoral Commission’s chairman of unprofessional conduct by election volunteers and observers. In addition, HRW said that observers reported “numerous irregularities, including stuffing of ballot boxes and intimidation of candidates.” The National Election Commission investigated allegations of irregularities, reportedly intervened to correct some during the elections, and said that “despite the irregularities, the elections were free and fair.” Although the elections were non-partisan, there were many cases of last-minute withdrawal of candidates, which led to considerable speculation that some candidates were favored by authorities and others actively discouraged from running.

An African Peer Review Mechanism (APRM) country report released during the year by the New Partnership for Africa’s Development (NEPAD), a mandated initiative of the African Union (AU), recommended that the country’s electoral commission respect the constitutional principle of a secret ballot in local elections to protect citizens from the likelihood of intimidation and other undemocratic practices. The report also recommended that the Government provide the electoral commission with more resources to undertake a needed renovation and modernization of the voters’ register, to discharge its duties effectively, and to shield it from various sources of influence. The report noted that “the Government faces an uncomfortable di-

lemma—how to promote political pluralism in a country where political parties have in the past been organized along two main ethnic lines.” It stated that the country had made some positive trends but had to increase its efforts in areas such as political pluralism.

The RPF continued to dominate the parliament and the political arena. According to the Bertelsmann Transformation Index 2006, which was released during the year and analyzed what it perceived as several countries’ political strengths and weaknesses, the “hegemonic role of the RPF” and the weakness of the party system is partly due to the “successive abolition” of important parties and the fact that “political parties do not differ in terms of proposed policy” but reflect regional divisions.

Seven other political parties were represented in the Chamber of Deputies and the Senate; however, most chose to associate themselves with the RPF rather than assert independent positions. In accordance with the constitution, which states that “a political organization holding the majority of seats in the Chamber of Deputies may not exceed 50 percent of all the members of the Cabinet,” members of other political parties held key positions in government and parliament, including that of the Prime Minister and the speaker of the Chamber of Deputies. In the Chamber of Deputies, 13 of the 53 directly elected members belonged to parties other than the RPF. All political parties represented in parliament held regular meetings, and were authorized to recruit new members and stand for election, although recruitment meetings below the provincial level are not legally allowed.

The Senate regularly called ministers and other government officials to testify in oversight hearings to examine use of ministry budgets, performance of personnel, and program efforts.

The constitution provides for a multiparty system but provides few protections for parties and their candidates. According to the AU’s APRM report, the country had made significant progress toward political pluralism, but parties were still “not able to operate freely” and faced legal sanctions if accused of engaging in divisive acts. The report also noted that the constitutional freedom to form, join, and belong to political parties is undermined by onerous conditions and other constitutional provisions, including one that prohibits parties from operating at the district, sector, and cell levels. The MDR, which by 2003 had become increasingly critical of government policies while holding positions in the transitional government, remained inactive during the year, which at least one local NGO said was a result of the May 2003 recommendation by parliament to ban the MDR shortly before national elections (see Section 2.b.). Furthermore the Government’s continuing campaign against divisionism, and its holding of political detainees and prisoners (including former President Bizimungu), including the occasional use by local officials of illegal detention against those critical of the Government, discouraged open debate or criticism of the Government or its policies (see Sections 1.d., 1.e., 2.a., 2.b, 2.c. and 4).

All political organizations were constitutionally required to join the Forum for Political Organizations, which continued to limit competitive political pluralism, according to the AU’s APRM report. In addition the law regulates the formation, structure, and functioning of political organizations; it also monitors their use of the media, management of financial assets, and relations between political organizations and other institutions. The law outlines a code of conduct for political organizations. For example the law states that political organizations have the “moral obligation to condemn any biased ideas and behavior aimed at turning the state into a state governed by a cluster of politicians.” The law also outlines the Government’s ability to cancel an organization’s mandate.

Unlike in the previous year, there were no reports of any increase in the number of senior political officials implicated in the 1994 genocide, and no members of parliament were pressured to resign during the year.

The constitution requires that at least 30 percent of the seats in parliament be reserved for women, who won approximately 40 percent of the seats during the September 2003 legislative elections. At year’s end there were eight women in the 26-seat Senate and 39 women in the 80-seat Chamber of Deputies. In addition President Kagame appointed nine women to ministerial positions, representing 32 percent of the positions in his cabinet.

There was one member of the Batwa ethnic group in the 26-seat Senate but none in the Chamber of Deputies.

*Government Corruption and Transparency.*—Corruption of government officials was a problem. During the year the Government prosecuted several corrupt officials, including two ministerial secretaries general. According to Transparency International’s (TI) 2006 Corruption Perceptions Index, corruption among the country’s public officials was perceived by both resident and nonresident experts to be “rampant.”

There were reports of authorities harassing journalists who reported on corruption in various government sectors (see Section 2.a.).

The Government's Office of the Ombudsman had an active good governance program and several anticorruption units that worked at the local level. Although the office does not have the authority to prosecute cases, it can recommend cases to the prosecutor general's office, and during the year the office pursued several thousand corruption cases, the majority of which involved land. There were reports that some corruption charges and prosecutions were directed at political opponents of the RPF. Unlike in the previous year, there were no high-level officials convicted of corruption. The inspector general of government worked to prevent corruption. The law provides for annual reporting of assets by public officials, but not public disclosure of those assets. During the year the legislature used the auditor general's annual report to examine the conduct of government business and guard against mismanagement and corruption.

The law does not provide for access to government information, and in practice it remained difficult for citizens and foreigners, including journalists, to obtain access to government information. There were no reports of the Government denying a citizens' request for information; however, during the year some senators criticized the Government for being "secretive," for failing to make its activities known to the public, and for failing to hold regular press briefings, particularly in regard to the December 2005 killing of prisoners at the Mulindi Military Detention Facility and other alleged human rights abuses by security forces (see Sections 1.a. and 1.d.).

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

A variety of independent international NGOs and more than six increasingly independent, domestic human rights groups operated in the country, and some of them investigated and published their findings. Some domestic NGOs said the Government was intolerant of criticism and had a tendency to be suspicious of local and international human rights observers, often rejecting their criticism of its human rights practices as biased and uninformed. During the year some NGOs expressed fear of the Government and self-censored their activities and comments, even during private meetings, and particularly regarding sensitive topics such as the appeals trial of former President Bizimungu (see Section 1.e.).

Most domestic NGOs that dealt with at least some human rights issues conducted activities such as lobbying the legislature to provide more protection for vulnerable groups; facilitating dialogue on the death penalty; observing elections; raising awareness of human rights among youth; and providing explanations of legislation, legal advice, and advocacy. One local human rights NGO, LIPRODOHR, spotlighted human rights abuses; it employed some of its 600 members to conduct field investigations of alleged abuses, published its findings and discussed them with government officials—including on sensitive cases—and raised concerns about false accusations in gacaca trials. A few domestic NGOs produced publications regularly on general human rights issues.

There was a restricted atmosphere for the functioning of civil society due to the legacy of the genocide. In addition, government requirements made registration extremely difficult for some NGOs; during a discussion among domestic human rights groups on whether the Government was trying to control civil society, NGOs noted several registration requirements, including a requirement that civil society groups provide reports on their activities to the Ministry of Local government (see Section 2.b.).

New York-based NGO Freedom House reported that because of the Government's ongoing campaign against divisionism, human rights NGOs were generally reluctant to express critical views to avoid being accused by the Government of engaging in divisive political activity and of opposing the Government. However, police statistics indicated that the vast majority of prosecutions involving charges of divisionism concerned gacaca proceedings (see Section 1.e.).

Many government officials said they believed that the proper role of civil society was to support the Government, and that NGOs' work should be in accordance with national and local action plans. According to Freedom House, this belief that civil society should support the Government was so widespread that in recent years some NGOs have even criticized fellow groups for being critical of the Government.

The President of one domestic human rights NGO said the Government was employing subtler and more complicated strategies than before in dealing with NGOs and cited the requirement that NGOs obtain authorization from the Government for some projects before they can access funds provided by international donors. The NGO President said this requirement could result in further government restrictions on domestic NGOs' access to donor funds. According to Freedom House, the

law on nonprofit associations gives government authorities the power to control projects, budgets, and hiring of personnel “so that NGOs will restrict themselves to supporting government efforts in development and service provision, not policy.”

In January AI called on the Government to “end the continuing harassment and intimidation of journalists and human rights defenders”; however, by May some domestic NGOs noted that relations with the Government had generally improved and that consultations were positive between the Government and civil society on a proposed bill reforming the regulation of NGOs. Nevertheless, several domestic NGOs said they were disappointed that civil society’s recommendations had not been incorporated into the draft legislation and expressed deep concerns about the draft law.

On June 26, during a session of the UN Human Rights Council, the International Federation for Human Rights and the World Organization Against Torture, two international NGOs that work frequently with domestic NGOs in the country, alleged that the Government used various legal restrictions to “control” NGOs.

Calls by human rights groups or opposition figures for investigations of alleged war crimes committed by the RPF met with government claims that such calls equated the genocide with abuses committed by RPF soldiers who stopped the genocide (see Section 1.e.).

During the year LIPRODHOR said authorities denied it access to prisons.

In 2005 the Senate commissioned a study to identify divisionism and “genocide ideology” (support for genocide or its principle tenets) among international NGOs and scholars. By year’s end, the Senate had not yet released this report.

In 2004 the legislature released a report prepared by the Commission on Genocide Ideology about the allegedly widespread prevalence in the country of divisionism and genocide ideology. Some NGOs said during the year that the report continued to have a lingering impact in undermining the credibility of civil society, and according to Freedom House, the report “had a chilling effect on independent voices, compounding the self-censorship already prevalent among human rights defenders and others.” The report accused 13 domestic and international civil society groups, including LIPRODHOR, the country’s largest human rights NGO; religious institutions; journalists; allegedly corrupt leaders of local government; secondary schools; and the national university of engaging in divisionist activities and genocide ideology. The Government accepted the commission’s recommendation to dissolve five domestic civil society groups and used the report in conjunction with national security laws to justify arbitrary arrests and the effective dismantling of the country’s independent human rights organizations. The Government particularly targeted LIPRODHOR by freezing its assets, threatening its dissolution, and forcing its alignment with government policy. Although not officially dissolved, LIPRODOHR was essentially not operating for approximately half of 2005, and many of the NGO’s key members who fled the country claimed that the group had been infiltrated by the Government. Several key LIPRODHOR staff who left the country in 2005 continued to live abroad during the year and had reportedly sought asylum.

By the end of 2005, LIPRODHOR had rebuilt its organization, rebuilt its relationships with local government officials, and begun to travel throughout the country, conduct investigations, criticize the Government, and seek redress for its clients. During the year LIPRODOHR was one of two domestic human rights NGOs that investigated violations by the Government and engaged in discussion and lobbying with officials to address abuses. LIPRODOHR’s caseload by year’s end had nearly reached pre-2004 levels.

In response to the 2004 parliamentary report on genocide ideology, a group of pro-government domestic NGOs created an NGO “platform,” or collective, in 2005 to manage the activities of NGOs. During the year the group continued to maintain a role in managing and directing NGOs during the year through the use of umbrella NGOs, which theoretically aggregated NGOs working in particular thematic sectors; however, many observers believed that the Government controlled these umbrella NGOs. In September UN Development Program and the NHRC inaugurated a framework for cooperation among human rights NGOs including a permanent secretariat, quarterly meetings of a guiding council, and biannual plenary sessions to discuss and address human rights issues.

The Government’s lead agency for human rights was the NHRC. The NHRC released annual human rights reports for 2004 and 2005. The 2005 report criticized government action in a number of areas including illegal detentions, police beatings, and prison conditions. However, the NHRC did not have adequate resources to investigate all reported cases of violations, and according to some observers, the NHRC remained biased towards the Government in its investigations and reporting.

The ICTR continued to prosecute genocide suspects during the year. Since 1994 the ICTR has delivered 23 verdicts in 29 cases. At year’s end, there were a total of 62 detainees in the court’s seat in Tanzania: 25 on trial, 12 awaiting trial, 12

awaiting transfer, and seven pending appeal. There were no reports that the Government prevented witnesses from attending and giving testimony, or that it failed to cooperate on ICTR investigations of alleged RPF war crimes. During the year the Government expressed strong dissatisfaction with the ICTR's lack of response to its indictment on genocide charges of Callixte Gakwaya, the lead defense counsel for genocide suspect Yusuf Munyakasi; in September Gakwaya resigned.

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

The constitution provides that all citizens are equal before the law, without discrimination on the basis of ethnic origin, tribe, clan, color, sex, region, social origin, religion or faith opinion, economic status, culture, language, social status, or physical or mental disability. The Government generally enforced these provisions; however, problems remained.

*Women.*—The law does not specifically prohibit domestic violence, and domestic violence against women, including wife beating, was common. Cases normally were handled within the context of the extended family.

The law criminalizes rape, and the Government continued taking steps to enforce the law more effectively. The Government handled rape cases as priority within its courts and tribunals. In recent years those convicted of rape generally received sentences of between 20 and 30 years' imprisonment. The Government recognized rape as a problem, and in 2005 classified rape and other crimes of sexual violence committed during the genocide as a category I genocide crime. It also improved protection at the local level for rape victims testifying at gacaca courts. During the year police investigated 2,476 rape cases.

Prostitution, which is not legal, and trafficking in women for sexual exploitation remained problems (see Section 5, Trafficking).

Women continued to face societal discrimination, but the Government had multiple programs to combat these traditional practices. Women traditionally performed most of the subsistence farming. Since the 1994 genocide, which left numerous women as heads of households, women assumed a larger role in the formal sector, and many operated their own businesses. Nevertheless, women continued to have limited opportunities for education, employment, and promotion. Government efforts to expand opportunities for women included a clause in the constitution providing that at least 30 percent of the seats in parliament be reserved for women (see Section 3). Other efforts included scholarships for girls in primary and secondary school, loans to rural women, and the appointment of a minister in the Prime Minister's office for family and gender promotion to train government officials and NGOs in methods to increase the role of women in the workforce. The law allows women to inherit property from their fathers and husbands, and it allows couples to choose the legal property arrangements they wish to adopt; however, in practice it was much more difficult for women than for men to successfully pursue property claims.

The minister of gender and family promotion in the office of the Prime Minister was the lead government official handling problems of particular concern to women. A number of women's groups were active in promoting women's concerns, particularly those faced by widows, orphaned girls, and households headed by children.

*Children.*—The Government was committed to children's rights and welfare, and it took efforts to improve education and health care to children. Children headed at least 106,000 households. The Government worked closely with international NGOs to secure assistance for children who were heads of households and sensitized local officials to the needs of children in such situations.

Education is compulsory through primary school or until age 13. While primary school fees were officially abolished in 2003, most parents still had to pay unofficial fees to support basic school operations. However, children were not dismissed from school for their parents' failure to pay such fees. A survivor's fund assisted with the secondary school fees for school-age genocide survivors.

Public schools lacked essential and basic supplies and could not adequately accommodate all children of primary school age. Private primary schools often were too distant or too expensive to serve as an alternative for many children. According to the Ministry of Education, 93 percent of primary school-age children were enrolled in school. According to the UN Children's Fund (UNICEF), the net primary school enrolment/attendance ratio was 75 percent. Of the children who entered the first grade, 46 percent reached the fifth grade. Children took entrance exams to enter secondary school, and 17 percent of secondary school-age children were enrolled in school during the year.

There were no statistics available on child abuse, however, it was a problem.

According to UNICEF, 20 percent of women between the ages of 20 and 24 had married or entered into a union before they were 18 years old. The legal age for marriage for both males and females is 21.

There were some cases of trafficking and child prostitution (see Section 5, Trafficking).

Due to the genocide and deaths from HIV/AIDS, there were numerous households headed by children, some of whom resorted to prostitution to survive. Unlike in the previous year, there were no reports that the Government was recruiting children and training them to be combatants.

During the year there was one report that an armed group from the DRC recruited children from a Rwandan refugee camp for use as combatants or forced laborers (see Section 2.d.).

The Government continued to support a demobilization and reintegration program. During the year 58 children who had served as soldiers in the DRC received care and reintegration preparation from the Muhazi demobilization center for children in the Eastern Province.

There were cases of child labor (see Section 6.d.).

There were approximately 7,000 street children throughout the country. Local authorities rounded up street children (see Section 1.d.) and placed them in foster homes or government-run facilities. The Gitagata Center housed approximately 230 children, the majority of whom were rounded up by authorities in 2003. The Government supported 12 "childcare institutions" across the country that provided shelter and basic needs for 2,950 street children.

*Trafficking in Persons.*—While there was no specific antitrafficking law, laws against slavery, prostitution by coercion, kidnapping, rape, and defilement were available to prosecute traffickers. There were reports that persons were trafficked from and within the country during the year.

The country was a source country for small numbers of women and children trafficked for sexual exploitation, domestic labor, and soldiering. The largest trafficking problem was underage prostitution; small numbers of impoverished girls, typically between the ages of 14 and 18, used prostitution as a means of survival, and some were exploited by loosely organized prostitution networks.

During the year there was a report of a DRC-based armed group recruiting and trafficking Congolese from refugee camps for use as forced laborers or child soldiers in the DRC (see Sections 2.d.).

No traffickers were prosecuted during the year. The Rwanda National Police, under the Ministry of Internal Security, is the lead government agency responsible for combating trafficking of persons. While police reportedly conducted regular operations against prostitution, no statistics were available on prosecutions of those who utilized or exploited children in prostitution.

The Government made significant efforts to fight trafficking despite resource constraints. The Government provided training on sex crimes and crimes against children to police as part of the police training curriculum. During the year the police offered specialized training in recognizing trafficking, particularly trafficking involving children, to many police cadets. The Government also monitored immigration and emigration patterns, as well as border areas that were accessible by road.

Due to the genocide and deaths from HIV/AIDS, there were numerous children who headed households, and some of these children resorted to prostitution or may have been trafficked into domestic servitude. UNICEF estimated in 2004 that there were 2,140 child prostitutes in the major cities and several thousand street children throughout the country.

The Government made efforts to protect the rights of women and children. In 2005 the Government identified the worst forms of child labor, and in collaboration with UNICEF, identified three NGOs to help children working in these sectors (see Section 5, Children). When the Government dismantled prostitution rings, it offered women rehabilitation programs that included work retraining.

*Persons With Disabilities.*—The constitution provides that all citizens are equal before the law and prohibits discrimination on the basis of physical or mental disability; however, there are no laws specifically prohibiting discrimination against persons with disabilities in regard to employment, education, or access to social services, and few persons with disabilities had access to education or employment. There was no law mandating access to public facilities. The constitution mandates that one member of the Chamber of Deputies be appointed by the Federation of the Associations of Persons with Disabilities.

*National/Racial/Ethnic Minorities.*—Before the 1994 genocide, an estimated 85 percent of citizens were Hutu, 14 percent were Tutsi, and 1 percent were Batwa. Prior to the 1994 genocide, citizens were required to carry identity cards that indi-



cated ethnicity, a practice that was instituted in 1931 when the country was under Belgian colonial administration. Following the genocide, the Government banned all identity card references to ethnic affiliation as divisionist or contributing to genocide ideology. As a result, the Batwa, purported descendants of Pygmy tribes of the mountainous forest areas bordering the DRC and numbering approximately 33,000 (less than 1 percent of the population), were no longer designated as an ethnic group. On this basis the Government no longer recognized groups advocating for Batwa needs. Some Batwa said their rights as an indigenous ethnic group were denied as a result of such government policies. The Government recognized CAURWA, although it was not formally acknowledged as an organization supporting an "indigenous group." Despite the recognition of CAURWA and joint health and education projects with the Government, most Batwa continued to live on the margins of society with very limited access to education, and they continued to be treated as inferior citizens by both the Hutu and Tutsi groups.

Large-scale interethnic violence in the country between Hutus and Tutsis erupted on three occasions since independence in 1962, resulting on each occasion in tens or hundreds of thousands of deaths. The most recent and severe outbreak of such violence, in 1994, involved genocidal killing of much of the Tutsi population under the direction of a Hutu-dominated government and in large part implemented by the Hutu-dominated national army and armed youth militia called the Interahamwe. The genocide ended later the same year when the predominantly Tutsi Rwandan Patriotic Army, operating out of Uganda, occupied Rwandan territory, overthrew the Hutu-dominated government and established the Government of National Unity, which was composed of members of eight political parties and which ruled until the elections in 2003.

Since 1994 the Government has called for national reconciliation and abolished policies of the former government that were perceived to have created and deepened ethnic cleavages. The Government eliminated all references to ethnicity in written and nonwritten official discourse, and there was no government policy of ethnic quotas for education, training, or government employment. The constitution provides for the eradication of ethnic, regional, and other divisions and the promotion of national unity. While some organizations and individuals continued to accuse the Government of favoring Tutsis—particularly English-speaking Tutsis—in government employment, admission to professional schooling, recruitment into or promotion within the army, and other matters, the Government continued to deny this charge, and there was no evidence suggesting that the Government practiced ethnic favoritism. University admissions demonstrated that a substantial majority of entering students were French-speaking.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides all salaried workers, except for civil servants, with the right to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Although the effects of the 1994 genocide continued to hamper unions, they continued to regroup and assert themselves during the year; however, the Government and many employers were opposed to the idea of trade unions operating freely, and the Government's respect for union rights remained poor, according to the ITUC. The percentage of the total workforce, including agricultural workers, that was unionized was small. More than 85 percent of workers were engaged in small-scale subsistence farming in the informal sector. Approximately 7 percent of the work force worked in the formal (wage) sector.

There were no restrictions on the right of association for non-civil servants; however, the law specifically excludes civil servants from organizing. While all unions must register with the Ministry of Labor for official recognition, there were no known cases in which the Government denied recognition during the year. Unlike in previous years, the law no longer prohibits unions from having political affiliations and from publicly expressing their political opinions.

The law prohibits antiunion discrimination, but there were no functioning labor courts to resolve complaints involving discrimination against unions. According to the Central Union of Rwandan Workers (CESTRAR), employers frequently intimidated unionists through the use of transfers, demotions, and dismissals. The law requires employers to reinstate workers fired for union activity; however, there were no reports that employers had fired employees for this reason.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and while the Government respected this right in practice, some private sector employers did not and often harassed union members to discourage their activities. In addition, the law does not extend this right to agricultural workers. The law provides for collective bargaining, but

this right was severely limited in practice; only CESTRAR had an established collective bargaining agreement with the Government. In addition there were no instruments such as a national labor council to promote the law's application, and the Government was heavily involved in the collective bargaining process since most union members were in the public sector.

Participation in unauthorized demonstrations could result in employee dismissal, nonpayment of wages, and civil action against the union. Authorization was not required for union meetings.

The law provides some workers with the right to strike, but in practice this right was restricted. The law does not allow civil servants to strike. For workers who are allowed by law to strike, a union's executive committee must approve any strike, and the union must first try to resolve its differences with management according to steps prescribed by the ministry of labor. This process essentially prohibits strikes. There were no demonstrations by union members during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and the Government generally enforced this right; however, prisoners were assigned work details that generally involved uncompensated public maintenance duties. A 2001 Presidential decree authorized gacaca courts to sentence convicts to perform community service; in addition, those suspected of committing genocide who confessed were given sentences involving community service.

There was one report indicating that an armed group based in the DRC recruited children in Rwanda (see Section 2.d.).

Forced child labor occurred (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—While the law does not specifically prohibit forced or compulsory labor by children, there are laws to protect children from exploitation in the workplace; however, the Government did not effectively enforce them, and child labor, including forced prostitution, was prevalent. Except for subsistence agricultural workers, who account for approximately 90 percent of the workforce, the law prohibits children under the age of 16 from working without their parents' or guardians' permission and prohibits children under 16 from participating in night work or any work deemed hazardous or difficult by the minister of labor. Night work is defined by the Labor Code as work between 7 p.m. and 5 a.m. Children also must have a rest period of at least 12 hours between work engagements. The minimum age for full-time employment is 18 years—14 years for apprenticeships—provided that the child has completed primary school. The Government indicated in August that approximately 300,000 children (approximately 10 percent of the country's four million children under 18) were engaged in child labor. However, a UN report released during the year suggested that child labor was more prevalent, indicating that 36 percent of children between the ages of five and 14 (approximately one million children) were engaged in child labor.

The Government identified five forms of child labor as those that should be considered as the "worst forms of labor," including domestic work outside the family sphere; agricultural activities on tea, rice, and sugar cane plantations; work in brickyards and sand extraction quarries; crushing stones; and prostitution. During the year child labor persisted in the agricultural sector (particularly on tea plantations), among household domestics, in small companies, and in the brick-making industry. Children received low wages, and abuse was common. In addition, child prostitution and trafficking were problems (see Section 5). There was one report of a DRC-based armed group recruiting children to be used as combatants or forced laborers (see Section 2.d.).

The Government made efforts to improve its enforcement, but it did not have the capacity to effectively enforce laws restricting and regulating child labor; during the year there was an insufficient number of labor inspectors.

The Government worked with NGOs to raise awareness of the problem, to identify children involved in child labor, and to send them to school or vocational training. In addition, local government officials organized an awareness-raising campaign for employers, and the Government imposed fines against those who illegally employed children or sent their children to work to the detriment of their education. The Government continued to support 12 child labor inspector offices; however, the Government was unable to provide them with adequate resources to effectively identify and prevent the use of child labor.

*e. Acceptable Conditions of Work.*—The Ministry of Public Service, Skills Development, and Labor set minimum wages in the small formal sector. The Government, the main employer, effectively set most other wage rates as well. According to the Ministry of Labor, there was no single minimum wage; minimum wages varied according to the nature of the job. The minimum wages for a worker in the formal

economy did not provide a decent standard of living for a worker and his family, although it did provide a higher standard of living than that of the 85 percent of the population relying only on subsistence farming. In practice some workers accepted less than the minimum wage. Families regularly supplemented their incomes by working in small businesses or subsistence agriculture.

Officially, government offices and private sector entities had a 40-hour workweek; the maximum workweek was 45 hours. The Government mandated that the workday begin at 7 a.m. and end at 3:30 p.m., with a 30-minute break for lunch. There was no mandated rest period. The law regulates hours of work and occupational health and safety standards in the formal wage sector, but inspectors from the Ministry of Public Service did not enforce these standards aggressively. Workers did not have the right to remove themselves from dangerous work situations without jeopardizing their jobs. The same standards applied to migrant and foreign workers.

## SAO TOME AND PRINCIPE

The Democratic Republic of Sao Tome and Principe is a multiparty democracy with a population of approximately 160,000. Fradique De Menezes was reelected President in July, and parliamentary elections also were held in March; international observers deemed both elections to have been generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens. However, there were problems in some areas including: harsh prison conditions, prolonged pretrial detention, official corruption, impunity, violence and discrimination against women, child labor, and harsh labor conditions.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces arbitrarily and unlawfully killed one citizen.

On June 15, a police officer on traffic duty shot and killed Gustavo Sidonio Pinto in the village of Almas; Pinto was arguing with another motorist at the time. The police officer, Larry Alberto Paris, was arrested and remained in pretrial detention at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, but security forces on occasion used excessive force.

On September 15, soldiers accompanying forestry guards shot Argentino dos Ramos Taty. Taty was cutting a log on private property when the mixed patrol approached him, and he was shot in the leg. He told journalists he received no warning, and the patrol left him lying on the ground. Police claimed to have no information on the incident. The public prosecutor launched an investigation, which was ongoing at year's end.

*Prison and Detention Center Conditions.*—Prison conditions were harsh but not life threatening. Facilities were overcrowded, sanitary and medical conditions were poor, and food was inadequate. Pretrial prisoners were held with convicted prisoners, and juveniles were held with adults. There was only one prison, and no jails or detention centers.

The Government permitted human rights monitors to visit the prison; however, there were no visits during the year.

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

*Role of the Police and Security Apparatus.*—The Ministry of National Defense and Internal Affairs supervises and controls the military, national police, and immigration service. The police were ineffective and widely viewed as corrupt. Impunity was a problem, and efforts to reform the Criminal Investigation Police, a separate agency under the Ministry of Justice, were unsuccessful, primarily due to inadequate resources.

On January 16, a group of police officers mutinied, demanding the dismissal of the police chief, as well as better salaries and working conditions. Their occupation of police headquarters led army units to deploy and raised tensions, but on January

20 the mutineers were persuaded to give up peacefully when the police chief was suspended. There was no action on the mutineers' demand for amnesty, but they had not been punished for their actions by year's end. They were briefly suspended, but all later returned to work.

*Arrest and Detention.*—The law requires arrest warrants issued by an authorized official to apprehend suspects, unless the suspect is caught during the commission of a crime. The law requires a determination within 48 hours of the legality of a detention, and authorities generally respected this right. Detainees were promptly informed of charges against them, were allowed access to attorneys and family members, and the state provided attorneys for indigent detainees. There was a functioning bail system.

Severe budgetary constraints, inadequate facilities, and a shortage of trained judges and lawyers resulted in lengthy pretrial detention. According to the director of the Sao Tome prison, 45 percent of the country's 160 prisoners were awaiting trial as of July, and some pretrial detainees had been held for more than a year. This represented an improvement following a concerted effort to reduce the number of pretrial detainees who, in October 2005, had constituted 75 percent of the prison population.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, at times the judicial system was subject to political influence or manipulation. The government-set judicial salaries remained low, and credible suspicions persisted that judges may be tempted to accept bribes. During the year the Government took steps to strengthen the judiciary; it created a new Constitutional Court, and a concerted effort to decrease docket backlogs succeeded in reducing the number of people in pretrial detention.

The legal system is based on the Portuguese model. The court system has three levels: circuit courts, the Supreme Court, and the Constitutional Court. The Constitutional Court was created during the year and is the highest judicial authority.

*Trial Procedures.*—The constitution provides for the right to a fair public trial by a judge (juries are not used), the right of appeal, the right to legal representation, and, if a person is indigent, the right to an attorney provided by the state. Defendants are presumed innocent, have the right to confront their accusers, confront witnesses, access government evidence, and present evidence and witnesses on their own behalf. However, inadequate resources resulted in lengthy pretrial detention and greatly hindered investigations in criminal cases.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The same courts consider both criminal and civil cases, but different procedures are used in civil cases. Plaintiffs may bring lawsuits seeking damages for, or cessation of, a human rights violation as well as administrative and judicial remedies for alleged wrongs. Domestic court orders were strictly implemented.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights; however, journalists practiced self-censorship.

Two government-run and seven independent newspapers and newsletters were sporadically published, usually on a monthly or biweekly basis; resource constraints determined publishing frequency. International media operated freely.

The Government operated television and radio stations. In October 2005 the Government authorized three new independent local radio stations, and two had begun broadcasting by year's end. The Voice of America, Radio International Portugal, and Radio France International were also rebroadcast locally. The law grants all opposition parties access to the state-run media, including a minimum of three minutes per month on television.

*Internet Freedom.*—There were no government restrictions on access to the Internet, or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Severe lack of infrastructure, including inadequate electric and communications networks, limited public access to the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of peaceful assembly and association, and the Government generally respected these rights.

*c. Freedom of Religion.*—The constitution and law provide for religious freedom, and the Government generally respected this right.

*Societal Abuses and Discrimination.*—There were no reports of discrimination against members of religious groups. There was no known Jewish community and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The law does not prohibit forced exile; however, there were no reports that the Government used it.

*Protection of Refugees.*—The law does not specifically provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. During the year there were no known requests for refugee or asylum status. In the past the Government cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The constitution and law provide citizens with the right to peacefully change their government, and citizens exercised this right in practice through periodic and generally free and fair elections based on universal suffrage.

*Elections and Political Participation.*—The March 26 legislative elections gave a plurality of seats in the National Assembly to a coalition of parties, the Democratic Movement of Forces for Change/Party for Democratic Convergence (MDFM/PCD), supporting President De Menezes. The MDFM/PCD subsequently formed a government. President De Menezes was reelected on July 30, with 60 percent of the vote. International observers deemed both elections generally free and fair. On August 27, for the first time in over a decade, local elections were held; on the same date regional elections were held on Principe. The MDFM/PCD won control of five of the six districts in these elections; the principal opposition party, the Movement for the Liberation of Sao Tome and Principe (MLSTP/PSD) won one district; and a new party, Novo Rumo, won the presidency of the regional government on the island of Principe.

After a 2003 failed military coup, President De Menezes signed a framework agreement with the perpetrators of the attempted coup, which included a pledge to establish a national consensus on the country's development priorities. The resulting plan of action recommended the conversion from political party-based to geographically-based representation in the National Assembly; improvement in living conditions of the army; land and agricultural reform; establishment of legal and regulatory measures to manage the country's potential oil wealth; and improvements in the education and health sectors. The Government enacted laws establishing measures to manage expected future oil revenues for the benefit of future generations; however, during the year there was no other action taken on the framework agreement.

There were two women in the 55-seat National Assembly, four of the 12 cabinet ministers were women, and the President of the three-member Supreme Court was a woman.

*Government Corruption and Transparency.*—Official corruption was widespread. In December 2005 the Attorney General presented to the National Assembly the results of his investigation into allegations of corruption in the awarding of oil blocks. The investigation had uncovered serious procedural deficiencies in the process, and raised questions about the actions of members of the current and former governments. Lack of cooperation from Nigerian authorities (whose government shares control of the oil blocks) impeded follow-up, and no further action was taken by year's end. Low salaries for civil servants contributed to public corruption (see Section 6.e.).

There were no laws that provided for public access to government information; however, there were no reports that the Government restricted access to information during the year.

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

In the past a small number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. However, because of the general improvement in respect for human rights, during the year such groups were inactive. Government officials generally had been cooperative and responsive to their views.

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

The constitution provides for the equality of all citizens regardless of sex, race, social origin, political tendency, creed, or philosophic conviction; however, although the Government actively sought to enforce these provisions, women faced discrimination. During the year the Government created an Office of Women's Affairs and held seminars and workshops.

*Women.*—Domestic violence against women was common, and on occasion included rape. Although women have the right to legal recourse—including against spouses—many were reluctant to bring legal action or were ignorant of their rights under the law. Tradition inhibited women from taking domestic disputes outside the family. The law does not address domestic violence as such. Penalties for assault depend on the severity of the injury; if the victim loses fewer than 10 days of work, the penalty would be six months in prison, while for 10 to 20 workdays lost the sentence would be one year, and so forth. The law is strictly enforced, including in cases of domestic violence, but there was no data on the number of prosecutions in cases of domestic violence. The newly-created Office of Women's Affairs began setting up a counseling center with a hot line.

Rape, including spousal rape, is illegal and punishable by two to 12 years' imprisonment. Rape occurs occasionally, and prosecution is most likely in cases where there is evidence of violent assault as well as rape, or if the victim is a minor. No statistics on prosecutions were available. Government family planning clinics and nongovernmental organizations sought to combat rape by raising awareness of the problem.

Prostitution is illegal but did occur. Prostitution was rare in the past, but observers thought its prevalence was increasing with the growing number of foreign workers in the country.

The law does not prohibit sexual harassment, and it was a problem. No data was available on its extent.

The constitution stipulates that women and men have equal political, economic, and social rights. While many women have access to opportunities in education, business, and government, women in general continued to encounter significant societal discrimination. Traditional beliefs left women with most child-rearing responsibilities and with less access to education or to entry into the professions; a high teenage pregnancy rate further reduced economic opportunities for women. An estimated 70 percent of households were headed by women.

*Children.*—A number of government- and donor-funded programs operated to improve conditions for children, notably an ongoing malaria control project and a program for acquisition of school and medical equipment.

By law, education was universal, compulsory through sixth grade, and tuition-free to the age of 15 or sixth grade. In practice many rural students stopped attending school after the fourth grade. Schools providing education up to sixth grade were located only in district capitals. Enrollment in primary school was estimated at 78 percent. However, average class time was severely curtailed due to lack of classrooms and double-shift and triple-shift (in 82 and 18 percent of schools, respectively) systems in primary education, with students effectively having only a few hours of class time per day. Students were responsible for buying books and uniforms, although the Government provided both free to children from poor families. Transportation and tuition costs prevented some poor or rural-based students from attending secondary school. There were no differences in the treatment of girls and boys in regard to education.

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

Mistreatment of children was not widespread; however, there were few protections for orphans and abandoned children.

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

During the year the Ministry of Labor and Solidarity operated a social services program that collected street children in three centers where they attended classes

and received training. Conditions at the centers were good; however, because of overcrowding some children were returned to their families at night, and a few of these children ran away.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The law does not prohibit discrimination against persons with physical or mental disabilities; however, there were no reports of discrimination against such persons. The law does not mandate access to buildings, transportation, or services for persons with disabilities, and local organizations have criticized the Government for not implementing accessibility programs for such persons.

*Other Societal Abuses and Discrimination.*—There was societal discrimination against homosexuals.

Persons with HIV/AIDS were often rejected by their communities and shunned by their families. However, the Government provided free AIDS testing and distributed antiretroviral drugs to some patients.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution and law provide for freedom of association, and workers generally exercised this right in practice. Only two unions existed in the very small formal wage sector: the General Union of Workers, and the National Organization of Workers of Sao Tome and Principe. Both represented government workers, who constituted the majority of formal sector wage earners, and members of farmers' cooperatives.

There were no laws prohibiting antiunion discrimination; however, there were no reports such discrimination occurred.

*b. The Right To Organize and Bargain Collectively.*—The constitution and law state that workers may organize and bargain collectively; however, due to its role as the principal employer in the formal wage sector, the Government remained the key interlocutor for organized labor on all matters, including wages. The constitution provides for the freedom to strike, including by government employees and other essential workers, although during the year no strikes occurred. There are no export processing zones.

The law does not prohibit retaliation against strikers, but there were no reports of such actions during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Employers in the formal wage sector generally respected the legally mandated minimum employment age of 18; however, child labor was a problem. The law prohibits minors from working more than seven hours a day and 35 hours a week. Children were engaged in labor in subsistence agriculture, on plantations, in informal commerce, and in domestic work. No cases of child labor abuses were prosecuted, although the law states that employers of underage workers can be fined.

*e. Acceptable Conditions of Work.*—There was no national minimum wage. The legal minimum wage for civil servants was \$40 (500,000 dobras) per month, which was insufficient to provide a decent standard of living for a worker and family. Working two or more jobs was common, and labor law specifies occupations in which civil servants may work if they pursue a second job. Civil servants in "strategic sectors," such as the court system, the ministries of finance, customs, and education, and the Criminal Investigation Police, earned up to 400 percent more than other public sector employees.

Working conditions on many of the cocoa plantations—the largest informal wage sector—were extremely harsh. The average salary for plantation workers did not provide a decent standard of living for a worker and family, and the real value of their pay was further eroded by a high rate of inflation.

The legal workweek was 40 hours with 48 consecutive hours mandated for rest. Shopkeepers worked 48 hours a week. The law provides for compensation for overtime work. The law prescribes basic occupational health and safety standards; however, due to resource constraints, the Ministry of Justice and the Ministry of Labor and Solidarity's enforcement of these standards was not effective. Employees have the right to leave unsafe working conditions, but none sought to do so, and enforcement of the right was hypothetical.

## SENEGAL

Senegal, with an estimated population of 11.9 million, is a moderately decentralized republic dominated by a strong presidency. In 2000 Abdoulaye Wade, backed by a coalition of opposition parties, became President in an election generally viewed as free and fair. The National Assembly was elected in 2001 in a free and transparent election. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected citizens' rights; however, there were problems in some areas. Detention and imprisonment of political opposition figures occurred. Cruel and degrading treatment of detainees and prisoners and overcrowded prisons were problems. Questionable investigative detention and prolonged pretrial detention existed. Corruption and impunity were problems. There were limits on freedom of speech and of the press and restrictions on freedom of assembly. Domestic violence, rape, sexual harassment, and discrimination against women were serious problems. Female genital mutilation (FGM) was widespread. Child abuse, child marriage, infanticide, trafficking in persons, and child labor were reported.

There were also reports that rebels from the Movement of Democratic Forces of the Casamance (MFDC) and splinter groups, including the Movement for the Liberation of the People of the Casamance (MLPC) and the Revolutionary Front for Social Equilibrium in Senegal (FPRES), killed two government officials and at least seven civilians, committed robberies, laid new landmines, and harassed local populations.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Neither the Government nor its agents committed any politically motivated killings; however, security forces killed one person during the year. In September the media reported that police unlawfully killed a merchant in Dakar. Police argued they were acting in self-defense against a person in the process of committing a criminal offense. The Criminal Investigations Division (DIC) opened an inquiry; there were no sanctions or prosecutions by year's end.

The Government generally did not prosecute unlawful killings by law enforcement during the year.

In March 2005 customs officers shot and killed Libasse Kane in an incident involving the arrest of sugar smugglers in the city of Mbour. Local police arrested four customs officers; they were granted conditional release pending completion of the investigation. There were no developments in the case by year's end.

In April 2005 Amadou Moutar Beye was found dead in his jail cell in Dakar. Gendarmes indicated that Beye committed suicide, but the victim's family rejected this version. There were no developments in the case by year's end.

In April 2005 gendarmes accidentally killed 13-year-old Assane Fall and injured Mamadou Fall, while pursuing a suspected drug trafficker in Mbour. An investigation was ongoing but there were no new developments in the case by year's end.

In June 2005 gendarmes fired on and killed a fisherman and injured several others, including a 10-year-old child, in Kayar. This incident occurred as the gendarmes intervened to end fighting between two communities of fishermen. There were no new developments in the case at year's end.

According to statistics from Handicap International (HI), there were slightly more landmine accidents in the Casamance than in the previous year. By May 19, there were seven reported injuries and two deaths. On September 1, an International Committee of the Red Cross (ICRC) official was killed when her car hit a landmine north of Ziguinchor. Two other ICRC officials suffered minor wounds in the incident. The Government did not conduct any anti-landmine campaigns, but made efforts to remove landmines and unexploded ordnance in some areas, especially near villages to be resettled and near main roads.

Despite a December 2004 government and rebel-signed ceasefire, violence in Casamance increased during the year, particularly near the borders with The Gambia and Guinea-Bissau. In mid-March three rival factions of the MFDC, two of which were supported by troops from Guinea-Bissau, began attacks against each other. The attacks drove approximately 6,000 people to cross the border into the country in search of refuge, and displaced others (see Section 2.d.). The troops from Guinea-Bissau ultimately returned to their barracks, and there was a lull in the conflict. However, fighting re-erupted on the Senegalese side of the border in August, when government troops moved into the area thought to be occupied by radical



MFDC and MLPC rebels. Approximately 6,000 persons fled to The Gambia and other parts of the Casamance.

On January 2, MFDC rebels killed the sub-prefect of Diouloulou near Bignona. On August 28, newspapers reported that the alleged mastermind behind the death, Bertrand Sane, was arrested in The Gambia. A human rights NGO stated that Sane was later seen in the Casamance during the year; however, there were no confirmed developments in this case by year's end.

Rebel activity and armed banditry continued in the Casamance and resulted in seven civilian deaths. Rebels and robbers wounded 36 civilians during the year.

On April 19, a group of MFDC rebels robbed and killed three persons while hijacking a vehicle in Sedhiou. On December 4, bandits killed one person in attacks near Ziguinchor.

On December 20, MFDC rebels ambushed an army vehicle near the village of Kagnaru and killed two soldiers.

On December 30, armed men kidnapped and executed Mr. Oumar Lamine Badji, President of the Regional Council of Ziguinchor. The perpetrators had not been positively identified by year's end.

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

Although human rights groups noted the Government took steps to prevent disappearances, they continued to criticize the Government for its unwillingness to resolve older cases of disappearances linked to government security forces, particularly in the Casamance.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were occasional reports that government officials employed them.

Although human rights groups noted fewer examples of physical abuse committed by security forces, they claimed poor training and supervision led to cruel and degrading treatment in prisons and detention facilities. In particular they criticized strip-search and interrogation methods. The police DIC often required suspects to wait six hours or more before actually questioning them and may hold people up to 24 hours before releasing them. Police also reportedly forced detainees to sleep on the floor without any bedding, directed bright lights at their pupils, beat them with batons, and kept them in cells with minimal access to air. During the year authorities took no action against the police involved in these abuses.

Human rights organizations urged the Government to incorporate into domestic law the provisions of the international convention against torture, to which the country is a signatory.

On June 5, three gendarmes raped the wife of a soldier at a small barracks in Sabodala; they were immediately remanded to Dakar by the prosecutor and placed in detention pending investigation. On August 25, the gendarmes received sentences of two years in prison.

On September 7, Ousmane Tamoura, a soldier accused of raping a nine-year-old girl, was released after the judge determined "there was doubt" in the case. The prosecutor had asked for the soldier's release based on a doctor's statement that the victim was not a virgin and that she had not cried out during the rape.

On September 25, gendarmes in Dakar's Ouakam district detained Bineta Gueye following a protest against the mayor. She alleged that during her detention the gendarmes pulled her out of bed, stripped her, and then hit her with clubs and the butts of rifles. On September 27, she was released and immediately sought emergency care. The gendarmes conducted an internal investigation, but the case was still pending at year's end.

Forced dispersals of demonstrators by police resulted in injuries (see Section 2.b.).

According to local NGOs, three security force volunteers, who were stripped and burned with acid in November 2005 at a military camp in Thiaroye, accepted an out-of-court settlement instead of pressing charges during the year.

On August 23, approximately a dozen armed rebels ambushed vehicles near Velingara, stealing \$20,000 (10 million CFAF) and wounding three motorists. On September 7, approximately 15 rebels robbed stores and civilians in Bignona. On December 3, rebels wounded two civilians in a series of armed robberies near Ziguinchor.

On December 20, MFDC rebels ambushed an army vehicle near the village of Kagnaru; 14 soldiers were injured in the incident.

According to statistics from HI, landmine accidents in the Casamance increased during the year, resulting in deaths and injuries (see Section 1.a.).

There was at least one reported incident of mob violence. On May 27, a mentally ill man killed his parents and two neighbors. Young villagers subsequently stoned him to death.

*Prison and Detention Center Conditions.*—Prison and detention center conditions were poor. The National Organization for Human Rights (ONDH), a local human rights NGO, identified overcrowding as the major problem facing the country's prisons. At Dakar's Central Prison, which has a maximum capacity of 500 persons, approximately 1,500 were detained. At the penal camp in Dakar, approximately 800 individuals were held in a facility with a 400-person capacity. In Diourbel detainees were held outside in a former horse stable, sometimes up to 48 hours at a time.

The Government has not constructed a new prison since 1960. Some facilities were buildings that were adapted and modified to be prisons. Due to an old and overburdened infrastructure, prisons had drainage problems during the rainy season and stifling heat during the summer. Prisons lacked doctors and medicine to provide care for sick inmates, forcing them to be evacuated for treatment. One NGO reported a national ratio of one doctor per 5,000 inmates and said the Government spent only \$0.66 (350 CFAF) daily per inmate to cover all costs. There was approximately one mattress for every five detainees.

On September 9, 52 prisoners escaped from the Thies prison; only three guards were keeping watch over 668 inmates at the time of the escape. Three of the escapees had been rearrested by year's end. Following this incident, the minister of justice announced that the Government would recruit 200 guards to improve security in prisons. No recruitment was made by year's end.

There were no reported deaths in prison or detention centers during the year.

Local NGOs reported that prisoner separation regulations were not enforced consistently. Although the law requires pretrial detainees to be held separately from convicted prisoners, they were occasionally held together due to limited space. Juveniles were occasionally held together with adults. Women were held separately from men under the supervision of female prison guards.

The Government permits certain prison visits by independent human rights monitors. During the year ONDH completed its fact-finding review of prison conditions with the Government's consent and assistance; however, the ONDH findings were not published by year's end.

As in the previous year, representatives of the Assembly for the Defense of Human Rights (RADDHO) were denied access to prisoners. RADDHO reported that the lack of adequate health care facilities meant that some people with mental disorders were being kept in prisons.

The Senegalese Committee for Human Rights, Amnesty International (AI), and the Parliamentary Network for Human Rights conducted prison visits during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, authorities at times arbitrarily arrested and detained persons. Human rights groups saw arbitrary detention as a growing problem.

*Role of the Police and Security Apparatus.*—Both police and gendarmes are responsible for maintaining law and order in the country. The army shares that responsibility in exceptional cases, such as a state of emergency. The police force includes 10 departments as part of the Directorate General of National Safety. In each of the country's 11 regions, police have at least one police station and at least one mobile safety brigade. Dakar has more than 15 police stations, which are spread throughout the city. The police force effectively maintained law and order.

Impunity and corruption were problems. A 2005 amnesty law covers police and security personnel involved in "political crimes," except those who committed assassinations "in cold blood." According to human rights groups, attorneys, and alleged victims, security forces regularly and openly extorted money from detainees in exchange for release and from prostitutes to overlook noncompliance with the legalized prostitution regime and other laws (see Section 5). Human rights groups and the media also reported that security forces accepted and occasionally demanded money from persons seeking to emigrate illegally to Spain (see Section 5).

The DIC is in charge of investigating police abuses.

According to human rights groups, new members of the police force received training in human rights protection.

In May a court ruled that Port of Dakar customs officers were not guilty in the 2004 case in which they were accused of fraudulent and corrupt practices in clearing incoming goods.

*Arrest and Detention.*—Although the law specifies that warrants issued by judges are required for arrests, police often lacked warrants when detaining individuals in practice. The law grants police broad powers to detain prisoners for lengthy periods

of time before filing formal charges. Many detainees were not promptly informed of the charges against them. Police officers may hold suspects as part of an investigation without filing formal charges for up to 48 hours. Investigators can request that a prosecutor double this to 96 hours. For cases involving threats to state security, both detention periods are doubled, meaning that someone accused of threatening public order could be held up to 192 hours. The clock on investigative detention does not begin until authorities formally declare that an individual is being detained, a practice human rights groups criticized for creating unreasonably long detention periods. Bail is possible but was rarely used. During the first 48 hours of detention, the accused has no access to an attorney but has the right to a medical exam and possible access to family. Family access was not generally allowed as police tended to isolate detainees during the investigation phase. If necessary, a prosecutor can also demand a medical examination of the accused. The accused has the right to an attorney after this initial period of detention at the accused's expense. Attorneys are provided at public expense to all criminal defendants when they cannot afford one. A number of NGOs also provided legal assistance or counseling to those charged with crimes.

The Government used security forces, especially the DIC, to harass political opponents and journalists during the year. Authorities also interrogated and arbitrarily arrested a number of prominent opposition party leaders including Amath Dansokho, Ibrahima Sene, Jean-Paul Dias, and Berthelemy Dias.

On March 24, Secretary General Amath Dansokho of the Independent Labor Party, was given orders to appear at the DIC to answer questions about a March 22 press conference (see Section 6.a.); he was interrogated for six hours. Dansokho was then charged with dissemination of false information, and given a two-month suspended sentence.

Security forces arbitrarily arrested labor leaders during the year (see Section 6.a.).

According to the law, the accused may not be held in pretrial detention for more than six months for minor crimes; however, prisoners were routinely held in custody until a court demanded their release. Despite the six-month limit on detention for most crimes, the average time between charging and trial was two years. ONDH claimed many detainees were held for years awaiting trial.

Judicial backlogs of up to 400 cases contributed to long pretrial detention periods. In cases involving murder, threats to state security, and embezzlement of public funds, there are no limits on the length of pretrial detention. Judges are allowed the time necessary to investigate these more serious cases, but may order release pending trial with the prosecutor's consent. If a prosecutor disagrees with a judge's decision to order release, the order is frozen until the appeals court decides to grant or deny the release. Under the law, the prosecutor has total discretion to deny provisional release pending trial for cases involving threats to state security. However, since judges lacked sufficient time to review all cases, orders to extend detention were often signed without individual consideration of the facts to avoid releasing potentially guilty detainees.

*Amnesty.*—The International Human Rights Federation and AI continued to criticize the Ezzan Amnesty Law for encouraging impunity. The law pardons all politically motivated crimes committed between January 1, 1983 and December 31, 2004. Local human rights groups unanimously denounced the law and asked the African Human Rights Commission to intervene. In December the commission ruled that the case was not sufficiently documented to warrant a condemnation of the Government. The ruling indicated that victims could petition civil courts for reparations, and there was no evidence that such reparations were denied during the year.

On February 7, former prime minister Idrissa Seck was granted provisional release to the August 2005 corruption case against him. He had been charged with embezzlement of public funds, being a threat to national security, and illegal correspondence.

On March 2, Yankhoba Diattara received a Presidential pardon after serving only three months of a six-month sentence. He had been sentenced in December 2005 for compromising public security following his public radio announcement that led to violent protests in Thies.

On September 16, Jean-Paul Dias received a pardon after serving one month of a one-year prison sentence. On November 22, Barthelemy Dias received a pardon after serving three months of a six-month sentence (see Section 1.e.).

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judiciary was subject to corruption and government influence.

For example, on July 8 and 9, local media reported that Momar War Seck, a criminal defendant charged with breach of trust, obtained the help of Judge

Aminata Mbaye to transfer \$30,000 (15 million CFAF) to Bamba Niang, the public prosecutor handling Seck's case, and Niang's deputy. Niang reportedly asked the presiding judge, Malick Lamotte, and two assistant judges to render a favorable ruling. Judge Lamotte refused and revealed the story to the President of the regional tribunal of Dakar. The Ministry of Justice launched an investigation, but no one was formally charged with a crime. Judge Mbaye retired with full benefits, and Niang was removed from office. During the course of the investigation, the media uncovered recordings in which Judge Mbaye reportedly admitted that the court was prone to settlement of cases in this fashion.

Magistrates continued to publicly criticize their working conditions, including overwhelming case loads, lack of equipment, and inadequate transportation. Magistrates also openly questioned the Government's commitment to protecting judicial independence. While the Superior Council for the Magistrate had responsibility over judicial assignments and promotions, several attorneys stated that the council did not meet regularly to take action on appointments, leaving the decisions to the executive branch. Even when the council met, magistrates stated the President could veto council decisions.

Based on French civil law, the judiciary is composed of ordinary courts and several higher and special courts. There are three high courts with different jurisdictions: the Council of State (which has jurisdiction over administrative affairs); the Constitutional Council; and the Court of Final Appeal (which has jurisdiction over criminal and civil cases). A special criminal court, the "Cour d'Assises," is attached to the Court of Final Appeal and meets once or twice a year for cases involving serious crimes such as murder. All of these courts remained understaffed during the year.

The High Court of Justice is an exceptional court which presides over cases against senior government officials for acts committed in an official capacity. It is composed of eight national assembly deputies and one professional judge. Three-fifths of all deputies must vote to pass a resolution to permit prosecution of a head of state or minister. If a resolution is so passed, the high court can convene.

The National Assembly elects the eight deputy members of the high court plus eight substitutes at the beginning of each session. The court then has the authority to convict and sentence or acquit. Many of the special courts, such as the high court of justice, were dormant during the year.

While civil court judges are empowered to preside over civil and customary law cases, one option available is to turn disputes involving family matters over to religious judges, who act as advisors in such issues. Religious law has been incorporated into the country's laws (see Section 2.c.).

There is a separate system of military courts for the armed forces and gendarmes. Military courts may try civilians only if they were involved with military personnel who violated military law.

On January 24, the African Union (AU) rendered a decision against the Government's extradition of former Chadian leader Hissene Habre to a Belgian court to face charges of crimes against humanity. On July 2, the AU requested that the Government conduct a trial against Habre. On November 23, the minister of justice invoked a decree establishing a working group of senior judges, penitentiary managers, law professors, and ministry officials tasked with examining the ways and means to prosecute Habre. The committee started its work by year's end.

*Trial Procedures.*—Defendants have the right to a public trial, to be present in court, confront witnesses, present evidence, and have an attorney. Only defendants charged with serious crimes, such as murder, have the right to a jury trial. Attorneys are provided at public expense to all criminal defendants when they cannot afford one. Evidentiary hearings may be closed to the public and the press. Although defendant and counsel may introduce evidence before the investigating judge decides to refer a case for trial, they do not always have access to all evidence presented prior to trial. For example, in the case of Barthelemy Dias, the prosecutor introduced at trial a secret recording of which neither Dias nor his attorneys were aware.

A panel of judges presides over ordinary courts in civil and criminal cases. Jurors also sit on the panels during special sessions of the criminal court. Defendants are presumed innocent. The right of appeal exists in all courts, except for the Cour d'Assises and the High Court of Justice.

*Political Prisoners and Detainees.*—There were several reports of political prisoners or detainees during the year.

On April 14, DIC officials arrested opposition leader Jean-Paul Dias, questioned him for 10 hours, and charged him with "threatening state security" and "disturbing public order." The charges were a result of his April 7 public statement in which

he called for all opposition leaders to refuse to cooperate with the police during arbitrary interrogations. On May 10, Dias received provisional release, the equivalent of a pardon.

On August 9, an elite police unit normally reserved for kidnappings and violent crimes forcefully entered the Dias' home, struck Dias' wife in the mouth, arrested Dias, and brought him to the DIC, where he was questioned for 24 hours, then placed in Rebeuss Prison. Dias, who was held in an airless cell with approximately 20 other prisoners, reportedly lost consciousness. RADDHO, a prominent local human rights organization, was refused access to check on his condition; after a few days, Dias was hospitalized. He was charged with dissemination of false news, making a death threat against the head of state, and contempt of court. During trial the Government publicly questioned Dias' nationality, and human rights organizations criticized this government action. On August 16, Dias received a one-year prison sentence with nine months suspended, but he was pardoned after one month.

On August 12, the DIC summoned Jean-Paul Dias' son, Barthelemy Dias, and questioned him for 24 hours before placing him in detention with convicted prisoners. RADDHO sought access, but was refused. On August 14, Barthelemy Dias was formally charged with spreading false news, slander, and threats against a judicial official. On August 16, the police searched his home without a warrant and seized Barthelemy Dias' foreign passport and a weapons permit. On August 22, he received a six-month prison sentence. On November 22, he was pardoned and released.

On November 21, one of Idrissa Seck's co-defendants, former Minister of Housing Salif Ba, was rearrested on corruption and embezzlement charges. He was cleared and released two weeks later.

In December 2005 one of Seck's attorneys, Djibril Diallo, was arrested and charged as an accomplice on the "illegal correspondence" charge. The Government attempted to prosecute Diallo during the year, but abandoned the case due to pressure from the entire bar association.

*Civil Judicial Procedures and Remedies.*—Citizens have access to courts for civil cases; however, corruption and lack of independence hampered judicial handling of these cases as with criminal cases. There was an increase in the filing of cases for libel and slander against journalists which some human rights organizations charged were used as a tool of repression (see Section 2.b.). At times prosecutors refused to prosecute security officials and violators often went unpunished.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice; however, security forces entered and searched homes without warrants during the year.

For example, on June 18, Dakar police chased fighting supporters of two rival athletes into a person's home and brutalized the occupants of the home. A police official denied these accusations, and no action was taken against the perpetrators during the year.

On August 16, the DIC entered and searched the homes of Jean Paul Dias and Barthelemy Dias without a warrant.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government limited these rights in practice. Journalists continued to practice self-censorship.

Unless they were high-profile politicians, individuals could generally criticize the Government publicly or privately without reprisal. However, journalists reported being both courted and threatened by politicians during the year for spreading messages against them or those affiliated with them.

The public had four sources of news: print, radio, television, and, increasingly, the Internet. There were several dozen independent newspapers and three government-affiliated periodicals. Due in part to high adult illiteracy rates, radio was the most important medium of mass information and the main source of news. Approximately 70 radio frequencies have been assigned to community radio stations, public stations, and private commercial stations.

Although an administrative law is in place to regulate radio frequency assignments, government officials and operators disagreed on its utility, and community radio operators criticized what they viewed as a lack of transparency in the allocation of frequencies. After the Ministry of Information receives a frequency request, officials decide whether to approve the request based on financial viability, station ownership information, and program content. If the ministry approves the request, the Agency for Regulation and Communication (ART) renders a technical judgment

on the request based upon frequency strength and location. Once ART gives technical approval, the ministry grants the frequency.

There was an increase in the number of persons starting radio stations, which were often controlled by a single religious, political, or ethnic group. Although their frequencies were legally obtained, these stations often failed to follow labor and other business regulations, such as the payment of taxes. In addition the Government effectively crowded out radio stations by reportedly granting licenses to approximately 50 stations sympathetic to the ruling Senegalese Democratic Party (PDS). This led to an increase of popular radio programs being interrupted by religious chants or other unexpected programming.

Government failure to enforce regulations on establishing media outlets and government-provided media assistance resulted in a proliferation of unprofessional or politicized media outlets. Journalists and human rights groups maintained that some media outlets were created solely to refute anti-government criticism.

Although the Government continued to maintain an effective monopoly on locally televised news and information through the parastatal corporation Radio Television Senegal (RTS), there were signs of liberalization in the television sector. The recently privatized television station 2STV only broadcasts cultural and entertainment programming, but French and South African-owned satellite television services offered international programming and international news. In July the local firm Canal Info obtained a broadcasting license, but its operations were still in the test phase at year's end. In December the local Wal Fadjri Communications Group began broadcasting via satellite from Paris in the absence of a license to broadcast locally.

Under national media laws, the Government must hold a majority interest in RTS at all times, and the President directly or indirectly controlled selection of all members of the 12-person RTS executive staff. RTS' broadcasting fee structure left RTS officials with significant discretion when demanding fees for programs not financed through government funds (the Government paid for some broadcasts). Several human rights and journalist groups criticized the fact that some religious leaders were able to broadcast for free while other groups paid, and that RTS provided little coverage of opposition party messages and activities.

Journalists continued to convey concern over government efforts to control media content by selectively granting or withholding state subsidies, which were given to both government-affiliated and private independent media. The Government frequently used subsidies or more direct means to pressure the media not to publicize certain issues. In June President Wade announced he would offer the press \$600,000 to \$800,000 (300 to 400 million CFAF) in subsidies; the Ministry of Information reportedly directed those subsidies to progovernment newspapers.

On January 6, the Government dropped charges of jeopardizing national security against key managers of the Sud Communications Group for the October 2005 SUD FM broadcast and SUD Quotidien publication of an interview with MFDC/MLPC faction leader Salif Sadio. Sadio was sentenced in absentia to five years in prison, and a warrant was issued for his arrest. He remained at large at year's end.

On May 4, six followers of the well-known Koranic teacher Serigne Bethio Thioune beat journalist Pape Cheikh Fall after he questioned Thioune's political influence over his followers.

On May 18, the Government dropped charges against Madiambal Diagne, publications director of the local daily *Le Quotidien*. Diagne was imprisoned in 2004 for "release of secret correspondence and reports" and "dissemination of news tending to cause serious public disturbance."

Local media criticized the National Council for the Regulation of Audiovisual Media (CNRA), which was created in January to protect pluralism and ethics in the media, for not taking any action during the year. Critics charged that the CNRA constituted an effort to exercise Presidential control over the media since President Wade selects its members. The CNRA's members were not officially appointed until November, and the body had not received its budget by year's end.

In May AI reported that the Government tried to prevent distribution of its annual human rights report. The Government discouraged bookstore managers from importing critical works published abroad. The Government reportedly delayed and tried to prevent the importation of a book on political violence in the country by journalist Marcel Mendy. Human rights activists indicated that similar pressure was exerted on local printers who feared that publication of works critical of the Government would lead to harassment by tax collectors.

During the year the Government restricted the importation of critical books by Latif Coulibaly, Mamadou Seck, Mody Niang, and Pape Moussa Samb.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet,

including by e-mail. With more than a dozen Internet Service Providers and an estimated 1.5 million subscribers, the country had excellent online access by regional standards. Cyber cafes were easily accessible in Dakar and often available in provincial urban centers. However, approximately 60 percent of the country had no electricity, and the popularity of Internet-based information dissemination lagged far behind traditional media.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom.

The Government restricted distribution of a film by Jo Gaye Rama Ka during the year.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—Although the constitution and law provide for freedom of assembly, the Government interfered with this right in practice. During the year the Government repeatedly denied public permits for civil society and opposition demonstrations.

Groups complained of undue delays when waiting for a government response to authorization requests and majority-organized “counter demonstrations” to show popular support for the Government. In 2005 the Government authorized 62 percent of requests for demonstrations; in 2006 the figure was 72 percent. Unauthorized demonstrations were always met with disproportionate police brutality.

Police used tear gas and rubber bullets to control student protests on university campuses throughout the country. Several students were injured, including one whose arm had to be amputated. The Government accused the students of acting on behalf of opposition political parties and unspecified foreign powers.

On March 30, Malick Ndiaye, a leading member of the Committee of Initiatives by Senegalese Intellectuals, Salif Djigo, and Secretary General Youssou Toure of the Organization of Senegalese Instructors, were arrested for attempting to organize a protest without a permit. The protest was intended to bring attention to frequent electricity outages; the Government had denied their permit request. All three men were released after 24 hours of detention.

On September 7, police clubbed a group of disabled former servicemen who were protesting the Government’s refusal to issue a permit to demonstrate. The former soldiers had defied the refusal by placing themselves in front of the responsible government office.

There was no reported progress in the investigation of the 2004 death of a demonstrator in Mampatim.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

Any religious group seeking to form an association with legal status must register with the Ministry of Interior in accordance with the civil and commercial code. Registration was generally granted.

Unlike other religious groups, Muslims have the right to choose Muslim-based laws contained in the family code for marriage and succession cases. Civil court judges can preside over civil and customary law cases, but many disputes were turned over to religious judges for adjudication, particularly in rural areas (see Section 1.e.).

*Societal Abuses and Discrimination.*—There was no reported progress in the investigation into the 2004 death threats against the country’s Catholic clergy.

There were a series of anti-Semitic acts following the July-August conflict involving Israel and the terrorist group Hizballah. On August 3, the Lebanese community staged one of several peaceful protests erecting a memorial of flags with reversed swastikas. The swastikas were taken down after formal protests were lodged by local embassies. The media gave ample voice to a range of anti-Semitic views in reaction to the Lebanese conflict.

There were approximately 100 resident Jews in country.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice. Unlike in the previous year, the Government did not prevent its critics from leaving the country.

Local leaders advised NGOs to consult with MFDC representatives in the Sindian region before undertaking projects or circulating in the area. Human rights organizations also reported that the army restricted movements of local people after 7 pm.

This restriction was a result of the December attacks by MFDC members against the military (see Section 1.a and 1.c.).

Some public employees, including teachers, are required by law to obtain government approval before departing the country; however, human rights groups noted that this law was not enforced against many public servants.

During the year authorities seized the passport of Barthelemy Dias (see Section 1.d.). During the year Idrissa Seck alleged that the Government refused to issue him new tourist and diplomatic passports.

The constitution and law prohibit forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—During the 20-year-old Casamance conflict, tens of thousands of persons fled villages in the region due to fighting, forced removal, and landmines. In March renewed fighting between rival MFDC factions and Bissau-Guinean government soldiers resulted in approximately 6,000 persons of Senegalese and Bissau-Guinean origin entering the country from Guinea-Bissau. The total number of IDPs during the year was estimated to be 20,000.

The Government continued to provide returning IDPs and refugees with roofing materials for home construction and sacks of rice. The Government allowed IDP access to domestic and international humanitarian organizations.

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

Since 1989 the country has offered temporary protection for Mauritanian refugees, who generally lived in dispersed locations in the river valley along the Mauritanian border and enjoyed free movement within the country. However, most refugees could not obtain current refugee documents from authorities, and sometimes encountered administrative difficulties when using their expired refugee application receipts. While no formal repatriation agreement existed with Mauritania, the Government continued to permit generally unsupervised and largely informal repatriation. The exact number of remaining Mauritanian refugees was unknown due to the transient tendency of this population, the absence of identification documents, and cases of fraud. The UN High Commissioner for Refugees (UNHCR) and NGOs working with Mauritanian refugees estimated the number of refugees to be approximately 20,000.

There was no further government response to the Mauritanian refugee community's February 2005 memorandum detailing their situation since deportation. Mauritanian refugees had sought a UNHCR-organized return to Mauritania and receipt of UNHCR-provided refugee identification documents. During the year representatives of the UNHCR office in Dakar continued to work on a solution agreeable to all parties, and some exiles and refugees have reportedly returned to Mauritania since the August coup in that country.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. However, delays of one to two years in granting refugee status were still a concern.

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

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

*Elections and Political Participation.*—Citizens exercised their right to vote during the 2000 Presidential election in which Abdoulaye Wade, backed by a coalition of opposition parties, defeated the incumbent President in what was considered to be a generally free and fair election. There were reports of several incidents of pre-election violence and minor procedural irregularities; however, the majority of political parties and civil society accepted the result. In the 2001 legislative elections, characterized as generally free and transparent by international and national observers, President Wade's coalition won 49.6 percent of the vote and 89 of 120 seats in the National Assembly.

A lack of resources continued to restrict the activities of the Autonomous National Electoral Committee (CENA), whose members were sworn in in August 2005. The Government did not release any funds or vehicles until CENA made a number of public statements to the media about its resource constraints. On January 3, the Ministry of the Interior announced that it had permitted CENA to use some of its



vehicles. In March CENA received 10 vehicles out of a total of 52 promised by the Government. The Government finally provided a total of 55 vehicles to cover all administrative departments of the country and a budget of about \$four million (two billion CFAF).

Opposition parties have criticized CENA's perceived lack of response to alleged irregularities in registering voters during the year. The opposition claimed some members within the PDS were purposely withholding voter registration cards and insisted that CENA was doing little to address the problem.

Several electoral reforms occurred during the year. In November, a Presidential decree increased the number of National Assembly seats from 120 to 150. Opposition parties filed a court case accusing the Government of violating the law on the distribution of deputies elected by constituency based on a demographic criterion. The Council of State had not rendered a decision on the case by year's end. Also in November the assembly adopted a law making it possible for candidates to win in the first round of Presidential elections. Although the voting age is 18, a law passed on June 30 allows the Government to register those under 18 who would reach that age by election day. Also on June 30, the parliament passed a law allowing security forces to vote in Presidential and legislative elections. Opposition parties questioned how the security forces' ballots could be safeguarded since they would vote one week before election day. In addition many potential candidates protested after an August 28 decree increased the required deposit to run in the Presidential elections from \$12,000 to \$50,000 (six million to 25 million CFAF).

There were numerous problems during the year that affected preparations for the February 2007 elections. On January 19, the Constitutional Council ruled it was incompetent to rule on the legality of the 2005 constitutional amendment which extended the parliament's term and allowed the legislative and Presidential elections to be held simultaneously in 2007.

President Wade made several notable changes to voter registration procedures which human rights groups and opposition parties criticized as attempts to secure victory by making the rules less clear. For example, the President extended the deadline for registration four times, with the last deadline set for September 15.

In late November the Government revised the electoral code governing registration and electoral procedures to bring it into compliance with current practice.

Many voters had not received their voter registration cards by year's end. Although expected as part of the national voter registration campaign, the Government did not set up 500 fixed and 200 mobile voter registration offices throughout the country, and did not provide electrical generators in areas with power supply problems.

There were approximately 100 registered political parties, according to official government sources.

At year's end there were 24 women in the 120-seat National Assembly and six women in the 43-member cabinet. Only 13 percent of locally elected leaders were women. Even in areas where women won local leadership positions, they often remained a minority in the local bureaucracy. For example, Rufisque-East had a female mayor, but only 27 percent of municipal counselors were women.

There were approximately 39 members of minorities in the 120-seat National Assembly and approximately 15 members in the 43-member cabinet.

*Government Corruption and Transparency.*—There was a widespread public perception of government corruption, and it was a problem. The perception was exacerbated by salary increases over the last few years for National Assembly deputies and civil servants at all levels, along with the provision of all-terrain vehicles and land to deputies.

In November 2005 the National Commission to Fight Non-Transparency, Corruption, and government Fraud officially began its activities. On July 7, the commission announced it was seeking authority to open investigations on its own without waiting for cases to be referred to it. It also announced it was investigating approximately five cases. The commission held one hearing during the year regarding an alleged case of public works corruption. Since the commission had no authority to initiate investigations or prosecutions, it was inefficient in fighting corruption during the year.

On June 29, Pape Malick Ndiaye, who claimed to be a member of the Committee for Good Governance against Corruption, accused the Secretary General at the Presidency and Executive Secretary of the National Agency for the Organization of the Islamic Conference (ANOCI), Abdoulaye Balde, of having taken a kick back in connection with public works undertaken by ANOCI for the upcoming World Islamic Conference. On June 29, Ndiaye was arrested after admitting he did not have the evidence he claimed against Balde. Ndiaye was charged with libel and fraud of documents; his case was pending at year's end.

During the year President Wade called for the reinvestigation of a case of mismanagement involving former prime minister and Minister of Foreign Affairs Mustapha Niasse. In 2002 Niasse was accused of selling diplomatic passports to businessmen and others from the Republic of China. There was no investigation or prosecution of Niasse by year's end.

President Wade also threatened to reopen the case of Ousmane Tanor Dieng, head of the Socialist Party (PS) and cabinet director for former President Abdou Diouf. Dieng was allegedly involved in secretly selling fishing licenses to Russian ship owners to replenish PS political coffers. On July 11, Dieng denied the allegations indicating that proceeds were used by the incumbent President to replenish secret state funds. No further action was taken to prosecute Dieng by year's end.

There were no developments in the 2005 corruption investigation of Pather Ndiaye, former Port of Dakar director general. Many alleged corruption cases involving political or judicial authorities were not pursued by prosecutors during the year.

The constitution and law provide citizens the right to access government information freely; however, the Government rarely provided access in practice.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. However, some human rights organizations reported that their telephones were regularly tapped during the year.

The Government's National Committee on Human Rights had a broad membership, including government representatives, civil society groups, and independent human rights organizations. The committee, which receives its budget from the Government, had the authority to investigate abuses on its own initiative; however, the committee was poorly funded and ineffective in promoting human rights. It did not release a report during the year.

Some members of human rights organizations, opposition parties, and others critical of the Government reported receiving death threats during the year. For example, on August 30, Jacques Habib Sy, executive secretary of the NGO Aid Transparency, reported to the DIC that he had received anonymous death threats two days earlier. No arrests were made. Death threats against leaders of opposition political parties, unions, journalists, and NGOs were common and generally believed to originate in circles close to the ruling party.

Members of the Parliamentary Network on Human Rights and the Rule of Law visited prisons. The ONDH, the local branch of AI, and the Senegalese Committee on Human Rights also organized prison visits during the year.

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

The law provides that men and women are equal under the law and prohibits discrimination based on gender, race, class, or language; however, gender discrimination was widespread in practice, and antidiscrimination laws often were not enforced. Domestic violence, rape, sexual harassment, discrimination against women, FGM, child abuse, child marriage, and trafficking in persons were problems.

*Women.*—Domestic violence, including spousal abuse, was a widespread problem. Several women's groups and the local NGO Committee to Combat Violence against Women (CLVF) reported a rise in cases of violence against women during the year. Violence against women is against the law, but the Government did not enforce the law in practice. The law criminalizes assaults and provides for a punishment of one to five years in prison and a fine. If the victim is a woman, the prison term and fine are both increased. Domestic violence that causes lasting injuries is punishable with a prison sentence of 10 to 20 years, and if an act of domestic violence causes death, the law prescribes life imprisonment. There were increasing reports of violence between co-wives in polygamous marriages.

Police usually did not intervene in domestic disputes, and most persons were reluctant to go outside the family for redress. Some groups felt that the harsh sentences under the law caused judges to require higher burdens of proof before finding potential offenders guilty, resulting in fewer total convictions for domestic violence. The CLVF criticized the failure of some judges to apply the law. There were no statistics available on the number of abusers prosecuted under the law during the year.

Throughout the year women in several cities held rallies and marches to protest violence against women. For example, hundreds of women took to the streets in Ziguinchor to protest the August 25 beating of Henriette Tine by her husband, a

repeat offender. Tine's husband was charged and the case was pending at year's end.

Also in August an influential Arabic teacher in Mbour severely beat his brother's pregnant wife in a succession dispute. After two weeks in prison, he was prosecuted and sentenced to pay a fine of \$40 (20,000 CFAF).

While local NGOs that assisted domestic violence victims and other women's rights groups viewed the antiviolenence laws as important, they criticized the Government's failure to permit associations to bring suit on behalf of victims. The Ministry of Women, Family, Social Development, and Women's Entrepreneurship worked with several NGOs in an attempt to curb domestic violence. In May the city of Tambacounda inaugurated a program to fight violence against women; however, the Government did not provide funding for the program during the year.

Rape, including spousal rape, was a problem. The law prohibits rape, but not spousal rape; however, the Government rarely enforced the law. Sentences for rape range from 5 to 10 years' imprisonment, and rapes resulting in death qualify for life imprisonment. It was nearly impossible for victims to provide judges with sufficient proof to merit convictions. There was no government system to collect statistics on the extent of rape or convictions. A women's rights NGO criticized the country's lack of rape shield laws and the common practice of using a woman's sexual history to defend men accused of rape.

On April 13, two shepherds in Gogaguene raped a mute and deaf woman in the bush as she was collecting fire wood. Gendarmes arrested the two men; no further action was taken by year's end.

On June 5, three gendarmes were accused of raping the wife of a soldier. Despite witnesses testifying to having heard screams from the room where the rape occurred, the three defendants—El Hadji Amadou Sagne, Boubacar Mballo, and Auguste Dema—claimed their sex with the woman was consensual. Although the normal punishment for rape is between five and 10 years in prison, the prosecutor sought and the defendants received only two years. The gendarmes' superiors also reportedly pressured the tribunal to keep the affair quiet.

In October 2005 a young man was arrested for attempted rape of a married woman; his case was ongoing at year's end.

Due to social pressures and fear of embarrassment, incest remained taboo and often went unreported and unpunished. As with many of the difficulties facing women, the problem of incest was compounded by lack of public support and shelters to protect and assist vulnerable women, including unwed mothers and victims of domestic violence. As a result, many were unable to flee or remove their children from abusive family members (see Section 5, children).

The NGO Tostan estimated FGM was practiced in thousands of villages throughout the country. In June 2004 the minister of family claimed that almost all women in the country's northern Fouta region were FGM victims, as were 60 to 70 percent of women in the south and southeast. Sealing, one of the most extreme and dangerous forms of FGM, was sometimes practiced by the Toucouleur, Mandinka, Soninke, and Bambara ethnicities, particularly in rural areas. Some girls were as young as one-year-old when FGM was performed on them.

FGM is a criminal offense under the law, carrying a sentence of six months' to five years' imprisonment for those directly practicing FGM, or ordering it to be carried out on a third person. The Government prosecuted those caught engaging in the practice and fought to end FGM by collaborating with Tostan and other groups to educate people about the inherent dangers. During the year 120 villages renounced the use of FGM. According to the Ministry of Women, Family, Social Development, and Women's Entrepreneurship, 1,679 out of an estimated 5,000 communities have formally abandoned the practice. Nevertheless, many people still practiced FGM openly and with impunity.

Prostitution is legal if individuals meet certain criteria: they must be at least 21 years of age, register with the police, carry a valid sanitary card, and test negative for sexually transmitted infections (STIs). Pimping and soliciting customers are illegal.

There were arrests of foreign illegal prostitutes, underage prostitutes, and pimps during the year. Evidence suggested foreign prostitutes' entry to the country was organized: groups of women often crossed the border together; foreign prostitutes usually lived together; they had a predetermined destination upon arrival; and many foreign women came to the country but did not stay indefinitely, suggesting their departures were better organized and professional.

NGOs working with prostitutes claimed the problem was worse than official statistics on prostitution suggested, and that police targeted prostitutes for abuse and extortion.

On May 9, police shut down a prostitution ring operating from a fast-food restaurant in Dakar and soliciting customers on the Internet.

Trafficking of adult women for sexual exploitation was a problem (see Section 5, Trafficking).

Sexual harassment was common although prohibited by law, which calls for prison terms of five months to three years imprisonment and fines of \$100 to \$1,000 (50,000 to 500,000 CFAF). The Government did not effectively enforce the law, and women's rights groups claimed sexual harassment victims found it difficult, if not impossible, to present sufficient proof to justify prosecutions.

Women faced pervasive discrimination, especially in rural areas where traditional customs—including polygyny—and rules of inheritance were strongest. Under national law, women have the right to choose when and whom they marry, but traditional practices restricted a woman's choice. The Family Code prohibits marriage for girls younger than 16 years and men younger than 20 years. This law was not enforced in some communities where marriages were arranged. Under certain conditions, a judge may grant a special dispensation for marriage to a person below the age requirement. Women typically married young, usually by the age of 16 in rural areas (see Section 5, Children).

According to the law, a woman's consent is required for a polygynous union, but once in a polygynous union, a woman need not be notified nor give prior approval for the man's subsequent marriage. A 2004 study of marriage practices indicated that approximately 50 percent of marriages were polygynous. Although protected under the law, marriage rights were not enforced because of socio-cultural pressures, judicial reluctance to enforce the law, and a lack of information on marriage laws.

The Family Code's definition of paternal rights remains an obstacle to equality between men and women, as men are considered the head of household and women cannot take legal responsibility for their children. Women can only become the legal head of family when the father formally renounces his authority before the administration. This makes it particularly difficult for the 20 percent of families that are supported and led by women. The problems with the Family Code and traditional practices also made it difficult for women to purchase property. Due to the fact that men are legally considered the head of household, women paid higher taxes than men for the same salary (they were taxed as single individuals without children), and employers paid child allowances to men only.

Only an estimated 20 percent of women had paid employment. Low education levels, lack of information, domestic responsibilities, lack of access to factors and means of production, and multiple pregnancies were cited as barriers to economic advancement for women. According to statistics from the National Center to Assist and Train Women, women represented 52 percent of the population, but were held liable for 90 percent of domestic responsibilities and 85 percent of agricultural work. Approximately 22 percent of teachers and 14 percent of lawyers were women.

Women's groups campaigned to have a larger percentage of places on the legislative electoral ballot devoted to women, to better reflect the female majority of the population. On December 8, President Wade asked the Prime Minister to make a declaration at the national assembly on the issue. The PDS placed 30 women on its legislative electoral list for 60 seats before year's end.

Women's groups criticized discriminatory provisions in the law, a problem the Government has admitted. On June 9, President Wade signed a decree authorizing women to join the Customs Office. In August the Gendarmerie also started recruiting women. The gendarmerie recruited 50 women, but the Customs Office had not implemented the decision by year's end.

*Children.*—The Government was somewhat committed to children's rights and welfare. The Ministry of Women's Affairs, Family, Social Development, and Women's Entrepreneurship was responsible for promoting children's welfare and was assisted by the health, education, and labor ministries.

During the year President Wade established more "Places for the Little Ones" throughout the country to serve as pre-kindergartens for children. He also encouraged increased school enrollment.

The law provides for free education, and education is compulsory for children ages six to 16; however, many children did not attend school due to lack of resources or available facilities. Students must pay for their own books, uniforms, and other school supplies. Due to the efforts of the Government, NGOs, and international donors, primary school enrollment reached 82.5 percent during the year.

The highest level of education attained by most children is elementary school. The middle school enrollment rate was 31.9 percent, and the secondary school enrollment rate was 10.9 percent. In the 2005–06 academic year, more girls than boys were enrolled in elementary school for the first time ever.

The Government took steps to provide religious education classes in the formal school system to provide an alternative to parents sending their children to Koranic schools, where trafficking in the form of forced begging often occurred (see Section 5, Trafficking). The Government also established a program to provide education and social services to 11,000 at-risk children.

Although girls' attendance rates continued to climb, young girls still encountered greater difficulties in receiving an education. For example, when families could not afford for all of their children to attend school, parents tended to remove their daughters from school, rather than their sons. Only 23 percent of women over 15 years of age were literate, compared with 43 percent of men.

Boys and girls generally have equal access to medical care. Medical care was more readily available to children in urban areas than to those in rural areas where many villages lacked health care facilities.

Child abuse was common. One human rights organization noted that during the month of May, 16 cases of child abuse were reported, involving children between the ages of six and 16.

Easily observable were the many poorly dressed, barefoot young boys, known as talibes, begging on street corners for food or money for their Koranic teachers, known as marabouts. Although physical abuse of the talibes was widely known and discussed, only three marabouts were arrested for such abuse during the year. In June one talibe between the age of 10 and 15 committed suicide after being severely beaten by his marabout for having escaped and returned to his family. Also in June one 14-year-old talibe and two accomplices were arrested for murdering his marabout. The case was under investigation at year's end.

The law punishes sexual abuse of children with five to 10 years' imprisonment. If the offender is a family member, the punishment is 10 years' imprisonment. Any offense against the decency of a child is punishable by imprisonment for two to five years and in some aggravated cases up to 10 years' imprisonment. Procuring a minor for prostitution is punishable by imprisonment for two to five years' imprisonment and a fine of between \$575 (300,000 CFAF) and \$7,600 (four million CFAF).

There were periodic reports of child rape and pedophilia. On January 27, a four-year-old girl was kidnapped, raped, and killed. Police arrested a suspect shortly after the girl's body was discovered, but released him for insufficient evidence. There were no further developments by year's end.

On June 6, a French national was arrested after being caught in the act of committing pedophilia on a 14-year-old boy. On June 16, Mamadou Lamine Cissokho was arrested for having molested four girls aged four and five. On June 29, Abdourahmane Sall was charged with the act of committing pedophilia on one of his 15-year-old talibes. Sall claimed he was possessed by evil spirits. A judge placed Sall's other talibes in a reeducation center. In July Boubacar Sama was arrested for raping a 15-year-old girl. On August 2, Modou Fall was arrested for the rape of a seven-year-old girl. On August 30, a 13-year-old girl reported that she was raped by the marabout who owned the house in which she and her mother lived; the marabout denied the accusation. All of these cases were pending at year's end.

In September newspapers reported the story of S.M. Ndiaye, a teacher who raped and impregnated his 12-year-old student. Local people arrested him and took him to the Gendarmerie. Ndiaye was prosecuted and sentenced to seven years in prison.

The press also reported rapes of handicapped persons. On May 16, a teacher complained to the police of Thiaroye about the rape of his mute and deaf 16-year-old daughter. He discovered the crime three months later when the girl appeared obviously pregnant. The police arrested the alleged perpetrator who was a co-tenant of the family. On May 17, gendarmes in Yeumbeul arrested two young men for raping a 15-year-old mentally handicapped girl. A third perpetrator escaped arrest and was not apprehended by year's end. Both of these cases were pending at year's end.

A women's rights NGO said that of all cases of violence committed against girls, paternal incest cases were the fastest growing type of violence. For example, in July a man with multiple wives and six children was arrested for having sexual relations with his daughter for five years. He admitted to the charges after his daughter reported him; the case was pending at year's end.

Family ministry officials and women's rights groups considered child marriage a significant problem in parts of the country, particularly in rural areas. Girls, sometimes as young as nine-years-old, were married to older men due to religious, economic, and cultural reasons. On July 7, the regional tribunal of Velingara sentenced a 12-year-old girl to six months imprisonment and fined her \$200 (100,000 CFAF) for abandoning her marriage to her 34-year-old husband Adjji Diao. The girl claimed that even though her husband was both physically and emotionally abusive, she stayed with him until her in-laws tried to force her into a relationship with his

younger brother. After 12 days in prison she was released provisionally. With the help of several human rights NGOs, the verdict was overturned.

Trafficking and commercial exploitation of children were problems (see Section 5, Trafficking).

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

Women's rights groups reported a growing incidence of infanticide, which was usually due to poverty or embarrassment. Many domestic workers or women from villages working in cities who found themselves pregnant without family ties sometimes killed their babies since they could not care for them. Others who were married to men working outside the country disposed of their infants out of shame or to hide the truth. In some cases, the families of the women shamed them into killing their own babies. Methods ranged from burying them alive, putting them in septic tanks, or simply abandoning them along the road.

When the identity of the mother is discovered, the police arrest and prosecute her. For example, in July, the cour d'assises sentenced a woman to five years of hard labor for having abandoned her newborn daughter in an unsheltered and isolated area in 2002. In August a grandfather was arrested for having thrown his three-month-old granddaughter into a well because she was born out of wedlock. His case was pending at year's end.

Many children were displaced due to the Casamance conflict and often lived with extended family members, neighbors, or in children's homes. The Government lacked adequate resources to effectively support these children. According to NGOs in the Casamance, displaced children suffered from the psychological effects of conflict, malnutrition, and poor health.

*Trafficking in Persons.*—The constitution and law prohibit trafficking in persons; however, there were reports that persons were trafficked to, within and from the country. Laws that prohibit pimping and kidnapping could be used in some trafficking cases. Under the law, those who recruit, transport, transfer, or harbor persons, whether by means of violence, fraud, abuse of authority, or otherwise for the purposes of sexual exploitation, labor, forced servitude, or slavery are subject to punishment of five to 10 years' imprisonment and a fine of \$10,000 to \$40,000 (five to 20 million CFAF). When the infraction involves torture, barbarism, the removal of human organs, or exposing the victim to a risk of death or injury, jail time ranges from 10 to 30 years' imprisonment. The human rights commissioner and the family ministry were the Government coordinators on human trafficking issues.

During the year the Government arrested, prosecuted, and convicted traffickers; however, reliable statistics on the extent of the trafficking problem were unavailable. However, studies have shown the extent of trafficking in and through the country to be significant, particularly with regard to child begging and illegal emigration. Talibes were trafficked from surrounding nations, including The Gambia, Mali, Guinea, and Guinea-Bissau, and internally to participate in exploitive begging for some Koranic schools. According to the UN Children's Fund (UNICEF), the country had an estimated 100,000 talibe boys and 10,000 street children.

Young girls were trafficked from villages in the Diourbel, Fatick, Kaolack, Thies, and Ziguinchor regions to urban centers for work as underage domestics. Young girls from both urban and rural areas were involved in prostitution, which NGOs claimed involved an adult pimp to facilitate commercial sex transactions or provide shelter.

The country was believed to be a transit point for women en route to Europe for sexual purposes. ENDA Sante, a local NGO, treated illegal prostitutes for STIs through a mobile clinic program. According to ENDA Sante, many women from surrounding African countries practiced prostitution; however, there was no proof that these foreign prostitutes were trafficking victims (see Section 5, Women).

The Government prosecuted victims for violating prostitution laws, such as not having the proper registration or medical documentation. The Government also prosecuted persons for what is referred to as escroqueries (swindling), when people lure others into immigration scams.

Most government efforts to combat trafficking in persons were centered in the Ministry of Women, Family, Social Development, and Women's Entrepreneurship. The ministry operated the Ginddi Center, a children's center where child trafficking victims received nutritional, medical, and other assistance. The center has accommodated children from The Gambia, Mali, Guinea-Bissau, and Guinea. The center also operated a toll-free child protection hot line that fielded many calls. With assistance from a foreign government, the police have established a trafficking-in-persons database. There were no government programs to protect or assist trafficked women.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other

state services, and the Government effectively enforced it. The law also mandates accessibility for persons with disabilities; however, there was a lack of infrastructure to assist them.

The law reserves 15 percent of new civil service positions for persons with disabilities. The Government operated schools for children with disabilities, provided grants for persons with disabilities to receive vocational training, and managed regional centers for persons with disabilities where they received training and funding for establishing businesses.

Despite these efforts, the leader of a women's association for persons with disabilities criticized the Government's failure to designate a ministry responsible for persons with disabilities. She also questioned the lack of attention paid to persons with disabilities in national poverty reduction strategies. Several programs, which appeared to be earmarked for persons with disabilities, offered services to other vulnerable populations, which effectively reduced resources for persons with disabilities. Due to a lack of special education training for teachers and facilities accessible to children with disabilities, only 30 percent of such children were enrolled in school.

On July 14, the Government officially launched a five-year national program for community-based rehabilitation of handicapped persons, but the program did not produce any effective results by year's end.

There were at least three reported rapes of two handicapped girls and one handicapped woman during the year (see Section 5, Women and Children).

*National/Racial/Ethnic Minorities.*—While the country's many ethnic groups have coexisted relatively peacefully, some observers have cited interethnic tensions between Wolofs and southern ethnic groups as playing a significant role in the long-running Casamance rebellion that was characterized by grievous human rights abuses.

*Other Societal Abuses and Discrimination.*—Homosexuals faced widespread discrimination and social intolerance, but they were not generally targeted for violence and harassment. However, human rights organizations reported that in August a social worker faced public humiliation and harassment upon his return to the country from the First World OutGames. Homosexuality is not a criminal offense; however, societal discrimination against homosexuals was widespread.

As a result of HIV/AIDS awareness campaigns, persons with HIV or AIDS were increasingly accepted in society.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law, all workers, except security forces, including police and gendarmes, customs officers and judges, are free to form and join unions, and workers exercised this right in practice. The labor code requires the interior minister to give prior authorization before a trade union can exist legally. The Government can also dissolve trade unions by administrative order, but did not do so during the year. The labor code does not apply to the majority of the workforce because most persons work in agriculture or the informal sector. Approximately 4 percent of the total workforce was employed in the private industrial sector, of which 40 to 50 percent belonged to unions. Antiunion discrimination is prohibited by law, and the law also provides protection for workers' right to strike.

Security forces arbitrarily arrested labor leaders during the year. For example, on March 22, labor leader Ibrahima Sene was arrested and charged with dissemination of false information related to a press conference in which he claimed \$88 million (440 billion CFAF) had been removed from the country. On April 3, he was released and the charges were dropped for lack of evidence.

On August 3, an intelligence agent infiltrated a meeting of teachers' unions which the Government had accused of being politically motivated. When he was discovered, the agent provoked an altercation and arrested one of the union leaders. A day later, the leader was freed and was never charged.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to collective bargaining, and it was freely practiced everywhere but in private security companies. Collective bargaining agreements applied to approximately 44 percent of workers.

The law provides for the right to strike, and workers exercised this right; however, there were significant restrictions. The law also states that workplaces may not be occupied during a strike. Health, transportation, education, and oil workers held strikes during the year. Unions representing members of the civil service must notify the Government of their intent to strike at least one month in advance; private sector unions must notify the Government three days in advance.

In May President Wade announced he was giving \$1.2 million (600 million CFAF) to unions. It was unclear for what purpose the money would be used or what criteria would be applied to divide the funds among the unions. With the multitude of unions established it was difficult to set up criteria for supporting them, and the Government had difficulty identifying the most representative unions. The money was not disbursed during the year.

There are no special laws or exemptions from regular labor laws in the one export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports such practices occurred (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law bans the exploitation of child labor, and there are regulations on child labor that set the minimum working age, working hours, working conditions, and barred children from performing particularly dangerous jobs; however, child labor was a problem. Most child labor occurred in the country's informal economic sector where labor regulations were not enforced. Economic pressures and inadequate educational opportunities often pushed rural families to emphasize labor over education for their children.

The minimum age for employment was 15; however, children under the age of 15 continued to work in traditional labor sectors, particularly in rural areas where there was no enforcement of child labor laws. According to the International Labor Organization (ILO), 23 percent of children ages six- to 17-years-old were engaged in child labor, including primarily agriculture, fishing, and hunting, but also mining, construction, transportation, domestic work, commerce, restaurant and hotel work, and manufacturing.

Some religious instructors in Koranic schools brought young boys from rural villages to urban areas and held them under conditions of servitude, forcing them to beg on a daily basis in unsanitary and dangerous conditions under the threat of physical punishment (see Section 5).

One particularly egregious area of child labor was in the mining and rock quarry sector. Child gold washers, mostly between the ages of 10 and 14, worked approximately eight hours per day without training or protective equipment. Children worked long hours in rock quarries, crushing rock, and carrying heavy loads—also without protection. Both types of work resulted in serious accidents and long-term illness.

The labor ministry and social security inspectors were in charge of investigating and initiating lawsuits in child labor cases. Inspectors can visit any institution during work hours to verify and investigate compliance with labor laws and can act on tips from trade unions or ordinary citizens. In practice inspectors did not initiate visits because of a lack of resources and relied on unions to report violators. Labor inspectors closely monitored and enforced minimum age rules within the small formal-wage sector, which included state-owned corporations, large private enterprises, and cooperatives. However, there were no available statistics on the number of violations found.

In addition to efforts to fight human trafficking for exploitive labor purposes, the Government attempted to raise awareness about the dangers of child labor through seminars and other cooperative programs with local government officials, NGOs, and elements of civil society. The Government participated in an ILO program to end the worst forms of child labor. A three-year project, launched in September 2003, established a framework to combat child labor, including a coordinating unit within the Ministry of Labor. The Government also worked with UNICEF to prevent girls from entering prostitution. The Government cooperated with UNICEF in 10 programs to combat child begging and the exploitation of female children as household domestics. The Ministry of Women, Family, Social Development and Women's Entrepreneurship also worked with other ministries to combat the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The national minimum wage was \$0.42 (209 CFAF) per hour, which did not provide a decent standard of living for a worker and family. The Ministry of Labor was responsible for enforcing minimum wages. Labor unions acted also as watchdogs and contributed to an effective implementation of minimum wage in the formal sector. The minimum wage is not respected in the informal sector, especially for domestic workers.

Within the formal sector, the law mandates for most occupations a standard work-week of 40 to 48 hours with at least one 24-hour rest period, one month per year of annual leave, enrollment in government social security and retirement plans, safety standards, and other measures; however, enforcement was irregular. The law



does not cover the informal sector. Premium pay for overtime was required in the formal sector.

While there are legal regulations on workplace safety, they often were not enforced. There is no explicit legal protection for workers who file complaints about unsafe working conditions. Workers, including foreign or migrant workers, had the right to remove themselves from situations that endangered health or safety without jeopardy to their employment; however, it was seldom exercised due to high unemployment and a slow legal system. The Ministry of Labor, through the Labor Inspection Office, enforced labor standards. However, labor inspectors had very poor working conditions and lacked transportation to conduct their mission effectively.

## SEYCHELLES

Seychelles is a multiparty republic of approximately 81,000 citizens. In July President James Michel, who assumed power in 2004 when former President France Albert Rene resigned, was elected in a process deemed credible and organized by international observers; however, there were complaints of unfair campaign practices. The President and the Seychelles People's Progressive Front (SPPF) dominated the country through a pervasive system of political patronage and control over government jobs, contracts, and resources. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens. However, the following human rights problems were reported: prolonged pretrial detention; an inefficient and politically influenced court system; restrictions on speech, press, and assembly; official corruption; violence against women and children; restrictions on labor rights; and discrimination against foreign workers.

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and government officials generally did not employ them. Police forcibly dispersed a demonstration, which resulted in injuries (see Section 2.b.).

*Prison and Detention Center Conditions.*—Detention centers included the Grand Police High Security Prison for violent inmates and the Long Island Prison for all other prisoners and those awaiting trial or sentencing. Long Island prison conditions remained austere, particularly for those on remand. Prison officials stated that staff shortages forced guards to limit prisoner time outside of their cells. In October the Long Island facility was relocated to the main island of Mahe. The new facility with a maximum capacity of 400, housed regular security prisoners, female prisoners, and those on pretrial. The prison population was 142, including 28 in pretrial detention and 11 women. The general, pretrial, and female populations were separated in different wings of the building. Juveniles were held in a separate facility.

The Government permitted independent monitoring of prison conditions by local and international human rights groups and diplomats. No request for prison visits was made by the International Committee of the Red Cross (ICRC).

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

*Role of the Police and Security Apparatus.*—The President has complete control over the security apparatus, which includes the national guard, army, Presidential protection unit, coast guard, and police. The police commissioner, who reports to the President, commands the unarmed police and the armed paramilitary Police Mobile Unit, which together have primary responsibility for internal security. When necessary, the police were assisted by the army on issues of internal security, as police resources were limited. The Special Support Unit (SSU), a division of the police force, is responsible for crowd and riot control. Corruption remained a problem. The Enquiry Board, a police complaint office, existed but was rarely used. In practice private attorneys filed complaints or published them in Regar, the opposition party newspaper.

*Arrest and Detention.*—The constitution and law provide that persons arrested must be brought before a magistrate within 24 hours, with allowances made for boat travel from distant islands; however, police did not always uphold this requirement. The constitution and law also provide for detention without charge for up to seven days if authorized by court order, and police generally respected this provision. Detainees have the right to legal counsel. Free counsel is not a legal right, but courts usually provided it to the indigent. Courts provided bail for most offenses. Although warrants are required by law, police made some arrests and detentions without a warrant.

Police arrested a journalist in October (see Section 2.b.).

Prolonged pretrial detention was a problem. Prisoners often waited more than two years for trial or sentencing due to the inefficiency of the judicial system. Approximately 20 percent of the prison population consisted of pretrial detainees.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judiciary was inefficient and subject to executive influence. Both civil and criminal court cases regularly lasted years.

The judicial system includes magistrates' courts (or small-claims court), the Supreme (or trial) Court, the constitution and law court, and the court of appeal. The constitution and law court convenes weekly or as necessary to consider constitution and law issues. The court of appeal convenes three times per year for two weeks in April, August, and October to consider appeals from the Supreme, constitutional and law courts.

One Supreme Court judge, one appeals court judge, and two magistrate court judges were citizens of the country by birth. All others were either naturalized citizens or citizens of other Commonwealth countries. The bar association criticized the Government for not advertising domestically that judicial positions were available. Critics widely believed that some foreign justices bent to the will of the executive branch due to fear of deportation. The chairman of the Constitutional Appointments Authority (CAA) is also a lawyer who appears regularly in front of judges that the CAA appoints. Critics suggested that an October Supreme Court ruling in favor of the state, which led to the closure of the opposition newspaper, was not independent because the chairman of the CAA acted as the state's attorney.

Several justices of the peace were responsible for small-claims cases, and there were allegations that many of the justices were appointed because of their affiliation with the SPPF.

An 18-member, part-time family tribunal heard and decided all matters relating to the care, custody, access, and maintenance of children, except paternity cases, which remained under the courts. The Government empowered the family tribunal to offer protection orders to victims of family violence. Most members of the tribunal were not legally trained and were affiliated with the SPPF.

*Trial Procedures.*—Defendants have the right to a fair public trial, and trials were public in practice. The magistrates' court or the Supreme Court heard criminal cases, depending on the gravity of the offense. Cases involving murder or treason use juries. Defendants were considered innocent until proven guilty. Defendants have the right to be present at their trial, to confront witnesses, and to appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is no institution set up to examine cases of human rights abuses. However, citizens have turned to the Ombudsman Office to investigate human rights abuses and to seek redress for other issues.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. However, there remained widespread suspicion of government monitoring of private communication without legal process.

Reports continued that the Government barred members of the opposition from receiving postings in administrative positions in the education sector.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government did not respect these rights in practice. The law provides restrictions "for protecting the reputation, rights, and freedoms of private lives of persons" and "in the interest of defense, public safety, public order, public morality, or public health." As a result, civil lawsuits could easily be filed to penalize journalists for alleged libel. Journalists practiced self-censorship.

The only daily newspaper was the government-owned Nation, which adhered closely to the Government's position on policy issues and gave only limited attention

to the opposition and news adverse to the Government. There were three weekly political party newspapers; Regar, The People, and le Nouveau Seychelles Weekly.

The law allows the Minister of Information Technology to prohibit the broadcast of any material believed to be against the “national interest” or “objectionable.” The law also requires telecommunications companies to submit subscriber information to the Government.

A libel suit against Regar, based on Regar’s allegations that a government official was fishing in protected waters, resulted in a \$64,000 (SR 350,000) judgment. In October Regar announced that it would be unable to pay to the settlement and suspended operations. An appeal to the lawsuit was pending. No suspects were charged in the December 2005 arson at the Regar office which Reporters Without Borders condemned as “politically motivated.”

The Government continued to own the only television station and all radio stations. The law allows for independent radio and television, but the exorbitant licensing fee of approximately \$146,000 (SR 800,000) per year discouraged the opening of any independent outlets. Following the July elections, the opposition Seychelles National Party (SNP) collected funds for the radio licensing fee and announced plans to apply for a license. The National Assembly subsequently passed an amendment to the Broadcasting and Telecommunication Act which prevents political parties and religious groups from obtaining radio licenses.

On October 3, the SNP organized a demonstration to protest the passed amendment. The SSU forcibly dispersed the demonstrators. The opposition leader and the publisher of the Regar were hospitalized from their injuries. Subsequent to the event, the Regar editor was arrested and charged with unlawful assembly (see Section 2.b.). He was later released on bail. The President opened an independent inquiry into the actions of the SSU.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by electronic mail. Internet access was widely available and used by citizens.

*Academic Freedom and Cultural Events.*—The Government limited academic freedom in that persons could not reach senior positions in the academic bureaucracy without demonstrating at least nominal loyalty to the SPPF. There were no universities, and secondary school teacher appointments were largely apolitical. The Government controlled faculty appointments to the Polytechnic, the most advanced learning institution.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly and association; however, the Government did not always respect it. On October 3, the SSU forcibly dispersed a demonstration, resulting in the hospitalization of the SNP leader and the Regar publisher (see Section 1.a.). Only the Regar editor was arrested and formally charged with unlawful assembly.

*Freedom of Association.*—The constitution and law provide for freedom of association; however, the Government did not always respect this right. There were complaints that government officials intimidated and harassed civil servants who participated in opposition political parties. One former minister who resigned from the ruling party came out in support for the opposition before the July elections. It is believed that the termination of his employment from a private company after the elections was influenced by the Government.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

*Societal Abuses and Discrimination.*—There were fewer than 10 individuals in the Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice. Although it was not used during the year, the law allows the Government to deny passports to any citizen if the minister of defense finds that such denial is “in the national interest.”

According to foreign exchange regulations, citizens could exchange only \$400 (SR 2,200) worth of foreign exchange, severely hindering their ability to pay for travel. The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The laws provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government has not established a system for

providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government did not grant refugee status or asylum, as the issue did not arise.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in the July Presidential elections deemed credible by international observers.

*Elections and Political Participation.*—In July approximately 88 percent of eligible voters elected incumbent and SPPF Presidential candidate James Michel with 54 percent of the vote; SNP candidate Wavel Ramkalan received 45 percent; and independent candidate Philip Boulle received 1 percent. International observers from the Commonwealth, Francophonie Organization, South African Development Community, and resident diplomatic corps characterized the electoral process as credible and well-organized despite reports that campaign and electoral practices were not fair.

The ruling SPPF, which assumed power in a 1977 coup, continued to use its political resources and those of the Government to develop and maintain a nationwide organization that extended to the village level. Opposition parties have been unable to match the SPPF's organization and patronage, in part because of financial limitations.

There were reports that SPPF membership conferred advantage. Some members of opposition parties claimed that they lost their government jobs because of their political beliefs and were at a disadvantage when applying for government licenses and loans.

There were 10 females in the 34-seat National Assembly, seven by direct election and three by proportional representation; there were three females in the 12-minister cabinet. There were nine female principal secretaries in government service.

*Government Corruption and Transparency.*—There was widespread public perception of political corruption government wide. In particular, there were reports of rewards to SPPF supporters in the form of job assistance, land distribution, free building materials, and monetary payments. An ombudsman has legal authority to investigate and report on allegations of official fraud and corruption. He investigated 70 cases during the year on issues such as labor law litigations, allegations of fraud and corruption, human rights abuse, and land and property litigations.

There are laws allowing public access to government information, although the Government does not enforce them, and citizens routinely did not have access.

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

A small number of international human rights NGOs and one domestic human rights group—the Centre for Rights and Development (CEFRAD)—generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to the views of international NGOs; however, government cooperation with CEFRED—which was perceived as being aligned with the opposition—was limited. The Government, for example, refused to permit CEFRAD to observe the July Presidential election.

A government-run National Humanitarian Affairs Committee (NHAC) operated with a range of members from both civil society and the Government. The ICRC acted as a technical adviser to the NHAC.

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

The constitution and law affirm the right to be free from all types of discrimination, but do not prohibit discrimination based on specific factors. In practice there was no overt discrimination in housing, employment, education, or other social services based on race, sex, ethnicity, nationality, or disabilities.

*Women.*—Domestic violence against women, particularly wife beating, was a continuing problem. Police rarely intervened in domestic disputes, unless the dispute involved a weapon or major assault. The authorities often dismissed the few cases that reached a prosecutor, or the court gave the perpetrator a light sentence. Rape, spousal rape, and domestic abuse are criminal offenses, all punishable by a maximum 20 years' imprisonment. There was growing societal concern about domestic violence and increased recognition of the need to address it.

Prostitution is illegal but remained prevalent. Police generally did not apprehend prostitutes unless their actions involved other crimes.

The law prohibits sexual harassment but was rarely enforced.

The society largely was matriarchal. Unwed mothers were the societal norm, and the law required fathers to support their children. There was no officially sanctioned discrimination in employment, and women were well represented in business. Inheritance laws did not discriminate against women.

*Children.*—The division of social affairs in the Ministry of Social Affairs and Manpower Development worked to protect children's rights, and in practice they were fairly effective.

The Government required children to attend school through the 10th grade and made tuition-free public education available through the secondary level until age 18. Students had to buy school uniforms but did not have to pay for books. According to government figures, all children between the ages of six and 16 attended school, and the percentages of boys and girls enrolled were roughly equal. There was a noncompulsory fifth year of secondary school. After completing secondary school, students can attend the Polytechnic School for Vocational Training, travel abroad for university studies, or go to apprenticeship or short term work programs. Children in the apprenticeship or short term work programs received a training stipend, which was less than the minimum wage.

Boys and girls have equal access to healthcare, which is free for all citizens.

The age of consent was 15 years. Girls were not allowed to attend school when they were pregnant, and many did not return to school after the birth of a child.

The law prohibits physical abuse of children. Sexual abuse of children, usually in low-income families and perpetrated by stepfathers and older brothers, was a problem. Rape of girls under the age of 15 continued to be a problem, according to the Ministry of Health. Authorities prosecuted very few child abuse cases in court. The strongest public advocate for young victims was a semiautonomous agency, the National Council for Children. There was criticism that police failed to investigate charges of child abuse.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The constitution and law provide for the right of persons with disabilities to special protection, including reasonable provisions for improving the quality of life; however, there were no laws providing for access to public buildings, transportation, or state services, and the Government did not provide such access for persons with disabilities. There was no reported discrimination against persons with disabilities in housing, jobs, or education, or in the provision of other state services.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join unions of their choosing; however, police, military, prison, and fire fighting personnel may not unionize; however, the law is silent regarding the rights of foreign or migrant workers to join a union. Some citizens were reluctant to join the non-government-sponsored labor union due to fear of government reprisal. Unions organized between 15 and 20 percent of the workforce, and the law prohibits antiunion discrimination.

There are two politically labeled unions, the Seychelles Federation of Workers Union (SFWU, SPPF-associated) and the Seychelles National Trade Union (SNTU, SNP-associated). Despite the legal provisions for workers to form and join unions, membership in the SNTU is decreasing because workers feared losing their jobs in the public and the private sector. The SNTU claimed that employers have not reinstated workers fired for union activity.

*b. The Right To Organize and Bargain Collectively.*—The law allows for unions to organize and conduct their activities without interference. The law provides workers with the right to engage in collective bargaining, but collective bargaining seldom occurred. The Government has the right to review and approve all collective bargaining agreements in the public and private sectors. There was little flexibility in setting wages. In the public sector, which employed over 50 percent of the labor force, the Government set mandatory wage scales for employees. The employer generally set wages in the private sector with individual agreements with the employee, but in the few larger businesses, the Government set wage rates.

The law authorizes the Ministry of Employment and Social Affairs to establish and enforce employment terms, conditions, and benefits, and, in practice, workers frequently obtained recourse against their employers through the ministry.

Unions engaged in collective bargaining in the private sector; however, observers noted that private sector employers were reluctant to engage in collective bargaining.

Strikes are illegal without first exhausting arbitration procedures. Observers noted that the Industrial Relations Act provisions regarding the holding of strikes hinder unions' strike initiative. It takes six months for a union to gain permission to hold a strike. Dock workers seeking wage increases were not allowed to go forward with their strike proposal.

There is one export processing zone, the Seychelles International Trade Zone (SITZ), with 25 participating companies. Only the Seychelles Trade Zone Act applied in the SITZ, and the Government did not require the SITZ to adhere to labor, property, tax, business, or immigration laws.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law states that the minimum age for employment is 15, "subject to exceptions for children who are employed part time in light work prescribed by law without harm to their health, morals, or education," and, in practice, the Government followed these requirements. It is a criminal offense punishable by a fine of \$1,113 (SR 6,000) to employ a child under the age of 15. The Ministry of Employment and Social Services enforced child labor laws. The ministry handled such complaints within its general budget and staffing; the ministry did not report any cases requiring investigation. No children were found working in the fishing, tourism, agricultural, boat building and processing industries, as the Ministry of Education carried out regular checks to ensure that children are actually attending school.

*e. Acceptable Conditions of Work.*—There is no official private sector minimum wage. The Government encouraged but did not require the private sector to grant the minimum public sector wage. The minimum public sector wage was \$445 (SR 2,325) per month as of January. Even with free public services, primarily health care and education, a single salary at the low end of the pay scale did not provide a decent standard of living for a worker and family. Private employers generally paid higher wages than the Government to attract qualified workers.

The legal maximum workweek varied from 45 to 55 hours, depending on the economic sector; in practice, some workers worked up to 60 hours per week. Government employees worked fewer hours. Regulations entitled each full-time worker to a 30-minute break per day and a minimum of 21 days of paid annual leave. The Government permitted workers to work overtime up to 60 additional hours per month. The Government generally enforced these regulations.

Foreign workers did not enjoy the same legal protections as citizens and were employed in the construction and commercial fishing sectors. Companies sometimes paid foreign workers lower wages, forced them to work longer hours, and provided them with inadequate housing.

The Ministry of Employment and Social Affairs has formal responsibility for drafting the Government's comprehensive occupational health and safety regulations, and the Ministry of Health enforced such standards, although safety and health inspectors rarely visited job sites. Occupational injuries were most common in the construction, marine, and port industries. The law has been amended to allow workers to remove themselves from dangerous or unhealthy work situations, report the employer to the Health and Safety Commission and seek compensation without risking losing their employment. The employer faces the risk of being sued.

## SIERRA LEONE

Sierra Leone is a constitutional republic with a directly elected President and a unicameral legislature, and a population of approximately five million. In 2002 the devastating 11-year civil conflict officially ended, and the Government, backed by a United Nations peacekeeping force (UNAMSIL), asserted control over the whole country. In 2002 Ahmed Tejan Kabbah was reelected President, and his Sierra Leone People's Party (SLPP) won a large majority in parliament. Many international monitors declared the elections generally free and fair; however, there were numerous reports of irregularities. In 2004 UNAMSIL handed over responsibility for security countrywide to the Republic of Sierra Leone Armed Forces (RSLAF) and Sierra Leone Police (SLP). In 2005 UNAMSIL withdrew all remaining peacekeepers and handed over nonpeacekeeping responsibilities to a follow-on peacebuilding UN mission (UNIOSIL). During the year the Government made little progress in addressing the recommendations of its own June 2005 white paper issued in response to the Truth and Reconciliation Commission's (TRC) final report on the causes and

effects of the 1991–2002 civil war. During the year civilian authorities generally maintained effective control of security forces.

The Government generally respected the human rights of its citizens. However, there were serious problems in a number of areas, including: security force abuse, including rape, and use of excessive force with detainees, including juveniles; police theft and extortion; poor conditions in prisons and jails; official impunity; arbitrary arrest and detention; prolonged detention, excessive bail, and insufficient legal representation; restrictions on freedom of speech and press, although fewer than in the previous year; government and chiefdom detention and harassment of journalists; harassment of opposition party supporters by ruling party members; widespread official corruption; societal discrimination and violence against women; female genital mutilation (FGM); child abuse; trafficking in persons, including children; forced labor, including by children; and child labor.

During the year the Government made progress in combating trafficking in persons. In October parliament appointed five representatives to a newly established National Commission for Human Rights, which has the mandate to implement recommendations of the TRC. On December 11, President Kabbah swore in the five members of the commission. UNIOSIL provided financial support for the commission, which by year's end had met several times to develop a plan of action.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings during the year; however, police allegedly shot a student demonstrator who later died from his injuries (see Section 1.d.).

Unlike in the previous year, no journalists were killed.

There were no developments in the 2004 case of the suspected murder of a prostitute, allegedly by UNAMSIL peacekeeping soldiers.

In December 2005 UNAMSIL concluded operations in the country.

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

The Ministry of Social Welfare, Gender and Children's Affairs discontinued the use of a database that attempted to track children separated from their families during the war. The ministry stated that this project had been implemented as a result of the war, and that after the war's end, it was deemed no longer necessary to maintain the project.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that security forces beat and raped persons, and that police stole, extorted, and demanded bribes. The Corporal Punishment Act allows boys under age 17 to receive up to 12 lashes as punishment. Prison guards reportedly beat prisoners, including juveniles, with impunity.

During the year security forces intimidated and arrested journalists.

Police use of excessive force to disperse demonstrators resulted in one death and several injuries (see Section 1.d.).

On January 30, a police officer in Pujehun beat his girlfriend, who reported the beating to the SLP's Complaints Division and Internal Investigation Department (CDIID). The police officer paid the cost of her medical care and he was put on probation for six weeks.

In July RSLAF soldiers in Bo used sticks to beat and rob a man who they claim sold them contaminated fuel. The incident was reported by a human rights non-governmental organization (NGO) in mid-July; however, no action was taken by authorities.

There were reports that security forces raped women and children (see Section 2.d.). In January a police officer in Kenema raped a woman while she was in custody. The officer was suspended from duty, but he fled to Liberia before he could be tried.

In July a police officer raped a 10-year-old Liberian refugee near the Liberian border at Zimmi. His trial was ongoing at year's end (see Section 2.d.).

In 2004 a magistrate court ordered the Government to rearrest a soldier who had raped an eight-year-old girl; however, at year's end the soldier was still at large.

In mid-May chiefdom tax collectors beat a man in Golahun Village, Tikonko Chiefdom, Bo District for refusing to pay local tax. The man suffered a broken arm and was hospitalized for three months as a result of the beating.

During the year both men and women were forcibly initiated into tribal secret societies, a process that for women usually involved FGM. For example, in March and

April the Poro Society in Manowa Kailahun District attempted to forcefully initiate a man into the society. The man ran away and reported the matter to the police, who deferred to the local paramount chief. The paramount chief then allowed Poro members to drag the man out of his home, beat him, and initiate him into their secret society.

Vigilante justice was common in urban areas, particularly for suspected thieves. For example, in early August a crowd in Freetown beat a suspected thief and left him on the street. The man suffered serious cuts and bruises and was hospitalized for two weeks. There was no record of his name, or of any arrest or investigation.

During the year Guinean forces continued to occupy the Yenga area in the eastern part of the country, contravening an agreement between the Presidents of Guinea and Sierra Leone acknowledging that the town of Yenga belongs to Sierra Leone. The Government and human rights groups accused Guinean troops of harassing the local population. In spite of sporadic negotiations between the two governments, the issue remained unresolved at year's end. In December Presidents Kabbah, Conte of Guinea, and Sirleaf of Liberia met to discuss the Yenga issue, and they agreed that members of parliament from the three countries should meet under the mediation of the Liberian foreign minister to discuss the Yenga issue.

*Prison and Detention Center Conditions.*—During the year prison conditions improved in some locations. Improvement of detention conditions remained a focus of the Justice Sector Development Program (JSDP) funded by a foreign official donor and launched in April 2005; however, conditions in most facilities remained poor. Prison overcrowding was a severe problem, including at Freetown's maximum security Pademba Road Prison, which was designed to house 325 prisoners but held an estimated 944. Human rights observers reported that detention conditions frequently fell below minimum international standards because of overcrowding, lack of access to food, unhygienic conditions, and insufficient medical attention. Prisons were often poorly ventilated. There were no reports that such conditions resulted in any deaths during the year.

Few prisons had adequate medical facilities, and sick prisoners were treated at state hospitals. However, prisoners often received inferior treatment from doctors and nurses in these hospitals because of the social stigma associated with assisting criminals.

Prison officers were inadequately paid, poorly trained, and in many prisons were not provided private quarters or uniforms. Consequently, guards provided only minimal security, and abuse of prisoners and prison breaks occurred.

Men and women continued to share cells in Kenema's prison. During the year new prison facilities with separate cells for men and women were completed in Kailahun, Pujehun, Kabala, Moyamba, and Kambia, and the prison in Magburoka was rehabilitated and expanded.

Minors were imprisoned with adult offenders, but police sometimes released juveniles suspected of committing crimes to avoid incarcerating them with adults. Juvenile detainees did not have adequate access to food, education, or vocational training, and sometimes were unable to attend court hearings due to lack of transportation from juvenile detention facilities. Violence was a problem among youth in juvenile detention homes, of which there were two, both in Freetown: Kingtom Remand Home, and the Approved School.

Pretrial detainees were held with convicted prisoners. Prison guards reportedly beat prisoners with impunity.

Many problems resulted from the lack of resources and inefficiency of the judiciary. For instance, case backlogs in the courts, which often led to long pretrial detention, resulted in severe overcrowding. Government records indicate that there were approximately 1,610 detainees in 12 prisons nationwide, 688 of whom had not yet been convicted of a crime. This figure did not include detainees in jails or detention centers.

In February the JSDP hosted a workshop to launch the development of a Prisoner Classification and Security Assessment process—one of a number of initiatives to improve living conditions for prisoners and pretrial detainee case management. Other JSDP initiatives focused on pilot literacy and numeracy programs for prisoners in the Western Area and Moyamba District, and a prison farm project in Moyamba District.

Conditions in holding cells in police stations were extremely poor, especially in small stations outside Freetown; however, overcrowding in police cells improved during the year as a result of the deployment of magistrate judges to the districts to process cases. Some police stations had no cells for suspect detention. In August a man hanged himself in the toilet while being detained at Goderich police station. A later inquiry by an NGO revealed that detainees were locked in the toilet at night and kept in open detention during the day.



The Government permitted family visits, but for a short time only. The International Committee of the Red Cross (ICRC) provided a message delivery service that allowed prisoners housed in all district prisons to communicate with their families. ICRC officials were permitted to meet privately with detainees.

International monitors, including UNIOSIL and the ICRC, had unrestricted access to Pademba Road Prison and other detention facilities, including the Special Court for Sierra Leone (SCSL) detention facilities. Prison Watch, a local human rights group, reported on detention facilities throughout the country but stated that during the year it had difficulty in gaining access to some detention sites.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily.

*Role of the Police and Security Apparatus.*—The Sierra Leone Police (SLP), which has primary responsibility for maintaining internal order, lacked investigative, forensic, and riot control capabilities. A self-assessment by the SLP found the police to be fearful of the public and unequipped for beat patrols. The SLP was widely viewed as corrupt and incompetent. Impunity was a serious problem, although less so than in previous years. During the year there were reports that police officers took bribes at checkpoints, falsely charged motorists with violations, and impounded vehicles to extort money. Police also accepted bribes from criminal suspects in exchange for dropping charges.

Using training and assistance from the donor community, during the year the SLP instituted mechanisms to improve community relations and held many officers accountable for misconduct.

There were several mechanisms available to investigate police abuses. The Police Complaints Commission and the Complaints, Discipline and Internal Investigations Department (CDIID) both heard complaints against police officers. There was also a Police Council, composed of the vice President, minister of internal affairs, inspector general, and others who accepted written complaints against police officers. Disciplinary action against officers was published in an SLP newsletter, such as the March dismissal of eight Freetown police officers found guilty of stealing from residents in Kissy. Between January and August, CDIID received 542 complaints countrywide. Of those complaints, officers were dismissed or asked to resign in 24 cases, 104 received a written letter of reprimand, 68 cases were discharged or dismissed for lack of evidence, and 74 were resolved informally. The remaining cases were at various stages of investigation or review.

During the year police continued to receive professional, leadership, and human rights training, and new recruits received a six-month introductory course before deployment. The SLP retained a full-time UN technical advisor and a number of UN Civil Police (UNCIVPOL) police advisors. During the year UNIOSIL worked with the JSDP to implement its newly developed strategic plan and develop a training program to enhance the SLP's capacity to provide security during the scheduled 2007 Presidential and parliamentary elections.

During the year the SLP began to establish Local Police Partnership Boards throughout the country to improve community relations and resolve minor complaints.

On multiple occasions police were not present when crowds beat alleged thieves (see Section 1.c.). Police also at times were not able to control violence at public demonstrations, particularly in reaction to police activities. On February 9, for example, police arrested a secondary school student leader in Mile 91 for suspected assault. When a magistrate judge refused bail in the case, other students at the school protested at the police station. An advance security vehicle in a vice Presidential convoy that happened on the scene attempted to restore order by firing warning shots, one of which reportedly killed a demonstrating student. The students then overpowered the police, stormed the police station, released the student leader, and burned the newly refurbished police station to the ground along with several nearby vehicles.

On May 29, a motorcycle driver refused to stop at a police checkpoint in Waterloo. Police chased the driver to a local secondary school, where a group of students gathered around him. Students stoned the police and police fired tear gas. One student was wounded and hospitalized. Later, an angry student mob descended on the Lumpa police station and burned it down. Community elders, school authorities, and members of the Bike Riders' Association met to discuss the incident and resolve ongoing disputes, such as police targeting of motorcycles at traffic stops; students later built a new police post to apologize.

An investigation which had been initiated into the 2005 killings of a 16-year-old demonstrator was closed without reaching any conclusion.

*Arrest and Detention.*—The law requires warrants for searches and arrests in many cases; however, arrest without warrant was common. The law prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained people arbitrarily. Once arrested, a detainee must be told the reason for arrest within 24 hours, and a case must be charged to court within 72 hours or, in the case of serious crimes, within 10 days. However, detainees often were held without charge or trial for minor offenses for long periods. Detainees have the right of access to family and counsel; however, access to counsel was often delayed, and family visits to prisoners were restricted. Prison visits were allowed once every two weeks for four hours each time. Lawyers were allowed unrestricted access to detainees. Indigent detainees usually did not receive legal advice prior to trial.

There were provisions for bail, and there was a functioning bail system; however, the TRC recommended that the law concerning bail provisions be revised. Bail was sometimes set at excessively high levels. In December 2005 a judge set bail at approximately \$170,000 (500 million leones) for the release of the leader of the People's Movement for Democratic Change (PMDC) who had been arrested in November 2005.

Incommunicado detention generally was not a problem.

Traditional justice systems supplemented the central government judiciary, especially in rural areas (see Section 1.e.). Paramount chiefs maintained their own police and courts to enforce uncoded local laws, which acted in parallel with the Government's own civil police and court system. Chieftaincy police and courts exercised the authority to arrest, try, and incarcerate individuals.

There were numerous instances in which police refused to make arrests when warranted or arrested people without charge for strictly civil causes; arrests for alleged breach of contract or failure to satisfy debt were the most common. For example, in August, chieftom police arrested a teacher in Pujehun because of his dispute with an RSLAF soldier over an exchange of rice and palm oil. The teacher was incarcerated for two days before being released on bail. No further information was available on this case by the end of the reporting period.

During the year police arrested demonstrators (see Section 1.a.).

Trials of former combatants who fought for the Revolutionary United Front (RUF) continued during the year (see Section 1.e.).

Lengthy pretrial detention was a problem. Authorities held many criminal suspects for months and some for years before courts examined their cases or filed formal charges. According to government records, approximately 65 percent of the country's detainees in prison were in pretrial detention; this was a marked deterioration from the estimate of 40 percent in pretrial detention during 2005.

*Amnesty.*—The law provides the President with the power to grant amnesty by the "Prerogative of Mercy," which he traditionally exercised on Christmas Day (December 25) and Independence Day (April 27). During the year President Kabbah released 27 prisoners using this power.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary at times was subject to government influence and corruption.

The judicial system consists of the Supreme Court, Court of Appeal, High Court of Justice, and magistrate courts. The President appoints and parliament approves justices for the courts. Local chieftaincy courts administer customary law with lay judges; appeals from these lower courts are heard by the superior courts.

Judicial presence outside the capital district increased during the year, and magistrate judges were assigned to all provincial capitals. A new rotation system between wards in specific districts improved magistrate presence. However, with inexperienced new magistrates, high court fees, and fewer than 10 lawyers practicing outside of Freetown, access to justice remained limited for most citizens.

*Trial Procedures.*—The law provides for a fair trial; however, in practice, the lack of judicial officers and facilities often produced long delays in the judicial process. Trials are public. Persons accused of crimes have a limited right to a trial by jury in the magistrate courts. Juries were drawn from a list maintained by the master and registrar of active and retired civil servants and youth groups; however, the Attorney General frequently exercised his power to determine that cases be heard by a judge alone. Defendants have the right to be present and to consult with an attorney in a timely manner; however, access to counsel often was delayed. The law provides for attorneys at public expense if defendants could not afford their own; however, state-appointed attorneys often were overburdened and poorly paid, and indigent detainees usually did not receive legal advice prior to trial. Defendants can confront or question witnesses against them, present witnesses and evidence on

their own behalf, and access government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence as well as a right to appeal. Trials were usually fair; however, there was credible evidence that corruption influenced some cases. A majority of cases on the magistrate level were prosecuted by police officers, many of whom had little or no formal legal training (see Section 3).

Traditional justice systems continued to extensively supplement the central government judiciary, especially in rural areas, in cases involving family law, inheritance, and land tenure. However, the customary law guiding these courts is not codified, thus decisions in similar cases were often inconsistent. Local chieftains at times exceeded their mandates and administered harsh punishments. For example, there were multiple reports that paramount chiefs often judged criminal cases, such as rape, and that chiefs reportedly ordered rape victims to marry their attackers, and threatened to impose fines against or fired section chiefs for allowing opposition political parties to hold meetings in their chiefdoms (see Sections 2.b. and 5).

The law does not limit the rights associated with a fair trial to any group; however, there are a number of civil laws and customary laws that discriminate against women (see Section 5).

During the year cases were dismissed for 68 of 89 former combatants who fought for the RUF, the rebel group which started the country's 11-year civil war; the Armed Forces Revolutionary Council (AFRC) junta; and the West Side Boys, a splinter group of the AFRC. Of the remaining defendants, nine were sentenced, and decisions on 12 were reportedly still pending at year's end. All combatants were represented by a legal assistance NGO.

In 2004 Freetown port employees severely beat a port authority official who was investigating corruption. During the trial the port authority director allegedly bribed all 12 jurors, and the suspects who had been arrested for the beating were subsequently acquitted and released. The jurors later were arrested and charged with conspiracy to impede the cause of justice, but during the year the defendants again were acquitted, and the case was discharged. No charges were brought against the jurors.

There were reports that potential witnesses in high-level corruption cases were intimidated or bribed (see Section 3).

*Political Prisoners and Detainees.*—There were no reports of political prisoners; however, a journalist was detained briefly during the year for political reasons (see Section 2.a.).

*Civil Judicial Procedures and Remedies.*—Both the central government judiciary and customary law courts handled civil complaints; however, there was evidence that corruption influenced some cases. Customary law is not codified and decisions in similar cases often were inconsistent. Administrative and judicial remedies were available for alleged wrongs, but enforcement was difficult, and there are a number of civil laws and customary laws that discriminate against women (see Section 5).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such practices; however, there were multiple reports of such interference, particularly based on political party affiliation.

Although the ruling SLPP enjoyed broad support, the Government employed informer systems and tried to coerce or forbid membership in political organizations. There were reports that SLPP members monitored opposition political party meetings. Civil servants who attended such meetings risked losing their jobs or government housing (see Section 2.b.). There also were reports that the Government pressured paramount chiefs (and paramount chiefs in turn pressured subordinate chiefs) to discourage the activities of opposition political parties in the provinces, particularly in remote areas (see Section 3).

In March a senior mines monitoring officer in Bo who became a member of the newly-registered PMDC party was removed from government housing, which was turned over to an SLPP member. The mines monitor was transferred to a different office in Makeni and was not given government housing.

In June the Ministry of Education removed the head teacher of a primary school in Pujehun from the Government payroll (the head teacher also was the Pujehun District Chairman for the PMDC). When the teacher complained, the national education secretary called him in for a meeting on August 25, during which the teacher claimed that he was told that he would not be allowed to attend the upcoming dedication ceremony of his recently refurbished school unless he joined the SLPP. The teacher, who refused to join the SLPP, had not been paid by year's end.

In June the principal of a girls' secondary school in Bo fired a teacher after he joined the PMDC.

In June the Nyawa-Leagai paramount chief fired the Nengbema town (Bo District) chief for attending an All People's Congress (APC) meeting.

In June the Soro Gbema paramount chief in Pujehun District suspended four section chiefs for attending a June 10 PMDC meeting.

There were reports that supporters of opposition political parties also faced other forms of discrimination. Early in the year Ministry of Lands officials marked a house for demolition that had been built on chiefdom-owned land. The church leader (a PMDC supporter) who owned the house claimed that he had prior permission to build on the land. The house was still marked for demolition at year's end.

There were reports that membership in the ruling SLPP was required in order to access certain government benefits, particularly micro-credit and other development assistance. On July 7, a paramount chief in Kenema district denied a woman micro-credit because she did not possess an SLPP party card.

In August the chairman of the Kenema District Council denied the issuance of seed rice to councilors who joined the PMDC.

There were reports that the Government punished family members for alleged violations by individuals. In late August a young man in Barri Chiefdom (Pujehun District) was summoned to the paramount chief's residence for wearing a PMDC tee-shirt. The paramount chief ordered the man to remove the shirt. When he refused, the paramount chief summoned the man's mother and threatened that she would be "dealt with" if her son continued to defy him.

In April the father of a PMDC member was fired from his job at the Pujehun District Council office where he had worked for 26 years after his son joined the PMDC. The father was fired from a subsequent job at the Office of National Security in August.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government at times restricted these rights in practice. The press frequently published stories critical of the Government; however, self-censorship occurred.

More than 25 newspapers were published in Freetown during the year, covering a wide spectrum of interests and editorial opinion. Most of the newspapers were independent, and several were associated with opposition political parties. Reporting was often politicized and inaccurate, in large part because of poor journalistic skills, insufficient resources, and lack of professional ethics. Corruption among journalists was widespread. The number of newspapers fluctuated weekly. Newspapers openly and routinely criticized the Government and its officials, as well as opposition parties, but also libeled individuals.

Due to the low level of literacy and the relatively high cost of newspapers and televisions, radio remained the most important medium for public dissemination of information. Several government and private radio and television stations broadcast, featuring domestic news coverage and political commentary. UN Radio provided additional coverage of news and other current events.

International media could operate freely; they only needed to register with the Ministry of Information and Broadcasting and the Independent Media Commission (IMC) to obtain a license.

Unlike in the previous year, there were no reports that journalists were killed; however, security forces harassed and detained journalists.

In May 2005 five people beat Harry Yansaneh, the acting editor of the *For di People* newspaper, who died two and one-half months later from his injuries. Police detained a parliamentarian, Fatmata Hassan Komeh, who allegedly ordered and oversaw the beating, and two others, but released them on bail. Komeh's children, who also were suspects in the beating, returned to their residence in the United Kingdom. On August 4, the High Court requested the extradition of Komeh's children; the extraditions were pending at year's end.

The Public Order Act of 1965 criminalizes both defamatory and seditious libel; however, the law was rarely applied and only in cases involving top officials. Punishment for first-time offenders can be up to three years' imprisonment, and subsequent seditious libel convictions are punishable by prison terms of up to seven years.

Officials used libel laws to suppress criticism of political or other leaders, and during the year the Attorney General ordered security forces to arrest a journalist. On March 20, police detained for three hours the editor of the *Concord Times* newspaper, Sahr Musa Yamba, reportedly to receive a reprimand from the Attorney General.

The IMC regulated independent media organizations; however, it did not demonstrate independence from government influence. During the year, the IMC determined that the criminal libel provisions of the Public Order Act should remain, al-

though many journalists later complained that the IMC's assessment of public opinion used to make the recommendation was insufficient.

During the year the paramount chief of Bo reportedly twice threatened to close a local independent radio station for airing programs that were critical of the ruling SLPP, although he did not follow through on the threats. In April the station had hosted a call-in show to discuss a letter reportedly written by SCSL indictee Hinga Norman. Callers questioned the authenticity of the letter, which instructed former kamajor fighters to support the ruling SLPP.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. There were at least five Internet service providers in the country. In Freetown there were many internet cafes, but few in rural areas due to infrastructure constraints.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice; however, there were numerous reports that the Government monitored meetings of opposition political parties. Civil servants who attended such meetings were at risk of losing their jobs or government housing (see Section 1.f.). Police forcibly dispersed demonstrators. Opposition political parties also had difficulty obtaining permission from traditional chiefs to hold meetings, especially in remote areas.

On September 5, the Banderu Chiefdom (Kenema District) section speaker fined a PMDC member approximately \$67 (200,000 leones), five gallons of palm oil, and one goat for holding a PMDC meeting. The speaker also declared that the estimated 100 persons who attended the meeting were no longer allowed to farm or mine on chiefdom lands. However, the individuals challenged the orders and continued to farm and mine without interference.

One student demonstrator reportedly died and other students were injured during a forcible dispersion of demonstrators by police (see Section 1.d.).

Police were unable to control demonstration violence during the year, and demonstrators burned police stations (see Section 1.d.).

The trial of 11 persons, who were arrested in November 2005 after a demonstration in support of Presidential hopeful Charles Margai and charged with violation of the Public Order Act, was ongoing at year's end. All those charged remained free on bail at year's end.

There was no progress in the investigation into the death of a 16-year-old girl who was shot in the mouth during a student protest in Freetown in March 2005 (see Section 1.d.).

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice; however, there were reports that civil servants, traditional leaders, and others who affiliated with opposition political parties lost jobs and faced other forms of discrimination (see Section 1.f.).

The Political Parties Registration Commission (PPRC) became operational during the year, and a new political party, the PMDC, registered. There were reports that members of the new party were harassed, threatened, and lost their jobs (see Section 1.f.).

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

*Societal Abuses and Discrimination.*—There were no reports of discrimination against members of religious groups.

There reportedly was a very small Jewish community, whose leader was a self-proclaimed rabbi. He reportedly died in November. He had claimed to have a following of about 20 persons in Makeni and had applied to the Inter-Religious Council for official recognition of his group. The application was pending at year's end because the council had not decided what procedure it would use to register new members.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice; however, there were reports that police officers

who operated security roadblocks outside of the capital often extorted money from motorists.

The law does not provide for forced exile, and the Government did not use it.

The border shared with Liberia was officially open, and authorities generally permitted refugees, returnees, and other persons to move regularly between the two countries; however, there were reports that police, customs, and army personnel demanded bribes at border crossing points.

*Internally Displaced Persons (IDPs).*—Combatants from all sides targeted civilians during the country's 11-year civil war. Estimates of the number of IDPs in past years varied from 750,000 to two million persons.

No officially registered IDPs remained; however, one camp for war-wounded persons and their families unofficially remained open in Grafton.

At the end of 2005 the camp population was approximately 520; no update was available for the reporting period.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol; however, in practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status and asylum and cooperated with the UN High Commissioner for Refugees (UNHCR) and other organizations in assisting refugees.

According to UNHCR, during the reporting period the Government did not provide temporary protection to certain individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol.

At year's end, according to UNHCR, there were 21,696 Liberian refugees living in refugee camps in the country and approximately 12,000 Liberian refugees living outside of the camps. There were 5,615 non-Liberian refugees in urban areas, and 302 asylum seekers.

There were reports that Liberian refugees were victims of sexual abuse. NGO observers noted that refugees were less willing than previously to pursue cases in court against fellow refugees.

In July a police officer raped a 10-year-old Liberian refugee near the Liberian border at Zimmi. The trial was ongoing at year's end (see Section 1.c.).

In February a three-year-old Liberian refugee was raped by another Liberian refugee in Tobanda Refugee Camp. The case was reported to the police's Family Support Unit (FSU), but the parties ultimately settled the case out of court.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through generally free and fair elections held on the basis of universal suffrage; however, the 2002 and 2004 elections were marred by numerous reports of irregularities, although many observers judged them to be generally free and fair. Presidential and parliamentary elections were scheduled for July 2007, and during the year there were multiple reports of harassment and intimidation of members of opposition parties (see Section 1.f.).

*Elections and Political Participation.*—Eleven political parties participated in the May 2002 Presidential and parliamentary elections. President Kabbah of the SLPP was reelected with 70 percent of the popular vote. The Revolutionary United Front Party, the political successor to the RUF rebel forces, fielded Presidential and parliamentary candidates, but it won only 1.7 percent of the vote. In parliament the SLPP won 83 of the 112 seats; only two other parties also won seats. Many international monitors declared the elections to be generally free and fair; however, there were credible reports of significant abuse of incumbency, uneven voter registration, manipulation of vote counting, and partisan action by the National Electoral Commission (NEC). There also were reports of voter coercion by party bosses and traditional leaders.

In May 2004 the first local elections in 32 years were held. International and domestic monitors judged them to be generally free and fair at the time; however, evidence of widespread electoral fraud by both the SLPP and the APC emerged after voter turnout numbers were analyzed and found in many districts to exceed the number of registered voters. A UNAMSIL electoral consultant concluded, however, that the fraud did not alter the outcome of the elections because it was equally spread across party lines.

During the year the NEC continued to make preparations for the scheduled 2007 Presidential and parliamentary elections, including delimiting electoral boundaries for the first time since 1985. On November 30, parliament approved the NEC's re-

port on the Electoral Constituency Boundaries Delimitation Process that stipulated that parliamentary elections again be constituency-based contests. However, its ability to restrict perceived government abuses in the election process was limited. On August 12, representatives from the Ministry of Local government conducted an election of the paramount chief of Biriwa chiefdom despite a public objection by the NEC, which had monitored chiefdom elections since 2002. The NEC objected to the conduct of the election because there was a dispute over the ministry's alteration of the register of tribal authorities and a risk of violence between the majority Limbas and minority Mandingos in the chiefdom. The sole candidate and winner of the government-run elections was an ethnic Mandingo, the same tribe as that of the President (see Section 5).

Although there were no formal government restrictions on the political opposition, the incumbent party enjoyed significant advantages, and there were numerous reports that members of opposition parties were denied government jobs and government benefits (see Section 1.f.).

The PPRC became operational during the year; however, its activities were severely limited by a lack of capacity. The PPRC chairman resigned in August after an extended medical leave. The President swore in a replacement and on November 23, the PPRC issued a code of conduct for political parties; however, by year's end, no political party had been sanctioned for inappropriate behavior in spite of widespread complaints of abuse, particularly by the ruling SLPP.

Individuals and political parties could freely declare their candidacies and stand for election; however, it was sometimes difficult to do so in another political party's stronghold.

A parallel unit of local government is the paramount chief, who is elected for a life term. Candidates for the position are limited to members of local ruling houses. Only tribal authorities (i.e., those who collected local taxes from at least 20 taxpayers) were allowed to vote for paramount chief, and in the north only men could be designated as tribal authorities. Although paramount chiefs' authority exists independently of the central government and local councils, they frequently displayed party affiliations and were influenced by the party in power. The election of paramount chiefs at times exacerbated ethnic tensions.

There were 16 women in the 112-seat parliament, three women in the 28-minister cabinet, three women out of 13 deputy ministers, four female judges out of seven judges on the High Court, and three out of six judges on the Court of Appeal. A significant number of women worked as civil servants.

Only citizens can vote, and the Citizenship Act restricts the acquisition of citizenship at birth to persons of "patrilineal Negro-African descent." Legal requirements for naturalization effectively denied citizenship to many long-term residents, and a large number of persons of Lebanese ancestry, who were born and resided in the country, could not vote (see Section 5). While a small percentage of the Lebanese population was naturalized and voted, others insisted that naturalization implied second-class citizenship and rejected it.

Ethnic affiliations have traditionally been a strong influence in political party membership for the country's two dominant ethnic groups, the Mende and Temne, each of which include approximately 30 percent of the population. The Mende have traditionally supported the ruling SLPP and the Temne the opposition All People's Congress (APC). Other than ethnic Limbas, the third most populous ethnic group who have traditionally supported the APC, the country's other ethnic minority groups have no strong political party affiliations (see Section 5). Ethnic groups were well-represented in the SLPP government cabinet: seven members of the 28-minister cabinet were Mende, 12 members were Temne, and nine members belonged to other minorities. There were eight ethnic groups represented in the 112-seat parliament, 41 percent of whose members were Mende, 30 percent Temne, and the remainder other minorities.

*Government Corruption and Transparency.*—Corruption in the executive, legislative, and judicial branches was common. Official corruption was exacerbated by low salaries and a lack of accountability. Since the Anti-Corruption Commission's (ACC) inception in July 2000, approximately 10 percent of the 560 cases investigated were charged to court. Of the 54 cases referred to court, 29 resulted in convictions. Defendants included a former minister of transport and communications, a former accountant general, a former permanent secretary for the ministry of trade, and the former Sierra Leone Ports Authority (SLPA) chairman and managing director.

In the SLPA case, six of the principal local witnesses in the case did not testify because they had left the country, reportedly because they were bribed to do so. The man who sold the forklift to the principal accused in an allegedly fraudulent transaction never came to the country to testify, reportedly because he was intimidated

from testifying. The forklift case was the only corruption case involving high-level officials that was prosecuted in court during the year.

During the year the ACC continued its focus on prevention by sponsoring “integrity clubs” at 21 schools across the country, and anticorruption community theater performances in 64 communities to help citizens identify and discuss corrupt practices that prevailed in their communities. The ACC continued to focus on improving transparency in ministries where opportunities for corruption were most pronounced. The President continued to publicly support the ACC, but some observers complained that the work of the ACC’s investigations department was politicized, ineffective, and that there was a lack of political will to prosecute.

There is no provision in the law for public access to government information; however, the Government at times provided access to both citizens and noncitizens, including foreign media.

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

A number of domestic and international human rights groups generally operated with few government restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The National Forum for Human Rights (NFHR) served as an umbrella organization for human rights groups in the country. There were 41 human rights NGOs registered with the NFHR at the end of 2005 (the most recent statistic available), and all reportedly were active. Most domestic human rights NGOs focused on human rights education. A few NGOs, including the Campaign for Good Governance, the Lawyers’ Center for Legal Assistance, and Access to Justice, actively monitored and reported on human rights abuses.

Human rights monitors traveled freely throughout the country. Representatives of international NGOs, foreign diplomats, the ICRC, and UN human rights officers were able to monitor trials and to visit prisons and custodial facilities during the year; however, Prison Watch, a local human rights NGO, claimed that the director of prisons denied it access to some prison facilities, despite having written permission from the Ministry of Internal Affairs, in part because of the critical nature of the NGO’s previous reports.

UNIOSIL, a UN peacebuilding mission, replaced the UNAMSIL peacekeeping mission at the end of 2005. According to the UN, the mandate of UNIOSIL’s Human Rights and Rule of Law section is to assist the Government “in building the capacity of state institutions to address the root causes of the conflict, developing a national plan for human rights, establishing the National Human Rights Commission, and strengthening the capacity of rule of law institutions through training.”

The UN Secretary General’s first report on UNIOSIL, issued on April 28, criticized the Government in a number of areas, including a perception that the Government was taking a heavy-handed approach in dealing with the political opposition, and not making sufficient progress in anticorruption efforts. On June 21, President Kabbah issued a statement expressing his resolve to tackle a number of negative trends in the country.

On October 3, parliament confirmed five representatives for the newly-established Human Rights Commission of Sierra Leone, who were sworn in on December 11. The commissioners convened several meetings to discuss logistical matters.

The Parliamentary Human Rights Committee took a proactive role in protecting human rights during the year. It operated without government or party interference. The committee’s resources were limited but it received support from the UN Development Program (UNDP) and the UN High Commissioner for Refugees (UNHCR). The Human Rights Committee was one of the most effective oversight committees in parliament, and it enjoyed government cooperation.

The committee also promoted the passage of legislation on women’s and children’s rights.

The Special Court for Sierra Leone (SCSL) was established in 2002 to try those who “bear the greatest responsibility for the commission of crimes against humanity, war crimes, and serious violations of international humanitarian law.”

In 2003 the SCSL indicted 13 persons, including former Liberian President Charles Taylor, who had accepted an offer of asylum in Nigeria in 2003. All of those indicted were charged with crimes against humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, and other serious violations of international humanitarian law. Specific charges included murder, rape, extermination, acts of terror, sexual slavery, conscription of children into an armed force, attacks on UN peacekeepers, and looting and burning of homes from 1997 to 1999.



On March 29, four days after the Government of Nigeria declared that the Government of Liberia was free to take him into custody, Nigerian security forces arrested Taylor while he was attempting to flee Nigeria. Taylor was escorted to Monrovia and UN forces then transferred him to the SCSL in Freetown. On April 3, during his arraignment, Taylor pled not guilty to an amended 11-count indictment. On June 20, he was transferred to The Hague, The Netherlands due to security concerns. At year's end, the SCSL was making preparations to begin Taylor's trial at The Hague in June 2007.

Trials began in March 2005 of AFRC leaders Alex Tamba Brima, Brima Bazzy Kamara, and Santigie Borbor Kanu, and in June 2004 of Civil Defense Force (CDF) leaders Sam Hinga Norman, Moinina Fofana, and Allieu Kondewa. The trial phase for both the AFRC and the CDF concluded, and the justices were writing their verdicts at year's end. Trials of RUF leaders Issa Sesay, Morris Kallon, and Augustine Gbao, begun in July 2004, were ongoing at year's end. The prosecution in the RUF cases had concluded its case, but the defense phase had not begun by year's end.

In 2004 the TRC, established in 2002 to provide a forum for publicly airing the grievances of victims and the confessions of perpetrators during the civil war, completed its activities and delivered its final report and recommendations to the Government. In August 2005 the full version of the final report was distributed to the public. The report contained a separate child-friendly version, since children played such large roles as both victims and perpetrators of violence during the war. The report concluded that years of bad governance, endemic corruption, and denial of basic human rights created the conditions that made the conflict inevitable. The commission offered a number of recommendations on legal, political, and administrative reforms, including elimination of the death penalty. In June 2005 the Government released a White Paper accepting some and rejecting or ignoring other recommendations. Members of civil society groups criticized the Government's response and called the White Paper too vague. UNIOSIL collaborated with district human rights committees to disseminate the TRC final report countrywide, but by year's end, the Government had made little progress in addressing any of the report's recommendations, claiming insufficient funds to implement them.

The UN and numerous NGOs, both domestic and international, continued to educate and sensitize the population about the TRC and the SCSL, and the Government generally supported these efforts.

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

The law prohibits discrimination on the basis of race, tribe, sex, place of origin, political opinions, color (although citizenship is generally limited to persons of "patrilineal Negro-African descent"), or creed; however, the Government did not effectively enforce these provisions, and a number of legal acts and customary law contravene these constitutional provisions.

*Women.*—The law does not specifically prohibit domestic violence, and the Government rarely enforced provisions in the 1861 Offenses Against the Persons Act, or the Public Order Offenses Act Number 32 of 1965, the most recent relevant legislation, for violent acts against women. Domestic violence against women, especially wife beating and forced intercourse, was common. These crimes reportedly occurred more frequently in the northern provinces but were prevalent throughout the country. The police were unlikely to intervene in domestic disputes except in cases involving severe injury or death. No figures were available on prosecutions, convictions, or punishment for domestic violence; however, police commanders indicated that these types of crime were not frequently reported to the SLP. Women suspected of marital infidelity often were subjected to physical abuse; frequently, women were beaten until they divulged the names of their partners. Because husbands could claim monetary indemnities from their wives' partners, beatings often continued until the women named several men, even if there were no such relationships. There also were reports that women suspected of infidelity were required to undergo animistic rituals to prove their innocence.

In 2000 the Government established the Family Support Units (FSUs) to deal particularly with gender-based violence. The SLP had FSU offices at 18 police stations around the country. Some international NGOs complained that the FSUs lacked basic infrastructure and communications support, and that FSU officers often told women victims simply to go back to their families, to the chief, or to simply survive on their own; however, the UN reported that the FSUs played a leading role in investigating cases of violence against women and children. They also engaged in community education and sensitization through radio and television programs.

The law prohibits rape, which was punishable by up to 14 years' imprisonment; however, rape was common and viewed as a societal problem. The law did not specifically prohibit spousal rape. Rape cases frequently were settled out of court, and

rape victims sometimes were ordered to marry their attackers. Cases of rape were underreported and indictments were rare, especially in rural areas; this reluctance to pursue justice for women, combined with a lack of income and economic independence, helped perpetuate a cycle of violence and a culture of impunity for violence against women. Since the establishment of the FSUs, however, reports of rapes, especially involving child victims, steadily increased. The FSUs reported that 65 percent of rape cases reported during the year involved girls under the age of 18. Rapes were documented of children as young as a few months old. Most perpetrators were known to their victims, and included teachers, family friends, relatives, and neighbors.

Medical and psychological services for rape victims were very limited. The country has only one psychologist. Rape victims were required to obtain a medical report to file charges; however, government doctors charged \$20 (approximately 50,000 leones) for such an exam, which was prohibitively expensive for most victims. During the year the Ministry of Social Welfare concluded agreements with doctors at some government hospitals to waive the fee. The International Rescue Committee (IRC) ran centers in Freetown, Kenema, and Koidu to perform medical examinations, provide counseling for victims of sexual assault, and offer legal assistance for victims who wanted to prosecute their cases; however, most cases did not make it to trial because of inefficiencies in the judicial system. During the year some improvements were made for the protection of victims in court. Although perpetrators had the opportunity to cross-examine victims directly, judges more frequently heard such cases privately in their chambers.

No law prohibits FGM, and it was practiced widely. Even some prominent government officials continued to openly support the practice. The less severe form of excision was practiced. The UN Children's Fund (UNICEF) and other groups estimated that 80 to 90 percent of women and girls had been victims of the practice; however, some local groups believed that this figure was overstated. FGM was practiced on girls as young as five years old.

In December 2005 the country was one of 19 African countries to adopt the Dakar Declaration during the African Parliamentary Conference focused on ending violence against women. The declaration calls for the development of legislation to outlaw FGM, and a national action plan with sufficient resources allocated to help implement it. During the year the Government took no action to combat the practice.

Although a number of NGOs worked to eradicate FGM and to inform the public about its harmful health effects, active resistance by women's secret societies, in which FGM commonly occurred as part of initiation rites, hindered efforts to stop the practice. However, there was progress in reducing the practice. An anti-FGM NGO reported that by year's end, 1,800 digbas (practitioners) had agreed to "lay down their knives." The NGO found that many practitioners still engaged in the practice because it represented their sole source of income, so multiple programs were created to help former practitioners find alternative sources of income.

Although police occasionally detained practitioners on accusations of forced mutilation or manslaughter, human rights workers reported that police remained hesitant to interfere in cultural practices.

Unlike during the previous year, there were no reports that girls had died following circumcision ceremonies; however, no arrests were made by year's end in connection with such deaths reported in 2004 and 2005.

Prostitution was widespread and not prohibited by law; however, prostitutes sometimes were arrested and charged with loitering or vagrancy. Many women and girls, particularly those displaced from their homes and with few resources, resorted to prostitution to support themselves and their children. There were indications that the presence of pimps was an emerging trend. On March 25, a former combatant acting as a pimp beat a prostitute in Freetown. Young men in the area stopped the man before he stabbed her, and police arrested him. The matter was not referred to court in part because the prostitute intervened on his behalf.

Trafficking in women was a problem (see Section 5, Trafficking).

Sexual harassment is not specifically prohibited by law and it was widespread. In 2002 a women's parliamentary conference identified sexual harassment as a barrier to women standing for office.

The law provides for equal rights for women; however, in practice women faced both widespread legal and societal discrimination. They faced discrimination in matters of marriage, divorce, property, and inheritance, which are guided by customary law, which applies in all areas except for the capital, Freetown. Chiefs sometimes colluded with men to forcibly evict women and children from their homes or subject them to arbitrary detention. In some cases chiefs imposed arbitrary and exorbitant fines, imprisoned women unlawfully in their homes or "chiefdom jails," and expelled them from the community. Their rights and status under customary law varied sig-

nificantly depending upon the ethnic group to which they belonged, but was routinely inferior to that of men. Under customary law women's status in society is equal to that of a minor. A woman was frequently perceived to be the property of her husband, to be inherited on his death with his other property. In rural areas, polygyny was widespread. All women in the Western (Freetown) Area, which is governed by general law, had a statutory right to own property in their own names. Women in the provinces, which are governed by customary laws that vary from chiefdom to chiefdom, did not.

As an example of discriminatory practices common in local courts, during the year a husband sued his wife in a chiefdom court after she had refused to have sex with him and filed for divorce. The woman was fined approximately \$230 (685,000 leones). The woman's brother, who took her in after she left, was fined approximately \$85 (250,000 leones) for taking the woman in without her husband's consent (see Section 1.e.).

In the Temne ethnic group, women could not become paramount chiefs, subordinate chiefs, or chiefdom authorities; however, in the Mende tribe, there were several such female leaders. Women did not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas women performed much of the subsistence farming and had little opportunity for formal education.

The Ministry of Social Welfare, Gender and Children's Affairs has a mandate to protect the rights of women; however, the ministry was underfinanced and relied on the assistance of international organizations and NGOs to help combat women's rights violations.

Women were active in civic and philanthropic organizations. Domestic NGOs, such as 50/50, the Forum for African Women Educationalists (FAWE), and Women's Forum raised awareness of the lack of gender equality and other women's issues, and they encouraged women to enter politics as candidates for parliament.

*Children.*—The Government was committed to improving children's education and welfare; however, it lacked the means to provide them with basic education and health services.

Public education is available up to the university level. The law requires school attendance through primary school. Primary school education is tuition-free country-wide and secondary school education is tuition-free for girls in the North. However, many parents are unable to put their children through primary school because they cannot afford school uniforms, books, and other fees charged by school authorities. Only 41 percent of primary school-aged children were enrolled in school, according to UNICEF, and many enrolled did not attend. Schools, clinics, and hospitals throughout the country were looted and destroyed during the 11-year insurgency, but the majority had been rebuilt. Many children received little or no formal education. Formal and informal fees largely financed schools, but many families could not afford to pay them. The average educational level for girls was markedly below that of boys, and only 20 percent of women were literate. At the one university, male students predominated.

Government medical care was extremely limited throughout the country, but boys and girls had equal access.

Sexual violence against children was a problem. There were reports that children as young as three months old were raped.

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

Child prostitution was a problem (see Section 5, Trafficking).

Child labor, including forced child labor, occurred. According to the International Trade Union Confederation, an estimated 72 percent of children between the ages of five and 14 were engaged in some form of child labor (see Section 6.d.).

The number and plight of street children were problems.

*Trafficking in Persons.*—The 2005 law prohibits trafficking in persons (TIP); however, there were reports that persons were trafficked to, from, and within the country.

A number of government agencies are responsible for combating trafficking, including the SLP, Ministry of Social Welfare, Gender and Children's Affairs, the Immigration Department, and the Office of National Security. The Government assisted in reintegrating trafficking victims when requested; however, there were no known requests for assistance with international investigations or extraditions.

The country continued to be a source, transit point, and destination for internationally trafficked persons. The majority of victims were women and the majority of traffickers were thought to be family members or friends who lured victims from their home villages with false promises of education, caretaking, or employment. There was no evidence of trafficking through employment agencies, organized crime, or marriage brokers.

There were no specific figures on the number of persons trafficked. However, anecdotal reports indicated the following: women and children were trafficked from the provinces to work in the capital as laborers and commercial sex workers and to diamond areas for labor and sex work; persons were trafficked from neighboring countries for domestic and street labor and for commercial sex work; persons were trafficked out of the country to destinations in west Africa, including Liberia, Nigeria, Cote d'Ivoire, Guinea, Guinea-Bissau, and the Gambia for labor and sex work; persons were also trafficked to Lebanon, Europe, and North America; and the country served as a transit point for persons trafficked from elsewhere in west Africa and possibly the Middle East.

A person convicted of trafficking can be sentenced to up to 10 years in prison. During the year a woman from Goderich was convicted of trafficking and sentenced to five years in prison. This was the first conviction under the new antitrafficking law, and occurred in a community whose parliamentary representative—also a member of the Parliamentary Human Rights Committee—had hosted a training session on trafficking for members of the community. Concerned community members had reported the woman's actions to the police. During the year there were approximately four TIP cases charged to court.

Document fraud was common and there were frequent reports that government registry officials, police, immigration officials, and border guards accepted bribes. Although there was no proof that forged documents were used to facilitate trafficking, low-level government officials who forged documents such as birth, marriage, and death certificates rarely suffered punishment.

During the year the Government held the first meetings of the Inter-Ministerial Committee and the TIP (Anti-Trafficking) Task Force as called for by the Anti-Trafficking Act. In July the minister of Social Welfare signed an ECOWAS/ECCAS (the West and Central African regional economic groupings) plan of action and multilateral cooperation agreement against trafficking in persons. In August the TIP Task Force attended an ECOWAS-sponsored two-day session to discuss the creation of a national action plan.

Government officials continued to work with NGOs on trafficking-related issues and attended NGO training sessions on trafficking. The Ministry of Social Welfare and the SLP publicly supported NGOs' antitrafficking efforts.

*Persons With Disabilities.*—The law does not prohibit discrimination against persons with physical and mental disabilities. No law mandates accessibility to buildings or assistance to disabled persons. There was no government policy or program to assist persons with disabilities; public facility access and discrimination against persons with disabilities were not considered public policy priorities. A few private agencies and organizations provided job training for such persons.

There was no outright discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, given the high rate of general unemployment, work opportunities for persons with disabilities were few.

Despite the sizeable numbers of persons disabled by polio, there was little government assistance to this group. In 2004 the SLP evicted without notice residents at a facility for polio victims.

Some of the many individuals maimed in the civil war, or who had their limbs amputated by rebel forces, received special assistance from local and international humanitarian organizations. Such programs involved reconstructive surgery, prostheses, and vocational training to help victims acquire new work skills; however, amputees complained that they did not receive sufficient assistance compared to former combatants, who received aid through the demobilization process. In its White Paper reply to the recommendations of the final TRC report, the Government accepted in principle the need to develop an aid program for war wounded, amputees, and victims of sexual violence; however, assistance to these groups remained limited and mostly funded by outside entities. An amputee representative in Kenema said that amputees from his region did not receive benefits commensurate with those received by amputees in Freetown. An amputee representative in Pujehun complained that the chairman of the Pujehun District Council refused to release a shipment of clothing and medicine meant for amputees, because the amputees were opposition PMDC party members (see Section 1.f.).

*National/Racial/Ethnic Minorities.*—The ethnically diverse population consists of about 18 ethnic groups of African origin, many of whom speak distinct primary languages and who were concentrated outside urban areas. In addition there are significant Lebanese and Indian minorities, and small groups of European and Pakistani origin. Little ethnic segregation was apparent in urban areas, where inter-ethnic marriage was common. The two largest ethnic groups were the Temne in the

North and the Mende in the South. These groups each constituted an estimated 30 percent of the population; however, the Krio, who constituted 10 percent of the population, have historically dominated the civil service and judiciary. Strong ethnic loyalties, bias, and stereotypes existed among all ethnic groups. The Temne and Mende have historically vied for political power, and the violence during the 11-year civil war had some ethnic undertones. For example, the Minorities At Risk Project reported that although the RUF did not specifically advocate for Temne issues, ethnic Temnes predominated in the RUF leadership and ranks. After the SLPP victory in the 1996 elections, the RUF objected to what they claimed was Mende hegemony and that the Mende-dominated SLPP government used ethnic criteria in appointing ministers to marginalize non-Mendes. Although the SLPP actively worked to counter this perception (President Kabbah is Mandingo), most citizens viewed the SLPP as a predominantly Mende party. However, during the year Temne cabinet ministers outnumbered Mende ministers. Ethnic loyalty remained an important factor in the Government, armed forces, and business. Complaints of ethnic discrimination in government appointments, contract assignment, and military promotions were common.

On August 11, as many as 14 persons were injured in a clash between ethnic Limbas and Mandingos in a dispute over paramount chieftaincy elections in Biriwa chiefdom. Prior to the election, the Ministry of Local government altered the voters' list to add new tribal authorities (all Mandingo) and removed others (nearly all Limba ceremonial chiefs). The Limbas protested and ultimately refused to participate in the election, so the sole candidate, a Mandingo, later won in an election run by the Ministry of Local government over the protest of the NEC. After the election, the Limbas selected their own alternate paramount chief, and the matter was still in dispute at year's end (see Section 3).

Residents of non-African descent faced institutionalized political restrictions (see Section 3). Legal requirements for naturalization, such as continuous residence in the country for 15 years, or the past 12 months and 15 of the previous 20 years, effectively denied citizenship to many locally born residents, most notably members of the Lebanese community.

*Other Societal Abuses and Discrimination.*—There was no official discrimination against HIV/AIDS positive persons; however, persons with HIV/AIDS were stigmatized in society.

The law prohibits homosexual acts, and there was both official and societal discrimination based on sexual orientation. In November 2005 the Ministry of Social Welfare, Gender, and Children's Affairs condemned same-sex marriage at an Inter-Religious Council meeting.

In 2004 prominent gay activist Fannyann Eddy was killed in her office. The activist's recently-dismissed domestic employee was arrested and charged with the crime. In July 2005 the defendant, along with approximately 24 other prisoners, escaped custody. At year's end, the defendant was still at large.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to join unions of their choice without previous authorization or excessive requirements; however, police and members of the armed services are prohibited from joining unions. The law also allows workers to form unions, although restrictions exist. Approximately 30 to 60 percent of the workers in the formal sector in urban areas, including government workers, were unionized, but attempts to organize agricultural workers and mineworkers have met with little success. In general labor unions joined the Sierra Leone Labor Congress (SLLC), but membership was voluntary. There were no reliable statistics on union membership.

The law does not prohibit antiunion discrimination against union members and does not prohibit employer interference in the establishment of unions; however, during the year there were no reports of such occurrences. Complaints of discrimination against trade unions could be made to a labor tribunal, for example, by an employee fired for union activities and seeking reinstatement; there were no reports of such complaints during the year.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government generally protected this right; however, by year's end the Government had not granted a bargaining certificate to the Civil Servant's Union, whose application had been on file since 1986. The law provides for collective bargaining, and the Government protected this right in practice. Collective bargaining must take place in trade group negotiating councils, each of which had an equal number of employer and worker representatives. Collective bargaining was widespread in the formal sector, and

most enterprises were covered by collective bargaining agreements on wages and working conditions. Unions have the right to strike, although the Government could require 21 days' notice, and workers exercised this right in practice. No law prohibits retaliation against strikers, even for a lawful strike. The Government did not take action against strikers during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, the Government did not effectively enforce the law. Under the Chiefdom's Council Act, individual chiefs may impose forced labor as punishment and have done so in the past; however, there were no reported occurrences during the year. They also may require villagers to contribute to the improvement of common areas, a practice that occurred in rural areas. There is no penalty for noncompliance; however, in March approximately 30 young men from two communities in Bumpe Chiefdom (Bo District) were fined approximately \$100 (300,000 leones) each and incarcerated for three days because they had not assisted with a community road construction project.

There were reports of bonded labor in rural areas, and debt bondage was common among the thousands of alluvial diamond diggers and miners.

Forced and compulsory labor by children occurred (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits forced and bonded labor by children; however, the Government did not effectively enforce the law, and child labor remained a problem due to strong tradition and high levels of extreme poverty—defined as income of less than \$1 (3,000 leones) a day—which averaged 80 percent in rural areas. By year's end, the parliament had not passed the draft omnibus domestic legislation to combat child labor, modeled on the UN's International Bill of Rights for Children. The Ministry of Mineral Resources enforced regulatory prohibitions against the worst forms of child labor. The ministry also was charged with protecting children working in the diamond mining areas; however, enforcement was not effective.

The law allows children as young as 12 to engage in "light" labor, and employers have the authority to determine working hours.

The law does not limit working hours for children; however, it does set health and safety standards. The law requires school attendance through the age of 12, but the Government did not enforce this.

In rural areas children worked seasonally on family subsistence farms. Children also routinely assisted in family businesses and worked as petty vendors. Adults engaged a large number of street children to sell, steal, and beg. Because the adult unemployment rate remained high, few children were involved in the industrial sector or elsewhere in the formal economy.

There were reports that foreign employers hired local children to work as domestic laborers outside the country at extremely low wages and in poor conditions. The Ministry of Social Welfare was responsible for reviewing the issuance of passports to minors, but did not do so effectively, and the prevalence of document fraud made effective government oversight difficult.

There were reports that children whose parents sent them to friends or relatives in urban areas for education were forced to work on the street. There also were reports that adults asked orphanages for children to be used as household help.

Many girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves (see Section 5).

Children continued to work in alluvial diamond mining, particularly in areas that were less accessible to government monitors. In many cases, children worked alongside parents or relatives. Children who engaged in diamond mining often abandoned educational or vocational training. According to an International Rescue Committee report completed in 2006 entitled, "Child Labor and Education in Sierra Leone: Needs and Resource Assessment in Targeted Communities," the work was inherently exploitative.

Bonded child labor was not prevalent in alluvial diamond mining. Some of the children who were hired by employers outside the country may have been victims of trafficking (see Section 5).

The Ministry of Labor was responsible for enforcing child labor laws. Ministry of Mines and Mineral Resources mine monitoring officers did not effectively enforce rules against child mining in diamond mining areas.

*e. Acceptable Conditions of Work.*—The national minimum wage, covering all occupations, including in the informal sector, was set at \$14 (40,000 leones) per month, which did not provide a decent standard of living for a worker and family. The Ministry of Labor is responsible for enforcing the minimum wage, but it lacked the resources to effectively do so, and compliance was very difficult to monitor in the in-

formal sector. Most workers supported an extended family, often including relatives who had been displaced by the insurgency in the countryside. It was common to pool incomes and to supplement wages with subsistence farming and child labor (see Section 6.d.).

Although not stipulated by law, the standard workweek was 40 hours (60 hours for security personnel). Employers negotiated work hours with employees at the time of hiring, and overtime was to be paid if an employee's work hours exceeded the standard workweek. There was no prohibition on excessive compulsory overtime.

The Ministry of Health and Sanitation was responsible for setting and enforcing health and safety standards. Although the Government set these standards, it lacked the funding to properly enforce them. Trade unions provided the only protection for workers who filed complaints about working conditions. Initially, a union could make a formal complaint about a hazardous working condition; if this complaint was rejected, the union could issue a 21-day strike notice; however, no such actions were reported during the year. If workers were to remove themselves from dangerous work situations without making a formal complaint, they risked being fired.

The law protects both foreign and domestic workers; however, there were fewer protections for illegal foreign workers.

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## SOMALIA

Somalia,<sup>1</sup> with an estimated population of 8.5 million, has been without a central government since 1991. From June to December the area that was traditionally considered the territory of the Somali state was fragmented into regions in part or whole presided over by four distinct entities: the Transitional Federal government (TFG), centered around Baidoa; the Supreme Council of Islamic Courts (Islamic Courts) in Mogadishu and the surrounding regions; the self-declared Republic of Somaliland in the northwest; and the semi-autonomous region of Puntland in the northeast. The TFG was formed in late 2004, with Abdullahi Yusuf Ahmed as President and Ali Mohamed Gedi as prime minister.

Civilian authorities generally did not maintain effective control of the security forces in any area of the country, although elected civilian authorities in Somaliland and Puntland maintained some control over security forces in their respective regions.

In January TFG President Yusuf and former Speaker of Parliament Sharif Hassan Sheikh Adan agreed to unite the Government by convening the 275-member clan-based Parliament. In February the TFG moved to Baidoa and the Parliament held its first session; however, TFG unity was short-lived due to continuing divisions within the Government and a subsequent military conflict with the Islamic Courts. In February a group of ministers of the TFG, businessmen, and faction leaders announced the formation of the Alliance for Restoration of Peace and Counter-Terrorism (ARPCT) to fight terrorism and stabilize the country. Fighting between warlords associated with the ARPCT and the Islamic Courts escalated until June, when the Islamic Courts succeeded in their military takeover of Mogadishu. NGOs reported that more than 350 civilians were killed in the fighting, and thousands were wounded. In December Ethiopian forces entered the country in support of the TFG, resulting in the withdrawal of the Islamic Courts from Mogadishu and the complete breakdown of the Islamic Courts as an entity. The TFG extended its territorial control to Mogadishu. Sporadic fighting between the Islamic Courts and Ethiopian forces supporting the TFG was continuing at year's end, primarily in remote areas of southern Somalia near the Kenyan border.

The country's poor human rights situation deteriorated further during the year, exacerbated by the absence of effective governance institutions or the rule of law, the widespread availability of small arms, and ongoing conflicts. The larger clans had armed militias at their disposal; personal quarrels, clan disputes, and other minor disputes frequently escalated into killings (with impunity from legal accountability).

The following human rights abuses were reported during the year: abridgment of citizens' right to change their government; unlawful and politically motivated killings; kidnapping, torture, rape, and beatings; harsh and life threatening prison conditions; arbitrary arrest and detention; impunity; denial of fair trial; limited pri-

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<sup>1</sup>The United States does not have diplomatic representation in Somalia, nor were U.S. Government personnel permitted to travel into any of the territory of the former state of Somalia during the year. This report draws in large part on non-US Government sources.

vacy rights; restrictions on freedom of speech, press, assembly, association, religion, and movement; discrimination and violence against women, including rapes; female genital mutilation (FGM); child abuse; recruitment of child soldiers; trafficking in persons; abuse and discrimination against clan and religious minorities; restrictions on workers' rights; forced labor, including by children; and child labor.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Since the collapse of the Government in 1991, tens of thousands of persons, mostly noncombatants, have died in interfactional and interclan fighting. Incidents of arbitrary deprivation of life occurred in numerous contexts: factional militias fighting for political power and control of territory and resources, including revenge reprisals; criminal activities and banditry; private disputes over property and marriage; and revenge vendettas after such incidents as rapes, family disagreements, and abductions. The vast majority of killings during the year resulted from clashes between militias or from unlawful militia activities. With the breakdown of law and order, very few of these cases were investigated by the authorities and there were few reports that they resulted in formal action by the local justice system.

In February Puntland security forces attacked the Puntland parliament building in Garowe in response to the seizure of the building by the personal militia of a cabinet member; four persons were killed.

In May elders of a minority group accused the Somaliland police of unlawfully killing a member of their clan. In a subsequent protest, police allegedly used excessive force to break up the demonstration. In July police shot and killed a prisoner in Bossaso for allegedly attempting to jump bail.

Security forces killed street children. At least two incidents were reported during the year of shoe-shine boys shot and killed by militia members or soldiers as a result of disputes over payment.

In September forces aligned with the Islamic Courts shot and killed a teenage boy during a protest against the Islamic Courts following its takeover of the port city of Kismaayo. In October forces aligned with the Islamic Courts killed three wounded prisoners of war in the Buale District Hospital.

Several deaths during the year were the result of random shooting by Islamic Courts militia as they attempted to impose strict social edicts, such as a ban on viewing televised soccer matches within the territory they controlled. In July at a cinema hall in Galgadud, shots fired by Islamic Courts militia killed two spectators watching a World Cup soccer match.

In May Omar Hussein was publicly executed in Mogadishu by the Islamic Courts. Hussein was tied to a stake, hooded, and stabbed to death by the 16-year-old son of the man he was convicted of killing; he had been sentenced to death only hours earlier by one of the Islamic Courts.

Excessive use of force by Islamic Courts militia resulted in the deaths of demonstrators during the year (see Section 2.b.).

During the year hundreds of civilians were killed in inter- or intra-clan militia clashes. In January nine persons were killed in fighting between the Wagardha and Rer Kosheen subclans of the Marehan. In the same month fighting between two factions within the Warsengeli subclan of the Abgal resulted in 13 dead and 30 wounded in Mogadishu. In January fighting between the Sa'ad and Suleiman subclans of the Haber Gedir left 41 dead and 89 wounded. In February fighting between the Marehan and Reer Beidyahan, triggered by a dispute over grazing rights, resulted in 60 killed and 70 wounded. Also that month, in a dispute over water rights, fighting between the Beidyahan, a subclan of the Majerteen, and the Eli of the Marehan, a subclan of the Darood, was reported to have left approximately 70 killed and more than 100 wounded. In March a 13-year-old boy was whipped to death by the Ifka Halan Islamic Court in Mogadishu for allegedly stealing from his employer. In April, in a dispute over control of a mobile phone company, seven persons were killed and four wounded in fighting between the Dabare and Geledle subclans of the Rahanweyn. In May three persons were killed and four wounded in fighting between the Hawadle and Murosade subclans of the Hawiye over water and grazing rights. In July fighting between the Walinwayne (a subclan of the Rahanweyn) and the Gadsan (a Dir subclan) resulted in four dead and six wounded. Repeated fighting throughout the year between the Bogol-Hore and Jilible subclans of the Rahanweyn over land rights and charcoal rights resulted in scores of deaths and casualties. In September, 21 persons reportedly died and 28 were wounded as Marehan and Suleiman subclans clashed over pasture and water in Galgadud re-



gion. In October six persons were killed and 10 wounded in fighting over camels between the Jilible and Bogol-Hore subclans of the Mirifle in Bakool region.

Clan militias were also responsible for the deaths of children. For example, in June, in Baidoa district, three girls under the age of 18 were killed by clan militia avenging the death of a relative.

No action was taken against the responsible members of the security forces or militias who committed killings in 2005 or 2004, nor were there any developments in the reported killings due to inter- or intra-clan fighting in prior years.

Landmines throughout the country resulted in human and livestock casualties, denial of pastoral and cultivable land, and road closures, although the number of new mine or unexploded ordinance casualties appears to have been smaller than the 276 recorded in 2005. The nongovernmental organization (NGO) Landmine Monitor project reported that anti-personnel and anti-vehicle mines were available in the country and could be bought at weapons markets in Mogadishu and other towns, and various factions used anti-personnel mines throughout the country. In January an explosive device at a school in Mogadishu reportedly killed two children and wounded five. In March one boy was killed and another wounded in the Bakool region while playing with unexploded ordinance they had found. By the end of April, centers supported by the International Committee of the Red Cross (ICRC) had treated six persons injured by mines or unexploded ordinance. In May a landmine exploded in the Togdheer region injuring three children. That month the UN arms embargo monitoring group reported that the Government of Eritrea had delivered 1,000 antipersonnel mines to the Islamic Courts. In October 2005 the UN monitoring group reported that members of the TFG were involved in weapons transfers that included landmines.

During the year one journalist was killed (see Section 2.a.).

Attacks against humanitarian and NGO workers resulted in numerous deaths during the year (see Section 4). For example, in April a convoy hired to deliver humanitarian aid supplies was attacked in the Gedo region by militia from a subclan of the Marehan, resulting in the death of a driver and a passenger. There were many occurrences of looting, hijacking, and attacks on convoys of World Food Program (WFP) and other humanitarian relief shipments throughout the year (see Section 4).

During the year there were a number of apparently politically motivated killings by unknown assailants. In January three senior military officers were killed in Mogadishu in separate incidents within 24 hours of each other. In March a former senior police officer and a businessman were killed by unknown assailants on a bus in Mogadishu. In July Abdulla Derow Isaaq, the TFG minister for constitution and federalism, was assassinated in Baidoa shortly after mid-day prayers. Several arrests were made in the days immediately following, but no suspects had been charged by year's end. No suspects were identified in politically motivated killings from 2005 and 2004.

In September an alleged suicide bomb attack occurred outside the parliament building in Baidoa in an apparent attempt to assassinate TFG President Yusuf. Reportedly 11 persons were killed and 25 injured as a result of the explosion and a gun battle that ensued in the chaos after the blast. In November, in what appeared to be another suicide bomb incident, six persons reportedly died and 10 were wounded when two vehicles exploded at a checkpoint in Baidoa. Several arrests were made; the motive for the bombing remained unclear.

*b. Disappearance.*—There were no reports of politically motivated disappearances, although cases might be concealed among the thousands of refugees and displaced persons. Abduction was common and generally used to extort ransom money or as a tactic in clan disputes to attain political ends. The UN Independent Expert on Human Rights in Somalia (UNIE) noted in his September report that the incidence of kidnapping remained high.

During the year there were numerous kidnappings by militia groups and armed assailants who demanded ransom for hostages. The majority of reported kidnappings were in the southern regions, especially in Mogadishu, where ransoms allegedly funded purchases of weapons and ammunition. In recent years UN staff or consultants have been kidnapped periodically in the country (see Section 4). In October a Thai national was kidnapped and held hostage in Puntland. Speaking to media, the abductors demanded the release of three Somalis jailed in Thailand for piracy. The hostage reportedly had not been released by year's end. There were no investigations or action taken against the perpetrators of any kidnappings during the year, nor were there any developments in the cases of kidnappings from previous years.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Transitional Federal Charter (TFC) prohibits torture. The Puntland Charter prohibits torture “unless sentenced by Islamic Shari’a courts in accordance with Islamic law.” However, there were reports of the use of torture by the Puntland and Somaliland administrations and warring militiamen against each other or against civilians. Observers believed that many incidents of torture were not reported. Prison guards beat inmates in prison.

The Islamic Courts carried out public floggings that resulted in death, and other executions (see Section 1.a.). For example, in October two persons were publicly flogged in Kismaayo by the Islamic Courts for allegedly eating during the day and drinking alcohol during Ramadan. Security forces, police, and militias abused and beat persons during the year. During a 2005 mission to Somaliland, the UNIE noted an increase in police brutality in that region.

In December Sheikh Mohamed Sheikh Ismail was sentenced to 20 years in prison. He had been charged in October 2005 with terrorism-related crimes against the state of Somaliland. Ismail (and 15 others arrested on the same charge) was accused of planning terrorist attacks during the parliamentary election campaign the previous month. His supporters alleged that he was tortured in detention, and circulated a video that purported to show him being tortured by Somaliland police. The Somaliland government denied the allegations of torture and called the video a forgery (see Section 2.b.).

There continued to be reports of rapes committed by militia members. Factions used rape as a weapon of war to punish and intimidate rival ethnic factions.

There were prisoners of war in Somaliland and Puntland. In December 2005, authorities from Puntland and Somaliland exchanged 24 detainees from Somaliland and 12 from Puntland. The detainees had been captured a year earlier in clashes over the disputed Sool border area.

No action reportedly was taken against Somaliland or Puntland forces, warlord supporters, or members of militias responsible for torturing, beating, raping, or otherwise abusing persons in 2005 or 2004.

Prison conditions remained harsh and life threatening in all regions of the country. The main Somaliland prison in Hargeisa, designed for 150 inmates, held more than 700 prisoners. The UNIE had noted the previous year that in general Somaliland prisons lacked funding and management expertise. Overcrowding, poor sanitary conditions, lack of access to health care, and inadequate food and water supply persisted in prisons throughout the country. Tuberculosis, HIV/AIDS, and pneumonia were widespread. Abuse by guards reportedly was common in many prisons. Detainees’ clans generally were expected to pay the costs of detention. In many areas prisoners depended on food received from family members or from relief agencies.

Juveniles frequently were held with adults. The incarceration of juveniles at the request of families who wanted their children disciplined continued to be a major problem (see Section 5, Children).

The Puntland administration permitted prison visits by independent monitors. An agreement between Somaliland and the UN Development Program (UNDP) allows for the monitoring of prison conditions. There were no visits by the ICRC to prisons in Somaliland during the year, but a Prisons Conditions Management Committee, organized by the UNDP and comprised of medical doctors, government officials, and civil society representatives, visited five out of 11 prisons in Somaliland during the year. The committee had not yet issued its report by year’s end.

*d. Arbitrary Arrest or Detention.*—In the absence of constitutional or other legal protections, various factions continued to engage in arbitrary arrest and detention, and there was no system of due process.

*Role of the Police and Security Apparatus.*—The police were generally ineffective. Corruption was endemic within the various police forces. Members of titular police forces throughout the country were often direct participants in politically based conflict, and owed their positions to other politically active individuals. In Somaliland an estimated 60 percent of the budget was allocated to maintain a militia and police force comprised of former soldiers. Abuses by police and militia members were rarely investigated; impunity was a problem. Police generally failed to prevent or respond to societal violence. In December police officers, angry over lack of pay, reportedly exchanged gunfire with Presidential protective services during a visit of Puntland President Adde Musse Hirsi to the central police station in Garowe.

*Arrest and Detention.*—Judicial systems are not well established, are not based upon codified law, do not function, or simply do not exist in most of the country. The country’s previously codified law required warrants based on sufficient evidence issued by authorized officials for the apprehension of suspects; prompt judicial de-

terminations; prompt access to lawyers and family members; and other legal protections for the detained; however, adherence to these procedural safeguards was rare. There was no functioning bail system or the equivalent.

Arbitrary arrest was a problem. Authorities in all four separately governed regions arbitrarily arrested journalists during the year (see Section 2.a.). In September the male chairman of the Karate Club of Somalia and six female members of the club were arrested in Mogadishu. Reportedly all were imprisoned for anti-Islamic activities, and the chairman's head was shaved.

Religious leaders were arbitrarily arrested during the year (see Section 2.c.).

Arrested persons were sometimes held for extended periods while awaiting trial. Militias and factions detained persons for unduly long periods without trial and without charge.

*e. Denial of Fair Public Trial.*—The TFC provides for an independent judiciary, but there was no functioning judicial system for the TFG to administer. The TFC is intended to replace the 1990 constitution; however, for many issues not addressed in the charter the former constitution still applies in principle.

The TFC provides for a High Commission of Justice, a Supreme Court, a Court of Appeal, and courts of first reference; however, no such courts existed. Some regions established local courts that depended on the predominant local clan and associated factions for their authority. The judiciary in most areas relied on some combination of elements from traditional and customary law, Shari'a, and the Penal Code of the pre-1991 government. In March, for example, an alleged killer from the Jeron subclan of the Rahanweyn was publicly executed by order of the Jeron elders in Wajid. In September Somaliland police executed three persons for murder after a court sentenced them to death. A fourth suspect in the case was released after his relatives opted to pay blood money in place of the death sentence. Under the system of customary justice, clans often held entire opposing clans or subclans responsible for alleged violations by individuals.

Beginning in June the Islamic Courts began to implement public floggings and executions, ostensibly according to Shari'a law but without the due process protections afforded to an accused that would be considered essential elements of a fair justice system. Amnesty International reported that they did not meet international standards for fair trials.

*Trial Procedures.*—The TFC provides for the right to be represented by counsel. That right and the right to appeal did not exist in those areas that applied traditional and customary practices or Shari'a. These rights more often were respected in Somaliland and Puntland, where authorities did not recognize the TFC and continued to apply the law of a regional constitution or charter, as well as the former government's laws.

The Somaliland Constitution provides for an independent judiciary; the judiciary was not, however, independent in practice. Although the Somaliland Constitution is based on democratic principles, that region continued to use more restrictive laws from the pre-1991 regime. There was a serious lack of trained judges and of legal documentation in Somaliland. Untrained police and other unqualified persons reportedly served as judges. The UNIE reported that local officials had a tendency to interfere with legal matters. The UNIE also raised concerns about the Public Order Law in Somaliland, which reportedly was used to detain and imprison persons without trial.

The Puntland Charter provides for an independent judiciary; however, the judiciary was not independent in practice. The charter also provides for a Supreme Court, courts of appeal, and courts of first instance. In Puntland clan elders resolved the majority of cases using traditional methods; those with no clan representation in Puntland, however, were subject to the administration's judicial system.

The Islamic Courts' judicial philosophy was based on a strict interpretation of Shari'a. Initially each of the neighborhood courts was organized along clan lines to adjudicate both criminal cases and civil disputes. As the power base of the Islamic Courts grew, senior leadership tried to consolidate authority over individual clan-based courts, and in September courts began hearing cases regardless of kinship considerations.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees, although there appeared to be a political motivation to some arrests and detentions (see Section 1.d.).

*Civil Judicial Procedures and Remedies.*—The inability of the judiciary to handle civil cases involving such matters as defaulted loans or contract disputes encouraged clans to take matters into their own hands and led to increased interclan conflict. With the breakdown of the rule of law and the lack of a coherent legal system or effective government, individuals were not afforded adequate protection or recourse.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The TFC provides for the sanctity of private property and privacy; however, looting, land seizure, and forced entry into private property continued in Mogadishu and elsewhere, with impunity. The Puntland Charter and the Somaliland Constitution recognize the right to private property; however, authorities did not generally respect this right in practice.

In July it was reported that the Islamic Courts stopped a wedding in Mogadishu, and destroyed or confiscated the musical equipment.

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

*a. Freedom of Speech and Press.*—The TFC and the Somaliland Constitution provide for freedom of speech and press. However, there were instances of harassment, arrest, and detention of journalists in all regions of the country, including Puntland and Somaliland. The Puntland Charter provides for press freedom “as long as they respect the law”; however, this right was not respected in practice. Freedom House has ranked the country as “not free” every year from 1972 to the current year. Reporters Without Borders also gave the country a low rating for press freedom, although marginally improved from the previous year. Journalists engaged in rigorous self-censorship in order to avoid reprisals.

In October the Islamic Courts announced a 13-point code of conduct for the media that effectively eliminated freedom of the press in the areas they controlled. Among other provisions, the code of conduct stipulated: media must not disseminate anything that could create confrontation between the people and the Islamic Courts; journalists are required to reveal sources; the media must not serve foreign interests; and journalists may not attend foreign seminars without the formal permission of the Islamic Courts. Later in October Abdirahim Ali Mudey, the Islamic Courts’ head of communication and information, said the code of conduct for the media were only proposals and could be discussed. Media monitors criticized the Islamic Courts for banning music, concerts, cinemas, home videos, and the watching of international sports on satellite television. In October the International Federation of Journalists condemned attacks on the country’s media, which included the forced closure of East Africa Radio in Mogadishu, where the Islamic Courts were in control, and the burning of newspapers published by Haatuf in Hargeisa, Somaliland, and the barring of foreign journalists from entering Somaliland.

The print media consisted largely of short, photocopied dailies published in the larger cities and often affiliated with one of the factions. Several of these dailies were nominally independent and published criticism of faction leaders.

Somaliland had two daily newspapers—one government-owned and one independent. There also was an English-language weekly newspaper.

Most citizens obtained news from foreign radio broadcasts, primarily the BBC, which transmitted a daily Somali-language program. There were reportedly eight FM radio stations and one short-wave station operating in Mogadishu. A radio station funded by local businessmen operated in the south, as did several other small FM stations in various towns in the central and southern parts of the country. There was at least one FM station in both Puntland and Somaliland.

Harassment of journalists continued in all regions, including detention without charge, assaults, and one killing. In June Martin Adler, a foreign journalist and photographer, was killed in Mogadishu. Adler was covering a demonstration organized by the Islamic Courts. Another international reporter covering the event witnessed a gunman shoot Adler in the back at close range before disappearing into the crowd. There have been no arrests in the case, nor were there any developments in the investigations of the 2005 murders of journalists Kate Peyton and Duniya Muhyadin Nur.

Numerous journalists were arrested and detained during the year. In October TFG security forces arrested three radio journalists accused of spreading pro-Islamic Courts propaganda and held them for nine days at a Baidoa police station. In September the Islamic Courts arrested three journalists working for the HornAfrik radio station in Kismaayo for broadcasting statements critical of their presence in the city. In November TFG forces arrested Abdullahi Yasin Jama of privately owned Radio Warsaw after he broadcast a report indicating that Ethiopian troops had entered the Bay region and might be headed to Mogadishu. He was held for three days. Reporters Without Borders criticized the arrest and claimed that Yasin Jama was physically abused while in detention.

Abdiaziz Mohamud Guled was arrested December 1 by Puntland authorities in Bossaso. He was held for establishing and broadcasting a branch of the Galcayo-based Radio Voice of Peace, for which the authorities said he needed prior authorization. He was released December 17 after the International Federation of Journalists and the National Union of Somali Journalists appealed on his behalf.

In September the Islamic Courts closed down a radio station in Kismaayo, accusing the station of broadcasting false information with intent to incite the public to violence. Also in September the Islamic Courts shut down Radio Jowhar for several days after the station refused to stop playing music and songs. In October the Islamic Courts closed East Africa Radio, owned by Bashir Raghe, a warlord and former member of the ARPTC. That same month the HornAfrik radio station in Kismaayo was shut down for five days, allegedly for incitement to violence.

The Islamic Courts made many threats of violence against journalists and photographers during the year.

In Baidoa the TFG issued strict orders to local and foreign journalists not to photograph or report on the presence of Ethiopian troops in the country.

There were no further developments in the 2005 or 2004 cases in which journalists were harassed or arrested.

In November journalists based in Mogadishu established the Somalia Association of Professional Journalists.

While the ban on independent television and radio stations in Somaliland remained in effect, there were indications that the authorities were loosening restrictions on independent television stations. In March the authorities permitted Hargeisa Cable Television to begin independent broadcasting of news, movies, and sports.

*Internet Freedom.*—There were no government restrictions on access to the Internet, but the Islamic Courts in Mogadishu were reported to be monitoring Internet use closely. Internet use was widespread in urban and town settings throughout the country.

*Academic Freedom and Cultural Events.*—There were two universities in Mogadishu, two in Somaliland, and one in Puntland; however, there was no organized higher education system in most of the country. There were restrictions on academic freedom, and academicians practiced self-censorship. In Puntland a government permit was required before conducting academic research. Unlike in the previous year, there were no reports that academicians were prevented from travel.

Cultural events were restricted by the country's instability and security situation. In areas controlled by the Islamic Courts there were restrictions on the playing of music. After taking control of Mogadishu in June, the Islamic Courts raided, shut down, and destroyed or confiscated equipment from movie halls and music venues, in an effort to suppress any form of artistic or cultural endeavor that the Islamic Courts deemed contrary to the tenets of Islam. In November all cinemas in Hiiraan region were ordered closed by the Islamic Courts.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The TFC and the Somaliland Constitution provide for freedom of assembly; however, the lack of security effectively limited this right in many parts of the country. The ban on demonstrations continued; nevertheless, numerous demonstrations took place throughout the country during the year.

In September the Hargeisa (Somaliland) Regional Emergency Committee arrested 56 demonstrators—44 women and 12 men—and sentenced them to three to six months in prison. The demonstrators were protesting the alleged torture in prison of Sheikh Mohamed Sheikh Ismail, who had been charged in October 2005 with terrorism-related crimes against the state of Somaliland (see Section 1.c.).

The Islamic Courts did not permit demonstrations of opposition to court rule or edicts. In September one person was killed and three were wounded during demonstrations against the Islamic Courts in Kismaayo. The fatality reportedly occurred when Islamic Courts militia fired in the air to disperse the demonstrators.

Following their takeover of Mogadishu in July, the Islamic Courts began to impose strict social edicts. They used violence and intimidation to shut down public cinemas. Soccer was declared a "satanic act" and playing it or even watching it was prohibited. In June a young girl and the owner of a cinema were killed when Islamic Court militia opened fire on civilians watching a banned World Cup soccer match on television. In September a 13-year-old boy was shot and killed in another raid by Islamic Courts militia on a crowd watching a football match. Also in September a man was killed and four others wounded in a clash with Islamic Courts militia who had ordered a cinema closed during a soccer match. In November Islamic Courts militia stormed a cinema in the Hiiraan region and arrested 25 youths who were watching a soccer match. The youths, some reported to be as young as 10, had their heads shaved and were jailed.

*Freedom of Association.*—The TFC provides for freedom of association; however, the TFC was not enforced during the year.

The Puntland Charter provides for freedom of association; however, the Puntland administration banned all political parties.

The Somaliland Constitution provides for freedom of association, and this right was generally respected in practice. Legislation governing the formation of political parties limits the number of parties allowed to contest general elections to three. An ad hoc commission nominated by the President and approved by the legislature was responsible for considering applications. The law provides that approved parties obtaining 20 percent of the vote are allowed to operate. There were three approved political parties operating since the 2003 elections.

Professional groups and local NGOs operated as security conditions permitted. In October the UN withdrew staff from territories occupied by the Islamic Courts.

*c. Freedom of Religion.*—There were no legal provisions for the protection of religious freedom, and there were limits on religious freedom in practice. The TFC, Somaliland Constitution, and the Puntland Charter establish Islam as the official religion. The Islamic Courts also made Islam the official religion in the areas they controlled.

In Puntland only Shafi'lyyah, a moderate Islamic doctrine followed by most citizens, is allowed. Puntland security forces closely monitored religious activities. Religious schools and places of worship must receive permission to operate from the Ministry of Justice and Religious Affairs, and such permission was granted routinely. In February there was a report that three religious leaders in Bossaso were arrested by the Puntland intelligence services over alleged links to extremist activities. The three were later released, apparently in response to pressure from other religious leaders.

According to the Somaliland Constitution, Islam is the religion of the Somaliland nation. Religious schools and places of worship are required to obtain the Ministry of Religion's permission to operate. The ministry must approve entry visas for religious groups, and certain unspecified doctrines were prohibited. In October, allegedly under pressure from Muslim religious scholars, President Dahir Riyale Kahin stated that Shari'a law would be applied in Somaliland; the constitution says only that Shari'a should be the basis for all legislation.

Proselytizing for any religion except Islam is prohibited in Puntland and Somaliland, and effectively blocked by informal social consensus elsewhere in the country. Christian-based international relief organizations generally operated freely, to the extent permitted by the general security situation, as long as they refrained from proselytizing.

Non-Sunni Muslims often were viewed with suspicion by members of the Sunni majority. There was strong social pressure to respect Islamic traditions. Organized Islamic fundamentalist groups, whose goal was the establishment of an Islamic state, were active in business and political activities throughout the country.

Islamic religious leaders in Puntland or Somaliland who publicly opposed government policy on Shari'a law or spoke out in favor of the Islamic Courts increasingly came into disfavor with government authorities during the year. In October a prominent cleric in Somaliland was arrested after speaking out against the detention and alleged torture of Sheikh Mohamed Sheikh Ismail (see Section 2.c.).

In November imams and opposition figures in Somaliland protested the alleged firing of two women in the Ministry of Information for the sole reason that they wore Islamic dress to work.

*Societal Abuses and Discrimination.*—In September gunmen shot and killed a foreign nun where she worked at a hospital in Mogadishu run by an international NGO. The Islamic Courts arrested two suspects; the motives for the killing of the nun and her bodyguard remained unclear.

The small Christian community kept a low profile. Christians, as well as other non-Muslims who proclaim their religion, sometimes faced social harassment.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The TFC and the Puntland Charter provide for freedom of movement; however, this right continued to be restricted in some parts of the country. Checkpoints operated by militias loyal to particular clans or factions inhibited passage by other groups. In the absence of effective governance institutions, few citizens had the documents needed for international travel.

In mid-July the Islamic Courts removed many checkpoints and roadblocks in Mogadishu, and residents of the city reported that as a result transport costs dropped considerably. For the first time in 15 years residents of Mogadishu reported that they were able to move about the city freely and largely without fear for their safety or security.

The law does not prohibit forced exile; however, none of the authorities used forced exile during the year.

As security conditions remained relatively stable in the northern parts of the country, some refugees returned to their homes. According to the UN High Commissioner for Refugees (UNHCR), 1,300 refugees were repatriated to Somaliland from Djibouti, and 300 to Puntland from Yemen during the year. There were no reported returnees in the south of the country.

*Internally Displaced Persons (IDPs).*—Reliable figures for IDPs in the country were difficult to obtain, but UN agencies estimated that 454,000 were displaced because of internal hostilities. The Somalia office of UNHCR, based in Kenya, estimated that by mid-December an additional 407,600 had been displaced by the severe flooding that affected the southern and central regions of the country. Many of the IDPs resided in public buildings and temporary settlements. An estimated 250,000 were in Mogadishu; 18,500 IDPs were in Kismaayo, and the rest were scattered around the country.

During the year more than 30,000 persons crossed the border to refugee camps in the Dadaab region of eastern Kenya, or moved north into Puntland, from which many attempted to cross the Gulf of Aden to Yemen.

UNHCR reported that monthly movements to Yemen doubled over the 2005 figure. In November 3,617 made the crossing. An effort in September by the Puntland authorities to interdict human trafficking to Yemen resulted in the movement of many IDPs south instead from Bossaso to Galcayo (see Section 5, Trafficking). A substantial number of these people may be more accurately characterized as economic migrants than as refugees or victims of trafficking, but no reliable data is available.

*Protection of Refugees.*—The 1990 constitution and TFC do not include provisions for the granting of asylum or refugee status in accordance with the definition in the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and there was no official system for providing such protection. The authorities provided some protection against refoulement, the return of persons to a country where they feared persecution, and in practice the authorities granted refugee status or asylum.

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

There continued to be reports of rape of Somali women and girls in refugee camps in Kenya during the year.

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

In the absence of effective governance institutions, citizens could not exercise the right to change their government. In most regions clan leaders operated as de facto rulers. Although many such leaders derived their authority from the traditional deference given to clan elders, they often faced opposition from intra-clan groups and political factions.

*Elections and Political Participation.*—The Transitional Federal government was formed in late 2004 and early 2005 following two years of negotiations in Kenya, led by the Intergovernmental Authority on Development. The Transitional Federal Charter serves as a guiding framework for the transitional federal institutions of parliament and government, which operate under a five-year mandate that expires in 2009. In 2004 the clan-based Transitional Federal Parliament elected Abdullahi Yusuf Ahmed, the former President of Puntland, as Transitional Federal President, and he then appointed Ali Mohammed Gedi as prime minister.

Throughout most of 2005 the parliament and government failed to function, but in January the President and speaker of Parliament reached agreement on a variety of divisive issues, including the movement of the TFG to Baidoa, where in February the Parliament met for the first time. In June, however, the Prime Minister fired four ministers for their military involvement in the fighting against Islamic Courts forces in Mogadishu. By July more than 40 ministers resigned from the TFG, and Prime Minister Gedi narrowly survived a no-confidence vote. In August the Prime Minister, President, and speaker of Parliament initialed an agreement authorizing Prime Minister Gedi to form a new cabinet and government with a six-month mandate. In November, however, frustrated by what they viewed as the TFG's lack of commitment to negotiate seriously with the Islamic Courts, the speaker of Parliament and approximately 68 members of Parliament left Baidoa for Mogadishu for talks with Islamic Court leaders. At year's end the standoff between the TFG and the dissident parliamentary faction was overtaken by Ethiopia's incursion into the country and the assertion of TFG authority over Mogadishu.

Somaliland has a constitution and bicameral parliament with proportional clan representation, and an elected President and vice President. The Hargeisa authorities have established functioning administrative institutions in virtually all of the territory they claim, which is the same as the Somaliland state that achieved international recognition briefly in 1960 before entering into a union with the former Italian colony of Somalia. In a 2001 referendum, 97 percent of voters supported Somaliland independence.

Presidential elections in Somaliland were held in 2003 with participation by three political parties: the Democratic United People's Movement (UDUB), the Solidarity Party (Kulmiye), and the Party for Justice and Democracy. The incumbent UDUB President, Dahir Riyale Kahin, won the election by a very small margin. Most international observers considered the elections credible and sufficiently transparent. Parliamentary elections were held in September 2005. In May President Kahin postponed elections for the Parliament's House of Elders and initiated a process to extend the mandate of the upper house for four years. Opposition parties declared the process illegal. At year's end the Government and opposition had formed a committee to address the constitutional impasse.

The Union of Islamic Courts was a heterogeneous coalition of largely independent clan-based Shari'a courts that represent a range of religious traditions and political perspectives. As a clan-based organization, each 'court' has three main elements: a shura, or council, made up of respected leaders of the clan; a chairman appointed by the clan; and a militia commander appointed by the chairman and approved by the shura. The courts' resources came from private contributions, revenue from ports and airports, and taxation exacted at militia checkpoints. In 2004 an umbrella structure for the courts was established in Mogadishu, called the Supreme Council of Islamic Courts in Somalia. By late 2005, 11 clan-based courts had been established in Mogadishu. The chairman of the Supreme Council was Sheikh Sharif Sheikh Ahmed. From June to December, the Islamic Courts, although heavily dominated by the Hawiye clan, became the preponderate political force in Mogadishu and surrounding areas through force of arms and their ability to articulate strong nationalist and anti-Ethiopian rhetoric within an Islamic framework, while appealing to aspirations for a "Greater Somalia" and the population's strong desire for law and order and opposition to warlordism. In December the Ethiopian military, together with forces from the TFG, launched a counter-offensive against the Islamic Courts throughout much of the south. The Islamic Courts were defeated and most of its leadership either fled or were killed or injured in combat.

In 1998 Puntland declared itself a semi-autonomous regional government during a consultative conference with delegates from six regions who included traditional community elders, the leadership of political organizations, members of local legislative assemblies, regional administrators, and civil society representatives. Puntland has a single-chamber quasi-legislative branch called the Council of Elders, which has played a largely consultative role. Political parties were banned. General Mohamud Muse Hersi was elected President by the Puntland Parliament in January 2005. In February conflict erupted over a cabinet change, and the personal militia of a cabinet member briefly occupied the parliament building. Four persons were killed and one was wounded when the Puntland security forces counter-attacked. Most Puntland cabinet ministers have their own militias, which contributed to a general lack of security.

Somaliland and Puntland continued to contest portions of Sanaag region, as well as the Sool region and the Buhodle district of Togdheer region during the year. Both governments maintained elements of their administrations in the Sanaag and Sool regions, and both governments exerted influence in various communities.

There were 23 women in the 275-seat Transitional Federal Parliament; the number fell short of the requirement stipulated in the TFC that at least 12 percent of parliamentary seats be reserved for women. The minister for gender and family affairs was a woman, as were one state minister and three deputy ministers. In the Somaliland government, a woman held the post of gender and family minister and two women were elected to the lower house of Parliament. There were four women in the 69-seat Puntland Council of Elders, and a woman held the position of minister of gender and family. There were no women in the governing council of the Islamic Courts.

There were 31 members of the minority Bantu or Arab ethnic groups in the 275-seat Transitional Federal Parliament and four in the TFG cabinet. The Somaliland parliament and cabinet had no members of minority groups.

*Government Corruption and Transparency.*—Official corruption was endemic throughout the country. There were no laws providing for public access to government information.



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

A number of domestic and international human rights groups generally operated in areas outside the control of the Islamic Courts without official restriction, investigating and publishing their findings on human rights cases. Authorities were somewhat cooperative and responsive to their views.

In August a senior Islamic Courts cleric stated that the Islamic Courts did not recognize civil society groups or NGOs. In October, faced with broad public opposition, the Islamic Courts agreed to an accommodation with civil society groups and the Islamic Courts' Office of Civil Affairs and Regional Cooperation issued a statement calling on all civil society organizations to register by the end of the month. In November the Islamic Courts met with NGOs to discuss registration, and the Islamic Courts agreed to extend the deadline. A four-member delegation of the Nairobi-based NGO Consortium, representing more than 190 civil society groups, traveled to Mogadishu to present the ICRC Code of Conduct to the Islamic Courts and to make the case for allowing humanitarian NGOs to operate in the country. The consortium negotiated an extension with the Islamic Courts to allow registration of all NGOs beyond the end of the year.

Several human rights groups were active during the year, including the Mogadishu-based Dr. Ismael Jumale Human Rights Center (DIJHRC), Isha Baidoa Human Rights Organization in the Bay and Bakol regions, and KISIMA in Kismaayo. The DIJHRC investigated the causes of the continuing conflict in the Mogadishu area, conducted effective human rights monitoring, and protested the treatment of prisoners before the Shari'a courts. The Mogadishu-based National Union of Somali Journalists (NUSOJ) continued to advocate for media freedom throughout the country. The Mogadishu-based Center for Research and Dialogue, women's NGOs, and other members of civil society also played a role in promoting dialogue between the TFG and the Islamic Courts.

Security problems complicated the work of local and international organizations, especially in the south. Attacks and incidents of harassment against humanitarian, religious, and NGO workers resulted in numerous deaths. There were numerous occurrences of looting, hijacking, and attacks on convoys of WFP and other humanitarian relief shipments during the year. In January an ICRC staff member was killed at his residence in Mogadishu by an unidentified masked gunman. In April a convoy hired to deliver humanitarian aid was attacked in Gedo region by militia from a subclan of the Marehan, resulting in the death of a driver and a passenger. In June a UN driver was stabbed and wounded in Garowe. In August a long-serving Somali staff member of the DIJHRC was shot and killed and a driver wounded while driving to Burhakaba after a meeting with an international NGO. In November two UN vehicles were fired upon in Gedo region; a UN staff member was wounded. According to the UN, there have been no investigations or arrests in connection with any of these cases.

In recent years UN staff or consultants have been kidnapped, often for use as leverage by former UN workers dismissed by the organization and seeking compensation. For example, in March a UN Children's Fund (UNICEF) official was held hostage for 24 hours by gunmen allegedly acting on behalf of a businessman who claimed that the UN owed him money. Most hostages were released unharmed after mediation by clan elders.

In February demonstrations against the cartoons depicting the prophet Mohammed that were published by several European newspapers turned violent. Demonstrators in Bossaso pelted the compounds of UN agencies with stones. Security forces guarding the compounds reacted with deadly force, leaving one dead and three wounded. Also in February it was reported that a hand grenade was thrown into the compound of a local NGO in Merka; there were no casualties resulting from the incident. In October the President of Somaliland issued a statement claiming that the Islamic Courts were responsible for carrying out attacks against humanitarian aid workers in Somaliland. In October demonstrators angry over hiring policies threw stones at the offices of an international NGO in Wajid before being repulsed by security guards. In November vehicles of an international NGO were fired upon in Gedo region.

Attacks on NGOs also disrupted flights and food distribution during the year. In January clan militia stole 11 metric tons of WFP food aid from the Mother and Child Hospital in Baidoa that was destined for an IDP camp. In April one person was killed and another was injured when militia attacked a building in Baidoa where humanitarian food supplies were stored for distribution to drought victims. In May fighting broke out between local militia and guards at a food distribution center in the Middle Juba region, leaving three dead. In July two persons were killed and five wounded when conflict erupted between militia escorting a UN food

convoy and local militia. In August part of a UN food shipment to Galdayo was stolen. Unlike in the previous year, there were no reports that pirates hijacked food aid.

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

The TFC prohibits discrimination on the basis of gender or national origin; however, societal discrimination and violence against women, and widespread abuse of children, continued to be serious problems. The Somaliland Constitution prohibits discrimination on the basis of gender or national origin, but these rights were not respected in practice.

*Women.*—Domestic violence against women remained a serious problem. There are no laws specifically addressing domestic violence; however, both Shari'a and customary law address the resolution of family disputes (see Section 1.e.). No statistical information was available on the extent of domestic violence. Sexual violence in the home was reportedly a serious problem, linked to general gender discrimination. Women have suffered disproportionately in the country's civil war and inter-factional fighting.

Laws prohibiting rape exist; however, they were not generally enforced. There were no laws against spousal rape. There were no reports that rape cases were prosecuted during the year. NGOs documented patterns of rape of women with impunity, particularly of women displaced from their homes due to civil conflict or who were members of minority clans. Police and militia members raped women, and rape was commonly practiced in inter-clan conflicts. Traditional approaches to dealing with rape tended to ignore the victim's situation and instead communalized the resolution or compensation for rape through a negotiation between members of the perpetrator's and victim's clans. Victims suffered from subsequent discrimination based on attributions of "impurity." Women and girls in IDP camps were especially vulnerable to sexual violence, contributing to the spread of HIV/AIDS.

In Somaliland there was an increase in incidents of gang rape in urban areas, primarily by youth gangs, members of police forces and male students. Many of these cases occurred in poorer neighborhoods and among immigrants, refugee returnees, and rural displaced populations. Many cases were not reported.

The practice of FGM is widespread throughout the country. There were estimates that as many as 98 percent of women have undergone FGM; the majority were subjected to infibulation, the most severe form of FGM. In Somaliland FGM is illegal; however, the law was not enforced. Puntland also has legislation prohibiting FGM, but the law was not effectively enforced. UN agencies and NGOs have made intensive efforts to educate the population about the dangers of FGM; there are no reliable statistics to measure the success of their programs.

Prostitution is illegal; however, it was practiced. Because it is culturally proscribed it was not reported, and there were no statistics on its prevalence.

In the country's overwhelmingly patriarchal culture, women do not have the same rights as men and are systematically subordinated. Polygyny was permitted. Under laws issued by the former government, female children could inherit property, but only half the amount to which their brothers were legally entitled. Similarly, according to the Shari'a and local tradition of blood compensation, anyone found guilty in the death of a woman must pay just half as much to the aggrieved family as for the death of a male.

Women's groups in Mogadishu, Hargeisa (Somaliland), Bossaso (Puntland), and other towns actively promoted equal rights for women and advocated the inclusion of women in responsible government positions, and observers reported some improvement in the profile and political participation of women in the country.

Women's groups were active in efforts to promote peace and reconciliation between the Islamic Courts and the TFG. For example, women's groups were part of numerous civil society delegations that visited both the TFG and Islamic Courts to urge a return to the Khartoum talks.

*Children.*—The authorities were generally not meaningfully committed to children's rights and welfare. An estimated 28 percent of the school-age population attended school, according to a recent UNICEF school survey: 34 percent of boys and 22 percent of girls. Overall enrollment rates appear to show a rising trend in recent years, with considerable regional variation. Since the collapse of the state in 1991, education services have been revived in various forms: a traditional system of Koranic schools; public primary and secondary school systems financed by communities, foreign donors, and the administrations in Somaliland and Puntland; a system of Islamic charity-run schools; and a number of privately run primary and secondary schools, universities and vocational training institutes. Few children who entered primary school went on to complete secondary school. Schools at all levels lacked textbooks, laboratory equipment, toilets, and running water. Teachers were

poorly qualified and poorly paid; many relied entirely on community support for payment. The literacy rate was estimated at 25 percent. There was a continued influx of foreign teachers into the country to teach in private Koranic and Madrassa schools. These schools were inexpensive and provided basic education; however, there were reports that they required veiling of small girls and other conservative Islamic practices not traditionally found in the local culture.

Medical care was rudimentary; only a small percentage of children had access to adequate medical care. There was a chronic lack of qualified health professionals, weak management of health services, inadequate resources and infrastructure to support a public health system, an urban bias in provision of healthcare, and an ineffective drug certification regime.

No statistics were available on the prevalence of child abuse in the country; however, it was a serious problem. A 2003 UNICEF report noted that nearly a third of all displaced children reported rape as a problem within their family, compared to 17 percent of children in the general population.

FGM was performed on almost all girls (see Section 5, Women).

Children remained among the chief victims of the continuing societal violence. From March to July in Mogadishu, more than 30 children were reported killed as a result of the conflict between the ARPCT and the Islamic Courts. Boys as young as 14 or 15 participated in militia attacks, and many youths were members of the marauding gangs known as moryaan (parasites or maggots). The UN's annual report on Children and Armed Conflict documented grave violations against children in the country. The report focused on violations systematically committed against children: killing and maiming; recruitment and use of children as soldiers; attacks on schools and hospitals; rape and other severe sexual violence against children; abduction; and denial of humanitarian access.

UNICEF reported that street children and other children employed in markets and other public settings were particularly vulnerable to violence, including from security forces. Disputes over the buying and selling of khat (a green leaf chewed for its narcotic effect) led to several killings of children during the year. In January in the Hiiran region, a 13-year-old boy was shot dead because of a quarrel over khat. In April in the Galgudud region seven children were killed by militia in several incidents involving procurement of khat. In September in the Bay region a 15-year-old boy was killed when the khat market where he was working was attacked by armed militia, who fired indiscriminately into the crowd. It could not be determined whether there were investigations or arrests by the authorities in any of these cases.

The Somaliland Constitution contains no minimum age for recruitment into the armed forces, but there were no reports of minors in its forces. An inadequate system of birth registration made it difficult to establish the exact age of recruits.

The recruitment and use of children in militias and other fighting forces is a longstanding practice in the country, and recruitment of children increased significantly during the year. UNICEF reported that children as young as 11 were found at checkpoints and in the vehicles of various parties to the conflict in Mogadishu. The militias of warlords Abdi Qeybidid and Musa Sudi Yalahow recruited children as young as 13. The Islamic Courts, in the name of jihad, significantly increased the identification and training of new recruits and publicly declared their intention to recruit from schools. In September headmasters from Mogadishu schools were summoned to meetings at which they were required to commit to a quota of children from each school for a three-to-six-month training. In October recruitment of boys and girls from schools in Mogadishu began. UNICEF reported that students would be forcibly conscripted if there were not enough volunteers.

In his 2006 report the UNICEF expressed concern about the practice of *asi walid*, a custom whereby parents place their children in prison for disciplinary purposes and without any legal procedure. Many of these juveniles were incarcerated with adults (see Section 1.c.).

Child prostitution was practiced; however, because it is culturally proscribed and was not reported, no statistics were available on its prevalence.

Trafficking in children for forced labor was a serious problem.

Child labor was also a problem (see Section 6.d.).

The pre-1991 law prohibits trafficking. The TFC does not explicitly prohibit trafficking. Information regarding trafficking in the country's territory is extremely difficult to obtain or verify; however, the Somali territory was known to be a source, transit, and possibly destination country for trafficked women and children, and there were reports of trafficking during the year. Ethiopian women were believed to be trafficked to and through the country to the Middle East for forced labor or sexual exploitation. Armed militias reportedly also trafficked Somali women and children for forced labor or sexual exploitation, and some of those victims also may have been trafficked to the Middle East and Europe. Trafficking networks were re-

ported to be involved in transporting child victims to South Africa for sexual exploitation.

Puntland was noted by human rights organizations as an entry point for trafficking. The UNIE reported that trafficking in persons remained rampant and that the lack of an effective authority to police the country's long coastline contributed to trafficking. Various forms of trafficking are prohibited under some interpretations of Shari'a and customary law, but there was no unified policing in the country to interdict these practices, nor any effective justice system for the prosecution of traffickers.

There continued to be reports that children were sent out of the country to relatives and friends in western countries, where they worked or collected welfare and sent money back to family members in the country.

At various times, political authorities in the regional administrations of Somaliland and Puntland expressed a commitment to address trafficking, but corruption and lack of resources prevented the development of effective policies and programs. Many of these individuals were known to condone human trafficking. No resources were devoted to trafficking prevention or to victim protection. There were no reports of trafficking-related arrests or prosecutions. Somaliland and Puntland officials were not trained to identify or assist trafficking victims. NGOs worked with IDPs, some of whom may have been trafficking victims.

In the absence of functioning governance institutions, the needs of persons with disabilities were not addressed. Several local NGOs in Somaliland provided services for persons with disabilities. Associations of disabled persons reported numerous cases of discrimination to the UNIE.

There was widespread abuse of persons with mental illness. It was common for such persons to be chained to a tree or within their homes.

More than 85 percent of the population shared a common ethnic heritage, religion, and nomad-influenced culture. In most areas members of groups other than the predominant clan were excluded from effective participation in governing institutions and were subject to discrimination in employment, judicial proceedings, and access to public services.

Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumul, Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, and Faqayaqub. The UNIE estimated that minority groups may constitute a higher percentage of the population than previously thought—perhaps as many as two million persons (around 22 percent of the estimated population). In the absence of any census data for the past 30 years any demographic statement can only be an estimate. Inter-marriage between minority groups and mainstream clans was restricted. Minority groups had no armed militias and continued to be disproportionately subject to killings, torture, rapes, kidnappings for ransom, and looting of land and property with impunity by faction militias and majority clan members. Many minority communities continued to live in deep poverty and to suffer from numerous forms of discrimination and exclusion.

Bossaso is a primary transit point for the smuggling of humans from the Horn of Africa to Yemen. In April, 39 Somali and Ethiopian illegal migrants, some of whom are thought to have been victims of trafficking, died off the coast of Yemen, reportedly after being thrown overboard by the smugglers.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The 1990 constitution and the TFC provide for workers to form and join unions. The Puntland Charter and the Somaliland Constitution also protect workers' freedom of association. However, labor laws remain unenforced, resulting in an absence of effective protection for workers' rights because of the civil war and factional fighting. The government-controlled General Federation of Somali Trade Unions, once the country's single labor confederation, disintegrated in 1991, and there have been few functioning unions or employer organizations since. In 2002 the National Union of Somali Journalists was created and has been registered as a trade union. There were no reports of the Islamic Courts taking action to improve workers' rights in the areas under its control.

*b. The Right To Organize and Bargain Collectively.*—The TFC would allow unions to conduct their activities without interference and grant workers the right to strike. Wages and work conditions in the traditional culture were established largely on the basis of ad hoc arrangements based on supply, demand, and the influence of the worker's clan. There are no export processing zones.

In August 2005 the Somali Journalists Network met in a general assembly for the first time in 15 years and amended their constitution to form the NUSOJ, which is a self-described trade union. In June Islamic Courts militia raided and shut down the NUSOJ office in Mogadishu, threatening members of the NUSOJ executive com-

mittee with death if they did not leave the office and confiscating the union's financial documents, archives, and union seal. The Islamic Courts later returned the organization's materials and NUSOJ resumed activity. In December NUSOJ Secretary General Omar Faruk was arrested as he was trying to board an international flight. He was detained by the Islamic Courts for 12 hours and released. At year's end his confiscated passport and computer had not been returned.

The Somaliland Trade Union Organization (SOLTUO), formed in 2004, claimed to have 26,000 members representing 21 individual unions. It has received assistance from the International Labor Organization (ILO) and claims to be democratic and independent. However, there were no reports of activities undertaken by the SOLTUO during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The pre-1991 Penal Code and the TFC prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d). It could not be confirmed whether it continued to be the case, as had been reported the previous year, that local clan militias forced members of minority groups to work on banana plantations without compensation or that in Middle and Lower Juba and Lower Shabelle Bantus were used as forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The pre-1991 labor code and the TFC prohibit child labor; however, child labor was a problem. The country is not a signatory of ILO Convention 138 on minimum age or 182 on worst forms of child labor.

There were reports of militias recruiting children, and reports that the Islamic Courts used child soldiers in recruiting efforts and rallies (see Section 5). Formal employment of children was rare, but young persons commonly were employed in herding, agriculture, and household labor from an early age. UNICEF estimated that from 1999 to 2005, 36 percent of children between the ages of five and 14 were in the workforce—31 percent of males and 41 percent of females; however, it was believed that the actual percentage was even higher. The lack of educational opportunities and severely depressed economic conditions contributed to the prevalence of child labor.

*e. Acceptable Conditions for Work.*—Although the TFC and the Somaliland Constitution both include provisions for acceptable working conditions, there was no organized effort by any of the factions or de facto regional administrations to monitor acceptable conditions of work during the year. There is no national minimum wage. With an estimated 43 percent of the population living in extreme poverty, earning a per capita income of less than \$1 (approximately 1,700 Somali shillings) per day, there was no mechanism to attain a decent standard of living for workers and their families.

## SOUTH AFRICA

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the President and the parliament. The country has a population of approximately 47.4 million. President Thabo Mbeki led the African National Congress (ANC) party, which increased its seats to 279 in the 400-seat National Assembly after a free and fair national election in 2004. Parliament, in turn, elected the President. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens. However, the Government, nongovernmental organizations (NGOs), and local media reported the following serious human rights problems: police use of excessive force against suspects and detainees, which resulted in deaths and injuries; vigilante violence and mob justice; abuse of prisoners, including beatings and rape, and severe overcrowding of prisons; lengthy delays in trials and prolonged pretrial detention; forcible dispersal of demonstrations; pervasive violence against women and children and societal discrimination against women and persons with disabilities; trafficking in persons; violence resulting from racial and ethnic tensions and conflicts with foreigners; and child labor, including forced child labor and child prostitution.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents; however, police use of lethal force during

apprehensions resulted in a significant number of deaths, and deaths in police custody were a problem. The Government investigated and punished some abusers.

According to the Governmental Independent Complaints Directorate (ICD), there were 621 deaths in police custody or as a result of police action during the period from April 1, 2005, to March 31, 2006, a 5 percent decrease from the previous year; 267 of the deaths reported were identified as the result of natural causes, suicide, or from injuries sustained prior to detention.

The ICD reported “a worrying trend of on-going misuse and abuse of service issue firearms” by off-duty South Africa Police Service (SAPS) members “in disputes and circumstances totally unrelated to the business of the SAPS.” ICD’s 2006 Report also noted a number of incidents resulting in deaths due to “excessive use of force by members of SAPS in which some of the suspects were unarmed and attempting to flee from arrest.”

Political violence between ANC and Inkatha Freedom Party (IFP) supporters in KwaZulu-Natal resulted in deaths prior to the March 1 local government elections. On March 4, newly-elected ANC councilor Zakhele Cele and two ANC members were shot and killed in Shobashobane. Three suspects, including an IFP candidate, were arrested and the investigation was ongoing at year’s end.

On June 6, Estcourt Deputy Mayor Dolly Dladla and councilor Music Mchunu, both IFP members, were shot and killed. Police were still investigating the case and no charges had been filed at year’s end. The investigation into the March 2005 killing of Zulu Royal Prince Thulani Zulu, chairman of the ANC’s Nongoma branch in KwaZulu-Natal, was ongoing at year’s end.

There were no developments during the year in the May 2005 killing of an IFP member who was campaigning in the party’s by-election. The IFP had charged that the killing was politically motivated because the victim was hanging party posters when he was shot.

Incidents of vigilante action and mob justice continued, particularly in Gauteng, the Western Cape, and KwaZulu-Natal. The 2004–05 ICD Report recorded a 184 percent increase in vigilantism over the previous year. On March 19, a mob in Soshanguve killed a suspected robber and seriously injured his accomplice. No action was taken against the perpetrators in either case.

There were no reports of killings by People Against Gangsterism and Drugs (PAGAD), an anticrime group with an antigovernment bias, but one ongoing court case remained from the numerous cases involving the group. PAGAD leader Salie Abader’s suit against authorities for “wrongful arrest and malicious prosecution” following his acquittal in 2002 for a killing was ongoing at year’s end.

There continued to be reports of violent attacks on foreigners (see Section 5).

Killings and other violent crimes against farmers and, on occasion, their families continued in rural areas. Despite concern among white farmers that they were targeted for racial and political reasons, studies indicated that the perpetrators generally were common criminals motivated by financial gain. According to the 2005–06 SAPS report, there were 636 farm attacks and 88 farm killings in the 12 months prior to March 31. These figures have been similar for several years.

In September 2005 white farmer Mark Scott-Crossley was sentenced to life imprisonment for throwing his black former employee, Nelson Chisale, into a lion’s enclosure in 2004. Scott-Crossley’s accomplice, Simon Mathebula, received a 15-year sentence for his part in the crime. Scott-Crossley has appealed his conviction. Mathebula cooperated with authorities and received a reduced sentence.

In October 2005 Jewell Crossberg appeared in high court in connection with his alleged 2004 killing of a farm worker; however, the case was postponed until April 2007 for further investigation. Crossberg had told police that he had mistaken his victim for a baboon, but farm workers who witnessed the shooting said the killing was triggered by the victim’s failure to report to work the day before.

Muti killings—killing, especially of children, to obtain body parts for traditional healing—remained a problem. In August two men were arrested in Cape Town for the alleged muti-related murder and mutilation of 23-year-old Siyabonga Shasha. The investigation was ongoing at year’s end. In 2005 the SAPS estimated that 150 to 300 such killings occurred each year.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, some police officers reportedly tortured, beat, raped, and otherwise abused suspects. Police torture and abuse occurred during interrogation, arrest, detention, and searches of persons’ homes.

Police forcibly dispersed demonstrators, resulting in numerous injuries (see Section 2.d.).

Incidents of police harassment against foreigners continued, particularly during coordinated police raids on areas where foreign nationals resided. Some state hospitals reportedly routinely refused emergency treatment to indigent foreigners despite regulations that require providing such treatment.

The press reported that many refugee seekers claimed that immigration personnel whipped, beat, and subjected them to other brutal treatment. Despite promises by the minister of home affairs to investigate such claims, no investigations had begun by year's end.

As of November, 80 South African Defense Force (SANDF) personnel previously deployed in multilateral peace support operations faced criminal charges on allegations ranging from murder to sexual exploitation of women and girls. The Government had a "zero tolerance policy" for human rights abuses committed by SANDF members.

The court martial of Air Force Sergeant Philippus Jacobus Venter, accused of raping and murdering a 14-year-old girl while serving as a peacekeeper in Burundi, resumed in November but was not completed by year's end. The court martial had been postponed in 2005 after Venter allegedly shot and killed his two children, wounded his wife, and attempted suicide.

There were deaths resulting from vigilante and mob action against suspected criminals, as well as acts of violence against suspected witches (see Section 1.a.). In Limpopo Province, where traditional beliefs regarding witchcraft remained strong, there were occasional reports of attacks on persons accused of witchcraft (see Section 1.f.). Traditional leaders cooperated with government programs and reported threats against persons suspected of witchcraft. In March a group of boys allegedly set fire to the house of a 66-year-old woman accused of witchcraft. At year's end the investigation was ongoing.

There were incidents in which white employers abused their black South African farm laborers (see Section 1.a.). After Western Cape authorities refused to prosecute four white Rawsonville farmers accused of sexually assaulting female farm workers, the NGOs Congress of South African Trade Unions and the Women on Farms Project alleged a pattern of refusal to prosecute whites for worker abuses and demanded a senior-level investigation. The issue was raised in the National Assembly on November 27, but no response had been received by year's end.

*Prison and Detention Center Conditions.*—Most prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. The country had 240 prisons with a capacity of 114,500 prisoners; however, there were 158,501 prisoners in custody, according to the Governmental Judicial Inspectorate of Prisons (JIP). Prisons were overcrowded and understaffed, according to the Police and Prisons Civil Rights Union. The 2005–06 JIP annual report noted that, with 27,992 fewer prisoners during the reporting period and 697 additional places, conditions in the majority of prisons improved. JIP indicated, however, that problems continued in some prisons, where severe overcrowding in some prisons led to poor health, with as many as 74 inmates occupying a cell designed to hold 16 people.

According to the Judicial Inspectorate report, there were 1,554 prison deaths in 2005, 1,507 of which resulted from natural causes, including HIV/AIDS. The remaining deaths were the result of suicides, assaults, accidents, or similar events. The Department of Correctional Services (DCS) estimated that nearly 6 percent of sentenced prisoners were HIV positive. This HIV infection rate was much lower than the rate in the general population and was therefore suspect. According to DCS reports, only 800 HIV-positive prisoners (of a total 6,400 such prisoners) were receiving treatment with anti-retroviral (ARV) therapy. In partnership with a foreign government, DCS conducted programs to prevent HIV/AIDS, care for victims, and treat some patients with the disease. In June the Durban High Court ordered the Government to provide ARV treatment to prisoners at the Westville Prison in KwaZulu-Natal. In September after its appeal was dismissed, the Government agreed to comply with the court's ruling.

Prison employees and other prisoners abused and assaulted prisoners physically and sexually. Detainees awaiting trial reportedly contracted HIV/AIDS through rape.

Official corruption was a problem. There were credible reports that prison employees stole food and money from prisoners. According to NGOs, prisoners used drugs provided to them illegally by guards or other prisoners. In many cases offending police or correctional officers were suspended or expelled from their services for corruption. In October Correctional Services Minister Ngconde Balfour announced that a total of 109 officials, including seven senior managers, had been investigated for corruption. Of these, 31 had been found guilty and fired, and in 26 cases the charges were dismissed; 52 investigations were still in progress.

The Jali Commission completed its investigation into allegations of corruption and sexual abuse in prisons in 2005 and released its final report in October. The 1,000-page report cited widespread irregularities involving prisoners leaving the premises illegally, nepotism, drug trafficking, irregular appointments of personnel, extortion, abuse of parole procedure, abuse of disciplinary inquiries and appeal procedures, educational qualifications fraud, and massive medical aid fraud.

Human rights groups continued to raise serious concerns regarding C-MAX prisons, designed to hold the country's most dangerous criminals. Concerns included the Government's criteria for transferring prisoners from other prisons to a C-MAX facility and the restrictive, solitary conditions of these prisons.

There were allegations of corruption and abuse of detainees by officials at the overcrowded Lindela Repatriation Center, the country's largest detention facility for undocumented immigrants. In July a riot erupted among Congolese nationals confined at the center to protest their lengthy detentions and alleged beatings by facility officers. Unlike in the previous year, there were no reports of detainee deaths at the center.

Although the Government operated 13 youth detention facilities, juveniles sometimes were held with adults. There were credible reports that these youths were vulnerable to sexual exploitation, including rape. Pretrial detainees generally were held with convicted prisoners.

The Government generally permitted independent monitoring of prison conditions, including visits by human rights organizations. According to the JIP's annual report, independent prison visitors—including visits by prisoners' counsel as well as third-party visitors—recorded 10,524 visits to prisons in 2005 and conducted 611,900 interviews with prisoners. The Judicial Inspectorate also visited all prisons regularly.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions; however, prolonged pretrial detention was a problem, and police arbitrarily arrested demonstrators (see Section 2.b.).

*Role of the Police and Security Apparatus.*—The SAPS, under the Department of Safety and Security, has primary responsibility for internal security. The SANDF, under the Department of Defense, is responsible for external security but also has domestic security responsibilities. The National Prosecuting Authority's (NPA) Directorate of Special Operations—the “Scorpions”—coordinates efforts against organized crime and official corruption.

SAPS continued its major restructuring and transformation from a primarily public order security force to a more accountable, community service-oriented police force; however, it remained ill-equipped, overworked, and poorly trained. As of November, there were 125,521 police officers and 32,948 civilians working in SAPS. The majority of police resources and law enforcement attention remained focused on wealthy residential and business areas.

SAPS continued to create partnerships between local police forces and the communities they served. Municipalities also maintained metropolitan police forces in major cities under local control, such as in Johannesburg, Durban, Pretoria, and Cape Town. SAPS continued to have deficiencies in mid-level leadership and institutional memory that inhibited its overall performance.

During the year the ICD received 1,643 allegations of criminal offenses committed by police and 2,855 complaints of misconduct, representing a 5 percent decline in allegations of criminal offenses and a 16 percent decline in complaints of misconduct compared to the previous year.

Broad efforts to reform police practices continued; the ICD investigated reports of police misconduct and corruption. Reports of police killings, criminal offenses, and misconduct all decreased. The Government made efforts to address abuses with an official antitorture policy and training programs for police and SANDF officers that included a focus on human rights.

*Arrest and Detention.*—The law requires arrest warrants in most cases and provides that every detainee is to be informed promptly of the reasons for detention. Detainees must be advised promptly of their right to remain silent and the consequences of waiving that right. Detainees must be charged within 48 hours of arrest, held in conditions of human dignity, allowed to consult with legal counsel at every stage, and permitted to communicate with relatives, medical practitioners, and religious counselors. Courts and police generally respected most of these rights; however, there continued to be problems with prison conditions and prolonged pretrial detention. Detainees must be released (with or without bail) unless the interests of justice require otherwise; however, bail for pretrial detainees often exceeded what suspects could pay. According to the JIP, an estimated 13,000 prisoners re-



mained in detention because they were unable to post bail. Some school children spent more than a year in detention because their families could not post bail.

Human rights groups, judges, and judicial scholars continued to express concern about the Criminal Procedure Second Amendment Act, which mandates minimum jail sentences and prohibits bail in certain cases.

The Department of Justice 2005–06 annual report indicated that the backlog of court cases increased 11 percent over the previous year in district courts, and 2 percent in regional courts. As of September 30, 43,588 of the country's 158,501 prisoners were awaiting trial. According to the JIP, prisoners waited an average of three months, but some as long as two years, for a trial.

*Amnesty.*—The National Director of Public Prosecution continued to prepare cases against persons who were denied amnesty, failed to apply for amnesty, or were implicated in human rights abuses during the Truth and Reconciliation Commission (TRC) process. In the first case, charges were brought against Gideon Nieuwoudt (who died of natural causes during the year), Johannes van Zyl, and Johannes Koole for the Pebco Three killing in 1985; however, the case was postponed to April 19, 2007, by the Pretoria High Court.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and while the judiciary was generally independent, it was understaffed, underfunded, and overburdened.

The Constitutional Court is the highest court for interpreting and deciding constitutional issues, while the Supreme Court of Appeal is the highest court for interpreting and deciding other legal matters. The lower courts include magistrates' courts, divorce courts, small claims courts, and courts of chiefs and headmen. Magistrates' courts—including regional and district courts—have civil and criminal jurisdiction. The country also has a range of special courts, including the labor appeals court, labor court, land claims court, special income tax courts, special (consumer) court, sexual offenses court, and the electoral court.

*Trial Procedures.*—The bill of rights provides for due process, including the right to a fair, public trial within a reasonable time after being charged, and the right to appeal to a higher court. It also gives detainees the right to state-funded legal counsel when "substantial injustice would otherwise result"; however, a general lack of information for accused persons regarding their rights to legal representation and the Government's inability to pay for these services remained problems.

There is a presumption of innocence for criminal defendants. Judges and magistrates hear criminal cases and determine guilt or innocence. The law requires that a panel of lay assessors and a magistrate hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in bail applications and sentencing.

The Government operated 46 justice centers in the country, composed of the departments of justice, correctional services, welfare and health, and SAPS, to speed the administration of justice, reduce the court rolls, and alleviate overcrowding in prisons. However, serious delays continued to be a problem.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, there were allegations of police abuse during sweeps and home searches and other criticisms against government legislation and practice.

During the year former National Intelligence Agency director Billy Masetlha was charged under the Intelligence Services Oversight Act with the unlawful surveillance of Saki Macozoma, and was subsequently fired by President Mbeki. Masetlha's appeal for reinstatement was rejected by the Pretoria High Court in December. The court ruled that President Mbeki's loss of confidence in Masetlha was a lawful reason for dismissing him. In April General Manager Bob Mhlanga, former counter-intelligence chief, was also fired for his involvement with the unlawful surveillance of Macozoma. Deputy Director General Gibson Njenje, who was implicated with Masetlha, cooperated with investigators and was allowed to resign.

The Regulations of Interception and Provision of the Communication-Related Information Bill, which provides for state monitoring of all telecommunications systems for criminal investigations, including cellular telephones, the Internet, and e-mail, had not been implemented by year's end.

The Promotion of Access to Information Act is intended to assist authorities in obtaining personal information and is used solely in criminal investigations; however, opposition parties and human rights NGOs objected to its broadly defined provision that enabled the Government to access an individual's personal information.

Farmers continued to evict workers legally and illegally. During 2005 the Land Claims Court rejected 25 percent of the 645 eviction orders it reviewed. The law requires that evictions be approved by a court; however, less than 1 percent of evictions involved a legal process, according to the NKUZI Development Association, a domestic NGO. NKUZI conducted an extensive national eviction survey which took more than two years to complete. The same study found that many farm workers were unaware of their right to legal counsel during eviction proceedings.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities. The trial continued of the 13 suspected ringleaders in the February 2005 burnings in Northern Limpopo Province of 39 houses belonging to persons accused of being witches. Some survivors of attacks and their families took refuge in "witch villages," without running water or electricity, in Limpopo Province.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights. Several apartheid-era laws that remained in force posed a potential threat to media independence. Individuals criticized the Government both publicly and privately without reprisal.

The independent media were active and expressed a wide variety of views, although some journalists expressed concern that the Government heavily influenced the media.

Print media reached approximately 20 percent of the population. Due to socioeconomic and demographic circumstances, the majority of the population received news through radio broadcasts from the government-owned South African Broadcasting Corporation (SABC) and community radio stations.

The SABC provided broadcasting in the country's 11 official languages and continued to own and control the majority of television and radio outlets. The SABC provided news coverage of the Government and the leading opposition parties; however, media commentators and opposition politicians continued to criticize the SABC for allegedly showing partiality in its coverage of government ministers or events. During the year the SABC was severely criticized for allegedly blacklisting several commentators deemed unfriendly to government policies, and for refusing to air a documentary considered critical of President Mbeki. A subsequent commission of inquiry determined that the managing director of the SABC News and Current Affairs Division excluded eight commentators for reasons that were not "objectively defensible," but it found no "definitively consistent pattern" of exclusion based on criticism of government policy or the President.

Low-power, nonprofit community radio stations continued to play an important role in informing the mostly rural public; however, they often had difficulty producing adequate content and maintaining staff. Government broadcast regulators regularly issued new community radio licenses and also withdrew a few for non-compliance with the terms of issuance. Two radio stations, Alex Radio and Radio Pretoria, were refused licenses in 2004, and subsequently challenged these refusals. At year's end Radio Pretoria was operational and on-the-air, while the appeal of Alex Radio was pending.

The only independent television station, e.tv, reached 78 percent of the population. Satellite programming also was available.

High-ranking government officials on occasion reacted sharply to media criticism and accused black journalists of disloyalty and white journalists of racism.

Several laws remained in effect that permitted the Government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. There were no instances in which these laws were invoked during the year; however, journalists and media managers considered them a threat to constitutional protections.

The Foreign Publication Board reviewed written and graphic materials published in or imported into the country. The board had the power to edit or ban books, magazines, movies, and videos, and it regularly exercised that power, mostly regarding pornographic material. Journalists, media houses, and industry associations criticized efforts during the year to extend the board's authority to incorporate newspapers and broadcast media. A proposed amendment to the Films and Publication Act would allow for board review and classification of print and broadcast products, and fueled fears that the Government was seeking additional control over media.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by electronic e-mail. Figures from Internet World Stats indicated that 7.4 percent of the country's population had ready access to and routinely used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, police forcibly dispersed several demonstrations during the year which resulted in injuries. Some of the demonstrations had turned destructive prior to police taking action to break them up.

On April 13, police used rubber bullets to disperse a demonstration along the country's border with Swaziland, supporting human rights and trade union freedom in Swaziland. Seven people were injured and 25 arrested, including five trade union leaders.

On April 21, police in Pretoria used rubber bullets to disperse marchers protesting municipal boundary changes. No injuries were reported.

No information was available on the outcome of the trial of three police officers arrested and charged in 2005 in the 2004 killing of a demonstrator in Johannesburg.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion; the Government generally respected this right.

*Societal Abuses and Discrimination.*—There were occasional reports of desecration and vandalism or verbal or written harassment directed against religious minorities during the year. There were approximately 90,000 Jews in the country. While anti-Semitic acts were rare, a few incidents were reported during the year. For example, on January 8, approximately 30 gravestones were desecrated at the West Park Jewish cemetery in Johannesburg. The police questioned five suspects, but no arrests were made. In June a court convicted Gerhard Barkhuizen of a hate crime for painting a swastika and the phrase "spiteful Hebrew bastard" on the home of the son of a Holocaust survivor. Barkhuizen was ordered to remove all slogans and words from the wall and required to pay \$285 (R2,000) to a charity of his choice.

On May 18, the SABC ruled that Muslim radio Station 786 aired hate speech, including Holocaust denial programs. The station was reprimanded and warned of more severe consequences if it engaged in further such activities.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them.

The law does not prohibit forced exile; however, the Government did not use it.

*Protection of Refugees.*—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. The law also provides for a broader definition of refugee status to be granted if a person satisfies the definition in the 1969 Organization of African Unity's Convention Governing the Specific Aspects of Refugee Problems in Africa. In practice, the Government provided protection against refoulement, the forcible return of persons to a country where they feared persecution, and granted refugee status and asylum.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Department of Home Affairs stated that as of June there was a backlog of more than 100,000 asylum requests.

The NGO Lawyers for Human Rights criticized the Department of Home Affairs for allegedly not following the provisions of the Immigration Act and the Refugee Act. There were reports that police and immigration officials abused refugees and asylum seekers and that asylum seekers were repatriated immediately upon arrival at airports without benefit of formal asylum processing. Applicants for asylum and NGOs assisting refugees also reported that immigration authorities asked for bribes to process applications for permits to remain in the country. During the year the

Government dismissed a number of immigration officials for corruption (see Section 3).

Despite procedural safeguards, efforts to combat a growing illegal immigration problem occasionally resulted in the Government arbitrarily deporting illegal aliens, some with potential refugee claims. However, there were no reports of the forced return of persons to countries where they feared persecution during the year.

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

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

*Elections and Political Participation.*—The country held its third national election in 2004. Although largely peaceful, the election was marred by a few incidents of political violence in KwaZulu-Natal in the weeks before the election. The IFP registered a number of complaints with the Independent Electoral Commission, including excessive numbers of absentee ballots, posters being removed or defaced, individuals being threatened because of political affiliation, and other incidents of intimidation. The IFP challenged the legitimacy of the election in KwaZulu-Natal at the electoral court but later withdrew court action and accepted the election results.

Thabo Mbeki was reelected in 2004 to a second five-year term as President and head of state; there is a constitutional two-term limit for the presidency. The ANC increased its parliamentary strength from 266 seats to 279 out of 400 seats. The official opposition, the Democratic Alliance, increased from 38 to 47 seats. After the September 2005 floor-crossing period, the ANC increased its seats to 293. Five new parties were formed and received enough votes to obtain seats in Parliament, making a total of 17 parties with parliamentary representation.

Political violence between ANC and IFP supporters in KwaZulu-Natal resulted in deaths prior to the March 1 local elections (see Section 1.a.).

On March 1, local elections were held nationwide. The ANC maintained its majority with approximately 63 percent of the vote. The elections were mostly peaceful, but there were a few incidents of political violence (see Section 1.a.).

In June 2005 President Mbeki named Minister of Minerals and Energy Phumzile Mlambo-Ngcuka as the country's first female deputy President. Women held 12 of 28 ministerial positions and eight of 21 deputy ministerial slots. There were 150 women in the 400-seat National Assembly and 19 women in the 54-seat National Council of Provinces (NCOP). In addition women occupied three of four parliamentary presiding officer positions, including speaker and deputy speaker of the National Assembly and deputy chair of the NCOP.

There were approximately 140 members of minorities, (non-black citizens), in the National Assembly. There were approximately 20 minority members among the 54 permanent members of the NCOP. The cabinet included six members of minority groups.

*Government Corruption and Transparency.*—The Government continued its efforts to curb corruption, although the public perception of widespread official corruption, particularly in the police and the Department of Home Affairs, continued. The Government's anticorruption actions included ongoing investigations into the alleged misconduct of public officials, which resulted in numerous convictions during the year. At least 10 agencies were engaged in anticorruption efforts. Some, like the Public Service Commission, the Office of the Public Prosecutor, and the Office of the Auditor-General, are constitutionally mandated. The SAPS Anti-Corruption Unit and the Directorate for Special Operations (known as "the Scorpions") have dedicated units to combat corruption. The Special Investigating Unit (SIU) under the Office of the President, investigated corruption in government departments and identified civil servants who are now repaying the Government for illicitly obtained income. The SIU was reportedly investigating 400,000 citizens suspected of fraudulently obtaining social grants and pensions from the Government.

The Office of the Public Protector investigated government abuse and mismanagement and served as the office of last resort for citizens reporting unfair treatment by government entities. The office handled an increasing number of complaints but was hampered by severe resource constraints.

In March Bloemfontein's municipal manager and chief operating officer were found guilty of corruption charges by a disciplinary hearing and were fired. They appeared in court, together with former mayor Papi Mokoena, in October on criminal charges of corruption and fraud. The criminal case was ongoing at the end of the year.

The Government continued to prosecute officials involved in "Travelgate," the ongoing scandal involving misuse of official funds by parliamentarians and their travel

agents. Thirty-two current and former members of Parliament concluded plea agreements with the state. Five travel agents and three members of Parliament faced criminal charges of defrauding the Parliament and were scheduled to appear in court in February 2007.

In November the full bench of the Supreme Court of Appeals dismissed the appeal of Schabir Shaik's conviction on two counts of corruption and one of fraud. He had been sentenced to 15 years in prison after being convicted in 2005 of seeking bribes on behalf of former deputy President Jacob Zuma, and for paying Zuma's expenses in return for Zuma's backing in business deals. Zuma was also charged, but the case against him was struck from the roll pending the outcome of the Shaik appeal. Following the dismissal of Shaik's appeal, the National Prosecuting Authority stated that there was "a reasonable prospect" that the charges against Zuma would be reinstated.

In August former ANC chief whip and defense committee chairperson Tony Yengeni began serving his four-year prison term for defrauding the Parliament. Yengeni was convicted in 2003 of accepting and failing to declare a discount on his luxury vehicle from a domestic company involved in the arms procurement process.

The Promotion of Access to Information Act provides for access to government information; however the Government did not always comply with the law. The Open Democracy Advice Center (ODAC) continued to report that many requests for information went unanswered or were answered outside the period provided for in the legislation. ODAC's 2005 annual report noted, however, that a "response to a request for information is more significantly about the requester than about the information or the agency" from which the request is made. Many requests are unclear or poorly drafted, making a response difficult. If a government department refuses to provide information, however, the requester can launch an internal appeal. If this also fails, the requester may appeal a decision to the high court, a time-consuming process that excludes groups or individuals who cannot afford it. In April 2005 the Cape high court ruled that access to records of private donations to political parties is not reasonably required under the act.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Many organizations participated in governmental bodies that gathered information and developed policies related to human rights.

The South African Human Rights Commission (SAHRC), which was created by the Government but operated independently, was responsible for promoting the observance of fundamental human rights at all levels of government and throughout the general population. The SAHRC also has the power to conduct investigations, issue subpoenas, and hear testimony under oath. During 2005 the SAHRC issued reports on the treatment of the Khomani San—an indigenous minority ethnic group—and other human rights issues.

The TRC, created to investigate apartheid-era human rights abuses and compensate victims, released its final report in 2003. Of the 18,000 victims approved by the TRC for a one-time payment of \$4,270 (R30,000), 16,000 received payment in 2004, and 700 received payment during 2005 after door-to-door campaigns conducted by the Government. Remaining victims who had not received benefits by the end of 2005 had either not completed applications correctly or were believed to be dead. No further payments were expected.

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

The constitution and law prohibit discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, sexual orientation, or marital status. However, entrenched attitudes and practices, as well as limited resources, restricted the practical effect of these legal protections in some cases. The Promotion of Equality and Prevention of Unfair Discrimination Act places a responsibility on the state and any person in the public domain to promote equality. The act addresses discrimination in a broad context in the workplace, health care, education, services, pensions, and other socioeconomic areas.

*Women.*—Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking by former partners. The law defines victims of domestic violence, facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and arrest abusers without a warrant. The law also applies to persons who are not in legal or common-law marriages. Violating a

protection order is punishable by a prison sentence of up to five years, or 20 years if additional criminal charges are brought.

Societal attitudes and a lack of infrastructure, resources, and training for law enforcement officials hampered the implementation of domestic violence legislation. According to NGOs, an estimated 25 percent of women were in abusive relationships, but few reported it. Doctors, police officers, and judges often treated abused women poorly.

The Government financed 25 shelters for abused women, but more were needed, particularly in rural areas. The SAPS has been converting Child Protection Units to Family Violence, Child Protection, and Sexual Offenses Units (FCS); as of March there were 66 FCSs. FCS investigating officers and other police officers received annual training in gender sensitivity. The Government continued to conduct domestic violence awareness campaigns.

Rape, including spousal rape, is illegal, but remained a serious problem. According to the 2005-06 SAPS annual report, the incidence of rape decreased slightly from the previous year to 117.1 rapes per 100,000 persons; of the 54,926 rapes reported, 31,101 were referred to court. A poor security climate and societal attitudes condoning sexual violence against women contributed to the problem. Amnesty International noted that the number of reported rapes was believed to be only one-third of the estimated number of actual rapes. Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups occasionally criticized judges for using questionable criteria such as the victim's behavior or relationship to the rapist as a basis for imposing lighter sentences.

Rape, sexual assault, and sexual harassment of black citizen and migrant female farm workers by farm owners, managers, and by other farm workers were common.

The Government operated 61 sexual offenses courts throughout the country that included designated waiting rooms and counseling for victims. The Sexual Offenses and Community Affairs Unit (SOCA) operated 10 centers known as Thuthuzela centers, which specialized in rape care management and streamlined a network of existing investigative, prosecutorial, and medical and psychological services in the hospitals where they were located.

Exacting a bride price ("lobola") was a traditional practice of some ethnic groups.

Prostitution is illegal but was widespread and practiced openly.

There were reports that women were trafficked to the country for prostitution or were trafficked to foreign territories such as Europe, China, and Macao (see Section 5, Trafficking).

The law prohibits sexual harassment; however, sexual harassment remained a widespread problem. In December the ANC expelled its parliamentary chief whip, Mbulelo Goniwe, following an investigation into allegations that Goniwe sexually harassed a party intern. According to press reports, several other women also came forward with similar allegations against Goniwe.

Discrimination against women remained a serious problem despite equal rights under family law and property law with regard to inheritance, divorce, and custody of children, and equal legal rights under the judicial system. Women experienced economic discrimination in areas such as wages, extension of credit, and access to land. For example, township housing transfer schemes favored existing titleholders, who tended to be men. Many rural areas were administered through traditional leadership structures, often including a chief or a council of elders, who did not grant land tenure to women, a precondition for access to housing subsidies.

Women, particularly black women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and micro-enterprises, which did not provide job security or benefits. The Department of Trade and Industry provided incentive grants to promote the development of small and medium businesses and micro-enterprises for women, young persons, and persons with disabilities.

According to a survey conducted by the Businesswoman's Association during the year, women comprised 41 percent of the working population but held only 16.8 percent of executive-level and 11.5 percent of director-level positions.

Female farm workers often experienced discrimination, and their access to housing often was dependent on their relationship to male farm workers. Female farm workers on maternity leave who could not obtain timely compensation via the Unemployment Insurance Fund often had no choice but to return to work shortly after giving birth.

A number of governmental bodies and NGOs monitored and promoted women's human rights. Numerous active women's rights groups focused on such areas as violence against women and the economic advancement of women.

*Children.*—The Government was generally committed to children's welfare. The law provides for greater educational opportunities for disadvantaged children—tra-

ditionally black children—through a uniform system for the organization, governance, and funding of schools. It mandates compulsory education from ages seven to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. According to the July 2005 Statistics South Africa General Household Survey, 97.9 percent of children between seven and 15 years old were enrolled in school. Those not enrolled tended to be children with special needs. While there generally were comparable attendance numbers for boys and girls, a number of factors, including unplanned pregnancies, domestic responsibilities (particularly in rural areas), and gender stereotypes contributed to high drop-out rates and lower secondary school pass rates for girls.

Each of the nine provincial departments of education had responsibility for the schools in their provinces, which resulted in the uneven distribution of educational resources. The disparity affected the poorer provinces of Eastern Cape, Limpopo, and KwaZulu-Natal most severely. The availability and quality of primary schooling continued to be a problem, especially in rural areas where schools often were not easily accessible. Farm schools, which are public schools on private commercial farms (13 percent of all state-funded schools), were among the poorest resourced. Many schools reportedly had problems of poorly trained teachers, inadequate teaching materials, long-vacant teaching posts, overcrowding, late pupil registration, and vacation-time vandalism.

There continued to be reports of widespread rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community. The law requires schools to disclose sexual abuse to the authorities; however, administrators often concealed sexual violence or delayed disciplinary action. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted pregnancies. Many girls, some as young as four years old, were raped on school premises.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline students. Student-on-student violence, including racially motivated violence, continued to be a major concern of educational authorities and parents. Teacher organizations, parents, and police worked together in the “Safe Schools Program” to address these problems. Many schools implemented “Adopt-a-Cop” programs inviting SAPS officers into their schools for training and security.

HIV/AIDS activists, physicians, and opposition parties continued to criticize the Government for failing to provide ARV therapy to pregnant and breast-feeding women and thereby protect young children from HIV/AIDS transmission. The Government responded to a 2004 constitutional court finding that it must provide programs to prevent the transmission of HIV from mothers to children by expanding the number of antenatal clinics providing nevirapine to HIV-positive mothers. Implementation by the national and provincial governments was slow, and the Government continued to raise concerns about the use of nevirapine mono-therapy to prevent transmission. The Government was unable to provide for the rapidly growing number of children who were affected by HIV/AIDS, including both infected children and AIDS orphans.

Violence against children, including domestic violence and sexual abuse, remained widespread. While there was increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crimes continued to impede the delivery of needed services to young victims. According to the 2005–06 SAPS report, 23,453 children were raped, 1,075 were murdered, 20,879 were assaulted with intention to do grievous bodily harm, and 4,726 were subjected to indecent assault. Observers believed that these figures represented a small percentage of the actual incidence of child rape, because most cases involving family members were not reported. The country had a low conviction rate for rape and child abuse. The age of consent is 16 and the statutory sentence for rape of a child is life in prison; however, the law grants judges the discretion to issue more lenient sentences.

The law prohibits virginity testing but was not always enforced. For example, virginity testing occurred in KwaZulu-Natal, especially related to the “reed dance” ceremony in which only “maidens” could participate.

Despite outreach programs, adult male circumcision was still a prevalent initiation tradition in various parts of the country. Initiation practices, which included circumcisions, continued during the year. The House of Traditional Leaders attempted to address unsafe initiation practices and designed strategies to prevent deaths and the spread of diseases, such as HIV/AIDS. The Department of Health in the Eastern Cape provided 400 surgeons, 425 officials, and 80 vehicles during the June initiation season to monitor initiation practices. Nonetheless, circumcision

deaths reported in the Eastern Cape during the year increased from 20 in 2005 to 23 during the year, according to press reports.

Child prostitution continued during the year (see Section 5, Trafficking).

The Government continued to increase its social welfare programs to children affected by poverty and the loss of parents, and, according to the Ministry of Social Development, more than 5.5 million children received such grants during the year. Child support grants cover children up to the age of 14, but it was sometimes difficult for children, particularly those in rural areas or without documentation, to obtain access to health care facilities and other social welfare programs.

NGOs provided shelter, medical, and legal assistance for child prostitutes, and a hot line for victims of child abuse. The Government donated land and buildings for various shelters for victims of sexual abuse, street children, and orphans.

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

*Trafficking in Persons.*—In June the President signed into law the Children's Act of 2005, which prohibits the trafficking of children, namely "the recruitment, sale, supply, transportation, transfer, harboring or receipt of children, within or across the borders of the Republic." The penalty for violations of the act is up to a maximum of 20 years in prison. However, there is no law that explicitly prohibits trafficking in adults. The Government used the Prevention of Organized Crime Act, the Basic Conditions of Employment Act, the Refugee Act, the Aliens Control Act, and provisions of criminal law to prosecute traffickers. The South African Law Reform Commission conducted consultative workshops in all provinces in July in preparation for drafting a comprehensive anti-trafficking law, but no reports or drafts of the proposed law were issued by year's end.

The law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, or permitting a female under 16 to stay in a brothel for the purpose of prostitution.

The country was a destination, transit route, and point of origin for the trafficking of persons, including children, from other countries in Africa, Asia, and Europe for prostitution and forced labor. A substantial number of persons were believed to be trafficked annually. Domestic and international organized crime syndicates trafficked women into the country for the sex industry. Young men were trafficked chiefly for agricultural work.

The extent of trafficking operations was unknown, but the International Organization for Migration (IOM) reported in 2003 that 12 major routes for trafficking operations made use of the country, including Southern Africa, Asia, and Eastern Europe.

Trafficked women and children who worked in the sex industry often lived with other trafficked victims in segregated areas; were frequently under constant surveillance; usually had no money or identifying documents; were often in debt to the agents who arranged their travel; often worked long hours, in some cases up to 18 hours each day, and on weekends and when ill; and sometimes were fined by their trafficker for infractions of arbitrary rules. Young men trafficked for forced agricultural labor often were subjected to violence and food rationing.

According to the IOM, several major criminal groups operating in the country trafficked women: Bulgarian and Thai syndicates, and Russian, Chinese, and African (mainly West African) criminal organizations. Traffickers also included citizens and African refugees resident in the country.

In most cases traffickers lured foreign women with promises of employment, marriage, or educational opportunities abroad. Traffickers often lured the children of poor families with promises of jobs, education, or a better way of life. Victims, who could be kidnapped or forced to follow their traffickers, were subjected to threats of violence, withholding of documents, and debt bondage to ensure compliance.

The NPA's SOCA section coordinated an interagency task force to develop and implement a strategy for dealing comprehensively with trafficking in persons. The task force included the departments of foreign affairs, social development, justice and constitutional development, health, and safety and security, as well as the NPA, SAPS, and local and international NGOs. In August during a workshop organized by NPA/SOCA, prosecutors established a rapid response team to address trafficking cases.

During the year Amien Andrew was convicted for organizing prostitution and was sentenced to 51 years' imprisonment. In June the state successfully prosecuted Elizabeth Maswangane on charges of kidnapping and running a brothel for the purpose of luring three girls to work as prostitutes.

Corruption within the police, immigration, customs, and private services at the airport impeded interdiction efforts. For example, traffickers reportedly bribed officials to help them move victims out of the transit area to avoid detection. The border police incorporated antitrafficking material into their training manuals, and



both police and judicial officials continued to receive training in antitrafficking activities. However, law enforcement units handling trafficking problems were understaffed and sometimes corrupt. The country used its 61 sexual offenses courts to handle trafficking cases and relied heavily on NGOs to provide witness protection. During the past two years, a few immigration officers from the Department of Home Affairs (DHA) were dismissed for involvement in trafficking. DHA officials reported that there were also dismissals for petty corruption.

Some domestic victims of trafficking were placed in government facilities for the sexually abused. The government continued to fund private shelters that provided short- and long-term care to trafficking victims.

*Persons With Disabilities.*—The law prohibits discrimination on the basis of disability; however, government and private sector discrimination in employment existed. The law mandates access to buildings for persons with disabilities, but such regulations rarely were enforced, and public awareness of them remained minimal. The National Environmental Accessibility Program, an NGO staffed by persons with disabilities as well as service providers, had a presence in all nine provinces to lobby for compliance with the regulations and to sue offending property owners when necessary.

The law provides persons with disabilities with protection from harassment and, in conjunction with the Employment Equity Act, also provides guidelines on the recruitment and selection of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employee medical information. Enforcement of this law was limited. The law also requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. The Black Economic Empowerment Act is law, and codes of good practices specifying company obligations under the act were approved by the cabinet, but at year's end they had yet to be published in the official gazette. Persons with disabilities constituted a tiny proportion of the public service workforce (estimated to be 0.02 percent), compared with 5.9 percent of the general population.

*National/Racial/Ethnic Minorities.*—The law requires employers with 50 or more employees to ensure that previously disadvantaged groups—defined for legal purposes as “Blacks”—including “Africans,” “Colored,” and “Asians”—are represented adequately at all levels of the workforce. According to the Department of Labor's 2005 “Employment Equity Analysis,” Blacks, while not a minority, remained underrepresented, particularly at the professional and managerial levels.

Notwithstanding the country's antidiscrimination legislation, the 2005 “Employment Equity Analysis” reported that racial imbalances in the workplace still exist and that only 28 percent of positions at the top management level in 2005 were held by Blacks. According to 2005 data, approximately 53 percent of professionals were Black. The report makes it clear that Black women by far remained the most disadvantaged in terms of the number and quality of management or skilled jobs. Employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action.

Blacks constituted 76 percent of the workforce in unskilled, low-paid jobs. In occupations such as newspaper vendors, garage attendants, car washers, gardeners, and garbage collectors, Blacks accounted for 98 percent of the workforce.

In the armed forces, the officer corps remained predominantly white.

The continued killings of mostly white farm owners by black African assailants created concern among white farmers that they were being targeted for racial and political reasons (see Section 1.a.). There also were reports that white employers abused and killed black African farm laborers, and complaints that white employers received preferential treatment from the authorities (see Section 1.a.).

There were a number of attacks on foreigners, and anti-immigrant groups such as the Unemployed Masses of South Africa often blamed immigrants for job losses. In January three foreigners were killed and 11 injured in clashes between South Africans and Mozambicans and Zimbabweans in Olievenhoutbosch following the alleged murder of a black South African boy by a foreigner. In August at least five Somali refugees were killed in Cape Town, bringing the number to 10 for the year. No arrests have been made.

No information was available as to final disposition of the cases against 50 residents of Plettenberg Bay arrested in May 2005 in connection with an attack on foreign nationals living in informal settlements; one person was killed in the attack.

*Indigenous People.*—The Khoikhoi, nomadic herders of cattle and sheep, were the original indigenous people in the country and have lived mainly in the southwestern Cape. In the 1970s the Khoikhoi were dispossessed of their native lands and dispersed throughout the country. Today only a few thousand Khoikhoi remain, some

of whom work as farmers or as laborers on farms. Under the law the Khoikhoi have the same political and economic rights as other citizens; however, their participation was limited due to fewer opportunities, minimal access to education, and relative isolation.

*Other Societal Abuses and Discrimination.*—The post-apartheid constitution outlaws discrimination based on sexual orientation and on December 1 the country legalized same-sex marriage. Nevertheless, there was some societal violence and discrimination against homosexuals, but unlike in the previous year, there were no reports of official violence or discrimination. Gay and lesbian rights NGOs alleged that abuse of gay and lesbian persons by police was still occurring.

Although the Government conducted campaigns to reduce or eliminate discrimination against persons with HIV/AIDS, the social stigma associated with HIV/AIDS remained a general problem. There were reports of the abuse of HIV-infected individuals by their families and communities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for freedom of association, and workers exercised this right. All workers with the exception of members of the National Intelligence Agency and the Secret Service were entitled to join a union. Union membership continued to decline steadily as a result of job layoffs in heavily unionized sectors of the economy, such as manufacturing. According to a March South Africa Labor Force Survey, total union membership was approximately 2.9 million persons, out of a total work force of 9.8 million, or 30 percent of the total labor force.

Although labor laws protected farm workers, some farm workers unions encountered difficulties trying to organize workers because union organizers were considered trespassers on private property. In addition, farm workers or farm residents who attempted to organize were sometimes harassed, dismissed, and evicted. The Department of Labor (DOL) and unions enlisted the cooperation of AgriSA, the national farmers' organization, to educate farmers about workers' rights and to improve working conditions. The DOL reported in March that 8.8 percent of the agricultural labor force was unionized. Labor rights are protected by the constitution and by statute; a labor court and labor appeals court enforced these rights.

*b. The Right To Organize and Bargain Collectively.*—The law defines and protects the rights of workers to organize and bargain collectively; workers exercised these rights. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right. Although members of the SANDF were allowed to join a union, they and other workers considered to be providing an essential service were prohibited from striking. Disputes between workers in essential services and their employers that are not resolved through collective bargaining, independent mediation, or conciliation are referred to arbitration or the labor courts.

During the April-June strike by private security guards, more than 50 persons reportedly were killed. Most of the victims were described as security guards who reported to work and were allegedly attacked by striking guards. In August, 36 members of the South African Transport and Allied Workers Union were arrested and charged with public violence, while another member was charged under the Regulations of Gatherings Act. Property damage associated with the strike was extensive. Those arrested were awaiting trial at year's end.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor is prohibited by law; however, child labor was widespread in informal and agricultural sectors, particularly in the former homeland areas. The Government generally enforced child labor laws in the formal sectors of the economy. The death of parents by HIV/AIDS has increased the number of children who have to support themselves and often younger siblings in households headed by children.

The law prohibits employment of a child under 15 years of age, or under the minimum school-leaving age, or over 15 but under 18, if the work places at risk the child's wellbeing, education, physical or mental health, or spiritual, moral, or social development. Underage children in the performing arts were allowed to work if their employer received DOL permission and agreed to follow specific guidelines.

Child laborers, including some from Zimbabwe and Mozambique, worked illegally in the country on commercial farms, for the taxi industry, or as domestic servants.

There were reports that children were forced into prostitution and that some children worked under conditions that amounted to bondage (see Section 5).

During the year the DOL employed approximately 1,000 labor inspectors to follow up on reports of violations and to enforce existing policies. Violation of laws regulating child employment are punishable by a maximum prison sentence of three years or a fine of \$2,135 (R15,000). In some cases, DOL inspectors opted to resolve child labor cases through counseling of employers, parents, and children, or by enlisting the services of professionals in the welfare and education departments. There were reports that inspectors had difficulty gaining access to farms where child labor was reported.

In July the DOL conducted broad-based awareness campaigns about child labor. Prevention activities against child labor also included a government-issued child support grant which was modified and expanded during the year to cover basic living expenses of children up to their 14th birthday, and Regulations Relating to the Exemption of Parents from Payment of School Fees, issued on October 18. Child welfare advocates recommended that the child support grant be extended to children aged 15.

*e. Acceptable Conditions of Work.*—There was no legally mandated national minimum wage, although the law gives the Ministry of Labor the authority to set wages by sector. Minimum wages were established for the retail sector, farm laborers, domestic workers, and taxi (minibus) drivers. As of March the minimum wage for farm workers was approximately \$142 (R994) a month in urban areas and \$126 (R885) a month in rural areas. The minimum hourly rates for domestics depended on the number of hours worked and could range from \$0.59 (R4.15) to \$0.86 (R6.04). Depending on province, compliance with the minimum wage rate ranged from 65 to 90 percent, according to figures published by the DOL in 2004. Minimum wages did not provide a decent standard of living for a worker and family; the Government undertook other actions to alleviate poverty, including annual above-inflation mandatory wage increases for farm workers, exemptions from school fees, and improved access to health care.

Annual negotiations between employers and employee associations or unions set wage rates on an industry-by-industry or plant-by-plant basis for unionized workers in the formal economy. Such negotiated wages generally were sufficient to provide a decent standard of living for a worker and family; however, this was not the case in sectors where workers were not organized sufficiently to engage in collective bargaining. Thus many unskilled or rural workers were unable to provide an adequate standard of living for themselves and their families.

The law standardizes time-and-a-half pay for overtime, establishes a 45-hour workweek, and authorizes four months of maternity leave for women. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the law concerning overtime and leave. Farmers and other employers could apply for variations from the law by showing good cause.

The Government set occupational health and safety standards. Occupational health and safety issues were a top priority of trade unions, especially in the mining, construction, and heavy manufacturing industries, where processes were dangerous and sometimes deadly. The law provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. In addition, a tripartite mine health and safety council and an inspectorate of mine health and safety were responsible for enforcing the act and monitoring compliance with its provisions. The law explicitly prohibits discrimination against an employee who asserts a right granted by the law (for example, to leave a hazardous work site) and required mine owners to file annual reports providing statistics on health and safety incidents for each mine.

There were no laws or regulations, other than in the mining industry, that permitted workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law provides that employers may not retaliate against employees who disclose dangerous workplace conditions.

In June the petrochemical company SASOL established a trust fund to compensate victims of a September 2004 explosion that killed 11 and injured 142 persons.

Labor conditions for mostly Black farm workers were harsh. Many, mostly white, farmers did not accurately measure working hours and often required their laborers to work 11 hours per day and six days per week. Twelve-hour days were common during harvest time, and few farmers provided overtime benefits. Human Rights Watch reported low wages, a lack of basic services in farm workers' housing, and inadequate education for workers' dependents (see Section 5). Farm owners, predominantly whites, continued to evict workers legally and illegally. There was lack of compliance with labor legislation, lack of information on HIV/AIDS, and signifi-

cant violence and crime against farm workers and farm owners. Health and safety regulations often were not observed when chemicals were used in agricultural work.

## SUDAN

Sudan, a republic with an estimated population of 41.2 million, is governed according to a power-sharing arrangement established by the January 2005 Comprehensive Peace Agreement (CPA), which ended the 22-year civil war between the north and south and established an interim government of National Unity. The Government's mandate extends until scheduled elections in 2009. The Government of National Unity is composed of the National Congress Party (NCP), dominated by Islamists from the north and ruled by authoritarian President Omar Hassan al-Bashir and his inner circle, and the Sudan People's Liberation Movement (SPLM), the political wing of the Sudan People's Liberation Army (SPLA), led predominantly by Christians and practitioners of traditional indigenous religions from the south. In 2000 Bashir was reelected, and his political party won 340 out of 360 seats in the parliament in deeply flawed elections boycotted by all major opposition parties. The SPLM acts as the ruling party of the autonomous government of Southern Sudan, established in October 2005. The autonomous government ratified a separate constitution in December 2005. A referendum to determine whether the south will become an independent entity is scheduled for 2011. Civilian authorities generally maintained effective control of the security forces and government-aligned militia; however, there were some instances in which elements of the security forces and government-aligned militia acted independently.

The country experienced several violent ethnic conflicts during the year. Despite the signing of the Darfur Peace Agreement (DPA) by the Government and Minni Minawi's faction of the Sudan Liberation Movement/Army (SLM/A) on May 5, the ethnic conflict in Darfur continued. Government forces, government-aligned militia (Janjaweed), and Darfur rebel groups continued to commit serious abuses during the year. Tensions and violence persisted in the south over the implementation of the CPA, and in the east, where the rebel Eastern Front signed a peace agreement with the Government on October 14. The country experienced violent conflict on its western border with Chad that was, in part, a spillover of the conflict in Darfur and, in part, attributable to Chadian rebel forces based in Darfur who were opposed to the rule of Chadian President Idriss Deby. The Lord's Resistance Army (LRA), a Ugandan rebel movement, allegedly made incursions into southern Sudan late in the year and attacked and killed civilians.

In Darfur government forces, Janjaweed, and Darfur rebel groups committed serious abuses during the year, including the reported killing of at least several thousand civilians. Government and Janjaweed militias razed numerous villages of African tribes, and committed acts of torture and violence against women. Darfur rebel groups were also responsible for rape and attacks on humanitarian convoys and compounds in order to steal equipment and supplies, resulting in death and injury to humanitarian workers. According to the UN, more than 200,000 persons have died, two million civilians have been internally displaced, and an estimated 234,000 refugees have fled to neighboring Chad since the conflict began in 2003. Despite the presence in Darfur of the African Union-led international monitoring force (African Union Mission in Sudan or AMIS), security remained a major problem and deteriorated during the year, with reports of violence increasing during the latter half of the year.

Despite the January 2005 signing of the CPA, sporadic violence occurred in the south. Militias aligned with the Sudanese Armed Forces (SAF) and the SPLA, as well as non-aligned militias, continued to engage in violent attacks. Delays in CPA implementation, particularly the provisions of its security arrangements governing aligned-militia reintegration and disarmament, fomented many of these incidents. Although the SPLA successfully integrated some militias into its ranks, such as Paulino Matiep's faction of the South Sudan Defense Forces, a grouping of over 40 militias, in compliance with the CPA provision requiring militias to join either the SPLA or SAF by January 9, other militias refused to integrate into either force. In December in Malakal, the SPLA and SAF engaged in direct conflict, in violation of the CPA, when SPLA troops fired upon a SAF base where members of a government-aligned militia had sought refuge. Hundreds of civilians were wounded during the clash, and an estimated 150 civilians and soldiers on both sides were killed.

The Government's human rights record remained poor, and there were numerous serious problems, including evidence of continuing genocide in Darfur, for which the Government and Janjaweed continued to bear responsibility. Abuses included:

abridgement of citizens' rights to change their government; extrajudicial and other unlawful killings by government forces and other government-aligned groups throughout the country; torture, beatings, rape and other cruel, inhumane treatment or punishment by security forces; harsh prison conditions; arbitrary arrest and detention, including incommunicado detention of suspected government opponents, and prolonged pretrial detention; executive interference with the judiciary and denial of due process; forced military conscription of underage men; obstruction of the delivery of humanitarian assistance; infringement on citizens' right to privacy, freedoms of speech, press, assembly, association, religion, and movement; the harassment of internally displaced persons (IDPs) and of local and international human rights and humanitarian organizations; violence and discrimination against women, including the practice of female genital mutilation (FGM); child abuse, including sexual violence and recruitment as child soldiers, particularly in Darfur; trafficking in persons; discrimination and violence against ethnic minorities; denial of workers' rights; and forced labor, including child labor, by security forces and both aligned and non-aligned militias in Southern Sudan and Darfur.

Members of the SPLA committed serious abuses, particularly early in the year during forced disarmament campaigns targeting the White Army, a Nuer ethnic militia, which resulted in numerous killings and the displacement of thousands of civilians. The SPLA also continued to recruit child soldiers.

Antigovernment and insurgent groups also committed numerous, serious abuses. Factions of the SLA, the Justice and Equality Movement (JEM) and other rebel groups in Darfur committed killings, beatings, abductions, rape, robbery, destruction of property, forcible conscription, and recruitment of child soldiers. They restricted freedom of movement of populations under their control and access of relief workers and supplies, and kidnapped and killed nongovernmental organization (NGO) workers.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports of politically motivated killings by the Government and its agents in Darfur, especially connected to the conflict in Darfur. There also were reports of numerous extrajudicial killings. The genocide in Darfur determined to have occurred by the Department of State in September 2004 continued during the year (see Section 1.g.).

The police and army killed demonstrators (see Section 2.b.).

Members of the military also killed other members of the military. On October 31, at a tea shop in central Juba, a former Murle militia member recently integrated into the SPLA shot and killed with impunity a fellow Murle who had recently joined the SPLA. According to witnesses, two additional SPLA soldiers then arrived on the scene and joined the fighting; one of the two went up to the victim and shot him a second time in the head.

At least one person died from tear gas inhalation during an August 30 antigovernment protest in Khartoum.

Police in Gezira State forcibly demolished homes at a squatter camp resulting in the deaths of four persons, including children (see Section 1.f.).

Large-scale violence in Darfur decreased in the first half of the year but increased significantly during the latter half of the year. General lawlessness and continued attacks by government forces, government-aligned militias and rebel and paramilitary forces on villages, humanitarian aid workers, and convoys increased the degree of insecurity (see Section 1.g.).

SAF and SPLA-aligned militias, as well as non-aligned militias, continued to use violence in the south, which resulted in an unknown number of deaths during the year.

Government forces and aligned militias were responsible for attacks and killings in neighboring Chad (see Section 1.g.).

Rebel groups operating throughout the country were responsible for killings, including the deaths of five humanitarian aid workers (see Sections 1.g. and 4).

Approximately 51 civilians reportedly died due to landmines in the south between January and September, although some observers believed the number to be much higher since only a small percentage of deaths were actually reported to the UN (see Section 1.g.). The Government cooperated with the UN Mine Action Group to remove landmines in the south.

Unknown assailants kidnapped and killed a prominent newspaper editor during the year (see Section 2.a.).

Interethnic conflict resulted in deaths during the year (see Section 5).

AMIS monitoring forces in Darfur were responsible for the deaths of IDPs (see Section 1.g.).

*b. Disappearance.*—There were continued allegations that the Government was responsible for politically motivated disappearances, including those of persons suspected of supporting rebels, especially in Darfur.

An estimated 15,000 Dinka women and children have been abducted, mainly from 1983 to 1999; at least 8,000 of these remained unaccounted for at year's end. Observers believed that some of those abducted in the past were sold into de facto slavery as forced laborers, while others were drafted into the military. In some cases the abductees escaped or eventually were released or ransomed; in other cases they were killed. Few persons who were previously abducted were returned during the year by the Government's Committee to Eradicate the Abduction of Women and Children (CEAWC). The Government did not identify the abductors or forced-labor owners and has not prosecuted them.

Rebel forces in Darfur reportedly abducted persons, including government officials and humanitarian aid workers (see Sections 1.g. and 4).

There also were reports of periodic intertribal abductions of women and children in eastern Upper Nile State (see Section 5).

The LRA kidnapped children in Uganda and brought them into the southern part of the country. The LRA also killed civilians in the south (see Section 5).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Interim National Constitution, adopted in July 2005 and hereafter referred to as the "interim constitution," prohibits such practices, government security forces continued to torture, beat, and harass suspected political opponents and others.

In December 2005 the Government of Southern Sudan adopted a separate constitution based on common law, which prohibits torture; however, SPLA forces did not respect these provisions in practice.

In accordance with Shari'a (Islamic law), the Criminal Act provides for physical punishments, including flogging, amputation, stoning, and "crucifixion"—the public display of a body after execution. Under the interim constitution, the Government officially exempts the 10 southern states from Shari'a law, though some judges in the south reportedly still observed it. Northern courts routinely imposed flogging, especially for production of alcohol.

In February National Intelligence and Security Service (NISS) officers used tear gas and beat students with sticks to break up a peaceful student demonstration at Kassala University. Several students were hospitalized due to their injuries.

During the year there were several reports of abuse by anti-smuggling police. For example, on March 27 anti-smuggling police in Kassala State, near the border with Eritrea, assaulted several persons from the Rashaida tribe in Hafayer town and confiscated their goods. Three days later, anti-smuggling police in Hafayer arrested and severely beat a Rashaida leader in front of his family. On April 23, anti-smuggling police arrested another man near Hafayer, confiscated his goods and money, and burned his hands with hot coal. The following day, anti-smuggling police raided a shop in Hafayer, confiscated several goods, and shot a 17-year-old boy in the foot as he was coming out of the local SPLM office.

On April 15, government soldiers arrested two men and one 13-year-old boy near Kulbus, West Darfur, and accused them of being "Tora Bora"—a slang term for Darfuri rebels. The soldiers beat the boy with electric wire and their rifle butts before transferring him to a detention cell for three days. While in detention, soldiers again beat the boy, threw water on him, and forced him to stand all night. On April 25, the boy was transferred to civilian custody and released the following day on orders of a judge in El Geneina.

On June 12, NISS officers detained and tortured a male student from the Islamic University in Omdurman. The student had distributed flyers calling for the university to reinstate several students who had been expelled for nonpayment of fees. The officials took the student to a room on campus, blindfolded him, and hung him by his feet from a ceiling fan. They then attempted to insert a glass bottle into his anus, beat him with a metal bar, and shocked his hands and feet with electric wires. They released him after he signed documents obliging him to pay over \$7,000 (SDD 1.5 million). The UN Mission in Sudan (UNMIS) later verified the victim's injuries with a medical certificate.

On September 7, SPLA soldiers beat at least six university students in Wau after the university director asked the SPLA to intervene to protect the university from student agitators. UNMIS reported that the students were beaten without provocation, some after simply acknowledging that they were students at the university.

On September 19, the governor of Western Bahr al Ghazal ordered the university closed for one year and asked police and SPLA to remove all students from campus.

In Torit in early September, fighting broke out between the SPLA and local police after a SPLA-Joint Integrated Unit soldier was arrested for rape and shot while attempting to escape from jail. SPLA soldiers later attacked the police station in retaliation, beat several police officers, and shot indiscriminately in the streets.

There were few attempts during the year to bring to justice police, soldiers, and other government agents who had tortured or mistreated citizens in previous years.

No action was taken against government officials responsible for the following abuses in 2005: the January beating of political activist Salah Abdelrahman, who was held without charge for eight months; the February detention and beating of Mahmoud Abaker Osman and Diggo Abdel Jabbar; the August torturing of numerous persons in connection with the Khartoum riots; and the October torture of nine students on the campus of Islamic University in Omdurman after they attempted to form a union.

Security forces beat and mistreated refugees and injured and killed persons while dispersing demonstrations (see Sections 2.b. and 2.d.). Throughout the year police conducted sporadic raids on houses occupied by Ethiopian refugees or migrants; credible reports indicate that during the raids police at times beat the refugees and used tear gas against them (see Section 2.d.).

Soldiers, Popular Defense Force (PDF) members, government-aligned militia, and members of Darfur rebel groups raped women (see Section 1.g.). There was a clear and documented pattern of rape and sexual abuse directed at IDPs of all ages in Darfur (see Section 1.g.).

UNMIS acknowledged that four of its military and civilian personnel had been repatriated to their country of origin in connection with allegations of sexual abuse of children in the south. UNMIS acknowledged that 13 additional personnel were being investigated on similar charges.

Government forces and aligned militias in Darfur were responsible for injuring many civilians during attacks on rebel forces, and during attacks on civilian settlements, including aerial bombardment (see Section 1.g.).

SLA, JEM and other Darfur rebel groups were also responsible for civilian injuries in Darfur (see Section 1.g.).

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and overcrowded. Most prisons were old and poorly maintained, and many lacked basic facilities such as toilets or showers. Health care was primitive; prisoners usually relied on family or friends for food. Prison officials arbitrarily denied visits to prisoners. High-ranking political prisoners reportedly often enjoyed better conditions than did other prisoners.

The Government routinely mistreated persons in custody. There were credible reports that security forces held detainees incommunicado; beat them; deprived them of food, water, and toilets; and forced them to sleep on cold floors.

Juveniles often were held with adults and in some cases subjected to sexual abuse by the adult inmates. In October 2005 an adult inmate raped a 16-year-old male in police detention in Juba.

The Government did not permit regular visits to prisons by domestic human rights observers. In August 2005 the Government agreed to allow unfettered access to UN monitors; however, on May 3, it denied a request by the UN High Commissioner for Human Rights to visit the NISS section of Khobar prison in Khartoum North (see Section 1.e.). The Government refused to grant the International Committee of the Red Cross (ICRC) access to government prisons during the year.

Detention centers operated by rebel forces were comparable to those operated by the Government, though some were worse. On June 19, UNMIS observers visited a detention facility operated by SLA forces aligned with Minni Minawi, hereby referred to as “SLA (Minawi)” in Thabit, North Darfur, and noted that 16 prisoners were being held in a single cell with no space to lie down; military and civilian detainees were held together. The SLA and other rebel groups allowed the ICRC access to some prisoners during the year.

*d. Arbitrary Arrest or Detention.*—The interim constitution and law prohibit arbitrary arrest and detention without charge; however, the Government continued to arbitrarily arrest and detain under the National Security Act.

*Role of the Police and Security Apparatus.*—The NISS and the Ministry of Interior both have security forces under their control, along with the police force responsible for internal security. The police forces include regular police units and the Popular Police Force, a parallel progovernment force that received higher pay than regular forces. The effectiveness of the Popular Police Force varied, depending on the strength of the local militias and security forces. The army is responsible for exter-

nal and internal security. Police corruption was a problem, and police officers supplemented their incomes by extorting bribes from the local civilians.

According to UNMIS, police in Southern Sudan lacked resources to effectively protect the local population. In Maridi, in West Equatoria State, police lacked uniforms, radios, sufficient vehicles, and office equipment. The local jail had only one cell, with no toilet. To compensate for the lack of resources, police required complainants to pay three dollars (5,000 Ugandan shillings) before they would investigate their cases. Ugandan shillings, Kenyan shillings, Ethiopian birr, and U.S. dollars all circulate as common currency in the south. Local judicial personnel also were inadequately trained, with only one judge having a law degree. Local police also complained that SPLM officials routinely intervened in police affairs, forcing police to release relatives and friends without following legal procedures.

Impunity remained a serious problem, although on a few occasions during the year courts prosecuted police and other officials for abuses they had committed. On May 3, the Special Criminal Court for the Events in Darfur issued a verdict on the only case referred to it since its establishment in November 2005. The court acquitted two Military Intelligence (MI) officers and one civilian on charges of robbery and war crimes (pillaging), stemming from an October 2005 attack by Arab militia on Tama, in South Darfur. However, the court convicted the three men of "criminal joint acts" and theft, sentencing them to at least two years in prison. On the same day, the El Geneina General Court convicted a police officer from Mornei of raping a 10-year-old girl in 2005, and sentenced him to three years in prison and 100 lashes.

In other cases of police abuse, victims who complained were punished. For example, in June two southern IDP women in Omdurman, one of whom was seven months' pregnant, were severely beaten by police after they resisted police attempts to steal money from their home. The women were taken to the Thowra police station, where they were beaten again by a senior police officer. The following day, when the women were taken to court, one of the women complained about the abuse to the judge. Three police officers accused her of lying and defaming the police. The judge ruled in favor of the police, and sentenced her to 30 lashes and a \$23 (SDD 5,000) fine for defamation.

*Arrest and Detention.*—Warrants are not required for an arrest. Under the Criminal Code, an individual may be detained for three days without charge, which can be extended for 30 days by order of the director of security and another 30 days with the approval of the prosecuting attorney. Under the National Security Act, which supersedes the Criminal Code, an individual accused of violating national security may be detained for three months without charge, which the director of security may extend for another three months. In practice, indefinite detentions were common. The law provides for the individual to be informed of the arrest charges at the time of arrest and for prompt judicial determination without undue delay, but these provisions were rarely followed.

The law allows for bail, except for those accused of crimes punishable by death or life imprisonment, and there was a functioning bail system.

Although the law provides for access to a lawyer, security forces often held persons, including criminal detainees, incommunicado for long periods in unknown locations without access to their lawyers or family members. For example, on August 9, MI officials took American journalist Paul Salopek and his two foreign assistants into custody after they crossed the border from Chad without a visa. They held Salopek incommunicado for nine days without notifying consular representatives or providing him access to a lawyer.

Individuals were arbitrarily arrested and detained. In general the Government detained persons for a few days before releasing them without charge or trial; however, there were exceptions, particularly for perceived political opponents (see Section 1.e).

On April 4, security forces in Kassala State arrested several members of the Beja Congress without charge; the members were reportedly released six months later. The Sudanese Organization Against Torture (SOAT) claimed the April arrests were part of a crackdown against the Beja Congress in several eastern states that began in March with numerous arrests of members of the Beja Congress.

On November 12, police raided an IDP camp near Masteri, West Darfur, following an exchange of fire between militiamen and suspected SLA members. Two Masalit men who were gathering firewood near the camp disappeared during the raid. Three days later, the local police commissioner stated that the two men were taken into custody for supporting the SLA but acknowledged that he did not have evidence to support the charges. Despite assurances to UNMIS that the men would be released after several days, the men reportedly remained in detention at year's end.

Journalists were arrested and detained during the year (see Section 2.a.).



Religious leaders were arrested and beaten (see Section 2.c.).

Security forces often targeted southern women in IDP camps because they produced and sold traditional home-brewed alcohol; such women were arrested and imprisoned for up to six months under Shari'a. Some women were held in prison until they could pay the fine, regardless of time served in prison, thereby effectively serving indefinite sentences. Vagrant children accused of committing crimes were detained for indefinite periods (see Section 5).

Arrests and detentions of NGO members and civil society groups also occurred (see Section 4).

Arbitrarily lengthy detention before trial was common. Trial delays were caused by large numbers of detainees and judicial inefficiency, such as the failure of judges to appear for court.

The Government routinely used house arrest without due process.

*e. Denial of Fair Public Trial.*—Although the interim constitution and the law provide for an independent judiciary, the judiciary was largely subservient to the President or the security forces, particularly in cases of crimes against the state.

A judiciary committee recommends and the President appoints the chief justice and justices of the Supreme Court. The President appoints the constitutional court's seven members. On occasion courts displayed a degree of independence. For example, appeals courts sometimes overturned decisions by lower courts on political cases, particularly decisions from public order courts. However, political interference with the courts regularly occurred.

The judicial system includes four types of courts: regular, military, special, and tribal courts. Within the regular court system, there are civil and criminal courts, appeals courts, and the Supreme Court. Military courts tried only military personnel but did not provide the same rights as civilian and criminal courts. Special courts in Darfur operated under the state of emergency to try crimes against the state; there were three such courts, one in each Darfur capital. Tribal courts functioned in rural areas to resolve disputes over land and water rights, and family matters. The Criminal Act governs criminal cases, and the Civil Transactions Act applies in most civil cases. Shari'a is applied in the north, but not in the south, under the interim constitution. However, some judges in the south reportedly continued to follow Shari'a legal procedures. The Government of Southern Sudan adopted a new penal code in October based on common law.

*Trial Procedures.*—The interim constitution and law provide for fair and prompt trials; however, this was often not respected. Trials in regular courts nominally met international standards of legal protections.

Trials were open to the public at the discretion of the judge. In cases of national security and offenses against the state, trials were usually closed. Juries are not used.

The accused normally have the right to an attorney, and the courts are required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment; however, there were reports that defendants frequently did not receive legal counsel and that counsel in some cases could only advise the defendant and not address the court.

There were reports that the Government sometimes denied defense counsel access to the courts or did not allow the calling of defense witnesses. For example, in May 2005 an appeals court upheld a judge's 2004 ruling that banned lawyers from representing 28 defendants on trial for allegedly plotting a coup and ordered them to pick new counsel or accept government-appointed lawyers. Thereafter 43 additional persons were charged. Forty-nine out of the 81 defendants were convicted of plotting a coup and sentenced from five to 15 years in prison; the others were released. However, on March 13, a special court in Bahri, Khartoum North, dropped charges against eight of the 49 defendants for lack of evidence. The same court acquitted an additional 10 defendants on April 26 because their confessions had been obtained under torture by NISS officers.

According to the interim constitution and law, there is a presumption of innocence; however, this was not respected in practice. Defendants have a right to appeal, except in cases of military trials where the decision is final and there is no appeal.

Military trials, which sometimes were secret and brief, did not provide procedural safeguards. For example, the defendant's attorney could advise the defendant but could not address the court. Witnesses may be permitted to appear at military trials.

The Special Courts Act created special three-person security courts to deal with violations of constitutional decrees, emergency regulations, and some sections of the Penal Code, as well as with drug and currency offenses. Special courts, composed

primarily of civilian judges, handled most security-related cases. Attorneys could address the court. Lawyers complained that they sometimes were granted access to court documents too late to prepare an effective defense. Sentences usually were severe and implemented at once; however, death sentences were referred to the chief justice and the head of state. Defendants could file appellate briefs with the chief justice. The defendant has seven days to appeal a decision; the decision of the appeal court is final. Special criminal courts operated in Darfur as authorized by Presidential decree.

Lawyers wishing to practice were required to maintain membership in the government-controlled bar association. The Government continued to harass members of the legal profession whom it considered political opponents. In September 2005 security forces in Darfur briefly detained Darfur Lawyers Association director Mohamed Addoma and several fellow lawyers while they were attending a conference on legal aid; however, there were no such reports of harassment during the year.

In the south the Government of Southern Sudan employed a judicial system of traditional chiefs' courts, payam (district) courts, county judges, regional judges, and a court of appeals. The court system did not function in many areas due to lack of infrastructure, communications, funding, and an ineffective police force. The Government of Southern Sudan recognized traditional courts or "courts of elders," which applied customary law to most cases, including domestic matters and criminal cases. Local chiefs usually presided over traditional courts, but defendants have a right of appeal to a non-customary court, although there were no reports that this has happened in practice. Traditional courts have now been formalized and integrated into the judicial system.

In parts of the south and the Nuba Mountains, where civil authorities and institutions did not operate, there were no effective judicial procedures beyond customary courts. According to credible reports, military units in those areas summarily tried and punished those accused of crimes, especially for offenses against civil order.

*Political Prisoners and Detainees.*—There were no reports of political prisoners; however, the Government held an estimated 100 political detainees, including members of opposition parties. Security forces reportedly detained without charge, tortured, and held incommunicado political opponents (see Section 1.c.). Detentions of such persons generally were prolonged. However, security forces frequently harassed political opponents by summoning them for questioning, forcing them to remain during the day without questioning, and then ordering their return the following day—a process that sometimes continued for weeks.

In September the Government detained several leaders of the opposition Umma Party for planning protests against government-backed increases for the price of sugar and fuel (see Section 2.b).

Security forces detained members of Hassan al-Turabi's Popular Congress Party; however, there were fewer such detentions than in previous years.

Security forces arrested numerous persons suspected of supporting rebels in Darfur, some of whom were tried, convicted, and sentenced to death under special courts (see Section 1.e.). For example, on April 19, NISS officers in Khartoum North detained the JEM's legal advisor and confiscated his belongings. Later in the day, officials transferred him to NISS headquarters, where he was held until May 2, when he was moved to the NISS section of Khobar prison in Khartoum North and charged with undermining the constitution, espionage, and obtaining official documents. A judge later ordered the man to be released because the Government had held him for too long before filing charges. However, the NISS later brought the man to another judge, who ordered him detained for another week. He was later released.

Following the May 5 signing of the DPA, the Government began to release many political detainees associated with the conflict. By August, the Government had released 23 persons in accordance with the DPA, according to the UN special rapporteur on the situation of human rights in Sudan.

The Government did not permit international humanitarian organizations to have access to political detainees. On May 3, it denied a request by the UN high commissioner for human rights to visit the NISS section of Khobar prison in Khartoum North.

*Civil Judicial Procedures and Remedies.*—There was access to court for lawsuits seeking damages for human rights violations, but the lack of an independent judiciary made it unlikely that such lawsuits would be successful.

*Property Restitution.*—There were numerous ongoing disputes between the Government and various churches involving confiscated church property. There were no reports of court ordered property restitution or compensation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The interim constitution and law prohibit such actions, but the Government routinely violated these rights in practice. Security forces frequently conducted night searches without warrants and targeted persons suspected of political crimes.

In Darfur throughout the year government armed forces and aligned militia continued to bomb and burn down villages, loot property, and attack IDP camps (see Section 1.g.).

Police often entered IDP areas without a warrant in search of illegal alcohol brewing and often seized property unrelated to brewing. Police also extorted money from illegal alcohol brewers by threatening them with prison.

For example, on June 11, a Dinka woman living at El Fateh relocation camp near Khartoum reported that police raided her house in May searching for illegal alcohol. When they could not find alcohol, they forced her to hand over all her money. One officer remained behind and demanded sex; when the woman resisted, the officer told her that he would see her again “one of these days.”

Police continued to raid homes at El Fateh relocation camp in October searching for illegal alcohol. For example, on October 26, police raided the home of one man but could not find any alcohol; nevertheless, they demanded money. According to UNMIS, police rarely found alcohol during these raids, and court prosecutions for illegal alcohol production were rarer still.

A wide network of government informants conducted surveillance in schools, universities, markets, workplaces, and neighborhoods.

In several areas the Government sought to forcibly resettle or displace local populations. In Northern State, nomads in the areas around Sani, Burti Gareb, Kurkuban, and Sherri Island complained that the Government’s Merowe Dam Project Implementation Unit seized their traditional grazing land without compensation and gave it to a foreign construction company, denying them access to water wells in the area. Armed police prevented the nomads from using the land or water at year’s end.

As of August 12, flooding as a result of the Merowe dam project had forced more than 2,000 persons to leave the area, largely in the vicinity of the town of Amri, according to the UN special rapporteur for the situation of human rights in Sudan. Authorities gave residents six days notice to leave their homes.

On August 16, police in Gezira State began demolishing homes at Dar al Salaam squatter camp to force residents to relocate. Bulldozers arrived at four o’clock in the morning, while police used tear gas to drive residents from their homes. Four persons, including children, were killed. The entire camp of 12,000 persons was razed within 24 hours. In violation of a January Memorandum of Understanding that promised residents relocation to a new site to be agreed upon by local authorities and squatters, the authorities and squatters were unable to agree on a new site, and no alternate site had been provided by year’s end.

The Government continued forcibly to conscript citizens for military service as part of mandatory military service for male citizens, and government-aligned forces and rebels continued to recruit and accept child soldiers in Darfur (see Section 1.g.).

A Muslim man may marry a non-Muslim, but a Muslim woman cannot marry a non-Muslim, unless he converts to Islam (see Section 5); however, this prohibition was not observed or enforced universally, particularly in the south or among the Nubans. Non-Muslims may adopt only non-Muslim children; no such restrictions apply to Muslim parents.

The Government of Southern Sudan generally did not interfere with privacy, family, home, or correspondence in the south; however, southern militias, especially the South Sudan Independence Movement, continued forcibly to conscript citizens, including children of high school age.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Darfur.*—While all sides in Darfur violated international human rights and humanitarian law, the Government and the Janjaweed continued to bear responsibility for genocide that occurred in Darfur.

The conflict in Darfur has roots in both government neglect of the region and ethnic tensions between nomadic pastoralists and sedentary farming communities, exacerbated by scarce resources and the Government’s support of the nomad militias. During the year the Government, Arab militia forces, and Darfur rebel groups reportedly killed at least several thousand civilians. By year’s end, there were more than two million IDPs in Darfur, and another 234,000 civilians had fled into Chad, where the UN High Commissioner for Refugees (UNHCR) coordinated a massive refugee relief effort. According to the UN, more than 200,000 persons have died since 2003 as a result of the violence and forced displacement. The Government continued to support the largely Arab nomad Janjaweed militia, which terrorized and killed civilians, raped women, and burned and pillaged the region.

During the year the Government resumed aerial bombardment of civilian targets, including homes, schools, and markets.

According to UNMIS, on April 24, government armed forces and government-aligned militia attacked Joghana town in South Darfur with Land Cruisers, helicopters, and a converted Antonov bomber. Many of the Land Cruisers were painted white, as was the bomber, in what observers believed was an attempt to disguise them as NGO or UN vehicles. Reports indicated that civilians were targeted during the attack, although the number of casualties had not been confirmed by year's end.

Government bombing of civilian targets in North Darfur continued throughout the latter half of the year. On September 6, Human Rights Watch noted that international observers reported government Antonov bombers had attacked Hassan village, in North Darfur, during the last week of August, killing one woman and seven children. AMIS later confirmed that raids near Kukul had killed 20 people and displaced more than 1,000.

Aerial bombardments near Tawila, North Darfur, occurred during the first two weeks of September. Although no one is known to have died during these bombings, the attacks drove an additional 400 IDPs into the Rwanda camp near Tawila, severely straining camp resources. According to UNMIS, 12 people died at the camp between from August 15 to September 15 due to insufficient medical attention.

In late December the Government bombed the villages of Anka and Um Rai, North Darfur. AMIS reported that five civilians died as a result of the bombings.

Throughout the year, the Government and government-aligned militias attacked IDP camps, civilian facilities, and housing, killing at least several hundred civilians.

On May 20, approximately 150 men on camel and horseback, many dressed in khaki uniforms, attacked Fuguli village in South Darfur. At the time of the attack, Fuguli village was controlled by Fur tribesmen loyal to Abdel Wahid al-Nur's faction of the SLA, hereby referred to as "SLA (Abdel Wahid)," which had refused to sign the DPA. The gunmen began firing indiscriminately on the village, killing livestock and looting homes. SLA (Abdel Wahid) forces quickly retaliated, but were overwhelmed by government reinforcements, including two vehicles mounted with machine guns. UNMIS reported that 13 civilians were killed in the attack.

On June 11, five police officers from the Central Reserve Police arrested two men from the central market in Nyala, South Darfur, and charged them with supporting the SLA. The officers repeatedly beat the men with their rifle butts and flogged them with whips. The men were later charged with undermining the constitutional system and waging war against the state. The status of their cases remained unknown at year's end.

In July the Government launched a major assault on the National Redemption Front (NRF), a coalition of rebel groups that rejected the DPA, following an NRF attack on civilians in the area. The Government also attacked civilians in areas believed to support the NRF, and was responsible for numerous killings.

From August 28 to 31, hundreds of uniformed armed militia from the Habania and Fellata tribes attacked 47 villages near Buram, South Darfur, forcing approximately 10,000 people in the area to flee. At least 38 persons were killed, while another 23 were injured, although some unconfirmed reports indicate that hundreds of civilians were killed during the attacks.

On October 9, nine government soldiers severely beat a shopkeeper in the central market of El Fasher city and then proceeded to beat several neighboring shopkeepers. They called the victims "slaves" and stole several mobile phones from the shops. Other soldiers returned to the market on October 12, beating other shopkeepers and looting stores. On October 13, soldiers shot a butcher in the market four times following a dispute over payment. Local police later told the shopkeepers they had no jurisdiction against crimes committed by the military.

On October 29, hundreds of armed militiamen in green uniforms attacked several villages and the Aro Sharow IDP camp near Jebel Moon, in West Darfur. At least 50 civilians were killed, including 26 children, most of whom were under the age of 10. According to survivor accounts obtained by UNMIS, the attackers told residents in one village "We have come to destroy you," and shouted "Come out, slaves!" One boy was heard pleading for his life, telling his attacker, "You have killed this other boy, so please let me go." The attacker responded, "If I let you go, you will grow up. I will not let you go." He then shot the boy. As many as 7,000 people in the area were displaced by the violence, many fleeing across the border into Chad.

Violence in Birmaza, North Darfur in November between government forces, Janjaweed and rebel groups killed more than 20 civilians, displaced an unknown number of persons, and destroyed six UN World Food Programme warehouses.

On December 1 and 2, armed men attacked the village of Abu Sakin, North Darfur, killing at least 11 persons, and displacing an unknown number of others.

On December 23, a UN assessment mission to the village confirmed that it had been deserted and looted and that more than 50 houses burned.

On December 9, Janjaweed shot and killed a shopkeeper in El Fasher's central market. The governor of North Darfur State and several members of his cabinet later attempted to visit the market to assess the situation, but Janjaweed fired upon their convoy, killing one person and injuring at least eight others.

On December 10, protesters surrounded the AMIS camp in El Geneina, West Darfur, protesting that AMIS troops were not protecting them. According to AMIS, several protesters fired on the camp and attempted to enter the compound. AMIS forces responded by firing on the crowd, killing two protesters and injuring one.

The UN's International Commission of Inquiry in Darfur found in 2005 that "rape or other forms of sexual violence committed by the Janjaweed and government soldiers in Darfur was widespread and systematic." This trend continued during the year. The majority of victims were women and girls who lived in IDP camps and were raped when they left their camps to gather firewood, water, or food. Women often described the perpetrators as "men in uniform," either government or rebel soldiers. Rape victims were almost always beaten, threatened with death, and subjected to racial epithets during attacks. In some cases attackers killed their victims.

For example, according to UNMIS, armed militiamen raped 25 persons, including five children, in conjunction with a January attack on four villages in West Darfur; some of the victims were gang-raped.

On April 16, three Arab militiamen approached eight IDP women from Ardamata camp, two of whom were carrying their babies. According to UNMIS, one gunman threatened to kill the babies if they were male and demanded that the mothers allow him to inspect the babies to determine their gender. When the mothers refused, the gunmen beat them. One woman attempted to file a complaint with the Ardamata IDP camp police, but was rebuffed; another woman declined to file a report with the police, because "they don't do anything."

On July 24, 25 armed men, some in army uniforms, attacked a group of 17 Fur IDP women who were collecting firewood near Kalma camp outside Nyala, South Darfur. The gunmen beat the women with their rifles before raping them. The youngest woman was 19, and the oldest was 42.

According to the UN, between 120 and 300 IDP women from Kalma camp, near Nyala, South Darfur, were raped between mid-July and mid-August.

Authorities, particularly the police, often obstructed access to justice for rape victims (see Section 5). For example, after Arab militia attacked Krenak village, in West Darfur, on January 20, local sheiks complained to police that the attackers had raped 36 women. Police responded by forcibly taking four of the women to a clinic for a medical examination and interrogated them for 10 hours; authorities charged the sheiks and the women with furnishing false information. A local court dropped the charges against the sheiks on May 27 but referred the cases against the women to the prosecutor in El Geneina. The prosecutor later told UNMIS he had no knowledge of the case.

On August 8, four civilians and one military officer raped a 13-year-old girl in South Darfur. Three of the civilian defendants confessed, while a fourth pleaded innocence; the military officer claimed that he only threatened to rape the girl, and helped the others. The prosecutor in Nyala asked the military for permission to prosecute the military officer in a civilian court, but the military had not responded to the request by year's end. According to UNMIS, authorities were considering dropping the charges against the military officer to facilitate the prosecution of the others.

No action was taken in the following 2005 rape cases: the February rape of two sisters by three armed pro-government militia men in West Darfur State; and the February 2005 cases of two female minors who were raped by progovernment militiamen.

During the year the Government continued to take small steps to curb violence against women in Darfur. The Government printed medical booklets for doctors detailing proper treatment of rape victims. The Government also pledged to deploy 30 female police officers in South Darfur (see Section 5). However, significant problems remained, including the harassment and intimidation by police of rape victims, lack of investigations into rape allegations, and the continued impunity of the police in Darfur.

During the year, there was one successful prosecution for rape in Darfur. On September 5, a court in Kabkabiya convicted a government soldier of raping an 11-year-old girl and sentenced him to five years in prison and 100 lashes.

Rebel groups in Darfur, including SLA (Minawi), SLA (Abdel Wahid), the JEM, and other groups, also committed numerous abuses during the year, including the killing of civilians, beatings, and rape.

On April 21, armed men believed to be from Zaghawa supporters of the SLA (Minawi) severely beat a Birgit farmer near Shangil Tobayi, North Darfur; the man died from his wounds later in the day. On the same day, 50 armed men believed to be SLA (Minawi) soldiers shot and beat a 55-year-old Fur merchant at a road-block in a nearby area. They released him the following day to report the farmer's death to his family.

According to AMIS, on July 6, SLA (Minawi) forces killed a community leader from Birka, North Darfur, reportedly because of his alignment with a rival SLA faction.

On July 7, SLA (Minawi) forces attacked several villages in the vicinity of Birmazaa, North Darfur, which were reportedly aligned with SLA (Abdel Wahid) forces, killing three civilians.

On April 27, SLA soldiers, purportedly aligned with the SLA (Minawi) faction, detained a Hamad shopkeeper on the road between El Fasher and Nyala on suspicion that he had spied for the Government while serving in the army. The man was repeatedly beaten with sticks and rifle butts until he confessed to espionage.

On September 3, 60 armed men on camels and horses believed to be SLA (Minawi) surrounded four Masalit IDP women who were collecting grass near Gereida, South Darfur. The men beat the women, stole their donkeys, and forced them to undress. Each woman was then raped by several men, according to UNMIS; two of the women were in advanced stages of pregnancy.

On September 29, two militiamen in green uniforms abducted a Fur woman from her farm near Kabkabiya, wrapped her in plastic sheeting, and tied her to a camel. After an hour, they stopped, untied her, and took turns raping her. The woman declined to report the incident to the police.

Despite the 2005 government announcement of a "humanitarian moratorium," or the lifting of restrictions on the issuance of visas and the importation of supplies by humanitarian organizations, the Government continued to place restrictions on humanitarian access to Darfur. In some cases, the Government continued to wait several months to issue entry visas to humanitarian aid workers; exit visas also frequently took longer than two weeks to process, causing delays and disruptions to humanitarian programs.

The Government's Humanitarian Aid Commission (HAC) continued to request that NGOs refrain from interviewing or selecting staff unless they used a five-person selection panel and had HAC officials present, significantly delaying the hiring of new staff in Darfur.

The Government also continued to harass humanitarian workers and detain them on various arbitrary rules and requirements without prior notification. In September the Government announced new travel restrictions limiting the movement of U.S. citizens to a 25-mile radius of the Republican Palace in Khartoum; the Government lifted the restrictions November 30 (see Section 2.d.).

Rebel forces attacked commerce on the roads, including humanitarian aid shipments, and seized goods, vehicles, and persons, including government officials and humanitarian aid workers.

Rebel forces and bandits also obstructed the flow of humanitarian assistance to the Darfur region and were responsible for attacks on humanitarian workers that resulted in death and injury. In June and July, four local humanitarian aid workers were killed, while a fifth was abducted and later found dead.

On December 18, SLA (Minawi) forces attacked three humanitarian compounds in Gereida, North Darfur. The forces assaulted several international and local humanitarian workers and stole 12 vehicles. The attack caused the majority of humanitarian organizations operating in Gereida, home to Darfur's largest IDP camp with 128,000 IDPs, to evacuate due to insecurity. At year's end, none of the humanitarian organizations that withdrew had returned.

There were no reports that the Government prosecuted or otherwise penalized attacking militias or made efforts to protect civilian victims from attacks. Government forces provided logistic and transportation support, weapons, and ammunition to progovernment militias throughout the country.

Recruitment of child soldiers was a serious problem in the country (see Section 5). On August 17, the UN issued the Report of the Secretary-General on children in armed conflict in the Sudan, which cited the recruitment of child soldiers by the SAF, SPLA, and the White Army. In Darfur, the UN report cited recruitment of child soldiers by the SLA (Minawi) and Janjaweed. The UN Children's Fund (UNICEF) worked to raise awareness of the law and of the dangers in using child soldiers. As a result of its awareness campaign, more than 500 child soldiers were released in Darfur; more than 200 of the children were attending UNICEF schools.

*Southern Sudan.*—SAF, SPLA, and other armed groups were responsible for killings of numerous civilians during the year. Conscription of child soldiers and displacement of civilians were also problems.

In March and April, SPLA attempts to disarm the White Army as part of a broader government of Southern Sudan-sponsored, CPA-mandated disarmament, demobilization and reintegration program provoked armed clashes between the parties, and 99 civilians were murdered. International observers and humanitarian agencies repeatedly called on the SPLA to abandon forcible disarmament programs, and implement a more consultative approach to integrating other armed groups.

In November fighting between pro-SAF and pro-SPLA militias in Northern Bahr el Ghazl State resulted in the displacement of 4,500 persons.

From November 28 to 30, SAF, SAF-aligned militia, and the SPLA engaged in heavy fighting in the town of Malakal, in Upper Nile State, Southern Sudan, resulting in injury to more than 300 civilians and widespread looting in the town. In November, 150 persons were reported killed in Malakal due to the fighting.

There were unconfirmed reports that new landmines were laid in the south.

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

*a. Freedom of Speech and Press.*—The interim constitution provides for freedom of thought, expression, and of the press “as regulated by law”; however, the Government severely restricted these rights in practice. Despite lifting emergency laws in July 2005, the Government continued to censor print and broadcast media. Journalists also practiced self-censorship.

There were many daily newspapers, mainly in urban areas, reflecting somewhat differing political views. Several newspapers also reprinted articles from the international press, some of which were critical of government policies. There was one formally government-controlled newspaper in Arabic and one in English, although security services also controlled other newspapers. A number of independent publications were under intensive scrutiny during the year and experienced intimidation, interruption, and arrest of their editors. The English-language press complained of prejudice, noting that the Arabic test required of all accredited journalists was much more difficult than the English test. Many Anglophone journalists thus could not report or had to do so unofficially. For example, the Khartoum Monitor employed both Arabic- and English-speaking journalists so that the unaccredited English-speakers could translate articles written by their accredited Arabic-speaking colleagues who could not write in English.

The Government directly controlled radio and television and required that they reflect government policies. Television has a permanent military censor to ensure that the news reflected official views. Some foreign radio broadcasts were available in the country. A private FM radio station, which began broadcasting music in Khartoum in 2004, continued to operate. Despite the Government’s license requirement and the high price of satellite dishes, citizens had access to foreign electronic media; the Government did not jam foreign radio signals. In addition to domestic and satellite television services, there was a pay cable network, which directly rebroadcast uncensored foreign news and other programs.

International media were not allowed to operate freely. For example, some foreign journalists were allowed access to Darfur, while others were denied visas. Several foreign journalists and photographers were detained for photographing slums or taking pictures without a license; most were quickly released, but some were prosecuted for more serious crimes. On August 14, the special court for North Darfur convicted foreign journalist and human rights activist Tomo Kriznar of espionage, after he entered the country without a visa from Chad. The court sentenced Kriznar to two years in prison, but the President pardoned him and ordered him deported on September 2. On August 26, American journalist Paul Salopek and his two foreign assistants were charged in El Fasher, North Darfur, with espionage, publishing false news, and obtaining official documents after entering the country without a visa from Chad. The special court for North Darfur dropped the charges on September 9 and ordered the three men to leave the country immediately. On September 7, NISS officers attacked three foreign journalists outside their hotel in Khartoum; the journalists had observed an antigovernment protest earlier in the day. One of the journalists was seriously injured and had to leave the country to seek medical treatment.

Government security forces also harassed, intimidated, and arrested local journalists on numerous occasions.

On April 13, the editor of the Khartoum Monitor was arrested after printing an article accusing police of beating several University of Juba students during a protest (see Section 1.c.). He was released the following day.

On June 17, the NISS summoned the editor of Al Sudani and questioned him about an article the newspaper had printed on the alleged torture of university students by National Security forces. The editor was summoned again two days later and formally charged with publishing false statements and breaching his duties as editor. He was later released on bail.

On November 22, a reporter for the independent daily newspaper Al-Sahafa was detained and held incommunicado for 12 days without charge.

There were no reports that the Government of Southern Sudan censored the press during the year; however, there were credible reports that various state governments in the South interfered with the press. The Government of the State of Bahr al-Jebel shut down the radio station, Liberty FM, in July following a remark critical of the Government by a caller during a call-in show. State government officials claimed the station was shut down for operating without a license; however, the station was fully licensed by the Government of Southern Sudan. In November, also in Bahr al-Jebel State, a group of armed soldiers stormed the offices of the Juba Post and held all the employees for several hours, claiming they were unhappy with an article that included an unflattering depiction of the state's governor. The situation was resolved when the soldiers discovered the article never appeared in the Juba Post but had actually appeared in the Southern Eye, an unrelated newspaper published in Nairobi.

One journalist was killed during the year. On September 5, masked assailants kidnapped the editor-in-chief of Al Wafaq, Mohamed Taha Mohamed Ahmed, from his home in Khartoum; his decapitated body was found the following day south of the city. The editor had faced criminal charges in May 2005 after republishing an article regarding the origins of the Prophet Mohamed, and a court had ordered Al Wafaq to suspend publication for three months. Following the editor's killing, a Khartoum court barred newspapers from reporting on the criminal investigation. On September 25, police arrested 16 suspects in connection with the murder, but did not announce any names to the public.

According to Reporters without Borders, in September the Government ordered seven Arabic language newspapers not to print certain articles "out of protection for journalists," although many of the censored articles had no connection with the investigation of the editor's killing. Authorities confiscated all copies of the September 9 edition of Al Sudani immediately after it was printed, stating that its reporting could "hurt the investigation." Police also detained a journalist from Al Rai Al Aam for 16 days, reportedly in connection with the investigation.

The Government exercised control of news reporting through the National Press Council and security forces, particularly regarding criticism of government actions and policies in Darfur. The National Press Council applied the press law and licensed newspapers, set press policy, and responded to complaints. In the event of a complaint, it could warn a newspaper or suspend it indefinitely and suspend journalists for up to two weeks. The council consisted of 21 members: seven selected by the President; five from the National Assembly; seven directly elected by journalists from the Journalists' Union; and two selected by leaders of the Journalists' Union, which observers considered to be government-controlled.

*Internet Freedom.*—The Government monitored Internet communications, and the NISS read e-mail messages between private citizens. Some Web sites deemed offensive to public morality were blocked by the National Telecommunications Corporation, as were most proxy servers, but there generally were no restrictions on access to news and information Web sites. Internet access was generally available and widely used in urban areas, but it was limited by lack of infrastructure outside of cities.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom. In public universities, the Government appointed the vice chancellors, who were responsible for administering the institutions. The Government also determined the curriculum. While many professors lectured and wrote in opposition to the Government, they exercised self-censorship. Private universities were not subject to direct government control; however, in some cases, professors also exercised self-censorship. Nonetheless many university professors in exile returned to the country.

On February 11, students at the main campus of the University of Juba, in Khartoum, rioted to protest the lack of progress in returning the university to Juba. Students also demanded the right to re-establish a students' union. Police arrested several students; others were reportedly tortured by NISS. After a second protest in late March, the minister of higher education and scientific research closed the main campus. The University had not re-opened at year's end.



Security forces tortured students during the year (see Section 1.c.). The Government continued to harass university student groups. The Government took the files of student unions, destroyed their computers, and arrested and detained their members (see Section 2.b.). In September the governor of Western Bahr al Ghazal closed the university in response to student agitation (see Section 1.c.).

The Government frequently censored films, especially those imported from the West, if they were deemed offensive to public morality.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Although the interim constitution and law provide for freedom of assembly, the Government severely restricted this right in practice. The Government formally banned all rallies and public demonstrations in the country, although this was not always enforced. The authorities generally permitted government-authorized gatherings but disrupted gatherings they perceived to be politically oriented.

Islamic orders associated with opposition political parties, particularly the Ansar (the Umma Party) and Khatmiya (the Democratic Unionist Party), continued to be denied permission to hold large public gatherings. Government security agents occasionally attended opposition political meetings or summoned participants to security headquarters for questioning after political meetings.

Security forces used excessive force, including beatings, tear gas, and firing of live ammunition to disperse unapproved demonstrations. For example, according to UNMIS, on May 8, between 600 and 700 University of Khartoum students affiliated with the SLA (Abdel Wahid) and the JEM protested against the signing of the DPA. Police responded by firing tear gas and beating the students with sticks, injuring 17 and arresting 10 for disturbing the peace and being a public nuisance. The charges were later dropped for lack of evidence.

On May 13, Central Reserve police, which function as riot police, opened fire on a demonstration of approximately 1,000 IDPs at Kass camp, killing a 22-year-old man. The demonstrators responded by lynching a military intelligence officer who was stationed among the protestors. The injured were taken to a hospital, where police again opened fire on several of the wounded, killing at least one more protester in the hospital.

On August 30, police and NISS officials violently dispersed a peaceful demonstration in Khartoum against rising sugar and fuel prices, which was organized by several opposition parties, labor unions, and civil society groups. Police sprayed tear gas and beat numerous protesters, including women and elderly men. At least one person died from tear gas inhalation. Police arrested at least 80 demonstrators; credible reports indicated those arrested were released by year's end.

In the wake of the protests, the Government detained several opposition leaders, although most were quickly released without charge.

Authorities took no action against security forces who used excessive force.

*Freedom of Association.*—The interim constitution and law provide for freedom of association, but the Government severely restricted this right in practice. Although there were 20 officially registered political parties, the law effectively prohibits traditional political parties linked to armed opposition to the Government. The Political Parties Act allows some formerly banned political parties to resume their activities, but the parties were required to notify the registrar in writing to participate in elections. Observers believed that the Government controlled professional associations.

The Government continued to harass some opposition leaders who spoke with foreign organizations or embassies.

*c. Freedom of Religion.*—The interim constitution and law provide for freedom of worship throughout the country; however, the Government continued to place restrictions on non-Muslims, non-Arab Muslims, and Muslims from tribes or sects not affiliated with the ruling party. The NCP, which originally came into power with a goal of Islamization, treated Islam as the state religion, declaring that Islam must inspire the country's laws, institutions, and policies. While the Government generally allowed non-Muslims to worship freely in approved places of worship, authorities in the north continued to restrict Christian activities. The Government had not formally established the Commission for the Protection of the Rights of Non-Muslims in Khartoum State, as mandated by the CPA, at year's end.

The constitution of Southern Sudan also provides for freedom of worship in the 10 states of southern Sudan, and the Government of Southern Sudan generally respected the rights of southerners to practice the religion of their choice.

Religious organizations and churches were subject to the same restrictions placed on nonreligious corporations. Although the law requires religious groups to register to be recognized or to assemble legally, registration reportedly was no longer necessary, and churches, including the Catholic Church, declined to register.

There were reports that security forces harassed and at times threatened to use violence against persons on the basis of religious beliefs and activities; it was unclear whether the harassment was for religious or political reasons.

On September 8, MI officers arrested the imam of Al Medina Al Munawwara mosque in El Geneina, West Darfur, after he preached about the lack of economic opportunities for IDPs and the deployment of UN peacekeepers in Darfur. The imam had also criticized the Government for organizing protests against UN forces. He was released without charge, but an official from the Department of Religious Guidance and Endowments visited a few days later and asked him not to preach about controversial issues in the future.

On December 31, police in Khartoum raided All Saints' Episcopal Cathedral in Khartoum during a New Year's Eve prayer service, firing tear gas into the congregation. Six worshippers were wounded, one seriously.

The use and construction of houses of worship required government approval. Applications to build mosques generally were granted in practice, but applying to build churches was more difficult. According to the Sudan Inter-Religious Council, the Government issued two permits during the year for the construction of new churches, but church officials reported that they never received the permits. As a substitute, the construction of small churches continued with owners registering the land for personal rather than church use.

In January the Government of Upper Nile State banned the use of public loudspeakers at mosques in Malakal and Nasir for announcing the call to prayer, claiming that they disturbed the public. The Upper Nile State Ministry of Finance closed Islamic banks in Malakal, citing the CPA's provisions for the establishment of a conventional banking system in the south.

While the law permits non-Muslims to convert to Islam, conversion by a Muslim is punishable by death. In practice authorities occasionally subjected converts to intense scrutiny, ostracism, intimidation, or encouraged them to leave the country; however, there were no reports of conversion punished by death.

In May there were reports that four Christian leaders, including an Episcopal priest and a Catholic priest, were arrested after meeting with a Muslim woman who wanted to convert to Christianity. All four leaders were denied access to legal counsel for two days; three were beaten by NISS officers before being released. The woman was not charged with apostasy.

Although some non-Muslims converted to Islam to obtain or keep a job, for promotions and job advancement, or for other social services or benefits, there was no evidence of forced conversions during the year.

PDF trainees, including non-Muslims, were indoctrinated in the Islamic faith. In prisons and juvenile detention facilities, government officials and government-supported Islamic NGOs pressured and offered inducements, such as early release, to non-Muslim inmates to convert. Some persons in government-controlled camps for IDPs reportedly were pressured to convert to Islam. Children, including non-Muslim children, in camps for vagrant minors were required to study the Koran, and there was pressure on non-Muslim children to convert to Islam.

Like all visitors to the country, Christian religious workers, including priests and teachers, experienced lengthy delays in getting visas.

Under the state-mandated curriculum, all schools in the north—including private schools operated by Christian groups—are required to teach Islamic education classes from preschool through university. Some public schools excused non-Muslims from Islamic education classes, but others did not.

Children who were abandoned or whose parentage was unknown—regardless of presumed religious origin—were generally considered Muslims, at least in the north. Christian families were generally permitted to adopt only Christian children.

In the south, Christians, Muslims, and followers of traditional indigenous beliefs generally worshiped freely; however, many of the region's Muslim residents had departed voluntarily over the years. Although the Government of Southern Sudan officially favored secular government, Christians dominated the bureaucracies. Local government authorities often had a very close relationship with local Christian religious authorities.

*Societal Abuses and Discrimination.*—Some non-Muslim businessmen complained of petty harassment and discrimination in awarding of government contracts and trade licenses. Christians reported pressure on their children in school; teachers and media characterized non-Muslims as nonbelievers. There also were reports that some Muslims received preferential treatment regarding limited government services, such as access to medical care, and in court cases involving Muslim against non-Muslim. However, non-Arab Muslims and Muslims from tribes and sects not affiliated with the ruling party, such as in Darfur and the Nuba Mountains, stated that they were treated as second-class citizens and were discriminated against in

government jobs and contracts in the north and government-controlled southern areas. For example, the employment application of the Ministry of Energy and Mining emphasizes nationality, creed, and tribe; Muslims associated with the NCP were given preference in government employment.

The Jewish community remained small, and there no reports of anti-Semitic violence during the year; however, government officials made anti-Semitic comments during the year. For example, in September, State Minister for Foreign Affairs Ali Ahmed Karti asserted that the idea of sending African Union forces to Darfur under the umbrella of the UN was "all part of a Zionist colonialist plot to take over Darfur and exploit its natural resources."

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The interim constitution and law provide for these rights, but the Government restricted them in practice.

Movement generally was unhindered for citizens outside conflict areas; however, at times foreigners needed government permission for domestic travel outside of Khartoum, which could be difficult to obtain and sometimes refused. Foreigners must register with the police on entering the country, obtain permission to move from one location to another, and reregister at each new location within three days of arrival. The Government of Southern Sudan did not restrict the movement of foreigners in the south, although foreigners were required to register upon entry.

On September 27, the Government restricted the movement of all U.S. citizens visiting Sudan to within 25-miles of the Republican Palace in Khartoum; U.S. diplomats assigned to the country whose names appeared on the diplomatic list and U.S. citizens bearing UN travel documents were formally exempt from these restrictions. The Government lifted the restriction on November 30.

Although foreign NGO staff could obtain entry visas and work or travel permits for Darfur, there were numerous reports of continuing delays and restrictions (see Section 1.g.). The Government generally implemented its policy of issuing humanitarian visas within 48 hours, but nationals of some countries encountered difficulties in obtaining visas to work with NGOs.

Prior to the October 14 peace agreement signed by the Government and the Eastern Front, supporters and members of the Eastern Front, a rebel group comprising the Rashaida Free Lions, Beja Congress, and JEM faced increased restrictions against their movement throughout the eastern part of the country, and internationally.

The Government detained persons, particularly opposition political figures, at the airport and prevented them from traveling due to "security concerns." For example, on August 20, the Government prevented the director of a local NGO working in Darfur from departing the country to attend a conference overseas and confiscated his passport.

The Government required citizens to obtain an exit visa to depart the country; however, the issuance of exit visas was pro forma and generally not used to restrict citizens' travel.

Women cannot travel abroad without the permission of their husbands or male guardians; however this prohibition was not applied in the south and was not strictly enforced for members of the NCP.

The law prohibits forced exile, and the Government did not use it. Opposition leaders remained in self-imposed exile in Cairo, Asmara, and other locations during the year.

*Internally Displaced Persons (IDPs).*—There were estimates that up to five million persons had been displaced due to the north-south civil war. The UN estimated that at least two million persons had been displaced by the conflict in Darfur and that another 234,000 had fled to Chad. Despite the signing of the DPA on May 5, continued attacks and violence in Darfur, perpetrated by all parties to the conflict, resulted in tens of thousands of new displacements, and some existing IDPs were displaced for the second or third time. For example, the UN estimated that the number of IDPs increased by approximately 125,000 between July and September due to increased fighting and insecurity. On November 23, the UN reported that renewed fighting in South Darfur resulted in the displacement of between 10,000 to 16,000 persons from the areas of Seleah, Muhajeria, Motowred, and Ngabo. Darfur IDPs did not return in any significant numbers to their place of origin, although small scale spontaneous returns to certain villages occurred. Hundreds of thousands of persons, largely southerners and westerners displaced by famine and civil war, continued to live in squatter slums around Khartoum.

The Government provided little assistance or protection to IDPs. In Darfur, local police established checkpoints near some IDP camps, though police made little effort to provide security. In the south, the South Sudan Relief and Rehabilitation Commission, an agency of the Government of Southern Sudan, provided protection and assistance to returning IDPs.

There were numerous reports of abuses committed against IDPs, including rapes, beatings, and attempts by the Government to forcibly return persons to their homes (see Section 1.g.). There were credible reports that the Government harassed IDPs in Darfur who spoke with foreign observers, especially high-profile foreigners, demanding to know the content of their discussions.

The Government occasionally blocked commercial and road access to IDP camps, purportedly for security reasons.

Insecurity in Darfur, especially outside of IDP camps, restricted IDPs' freedom of movement; women and girls who left the town risked sexual violence (see Section 1.g.).

The Government forced or coerced IDPs to return to their villages by promising food and money; however, most IDPs who returned to the villages to receive the assistance later returned to the IDP camps.

The UNHCR reported that approximately 560,000 Sudanese refugees resided in neighboring countries, due to the conflicts in the south and Darfur. Some 234,000 of these were in Chad, and another 220,000 were in Uganda; the remainder were in Ethiopia, the Democratic Republic of the Congo, the Central African Republic, and Kenya. Improved security in the south increased the return of displaced populations into areas of origin that were severely affected by the war and lacked basic services. A number of refugees and displaced persons voluntarily returned to the country during the year, particularly to the Nuba Mountains region. There were no reports local militias subjected displaced populations who returned to the south to illegal taxation.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government has not established a system for providing protection to refugees. In practice the Government generally provided protection against refoulement, the forced return of persons to a country where they feared persecution. However, some asylees were returned to their home countries before a formal determination of their status could be made. On May 11, the NISS forced the deportation of four Ethiopians who were seeking asylum in the country. The four refugees were members of the Coalition for Unity and Democracy, an Ethiopian opposition group, and faced prosecution for treason and the death penalty in Ethiopia. Although the immigration office attempted to delay the deportation proceedings, the NISS proceeded with the move before the refugees could be interviewed by UNHCR or the Sudan Commission on Refugees.

Throughout the year, security forces in Khartoum North targeted Ethiopian refugees by raiding their houses, beating them, and using tear gas against them. After an attack on December 11, several Ethiopian refugees barricaded themselves in front of the UNHCR office in Khartoum, where they remained at year's end (see Section 1.c.).

The Government also granted refugee status or asylum, but there was no standard determination procedure, and government officials reportedly were unresponsive to applications for refugee status.

The Government also provided temporary protection to individuals who might not qualify as refugees under the 1951 Convention/1967 Protocol but no statistics were available for the year.

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

Child refugees did not receive free primary school education nor were they treated as citizens as required by the 1951 Convention. Refugees were vulnerable to arbitrary arrests, harassment, and beatings because applicants did not receive identification cards while awaiting government determination of refugee status. Refugees could not become resident aliens or citizens, regardless of their length of stay. Refugees were not entitled to work permits.

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

Although the interim constitution provides citizens the right to change their government peacefully, the CPA established an interim government until national elections are held; under the CPA national elections must take place no later than 2009. By the end of the year, a state of emergency existed only in the three states of Darfur.

The interim constitution establishing the Government of National Unity, adopted in July 2005, provides for power sharing nationwide between the NCP and the SPLM. The DPA, which was incorporated into the interim constitution upon its signing, also contains provisions for power sharing and the inclusion of Darfurians at all levels of government, although the majority of the power-sharing provisions in the DPA remained unimplemented at year's end. The interim constitution established a three-member presidency to head the Government, consisting of a President, Omar Hassan El-Bashir (NCP); a first vice President, Salva Kiir Mayardit (SPLM); and a vice President, Ali Osman Taha (NCP). The DPA created a fourth ranking member in the presidency, a senior assistant to the President, Minni Minawi. A bicameral legislature is composed of the 450-member National Assembly and 52-member Council of States. Legislative and cabinet positions are allocated by a CPA-specified formula that reserves 52 percent of the positions for the NCP, 28 percent for the SPLM, 14 percent for northern opposition parties, including those from Darfur, and 6 percent for southern opposition parties. The DPA mandates that prior to national elections, the Government of National Unity shall allocate not less than 12 seats in the National Assembly to nominees from the Darfur rebel groups that have signed the DPA.

Government of National Unity members took office in September 2005, and in October 2005 Salva Kiir Mayardit, the country's first vice President and President of the Government of Southern Sudan, appointed the cabinet of the Government of Southern Sudan. At the same time, Kiir appointed governors of the 10 states of southern Sudan, and each southern state also formed its legislative assembly with 48 members allocated proportionally as stipulated in the CPA: 70 percent to the SPLM, 15 percent to the NCP, and 15 percent to other southern political forces. Southern Sudan's legislative assembly approved an interim constitution in October 2005, which President Kiir signed in December 2005.

The DPA mandates the creation of a Transitional Darfur Regional Authority, headed by the senior assistant to the President, and charged with implementing the DPA and promoting coordination and cooperation among the three Darfur states. The DPA also mandates that a referendum on the permanent status of Darfur shall be held not later than July 2010 to determine whether the Darfur region should remain as three separate states or create a single region and regional government to administer all three states.

*Elections and Political Participation.*—Presidential and parliamentary elections were last held in 2000; they were marked by serious irregularities, including official interference, electoral fraud, insufficient opportunities for voters to register, and inadequate election monitoring. All major opposition parties boycotted the elections.

The law allows the existence of political parties but prohibits parties linked to armed opposition to the Government, and the Government routinely denied permission for and disrupted gatherings viewed as politically oriented (see Section 2.b.). Security forces arrested, detained, and on occasion beat political opponents (see Sections 1.c. and 1.d.). During the year opposition parties became more vocal in demanding inclusion, and the Government sought the support of additional parties to add legitimacy to the CPA.

The Government continued summarily to dismiss military personnel as well as civilian government employees whose loyalty it considered suspect in a process called "separation for public interest." Authorities fired or arrested military officers either because they were from Darfur or did not support the ruling party strongly enough.

The President appointed the governors and senior officials of the 26 states in the country's federal system. These appointees were not necessarily representative of their constituencies.

Women had the right to vote. There were approximately 70 women in the 450-seat National Assembly, three national female state ministers and one female minister in the Government of National Unity. The Government of Southern Sudan agreed to set aside 25 percent of all government positions for women, although in practice representation was far short of that goal. The DPA also includes provisions to ensure the representation of women in all levels of government.

*Government Corruption and Transparency.*—The NGO Transparency International reported a perception of severe corruption. Relatives of high government officials often owned companies that did business with the Government; in turn they usually received kickbacks for government business. Bribery of police was also a concern.

There were no laws providing for public access to government information, and the Government did not provide such access.

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

Various local human rights groups were active in the country, but they suffered from government harassment, particularly those groups reporting on sexual gender-based violence. The Government was generally uncooperative with and unresponsive to domestic human rights groups. Major local NGOs included SOAT and Sudan Development Organization. In an effort to silence them, the Government often charged human rights groups with spreading false information. For instance, NGOs continued to be harassed in Darfur with the intimidation of national staff and the detention and arrests of workers treating victims of sexual violence. Government security forces often detained members of humanitarian staff under the Criminal Act, usually on charges of spreading false information.

For example, on July 9, in Khartoum, three NISS officers arrested Nagib Nagma Eldine, the director of the Amel Center for the Treatment and Rehabilitation of Victims of Torture. After keeping Eldine in a holding cell for eight hours, officials interrogated him about reports of summary trials for hundreds of persons arrested during riots following the July 2005 death of former first vice President John Garang. Eldine was released a few hours later.

On September 9 and 10, the National Security Bureau summoned Mohamed Badawi, a human rights lawyer and Coordinator of the Amel Centre for the Treatment and Rehabilitation of Victims of Torture, for questioning related to Amel Centre activities; he was released without charge both days.

On December 9, the NISS halted a NGO-sponsored training in Nyala, South Darfur, claiming that the NGO had not received the proper permission from the HAC to hold the workshop. The NISS detained and questioned the NGO facilitator for several days.

The Government often resisted the heightened levels of international NGO scrutiny generated by events in Darfur. The Government continued to make it difficult for international NGOs to operate in Darfur by delaying visas, holding up the clearance of equipment and supplies at customs, denying permission to travel within the country, and harassing the humanitarian community (see Section 1.g.).

The Government's HAC, which regulates humanitarian efforts in the country, continued to create difficulties for NGOs operating in Darfur. All NGOs must register with HAC to operate in the country. In March 2005 the HAC assumed a role in hiring NGO national staff, which caused major delays in hiring new staff for Darfur (see Section 1.g.). HAC applied rules for NGOs inconsistently, often changing them without prior notification. An August 2005 Presidential decree required international NGOs to reregister and did not permit applicants to appeal a denial.

On March 16, the Government enacted the Organization of Humanitarian and Voluntary Work Act, which requires government approval before NGOs can begin work on particular projects and places restrictions on the acceptance of foreign money by NGOs operating in the country. Many NGOs believed that the Government used the new law to curtail their work on human rights.

Rebels and other armed bandits reportedly abducted and on occasion killed NGO workers and contractors, particularly in Darfur. On May 8, IDPs at Kalma camp near Nyala, South Darfur, lynched a Sudanese translator working for the African Union, accusing him of spying for the Government. Between June and July, four local humanitarian aid workers were killed, while a fifth was abducted and later found dead. Banditry and armed robbery of humanitarian convoys by rebel groups in Darfur was common (see Section 1.g.).

The UN continued to investigate the humanitarian situation in Darfur. For example, the UN high commissioner for human rights, the UN special rapporteur on the situation of human rights in Sudan, and the UNHCR visited the country during the year. UNMIS deployed observers to Darfur to monitor and investigate the human rights situation. The UN special rapporteur issued reports to the UN on the situation in the country.

In March 2005 the UN Security Council referred Darfur to the chief prosecutor for the International Criminal Court (ICC). In June 2005 the chief prosecutor opened an investigation into Darfur without the cooperation of the Government, which refused to hand over any criminals associated with the conflict to the ICC. The ICC's investigation into Darfur was ongoing at year's end.

The Advisory Council for Human Rights, with representatives of human rights offices in 22 ministries and agencies, is the Government's major focal point for the promotion and protection of human rights. The council provided lists of detained individuals to the international community.

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

The law prohibits discrimination based on race, gender, or religious creed, but discrimination against women and ethnic minorities continued. Mechanisms for social redress, particularly with respect to violence against women and children, were ineffective.

*Women.*—There were no laws specifically prohibiting domestic violence. Violence, including spousal abuse, against women was common, although there were no reliable statistics on its prevalence. Women who filed claims were subjected to accusations of lying or spreading false information, harassment, or detention, which made many women reluctant to file formal complaints, although such abuse constituted grounds for divorce. The police normally did not intervene in domestic disputes. The Government launched its Violence Against Women Action Plan in November 2005; the program included awareness posters and a media campaign of zero tolerance for violence against women, increased the number of female police officers, and expanded training for police in Darfur. Southern women displaced by the North/South civil war were vulnerable to harassment, rape, and sexual abuse, particularly during informal repatriation to their place of origin.

Women in Darfur were vulnerable to abuse and rape (see Section 1.g.). Many victims did not report their cases either to family or authorities for fear they would be punished or arrested for “illegal pregnancy.” Local authorities often exacerbated the problem by requiring rape victims to file a police report before receiving medical treatment, despite an October 2005 decree that waived the requirement. According to the UN and several international NGOs, many local police were unaware of the new policy and still required a formal report. Many women distrusted the police, and few victims actually filed reports.

In December the Government participated in the UN’s “16 Days of Activism Campaign” to combat violence against women.

The police arrested unmarried pregnant women who claimed to have been raped. Unless a rape victim could provide proof of the crime, she could be charged with the capital offense of adultery.

The punishment for rape under the law varies from 100 lashes to 10 years’ imprisonment to death. Spousal rape is not addressed. In most cases convictions were not publicized; however, observers believed that sentences often were less than the legal maximum (see Section 5).

FGM remained widespread, particularly in the north, although it was becoming less common as a growing number of urban, educated families abandoned the practice. In a compromise with tradition, some families adopted clitoridectomy, the least severe form of FGM, as an alternative to infibulation. Although no form of FGM was illegal, the health law prohibited doctors and midwives from performing infibulation. The Government did not support FGM and actively campaigned against it. One local NGO worked to eradicate FGM.

Prostitution is illegal but widespread throughout the country.

Trafficking in women remained a problem (see Section 5, Trafficking).

While no law specifically prohibits sexual harassment, the law does prohibit gross indecency, which is defined as any act contrary to another person’s modesty. The penalty for gross indecency is imprisonment of up to one year and 40 lashes. Harassment reportedly occurred, although reliable statistics were not available. There were frequent reports of sexual harassment by police in Darfur and elsewhere.

Some aspects of the law discriminated against women, including many traditional law practices and certain provisions of Shari’a as interpreted and applied by the Government. In accordance with Islamic law, a Muslim woman has the right to hold and dispose of her own property without interference, and women are entitled to inheritance from their parents. However, a widow inherits one-eighth of her husband’s estate; of the remaining seven-eighths, two-thirds goes to the sons and one-third to the daughters. It is much easier for men than for women to initiate legal divorce proceedings.

Since, under Islamic law, a non-Muslim woman takes on the religion of her husband at marriage, a Muslim man may marry a Christian or Jew, and their children will be considered Muslim. The same is not true for a Muslim woman, who cannot legally marry a non-Muslim unless he converts to Islam. This prohibition usually was neither observed nor enforced in areas of the south or among Nubans (most of whom were Muslim).

Women cannot travel abroad without the permission of their husbands or male guardians; however, this prohibition was not enforced strictly for NCP members. To obtain an exit visa, children must receive the permission of their father or their paternal uncle. Women cannot apply for exit visas for their children.

Although women generally were not discriminated against in the pursuit of employment, they were not legally permitted to work after 10 o'clock in the evening, in theory limiting their employment opportunities. Nonetheless, many women did work after ten o'clock in the evening, including in official positions such as airport security. Women were accepted in professional roles; more than half the professors at Khartoum University were women.

Various governmental bodies have decreed that women must dress modestly according to Islamic standards, including wearing a head covering, but police rarely enforced such decrees. Women often appeared in public wearing trousers or with their heads uncovered.

A number of women's groups were active, focusing on a wide range of social and economic issues.

*Children.*—The Government's commitment to children's rights and welfare was uneven. While education was legally compulsory through grade eight, UNICEF reported that only half of school-age children attended primary school. The law provides for free basic education, but students have been expelled from class for failing to pay school fees. In August 2005 the Government issued a decree prohibiting dismissal of students for nonpayment of school fees. There were wide educational disparities among states and sometimes between genders, particularly in the eastern and western regions; for example, enrollment was 78 percent in Khartoum State and only 30 percent in the eastern part of the country. In the north boys and girls generally had equal access to education (enrollments of 50 and 47 percent, respectively), although girls were more affected by early marriage and the fact that many families with restricted income chose to send sons and not daughters to school. In the urban areas of the south, fewer than 27 percent of primary-school-age children attended school and there was a basic education gender disparity of 3 boys for each girl.

UNICEF reported that educational access for school-age IDP children in Darfur improved compared with the preceding year. UNICEF also reported an increase in nomadic group education.

There were significant inequalities in access to health services for children living in different areas of the country. UNICEF reported an under-five mortality rate of 93 per 1,000, a low birth weight rate of 31 percent, and immunization rates of approximately 50 percent. In the south, infant mortality was 150 per thousand births, and approximately 21 percent of children under age five suffered severe malnutrition.

A large number of children suffered abuse, including abduction, enslavement, and forced conscription (see Sections 1.b. and 5, Trafficking).

FGM on girls was performed commonly in rural areas and less in the cities (see Section 5, Women).

The law establishes the legal age of marriage as 10 for girls and 15 or puberty for boys. There were no reliable statistics on the extent of child marriage.

Child prostitution, trafficking of children, and sexual abuse of children remained problems, particularly in the south (see Sections 1.c. and 5, Trafficking). Children engaged in prostitution for survival, usually without third-party involvement.

Government-aligned militias and rebel forces conscripted or accepted young men and boys into the aligned militias in Darfur (see Section 1.g.).

Child labor remained a problem mainly in the informal sector (see Section 6.d.). In the south children, particularly girls, often worked in the fields.

The Government operated "reformation camps" for vagrant children. Police typically sent homeless children who had committed crimes to these camps, where they were detained for indefinite periods. Health care and schooling at the camps generally were poor, and basic living conditions often were primitive. All of the children in the camps, including non-Muslims, must study the Koran, and there was pressure on non-Muslims to convert to Islam (see Section 2.c.). In the IDP camps in Darfur and refugee camps in Eastern Chad, rebel groups often conscripted teenage males. Conscripts faced significant hardship and abuse in military service, often serving on the frontline. There were reports that abducted, homeless, and displaced children were discouraged from speaking languages other than Arabic or practicing religions other than Islam.

*Trafficking in Persons.*—Although the law prohibits slavery and forced labor, the law does not specifically address trafficking in persons, and there were reports that persons were trafficked from and within the country. There were some reports that the abduction of women and children continued in the south due to tribal clashes.

There were no informed estimates on the extent of trafficking, including for camel jockeys, domestic servitude, sexual exploitation, or other types of forced labor. There were credible reports that tribal leaders with government connections transported



children to the Persian Gulf to be used as jockeys in camel races or as laborers. Despite the absence of a signed agreement with the Government, UNICEF cooperated with the Government to repatriate child camel jockeys and indicated that 16 children had been repatriated since May 2005. More than 300 children were repatriated from the United Arab Emirates and Qatar through the combined efforts of governments and NGOs.

There were credible reports that intertribal abductions of women and children continued in the south. Victims frequently became part of the new tribal family, with most women marrying into the new tribe; however, some victims were used for labor or sexual purposes. As intertribal fighting in the south decreased, the number of abductions also appeared to decline. The Government acknowledged that abductions occurred and that abductees were sometimes forced into domestic servitude and sexual exploitation. CEAWC and its 22 joint tribal committees investigated abduction cases and sought to facilitate the safe return of victims. CEAWC did not pursue legal action against abductors. Credible sources noted that some of the CEAWC-facilitated reunions were forced repatriations of persons over age 18 against the wishes of the abductees.

During the past 20 years, the LRA kidnapped more than 20,000 Ugandan children, took them back to the northern part of Uganda, and forced them to become sex slaves, pack animals, or soldiers. Many of the victims were killed. The LRA also abducted citizens while raiding towns in southern Sudan. The Government permitted the Ugandan army access to southern Sudan to pursue the LRA. Although Ugandan military operations have significantly reduced LRA numbers, the LRA continued to operate in the south and to hold child abductees; such LRA attacks restricted humanitarian activities. On August 26, the LRA signed a cessation of hostilities, pending peace talks with the Government of Uganda in Juba.

Shari'a and the State of Emergency Law prohibit all forms of sexual exploitation, and penalties include fines and imprisonment. However, there were no prosecutions under these laws during the year. The Government's National Council of Child Welfare, working with immigration officials, was responsible for combating the trafficking of camel jockeys.

The Government assisted some victims of trafficking; through CEAWC it provided clothing, food, shelter, and transportation to victims.

The Government conducted antitrafficking public information and education campaigns at the national, state, and local levels.

*Persons With Disabilities.*—While the law does not specifically prohibit discrimination against persons with disabilities, it does stipulate that “the state shall guarantee to persons with special needs the enjoyment of all the rights and freedoms set out in the constitution, access to suitable education, employment and full participation in society.” The Government did not discriminate against persons with disabilities but has not enacted any special legislation for persons with disabilities, such as mandating accessibility to public buildings and transportation. Credible sources noted that prisoners with mental disabilities were chained 24 hours per day. The law requires equal educational opportunities for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The population is a multi-ethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims, numbering approximately 16 million persons, traditionally dominated the Government, while southern ethnic groups fighting the civil war (largely followers of traditional indigenous religions or Christians) numbered approximately six million. The fighting in Darfur was between Muslims who self-identify as either Arab or non-Arab (see Section 1.g.).

Northern Muslims, while southern ethnic groups fighting the civil war (largely followers of traditional indigenous religions or Christians) numbered approximately 8.2 million. The fighting in Darfur was between Muslims who self-identified as either Arab or non-Arab (see Section 1.g.).

The Muslim majority and the Government continued to discriminate against ethnic minorities in almost every aspect of society in the north. Citizens in Arabic-speaking areas who did not speak Arabic experienced discrimination in education, employment, and other areas. There also were reports of discrimination against Arabs and Muslims by individuals in the Christian-dominated south.

There were occasional reports of intertribal abductions of women and children in the south, primarily in the eastern Upper Nile (see Section 5, Trafficking). The abductions were part of traditional warfare in which the victor took women and children as a bounty and frequently tried to absorb them into their own tribe. There were traditional methods of negotiating and returning the women who were taken in these raids. Many of these women were raped and “chose” to “marry” their abductors, rather than return home and be stigmatized.

There were deaths in conflicts between ethnic groups, such as continued fighting between Dinka and Nuer or among Nuer tribes.

*Other Societal Abuses and Discrimination.*—Homosexuality is a crime, but no one has been prosecuted on the charge; there is societal but not official discrimination against homosexuals.

*Incitement to Acts of Discrimination.*—The Government and government-supported militias actively promoted hatred and discrimination, using standard propaganda techniques to incite tribal violence. Credible sources noted that the Government supported one tribe over another, arming certain tribal militias against other tribes.

#### Section 6. Worker Rights

*a. The Right of Association.*—Although the law provides for the right of association for economic and trade union purposes, the Government denied this right in practice. The Trade Union Act established a trade union monopoly in the Government. Only the government-controlled Sudan Workers Trade Union Federation (SWTUF) could function legally; all other unions were banned. The International Labor Organization (ILO) has frequently noted that the trade union monopoly contravened the principles of freedom of association. The International Confederation of Free Trade Unions continued to recognize the “legitimate” Sudan Workers Trade Union Federation—the national trade union center that functioned prior to the ban—which operated in exile.

The law does not prohibit antiunion discrimination by employers.

*b. The Right To Organize and Bargain Collectively.*—The law denies trade unions autonomy to exercise their right to organize or to bargain collectively. The law defines the objectives, terms of office, scope of activities, and organizational structures and alliances for labor unions. The Government’s auditor general supervised union funds because they were considered public money.

While labor organizing committees have the right to organize and bargain collectively, in practice the Government dominated the process of setting wages and working conditions through its control of the steering committees. A tripartite committee comprising representatives of the Government, the government-controlled SWTUF, and business set wages. The absence of labor legislation allowing for union meetings, the filing of grievances, and other union activity greatly reduced the value of these formal rights. Local union officials raised some grievances with employers, although few raised them with the Government. There were credible reports that the Government routinely intervened to manipulate professional, trade union, and student union elections (see Sections 1.c. and 2.b.).

Specialized labor courts adjudicated standard labor disputes, but the Ministry of Labor has the authority to refer a dispute to compulsory arbitration.

Strikes were considered illegal unless the Government granted approval, which has never occurred. In most cases employees who tried to strike were subject to employment termination; however, workers went on strike during the year and were not terminated.

There is one export processing zone located in Port Sudan, and it is exempt from regular labor laws.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices continued (see Sections 5 and 6.d.).

Although the Government continued to deny that slavery and forced labor existed, CEAWC acknowledged that abductions had occurred (see Sections 1.b. and 5).

Both the Government and rebel factions continued to conscript men and boys into the fighting forces (see Sections 1.g. and 5).

The ILO Committee of Experts reported that abduction, forced labor, and sexual slavery of women and children continued.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although mandated by the interim constitution to protect children from exploitation, the Government did not effectively do so, and child labor was a serious problem. The legal minimum age for workers was 18 years, but the law was not enforced in practice. Young children worked in a number of factories, and severe poverty produced widespread child labor in the informal and rural farming economy.

There were reports that government and government-aligned militias conscripted children and accepted children as soldiers (see Sections 1.g. and 5). Child trafficking continued, and child prostitution was widespread (see Section 5).

Child labor existed in the south, particularly in the agricultural sectors. Child labor in such areas was exacerbated by lack of schools, extreme poverty, and the lack of an effective legal minimum age for workers.

*e. Acceptable Conditions of Work.*—The minimum wage was \$48 (SDD 12,500) per month, which did not provide a worker and family a decent standard of living. The Ministry of Labor, which maintained field offices in most major cities, was responsible for enforcing the minimum wage, which employers generally respected. Workers who were denied the minimum wage could file a grievance with the local labor ministry field office, which then was required to investigate and take appropriate action. There were reports that some workers, including postal and health workers, were not paid their regular wages. Due to a lack of capacity and difficulties in establishing the new government in the south, civil service workers, including teachers, often worked for long periods without getting paid. The only payment many teachers received were informal school fees paid by the parents of the children.

Legal foreign workers had the same labor rights as domestic workers. Southern IDPs generally occupied the lowest paying occupations and were subject to economic exploitation in rural and urban industries and activities.

The law, which was generally respected, limits the workweek to 48 hours (six eight-hour days), with a day of rest on Friday. Overtime should not exceed 12 hours per week or four hours per day. There was no prohibition on excessive compulsory overtime.

Although the laws prescribe health and safety standards, working conditions generally were poor, and enforcement by the Ministry of Labor was minimal. The right of workers to remove themselves from dangerous work situations without loss of employment is not recognized.

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## SWAZILAND

Swaziland is a modified traditional monarchy with executive and some legislative powers vested in the King (Mswati III). The constitution, which went into effect on February 8 and replaced the 1973 Decree, confirms most of the king's powers, but provides for an independent judiciary. The King rules in conjunction with a partially elected parliament and an accompanying structure of published laws and implementing agencies. The population was approximately 1.1 million. The most recent parliamentary elections, held in 2003, were not considered free and fair. Political power remained largely with the King and his circle of traditional advisors, including the queen mother. While the civilian authorities generally maintained effective control of the security forces, there were instances in which security forces committed abuses.

The Government's human rights record was poor, and government agents continued to commit serious abuses, including: inability of citizens to change their government; arbitrary killings by security forces; police use of torture, beatings, and excessive force; police impunity; arbitrary arrest and lengthy pretrial detention; infringement on citizens' privacy rights; limits on freedom of speech and of the press; restrictions on freedom of assembly and association; prohibitions on political activity and harassment of political activists; restrictions on freedom of movement; discrimination and violence against women; poor enforcement of women's rights; child abuse; trafficking in persons; societal discrimination against mixed race and white citizens; antiunion discrimination; and child labor.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government and its agents did not commit any politically motivated killings; however, there were reports that security forces committed arbitrary killings.

Security forces were responsible for a number of deaths during apprehension and in custody, some reportedly due to torture. On January 4, Fikile Mamba, wife of member of the opposition People's United Democratic Movement (PUDEMO) and treason suspect Mduduzi Mamba, died in the hospital in Siteki after she was admitted complaining of shortness of breath and chest pains; Fikile had been detained for two hours of questioning about her husband's alleged involvement in throwing petrol bombs. A doctor's report stated that Fikile died of abdominal trauma.

On February 22, Mthokothoko Mamba died in Pigg's Peak government Hospital, 11 days after officers of the Horo Police Post arrested Mamba and his two brothers on suspicion of theft. The three, all of whom claimed to have been beaten in detention, were released on February 13. On February 18, Mthokothoko's relatives took him to the hospital when his condition worsened. The results of a February 24 post-mortem were not made public.

On February 23, officers from the Mdtutshane Correctional Facility reported that Muzi Ntshalintshali had died in their custody while serving a nine month sentence for wounding his uncle. Journalists who saw the body reported that it bore injuries to the arms, chest, and stomach.

On June 27, Sandile Motsa, a soldier, and Sicelo Dlamini and Mfankhona Hlophe, both security guards, allegedly assaulted and tortured a man whom they suspected of intending to break into the royal residence at Goje township in Ezulwini, where the three were on guard. The man died the same day of the injuries. On June 28, the suspects were arrested and brought before a magistrate; their status was unknown at year's end.

On September 5, Mphikeleli Mabuzadied died in a hospital after police shot him at his homestead in the Mahlanya area. Police alleged that he was attempting to flee arrest for burglary; Mabuza's family, present during the incident, claimed that the police shot him in the back as he struggled with them.

In January the Mabuza family filed a lawsuit against the police for wrongful death in the May 2005 killing of Charles and Mfanzile Mabuza, who were killed during a police raid at their homestead. The Mabuza family cited a report by an independent forensic pathologist from South Africa that stated that the round of ammunition which killed Charles was characteristic of a rifle, refuting the police report that Mfanzile, armed with a handgun, had accidentally shot Charles.

There were no developments in the January 2005 beating to death of a South African murder suspect by members of the Umbutfo Swaziland Defense Force (USDF) or the April 2005 USF shooting of two suspected smugglers, one of whom died from his injuries.

There were no developments in the May 2004 case of Mandla Mathousand Ngubeni, who died in police custody. In January 2005 an investigative magistrate released an inconclusive report, which stated that Ngubeni was subjected to "torture of sorts, possibly suffocation by police" but did not give a specific cause of death or assign responsibility for the death.

There were reports of mob killings during the year. On April 13, residents in Ludzeludze severely beat a burglar who had stolen a cell phone. He died in the hospital the following day. No arrests were made by year's end. The August 27 issue of the Times of Swaziland reported that a mob beat Timothy Dlamini with bricks after he was caught breaking into a minibus in Manzini; he died in a hospital four days later of his injuries. Witnesses identified one member of the mob as an off-duty police officer. No arrests were made by year's end.

There were no developments in the 2005 cases of vigilante or mob killings of suspected witches.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The new constitution prohibits such practices; however, the provision prohibiting law enforcement officials from engaging in torture is located in the "policy" section of the constitution and is not enforceable in any court or tribunal. The law does not specifically prohibit such practices, although under the Prisons Act correctional facility officers may be prosecuted if they engage in such procedures; however, government officials employed them. Security forces used torture during interrogation and abused their authority by assaulting citizens and using excessive force in carrying out their duties.

There were credible reports that police beat criminal suspects and occasionally used the "tube" style of interrogation, in which police suffocate a suspect by using a rubber tube around a suspect's face and mouth. Unlike last year, there were no media reports of police using the "Kentucky" method of interrogation, in which the arms and legs of a suspect are tied together and then the person is beaten. The Government took no action against police or soldiers accused of abuse.

Between December 2005 and February, 17 persons were arrested and charged with treason, sedition, and attempted murder in connection with the 2005 petrol bombings of government offices and residences; the 17 were members of the political organization PUDEMO and its youth wing, the Swaziland Youth Congress (SWAYOCO), banned under the lapsed 1973 Decree. On February 7, one of the suspects pled guilty and was fined and released. On March 7, during a three-day bail hearing for the remaining 16 suspects, the defense claimed that police and prison wardens had tortured nine of the suspects on January 20. On the judge's order, a medical exam was conducted on one of the defendants who claimed he was tortured; however, the report was deemed inadmissible due to a technical error. On March 9, prison wardens allegedly beat 16 of the subjects after ordering them to strip naked. Also on March 9, one of the detainees arrived at the hearing with a bleeding ear and told the court that prison wardens at the Sidwashini remand center had

assaulted him and two other suspects; the wardens claimed that they had only strip-searched the three detainees. The court ordered that the detainee be taken to a hospital, where a doctor reportedly found no signs of assault. On March 10, the 16 suspects were granted bail and subsequently released. On March 13, the Prime Minister reportedly informed parliament that an investigation into the claims of torture and mistreatment would be conducted. On October 30, the Prime Minister named two members of the commission; however, the members had not been sworn in a month later. In November the suspects told the press that they would not cooperate with the commission unless it expanded its investigation to include family members and friends also allegedly tortured by the police. At year's end the commission had not begun its investigation.

There were no developments in the following 2005 cases of security force abuse: the May alleged squeezing by police of a student's testicles; the June attack by a USF member on Majaha Dlamini; the August alleged attempted suffocation by police of Stephen Thwala; or the September 2005 beating by community police of two suspected thieves.

There were credible reports that members of the community beat suspects before handing them over to police.

Police forcibly dispersed demonstrations (see Section 2.b.).

*Prison and Detention Center Conditions.*—Government prisons and detention centers remained overcrowded, and conditions generally were poor. There were reports of torture and that a lack of basic hygiene and unsafe sexual practices, including forced sexual intercourse between prisoners, were spreading HIV/AIDS among the prisoners. Newspapers reported in September 2005 that the Government's draft multisectoral HIV and AIDS policy would provide for the release of prisoners in the last stages of AIDS; however, when the policy was issued in April, it did not contain that provision.

Unlike in the previous year, there were no reports of prison riots over warden negligence.

In Mawelawela, the sole women's detention facility, detainees were not held separately from convicts. On August 28, the Swazi Observer reported that seven children under the age of two were living with their convict mothers in the facility.

The Government routinely permitted prison visits by diplomats, journalists, human rights monitors, and representatives of international organizations. During the year the local Red Cross visited several prisons.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, arbitrary arrest and lengthy pretrial detention were problems.

*Role of the Police and Security Apparatus.*—The police maintain internal security. The army is responsible for external security but also has domestic security responsibilities. Police are under the authority of the Prime Minister, while the USF reports to the Ministry of Foreign Affairs.

The Royal Swaziland Police Service (RSPS), a nationwide police force, was generally professional despite inadequate resources and bureaucratic inefficiency. There were credible allegations that the force was susceptible to political pressure. The Government generally failed to prosecute or otherwise discipline police officers for abuses. No independent body had the authority to investigate police abuses; however, an internal complaints and discipline unit investigated reports of human rights abuses by the police but did not release results to the public. There were no government actions, including training, to reform the RSPS. However, the Government provided training to community police in investigative skills and the appropriate use of force.

Traditional chiefs had their own community police who could arrest suspects and bring them before an inner council within the chiefdom for a trial. Some community police were accused of abuses.

*Arrest and Detention.*—The law requires warrants for arrests except when police observe a crime being committed or believe that a person is about to commit a crime. Detainees may consult with a lawyer of their choice, but the Government pays for defense counsel only in cases in which the penalty is potentially death or life imprisonment. Detainees must be charged with the violation of a statute within a reasonable time, usually 48 hours or, in remote areas, as soon as the judicial officer appears. In general detainees were promptly informed of the charges against them, and their families had access to them. There is a functioning bail system and, except in cases of murder and rape, suspects can request bail at their first appearance in court, which by law must take place within 48 hours of arrest; however, arresting authorities did not always present detainees within that period.

When police dispersed demonstrations that they considered unauthorized or politically motivated, they sometimes briefly detained demonstrators without charge (see Section 2.b.).

The Government arrested opposition members during the year on charges arising from a series of 2005 petrol bombings. The opposition members alleged that they were tortured (see Section 1.c.).

Lengthy pretrial detention was common. In July the Correctional Services Public Relations Office reported that 1,304 of the 2,672 inmates in the country's 12 prisons were awaiting trial. On October 13, the Minister of Justice and Constitutional Affairs announced that there were only 22 judges and magistrates available to try the approximately 1,500 detainees awaiting trial. Police justified pretrial detention on the basis that they were collecting evidence of the crime and that releasing the detainee would allow the person to influence witnesses. In some cases these claims resulted in repeated remands that lasted for years. For example, on June 22, a woman in custody since September 2001 for the murder of her child pled guilty to culpable homicide; the judge sentenced her to five years imprisonment with three years suspended, and released her.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary. The lack of an independent court budget and trained manpower, inadequate levels of salary remuneration, and poor casework management remained problems for the judiciary.

Judicial powers are vested in a dual system, one based on Roman-Dutch law and the other based on a system of national courts that follows unwritten traditional law and custom. The Roman-Dutch-type judiciary consists of the Supreme Court, mandated by the new constitution to replace the Court of Appeal as the highest judicial body, composed entirely of foreign, usually South African, judges; the High Court; and Magistrate Courts. The constitution states that the High Court has no jurisdiction in any matter concerning the office of the King or queen mother, regency, chieftancy, the Swazi National Council, or the traditional "regiments" system, as these are governed by national law and custom. The constitution states that the High Court will interpret the constitution.

In March 2005 the Government launched a children's court to try cases in which children were victims of sexual abuse or other crimes. Children testify from a separate room, linked by closed-circuit television to the courtroom.

Most citizens who encountered the legal system did so through the 13 traditional or "national" courts, each with a "President" appointed by the King. Authorities may bring residents to these courts for minor offenses and violations of traditional law and custom. In October 2005 the Swazi News quoted the judicial commissioner as saying that some traditional court Presidents imposed fines exceeding the legal limit of approximately \$15 (100 emalangeni).

The public prosecutor has the legal authority to determine which court should hear a case, but in practice police usually made the determination. Persons convicted in the traditional courts may appeal to the High Court. Prolonged delays in trials in the Magistrate Court and High Court were common.

*Trial Procedures.*—The constitution provides for public trials except when exclusion of the public is necessary in the "interests of defense, public safety, public order, justice, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of the persons concerned in the proceedings." In practice, cases have been closed to the public to protect child crime victims. Juries are not used. Court-appointed counsel is provided at government expense in capital cases or when the crime is punishable by life imprisonment. Otherwise, defendants in Superior and Magistrate Courts are entitled to hire counsel at their own expense. Defendants can question witnesses against them and present witnesses in their own behalf. Defendants and their attorneys have access to relevant government-held evidence, generally obtained during pretrial consultations with the public prosecutor's office. Defendants enjoy a presumption of innocence. Defendants and prosecutors have the right of appeal, up to the Supreme Court.

In traditional courts defendants are not permitted formal legal counsel but may speak on their own behalf, call witnesses, and be assisted by informal advisors. Sentences are subject to review by traditional authorities and can be appealed to the High Court.

The King appoints traditional chiefs. The traditional courts have limited civil and criminal jurisdiction and are authorized to impose fines up to approximately \$15 (100 emalangeni) and prison sentences of up to 12 months. However, traditional courts are empowered to administer customary law only "insofar as it is not repugnant to natural justice or morality" or inconsistent with the provisions of any law in force.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary, which tries civil as well as criminal cases, including suits for damages against government agents. For example, in January, the family of Charles Mabuza, allegedly shot and killed by police in May 2005, filed suit demanding \$67,000 (500,000 emalangeni) for wrongful death and emotional shock (see Section 1.a.). In a separate case, a judge in July ordered the Government to pay \$27,000 (200,000 emalangeni) to a man as compensation for unlawful detention. The man was arrested in October 2003 for possession of marijuana and posted bail, but the Government continued to hold him for 64 days.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The new constitution and law prohibit such actions except “in the interest of defense, public safety, public order, public morality, public health, town and country planning, use of mineral resources, and development of land in the public benefit.” The Government generally respected these provisions; however, there were instances of abuse.

The law requires police to obtain a warrant from a magistrate before searching homes or other premises, but at times police did not respect this requirement. Police officers with the rank of subinspector or higher have the authority to conduct a search without a warrant if they believe that evidence might be lost through the delay in obtaining a warrant. Unlike the previous year, there were no reports that searches without warrants occurred.

There were no developments in the October 2005 arrest of 13 persons in a warrantless and random raid following a series of burglaries of the houses of Duze primary school teachers.

There were instances in which police conducted physical surveillance on members of labor unions and political groups. On occasion police reportedly presented themselves to the leadership of a union and asked to attend union meetings; the leadership frequently permitted them to do so.

In November Chiefs Mliba Fakudze and Mtfuso Dlamini, whose eviction along with 200 other residents of two chiefdoms in 2000 sparked the 2002 rule of law crisis, asked the King for compensation for their property, which had deteriorated or been stolen while the men were in self-imposed exile in South Africa. On November 15, the two men were called to the Ludzidnzini royal residence and told to “stop disrespecting the late Prince Magagula’s council.”

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, the Government limited these rights in practice. Citizens criticized the Government without fear of reprisal but generally did not criticize the royal family. Journalists practiced self-censorship. Police monitored some meetings (see Section 1.f.).

There were two daily newspapers—one independent and one owned by Tibiyo Taka Ngwane, the king’s investment company. Both newspapers covered a wide variety of sensitive topics and criticized government corruption, inefficiency, and waste. Unlike in the previous year, the Government placed some advertising in the independently owned daily newspaper. The Prime Minister hosted monthly “media breakfasts” to which he invited journalists of both newspapers. Reporting in the independent paper, the Times of Swaziland, was somewhat less critical of the Government than in 2005, and the paper provided more coverage of government functions and royal events.

There was one government-owned radio station and one independent radio station, which broadcast only religious programs. There was a privately owned television station, which was officially independent; however, the owner’s mother was the daughter of the previous king, Sobhuza II, and its reporting favored the monarchy. The government-owned television and radio stations, the most influential media in reaching the public, generally followed official policy positions. Government broadcast facilities retransmitted Voice of America and BBC news programs in their entirety.

Private companies and church groups owned several newsletters and magazines. There were reports of harassment of journalists and self-censorship during the year. A source in the Media Institute of Southern Africa stated that on a few occasions journalists received anonymous telephone calls advising them not to continue to pursue a particular story, and that the journalists complied.

On December 16, local journalists launched a Media Union to discuss labor issues and bargaining power.

Unlike in the previous year, the Government did not discourage critical news coverage of the royal family.

In July the Ministry of Public Service and Information launched a Journalism Center of Excellence to train practitioners in the media industry.

In November 2005 the cabinet approved a media policy drafted by the Minister of Public Information and Public Service that calls for reviewing outdated legislation; however, by year's end no legislation had been reviewed, and many government documents remained unavailable to the public.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could freely engage in peaceful expression of views via the Internet, including by electronic mail. Most citizens lived in rural areas without access to the Internet. Internet cafes existed in larger urban areas, but bandwidth was limited. A single Internet provider held a government-approved monopoly.

*Academic Freedom and Cultural Events.*—The practice of self-censorship and the prohibition on political gatherings restricted academic freedom by limiting academic meetings, writings, and discussion on political topics. There were no government restrictions on cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The new constitution provides for freedom of assembly; however, the Government restricted this right in practice. The law requires those wishing to hold meetings of a political nature, processions, or demonstrations in a public place to first obtain the consent of the police commissioner. Authorities routinely withheld permission to hold most such meetings.

On March 18, police in Manzini temporarily detained five PUDEMO leaders to prevent a planned demonstration.

During the year police forcibly dispersed several demonstrations and meetings and arrested demonstrators.

On August 5, police in the Msunduzi neighborhood of Mbabane used live ammunition and teargas to disperse a demonstration by SWAYOCO; one demonstrator reportedly suffered a minor gunshot wound, and several others were treated for minor injuries.

On September 7, students from the University of Swaziland (UNISWA) marched peacefully to the Ministry of Education and delivered a petition on scholarships. The group then proceeded to the Prime Minister's office, although their permit did not include a march to that office. When the police prevented them from approaching the Prime Minister's office, some persons with the students threw stones at the police, who detained two marchers and beat other marchers with police clubs (see Section 1.c.).

On December 2, in Manzini, several PUDEMO and SWAYOCO members were injured in a clash with police after the two sides failed to agree on a march route. Police allegedly beat unconscious PUDEMO member Mphandlana Shongwe and dropped him at a hospital. After receiving medical treatment, Shongwe returned to the police station to file a complaint, but police refused to take his affidavit. Police charged eight PUDEMO members with jaywalking in connection with the clash; on December 4, the court found them guilty and imposed small fines.

No action was taken against security forces who forcibly dispersed demonstrations in 2005.

Unlike in the previous year, there were no reports that police harassed and disrupted the meetings of prodemocracy activists and members of the opposition.

*Freedom of Association.*—The constitution provides for freedom of association; however, the Government restricted this right in practice. The constitution does not address political parties; however, it states that candidates for public office shall compete on their individual merit. The decree which banned political parties lapsed with the implementation of the constitution; however, the Government did not act on the requests of several groups which tried to register as political parties or movements (see Section 3). Some political organizations continued to operate without calling themselves parties.

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

New religious groups or churches are expected to register with the Government. There is no law that describes the organizational requirements of a religious group or church. All religions were recognized unofficially. Groups were registered routinely, and there were no reports that any groups were denied registration during the year.



Government permission was required for the construction of new religious buildings. Non-Christian groups sometimes experienced minor delays in obtaining permits from the Government.

In November 2005 the Court of Appeal ordered a chief to return five cows that he had seized in 2003 from a member of Jehovah's Witnesses who refused to allow his daughters to wear the virginity tassels ordered by the King. The chief returned the cows and three offspring, but in March he attempted unsuccessfully to seize the cattle again.

*Societal Abuses and Discrimination.*—The relationships among religious groups were generally amicable. The Jewish community comprises less than 1 percent of the population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The new constitution provides for these rights; however, it also states that provisions of law and custom which impose restrictions on the freedom of any person to reside in the country do not contravene the freedom granted by the constitution. The constitution grants women equality before the law and, unlike in previous years, women can now obtain passports without a male relative's permission. Nonethnic Swazis sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the prejudice that mixed-race and white persons were not real citizens (see Section 5).

The Government treated several thousand ethnic Swazis living across the border in South Africa who were not Swazi citizens as indistinguishable from citizens and routinely granted them travel and citizenship documents.

The Government blocked overseas employment agencies from obtaining or transferring foreign currency, which was necessary to make arrangements for jobs abroad. This effectively stopped citizens from being able to gain employment in another country.

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government did not accept refugees for resettlement. On September 13, the Government began a registration of refugees in accordance with UNHCR Conclusion 91.

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

Citizens are not able to change their government peacefully. The King retains ultimate executive and legislative authority, and parliament has no real authority. Legislation passed by parliament requires the king's assent to become law, which he is not obliged to give. Under the constitution, the King chooses the Prime Minister, the cabinet, two-thirds of the Senate, many senior civil servants, the chief justice and other justices of the Superior Courts, members of commissions established by the constitution, and the heads of government offices. On the advice of the Prime Minister, the King is to appoint the cabinet from among the members of the parliament; at least half of the ministers must be elected members of the House of Assembly. The King is to make other appointments on the advice of a minister, the Judicial Service Commission, Civil Service Commission, or other commissions established by the constitution. The constitution states that when the King is required to consult with any person or authority before exercising a function, he can, after the consultation, choose whether to exercise that function.

On February 8, the new constitution went into effect. The Government declared that the 1973 Emergency Decree, under which the King was able to rule by decree, lapsed when the constitution took effect. Civic organizations criticized the Government for the way it drafted the constitution, specifically for not allowing groups to contribute to the document. In addition civic groups charged that the constitution would not enable citizens to change executive government officials peacefully. In August the National Constituency Assembly (NCA), a group of civic organizations, petitioned the High Court to declare the constitution null and void on several grounds, including non-compliance with the constitutional drafting process set down in the 1973 Decree, which required extensive consultation with citizens. In a September

hearing on the motion, the NCA demanded access to the records of the Constitutional Drafting Committee and the Constitutional Review Committee. The Government attorney replied that the decree establishing these two committees provided that the public would have no right of access to the committees' records. On November 10, the High Court informed the NCA that it could not muster a full bench due to the imminent expiration of the employment contracts of several justices, and that the case was postponed. The case was pending at year's end.

*Elections and Political Participation.*—The 65-member House of Assembly is constituted according to the law that was in effect when its members were elected in 2003. Under this law 55 seats in the House are popularly contested, and the King appoints the remaining 10 members. The next elections for the house, due in 2008, will presumably be held under the terms of the new constitution.

The constitution calls for a House of Assembly composed of up to 60 elected members to include ten members appointed by the King, of whom half must be women and the others representing "interests, including marginalized groups not already adequately represented in the House," and one woman from each of the four regions, nominated by the elected house members from that region.

The King appoints 20 members of the 30-seat Senate; the House of Assembly elects the other 10. The new constitution provides that eight of the king's nominees and five of the House of Assembly's nominees be women.

The most recent parliamentary elections took place in 2003; however, commonwealth observers concluded they were not free and fair. Election procedures generally were carried out in an orderly fashion, but police arrested several persons for using forged voter registration certificates and for trying to vote more than once.

On February 8, the new constitution took effect and the 1973 Decree which banned political parties lapsed. The constitution provides for freedom of association but does not address political parties, and the Government has not acted on the requests for registration by several self-declared political parties and movements. The African United Democratic Party filed a court case in June to compel the Government to register it as a political party; the case had not been heard by year's end. On August 3, at the Prime Minister's monthly meeting with journalists, the Minister of Justice and Constitutional Affairs stated that political parties could hold meetings at tinkhundla (local government) centers, but that they first would have to obtain the permission of the regional administrator, and allow a police officer to attend the meeting. The constitution states that candidates for public office must compete on their individual merit, thereby blocking competition based on political party affiliation.

Chiefs are custodians of traditional law and custom and are responsible for the day-to-day running of their chieftdom and for maintaining law and order. Chiefs are an integral part of society and act as overseers or guardians of families within the communities and traditionally report directly to the King. Local custom mandates that chieftaincy is hereditary. However, the new constitution, while recognizing that chieftaincy is "usually hereditary and is regulated by Swazi law and custom," also states that the King "can appoint any person to be chief over any area."

Women generally had full legal rights to participate in the political process; however, in accordance with societal practice, widows in mourning (for periods that can vary from one to three years) are prevented from appearing in certain public places and in close proximity to the King. As a result, they can be excluded from voting or running for office. There were seven women in the 65-member House of Assembly, 12 women in the 30-member Senate, and three female ministers in the cabinet, including the deputy prime minister. Three women served as principal secretaries, the most senior civil service rank in the ministries.

There were three members of minorities in the Senate. There were no minority members in the House of Assembly or cabinet.

*Government Corruption and Transparency.*—There was a widespread public perception of corruption in the executive and legislative branches of government and a general consensus that the Government was doing too little to combat it. On July 11, the King assented to the Prevention of Corruption Act passed by parliament; however, by year's end the minister of justice and constitutional affairs had not published the effective date of the legislation. On July 20, Senior Parliamentary Counsel Sabelo Matsebula stated that passage or amendment of several other pieces of legislation was required before the law would be effective. On August 9 and 10, the Government held a National Anti-Corruption Summit to publicize the Prevention of Corruption Act and rally broad support for anti-corruption. The constitution prohibits government officials from assuming positions in which their personal interest is likely to conflict with their official duties. Such officials are required to declare their assets and liabilities to the Integrity Commission within six months of its es-

tablishment; however, the Integrity Commission is subsumed under the Commission on Human Rights and Public Administration, which had not been established by year's end.

There were credible reports that unqualified businesses were awarded contracts due to the owners' relationship with government officials. In June the Prime Minister established a commission to investigate how the Government spent approximately \$7 million (50 million emalangeni) on a business training exercise for which it had allocated only \$1.5 million (10 million emalangeni). The commission's hearings were characterized by official assertions of ignorance, disappearing files, and revelations of payments to businesses, some with connections to government officials or civil servants, which were unqualified to conduct such training. The commission had not delivered its report to the Prime Minister by year's end.

During the year the Government commissioned Pricewaterhouse Coopers to conduct a forensic investigation of the Department of Customs and Excise and the Department of Income Tax. The investigation report, parts of which were made public in October, found that the computer user identifications of seven customs officials had been used to manipulate data to undercharge importers by approximately \$4 million (28.5 million emalangeni). The report recommended disciplinary hearings for several Department of Income Tax employees and the banning of several companies from eligibility for government tenders. No action had been taken on the recommendations by year's end.

The press reported that some members of parliament (MPs) engaged in fraud, kickbacks, and scams. An investigation was pending at year's end into allegations of government corruption in the procurement of medicine, and MP Mfomfo Nkambule was under investigation for corruption relating to the employment contract of the CEO of the Swaziland Electricity Board while Nkambule was Minister of Natural Resources and Energy. Nkambule retained his seat in the House of Assembly.

There is no law permitting public access to government documents, and public documents were difficult to access. For example, the Government argued in court that the public had no right of access to the records of the Constitutional Drafting Commission.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Among the active groups were the Swaziland Action Group Against Abuse (SWAGAA), Lawyers for Human Rights of Swaziland, and Women and Law in Southern Africa. Government officials were generally receptive but unresponsive to their views. Human rights groups spoke out on a number of occasions, criticizing the lack of accountability and transparency in the Government.

In July 2005 the African Commission on Human and People's Rights released a report stating that the 1973 decree, which outlawed political parties and allowed the King to intervene in the judiciary, violates Article 13 of the African Charter. The Government declared in February that the decree lapsed when the constitution went into effect on February 8.

The new constitution provides for the independence of human rights nongovernmental organizations (NGOs); however, this provision falls within the "policy" section, which the constitution states is to guide all agencies of the Government, but cannot be enforced in any court or tribunal.

The new constitution provides for the establishment of a Commission on Human Rights and Public Administration within a year of its implementation; however, the commission may not investigate "a matter relating to the exercise of any royal prerogative by the Crown." The Government had not established the Commission by year's end.

The Government permitted visits by international organizations and facilitated a delegation from the International Labor Organization (ILO) in June.

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

The constitution prohibits discrimination based on race, sex, disability, age, ethnicity, religion, political opinion, or social status; however, the Government did not enforce the law. The labor law forbids employers from discriminating on the basis of race, sex, or political affiliation.

*Women.*—Domestic violence against women, particularly wife beating, was common despite traditional restrictions against this practice. Women have the right to charge their husbands with assault under both the Roman-Dutch and the traditional legal systems, and urban women frequently did so, usually in extreme cases

when intervention by extended family members failed to end such violence. Penalties for men found guilty of assault not involving rape depended on the court's discretion. Rural women often had no relief if family intervention did not succeed, because the traditional courts could be unsympathetic to "unruly" or "disobedient" women and were less likely than the modern courts to convict men for spousal abuse. The Roman-Dutch legal system sometimes handed out light sentences in cases of abuse against women. For example, on April 11, a High Court judge sentenced a man who had stoned his wife to death to eight years' imprisonment, but suspended four years of the sentence. SWAGAA recorded an increase in reports of spousal abuse, including an increase in the number of men complaining of abuse from their wives or girlfriends.

Rape also was common and regarded by many men as a minor offense. Rape is against the law; however, a sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. In the Roman-Dutch legal system, the acquittal rate was high and sentences were generally lenient. However, on April 13, the acting chief justice of the Court of Appeal issued a letter directing all Magistrate Courts to send rape cases to the High Court for sentencing, since Magistrate Courts could only impose a maximum sentence of seven years (or nine years in a principal Magistrate's Court). The letter also directed magistrates to refer to the High Court for trial all rape cases in which the victim was 16 years old or younger. On September 19, a High Court judge sentenced a man to 30 years imprisonment for raping two teenage girls, in contrast to the seven-year term issued by the Magistrate's Court, which the man had decided to appeal.

The October 8 *Times* of Swaziland stated that the acting director of public prosecution withdrew the case against three persons suspected of raping and sexually assaulting a student in September 2004 for wearing a miniskirt, stating that the evidence was weak, and witnesses refused to testify.

Prostitution is illegal, and police continued to enforce the law. The law provides some protection from sexual harassment, but its provisions were vague and largely ineffective. There were occasional reports of sexual harassment, most often of female students by teachers.

Several NGOs provided support for victims of abuse or discrimination. Despite the law's requirement for equal pay for equal work, average wage rates for men by skill category usually exceeded those of women.

Women occupied a subordinate role in society. With the implementation of the February 8 constitution, women are able to open bank accounts, obtain passports, and take jobs without the permission of a male relative. Women routinely executed contracts and entered into a variety of transactions in their own names; however, banks still refused personal loans to women without a male guarantor. The constitution provides for equal access to land; however, in practice this right was not enforced. On July 31, the coordinator of Women in Law in Southern Africa told journalists that she had been told that most of the constitutional benefits for women will be delayed until several existing acts are amended to bring them into line with the constitution, including the Marriage Act, the Administration of Estates Act, the Deeds Registry Act, and others.

The dualistic nature of the legal system complicated the issue of women's rights. Since unwritten law and custom govern traditional marriage, women's rights often were unclear and changed according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death. Under the constitution, children derive citizenship from the father and not from the mother unless the birth occurred outside marriage and the father does not claim the child.

In traditional marriages a man may take more than one wife. A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes was ignored. Traditional marriages consider children to belong to the father and his family if the couple divorce. Children born out of wedlock are viewed as belonging to the mother. Inheritances are passed through male children only.

Mourning customs resulted in inequalities for women, and the high incidence of HIV/AIDS exacerbated this inequality. The constitution states that "a woman shall not be compelled to undergo or uphold any custom to which she is in conscience opposed"; however, traditional families may treat a woman as an outcast if she refuses to undergo the mourning rite. When the husband dies, his widow must remain in strict mourning for one month, during which she cannot leave the house, and the husband's family can move into the homestead and take control of its operations. The mourning period can extend as long as three years, during which the widow's actions are extremely restricted. For example, she cannot participate in the chief's

kraal, a traditional place of gathering where persons take their problems (see Section 3).

A foreign woman who marries a citizen can become a citizen by lodging a declaration with the proper authorities.

The Ministry of Home Affairs is responsible for coordinating women's issues but took no notable actions during the year. The UNISWA Senate had a subcommittee that encouraged students and faculty to hold seminars and workshops on gender issues.

*Children.*—The Government made efforts to protect children's rights and welfare, and these rights are provided for in the new constitution. However, the growing number of orphans and vulnerable children (OVC)—an estimated 120,000 according to the UN Children's Fund—challenged that commitment.

The constitution states that within three years of the constitution's entering into effect, every child will have the right to free primary education. During the year the Government did not provide free, compulsory education for children; the Government paid teachers' salaries, while the student paid fees for books and contributed to the building fund. The Government set per-child and per-school limits on the amounts it paid for OVC tuition and school fees, but some schools complained of delayed payment, and expulsion of OVCs for non-payment of fees increased. Supplemental money sometimes had to be raised for building maintenance, including teachers' housing. The country had a 70 percent primary school enrollment rate. Children were required to start attending school at the age of six. Most students reached grade 7, the last year of primary school, and many went on to finish grade 10. The public school system ends at grade 12. In rural areas families favor boys over girls if they do not have enough money to send all their children to school. A government task force continued to educate the public on children's issues.

Medical care for children generally was inadequate and characterized by long waits, poor nursing care in public hospitals, and overcrowded and understaffed hospitals. Most prescription drugs were available in urban facilities, but rural clinics had inadequate supplies of certain drugs.

Child abuse was a serious problem, and the Government did not make specific efforts to end such abuse. Rape of children was also a serious problem, with media reports of rapes of children one year old and younger. Teachers sometimes beat children. In July Machawe Malinga, a primary school pupil, suffered fractures in his right hand and arm when his teacher allegedly beat him with a stick for being a slow writer. There were no reports of action against the teacher by year's end.

Abandoning newborn babies was a problem, but no official statistics were available.

The legal age of marriage is 18 for both men and women. However, with parental consent and approval from the minister of justice, girls age 16 married. The Government recognized two types of marriage: civil marriages and marriages under law and custom. Traditional marriages under law and custom can be with girls as young as 14. Critics of the royal family said the king's many wives and young fiancées, some of whom were 16, set a poor example for behavior change in a country with the highest HIV/AIDS prevalence rate in the world.

The law prohibits prostitution and child pornography, provides protection to children under 16 years of age from sexual exploitation, and sets the age of sexual consent at 16 years. Nevertheless, female children sometimes suffered sexual abuse, including by family members. There were reports that Swazi girls worked as prostitutes in the country (see Section 5, Trafficking). Children, including street children, were increasingly vulnerable to sexual exploitation.

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

There were growing numbers of street children in Mbabane and Manzini. A large and increasing number of HIV/AIDS orphans were cared for by aging relatives or neighbors, or they struggled to survive in child-headed households. Some lost their property to adult relatives. The National Emergency Response Committee on HIV and AIDS, a private group partly funded by the Government and by international aid, and other NGOs assisted some AIDS orphans.

With more than 10 percent of households headed by children, the UN Children's Fund supported school feeding programs, established a number of neighborhood care points, and provided nutritional support to children weakened by AIDS.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports of trafficking, including small numbers of women and girls. Swazi girls reportedly worked as prostitutes in the country or were trafficked to South Africa for domestic servitude or commercial sexual exploitation. There were no known investigations or prosecutions of trafficking cases during the year. There is no government agency specifically responsible for combating trafficking.

*Persons With Disabilities.*—The new constitution provides protection for persons with disabilities and requires parliament to enact implementing legislation. However, parliament had not passed laws prohibiting discrimination against persons with disabilities in employment, access to health care, or in the provision of other state services by year's end. Persons with disabilities complained of government neglect. There are no laws that mandate accessibility for persons with disabilities to buildings, transportation, or government services, although government buildings under construction included some improvements for those with disabilities, including accessibility ramps.

There was no secondary school for deaf children. In July the Foundation of Disabled Persons in Swaziland complained that there were no schools for approximately 900 visually impaired children of school age. In August the minister for enterprise and employment told the Swaziland Association of Visually Impaired People that he was shocked to learn that of the 10,600 visually impaired persons in the country, only three were employed. The minister promised to introduce a bill compelling employers to create specific jobs for the visually impaired; however, no bill had been introduced by year's end. The hospital for persons with mental disabilities in Manzini was overcrowded and understaffed, and the Government's only psychiatrist announced in April that he was retiring; no replacement had been named by year's end.

*National/Racial/Ethnic Minorities.*—The new constitution forbids discrimination on the grounds of race, color, ethnic origin, tribe, or birth; however, governmental and societal discrimination was practiced against nonethnic Swazis, generally white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population was nonethnic Swazi. Nonethnic Swazis experienced difficulty in obtaining official documents, including passports (see Section 2.d.). Nonethnic Swazis also suffered from other forms of governmental and societal discrimination, such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

*Other Societal Abuses and Discrimination.*—Societal discrimination against homosexuals was prevalent, and homosexuals often concealed their sexual preferences. There was a social stigma associated with being HIV positive, and this discouraged persons from being tested; however, education was slowly eroding the cultural prejudice. The May 19 *Times of Swaziland* reported that a major construction company in Matsapha was harassing an HIV-positive employee by denying her salary increments which other employees received and accusing her of gross incompetence.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution and law provide for the right to form associations, including trade unions, and workers exercised this right in practice with some exceptions. Workers in essential services, such as security forces, may not form unions. Unions must represent at least 50 percent of employees in a work place to be automatically recognized, otherwise recognition is left to the discretion of employer. Approximately 80 percent of the formal private sector was unionized. The informal sector employed approximately 98,000 persons.

The law prohibits antiunion discrimination; however, such discrimination continued to occur. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee as well as fine the employer. Union leaders made credible charges that management in various industries dismissed workers for union activity. Other concerns identified were undefined hours of work and pay days, frequent assaults on workers by supervisors, surveillance by hired security officers of trade union activity both at the workplace and outside, and the use of workers' councils stacked with employer-picked representatives to prevent genuine worker representation. The allegations of union discrimination were most common in the garment sector.

In May the Swaziland Hotel and Allied Workers Union met with hotel managers to discuss termination notices that had been sent to employees soon after they had joined the union. The hotel withdrew the notices on May 8. On August 15, the Zheng Yong Garment Factory fired Wonder Mkhonta, chairman of the Nhlangu branch of the Swaziland Processing and Refining Allied Workers Union, for poor performance; however, the union claimed that he was dismissed for engaging in union activity. There were no developments in the 2005 case of two employees fired by the Oxford Leasing Company in Manzini, allegedly for joining the Swaziland Manufacturing and Allied Workers Union; their case remained before the Conciliation, Mediation, and Arbitration Commission (CMAC).

During a June visit to the country, an ILO delegation called on the Government expressly to repeal the 1973 State of Emergency Proclamation and related decrees concerning trade unions' rights, amend the 1963 Public Order Act to prevent its use in oppressing legitimate and peaceful strike action, and ensure that prison staff and domestic workers be granted the right to organize.

*b. The Right To Organize and Bargain Collectively.*—The new constitution and law provide for the right to organize and bargain collectively, and the Government generally respected this right in practice. However, employer interference with representatives of workers' councils to negotiate terms of conditions of work for employees contributed to the failure of some trade unions to negotiate or promote collective bargaining agreements.

The Industrial Relations Act (IRA) empowers the Government to mediate employment disputes and grievances through the CMAC. The IRA does not specifically permit strikes, but it allows employees who are not engaged in essential services to participate in peaceful protest action to promote their socioeconomic interests. However, the procedure for announcing a protest requires an advance notice of at least 14 days. The IRA prohibits protest actions in "essential services," which included police and security forces, correctional services, fire fighting, health, and many civil service positions. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts. When disputes arose with civil servant unions, the Government often intervened to reduce the chances of a protest action, which may not be called legally until all avenues of negotiation have been exhausted and a secret ballot of union members has been conducted.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor, including by children, and the Government rarely had to enforce this prohibition. However, there were reports that such practices occurred (see Section 5). The Swaziland Federation of Trade Unions characterized the 1998 Administrative Order as a form of forced labor, noting that it reinforced the tradition of residents performing uncompensated tasks for chiefs who could penalize those that did not participate.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The constitution and law prohibit child labor, but child labor was a problem. The 1980 Employment Act distinguishes between a "child" (under 15 years) and a "young man" (ages 15 to 18), but it does not establish a minimum age of employment. The law prohibits hiring a child below the age of 15 in an industrial undertaking except in cases where only family members were employed in the firm or in technical schools where children worked under supervision. The law limits conditions under which young people aged 14 or 15 can be employed; however, children were vulnerable to joining the workforce early, and the law does not provide for compulsory primary school education. Legislation limits the number of night hours that children may work on schooldays and also limits children's work hours overall to six per day and 33 per week. Employment of children in the formal sector was not common; however, children were found doing unpaid labor for someone other than a family member and often exposed to harsh conditions of work. In rural areas children below the minimum age frequently were employed in the agricultural sector, particularly in the eastern cotton-growing region, and were employed as domestic workers and as herd boys. Children reportedly worked in towns as traders, hawkers, porters, car wash attendants, bus drivers and conductors. Children were victims of prostitution and trafficking in persons (see Section 5).

The Ministry of Enterprise and Employment's Department of Labor was responsible for enforcement, but its effectiveness was limited by personnel shortages.

*e. Acceptable Conditions of Work.*—The constitution calls on parliament to enact laws to ensure equal payment for equal work without discrimination, and to protect employees from victimization and unfair dismissal or treatment; however, the parliament had not enacted any new laws by year's end. The Ministry of Enterprise and Employment sets wage scales for each industry. There was a legally mandated sliding scale of minimum wages depending on the type of work performed. The minimum monthly wage for a domestic worker was approximately \$45 (300 emalangeni), for an unskilled worker \$63 (420 emalangeni), and for a skilled worker \$90 (600 emalangeni). Minimum wages for teachers were raised to approximately \$100 (750 emalangeni) during the year. These minimum wages generally did not provide a decent standard of living for a worker and family. Migrant workers were not covered under minimum wage laws. Wage arrears, particularly in the garment industry, were a problem. In July 40 temporary teachers marched to the Ministry of Education to demand salary payments that in some cases were in arrears to Feb-

ruary. The Government subsequently paid teacher salaries and also an end-of-year bonus.

There was a standard 48-hour work week for most workers, a maximum 48-hour workweek in the industrial sector, and a 72-hour work week for security guards. The law permits all workers one day of rest per week and provides for premium pay for overtime. Most workers received a minimum of 12 days of annual leave. Workers receive 14 days of sick leave with full pay and 14 days with half pay after three months of continuous service; however, these provisions apply only once per calendar year. No sick leave is granted if an injury results from an employee's own negligence or misconduct. These standards do not apply to foreign and migrant workers. The labor commissioner conducted inspections in the formal sector; however, these inspections generally did not result in enforcement of the law. There were allegations that women who tried to take maternity leave were dismissed, that employers paid employees at casual or probationary wage scales regardless of their position or length of service, and that some supervisors harassed, intimidated, and physically abused employees. In January a former employee of the Singapore Butchery filed a complaint in the Industrial Court after the CMAC failed to resolve a dispute claiming she was illegally dismissed after becoming pregnant in 2004; the case was pending at year's end. A supervisor who allegedly assaulted two employees of Zheng Yong textile/apparel factory was arrested and was released on bail in July; the complainants later withdrew the case.

The constitution calls on parliament to enact laws to protect a worker's right to satisfactory, safe, and healthy conditions; however, the parliament had not enacted any new laws by year's end. The law provides for protection of workers' health and safety. The Government set safety standards for industrial operations and encouraged private companies to develop accident prevention programs; however, the labor commissioner's office conducted few safety inspections because of staffing deficiencies and an alleged desire not to "scare off foreign investors." Workers have no legal right to remove themselves from dangerous workplaces without jeopardizing their continued employment, and collective bargaining agreements do not address the matter.

There were no developments in the February 2005 arrests of workers following a riot at Welcome Textile. The company later went into liquidation.

There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal, and these provisions frequently were invoked during the year.

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## TANZANIA

The United Republic of Tanzania, with a population of approximately 37 million, is a multi-party republic consisting of the mainland and the Zanzibar archipelago. The Union is headed by a President, who is also head of government, and its unicameral legislative body is the National Assembly, commonly referred to as parliament. Zanzibar, although integrated into the country's governmental and party structure, has its own President, court system, and legislature, and continued to exercise considerable autonomy. In the December 2005 Union Presidential and legislative elections, Jakaya Kikwete was elected President, and the ruling Chama Cha Mapinduzi (CCM) party made significant gains in parliament. Observers considered the Union elections on both the mainland and in Zanzibar to be largely free and fair. The 2005 Presidential elections in Zanzibar were more contentious, with serious irregularities and politically motivated violence; however, there were improvements in the administration of the elections. While civilian authorities generally maintained effective control of the security forces, there were isolated instances in which elements of the security forces acted independently of government authority.

There were a number of continuing human rights problems. Police and prison guards used excessive force against inmates or suspects, at times resulting in death, and police impunity was a problem; there were continued reports of killings of elderly individuals suspected of being witches; prison conditions were harsh and life-threatening; police routinely conducted searches without warrants, were often corrupt, and at times failed to bring detained individuals before a judge in the specified period of time; the judiciary suffered from corruption in the lower courts; freedom of speech and press were partly limited; governmental corruption remained pervasive; authorities restricted the movement of refugees; societal violence against women persisted; and trafficking in persons and child labor were problems.



## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents during the year; however, on several occasions security forces used lethal force against citizens, including persons in custody.

During the year authorities accused police of killing several persons unlawfully. For example, in January, in the outskirts of Dar es Salaam, 15 police allegedly shot and killed three gemstone dealers and a taxi driver, claiming the four persons were robbers. The individuals concerned were reportedly not resisting arrest, and a special commission headed by a High Court judge investigated the incident and found that the victims had not been robbers. Authorities brought murder charges against all 15 police officers. The case was pending at year's end.

In March, according to officials of the Legal and Human Rights Center, police in Mwanza tortured and killed a taxi driver named Christopher Samson while he was in custody after his arrest on allegations that he participated in an armed robbery. The Mwanza regional police commander questioned the policemen involved, after which they were arrested. There was no further information regarding the case at year's end.

On June 6, six prison wardens allegedly killed a prisoner, Eladius Stanslaus, at Kimbiji Prison in the Temeke district of Dar es Salaam. A magistrate of the Temeke District Court adjourned the case because investigations were incomplete at the time of trial. No further information was available at year's end.

On July 16, authorities in Shinyanga Region discovered the body of a man in a police cell in the village of Kagongwa. According to press accounts, a prison warden beat an inmate to death in the Kisongo prison in the region of Arusha.

There were no reports of active investigations of a number of killings or alleged killings by police and prison authorities in 2005.

There were a number of unresolved killings from 2004. They included the July killing of Selemani Juma Mousi by Zanzibar police and the death of a minor in Zanzibar during the elections, allegedly as a result of police use of excessive force. In the latter case opposition party leaders charged that police were not investigating. There were no reports of progress in investigating the 2004 killing of a student, allegedly by a member of a paramilitary unit; authorities announced an inquest in August 2005, but there were reports that the suspect had been transferred to the mainland. Although authorities in August 2005 announced an inquest into the suspected killing by police of a building inspector in Arusha, there was no further information at year's end. There were no developments in the 2004 killing of a non-governmental (NGO) worker in Ngara district by unidentified armed assailants, and there were no reports that the authorities were actively pursuing the case (see Section 4).

Deaths as a result of mob violence continued, including by stoning, beating, hacking with machetes, and burning, but they were fewer in number following a governmental outreach campaign begun in 2005 to discourage mob violence. In August a mob set afire Saidi Sudi, who subsequently died of his injuries. In December mobs lynched two unidentified burglars in Shinyanga Region. Convictions in such cases were rare; authorities indicated that it was often difficult to persuade witnesses to testify. However, in early July the High Court sentenced three persons to death for the 2003 mob killing of Ernest Kikoti in the village of Nyamvisi, Mongoro Region. The prosecution charged the defendants with having incited a mob to kill Kikoti.

The killing of suspected witches continued. A widespread belief in witchcraft led to the killing of numerous alleged witches by those claiming to be their victims, by aggrieved relatives of their victims, or by mobs. The practice, once concentrated in Shinyanga Region, has spread to other regions as a result of the pastoral migrations of persons from Shinyanga. For example, on April 16, unknown persons in the village of Buhanga, Kiagera Region, killed 67-year-old Anna Maria, suspected of witchcraft, and her seven-year-old granddaughter Sicholessik.

In December Mwema Bakari Kassan, a resident of Kiyanga village in Mtwara Region, was arrested by the police for alleged involvement in burning down five houses where he suspected that a sorcerer was hiding one of his relatives. At year's end the case was still under investigation. COEL indicated that the incidents were most common in Tabora, Mwanza, Shinyanga, and Kigoma regions.

On August 28, the newspaper *The African*, citing statistics from the local NGO Concern for the Elderly (COEL), reported that in the preceding decade, 8,580 elderly persons within the Lake Zone had been killed following allegations of witchcraft.

The Government prosecuted persons accused of killing suspected practitioners of witchcraft, but prosecution became more difficult as persons responsible for killing suspected witches learned to avoid law enforcement authorities.

In two regions there were reports that individuals practicing witchcraft killed children and school students, allegedly to remove and sell body parts and skin (see Section 5).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there continued to be reports that police officers tortured, threatened, and otherwise mistreated suspected criminals and prisoners during the year. Beatings and floggings were the methods most commonly used. According to press reports, fewer police were accused of abusing prisoners during the year, following more frequent prosecution of police offenders.

Efforts by city officials to evict street hawkers from central locations resulted in injuries. On March 9, paramilitary forces injured street hawkers while evicting them from the city of Mwanza. On March 10, paramilitary forces clashed with street hawkers in Dar es Salaam, prompting the Prime Minister to order city officials to halt the evictions and give the traders a six-month reprieve. In October some hawkers who refused to relocate to designated business premises were injured after clashing with paramilitary forces.

On August 26, the Guardian newspaper reported that as a result of a beating by Zanzibar police, Saidi Awadhi had to have his left eye surgically removed. Awadhi accused a group of patrolling security officers in the Mpendae area of beating him without any reason. The regional police commander for the area stated that the matter could have been investigated if the alleged victim had reported the matter to his office; there were no indications that authorities were following up on the case.

On August 27, the minister of public safety and security announced that the inspector general of police had begun removing offenders from the police force and creating better working conditions for the police. Injuries reportedly suffered by two local officials in the course of being arrested in July may have been one of the factors that precipitated this action.

On February 6, Lucas Omahe Galani was sentenced to 10 years in prison for assaulting CCM Presidential candidate Jakaya Kikwete during an October 2005 rally in Mwanza.

In September 2005 the Government formed a commission to investigate allegations of severe mistreatment involving senior prison officers in the Geita district of Mwanza Region. The officers faced accusations of torturing, beating, and sodomizing two members of sungusungu, traditional local militias. At year's end the case was still pending in court.

Local government officials and courts occasionally used caning as a punishment for both juvenile and adult offenders, and teachers and school administrators employed caning and other forms of corporal punishment on students (see Section 5). For example, in May 2005 a resident magistrate's court in Arusha sentenced a prominent businessman to prison and to receive 12 cane strokes for raping his house maid. The use of caning continued to decline during the year following public outreach efforts by the Government—particularly the Ministry of Education—and the press.

There were fewer reports during the year that soldiers beat civilians; however, in March paramilitary soldiers and municipal council police, who were evicting bus touts (young men who purportedly steer passengers to a particular van but often extort payment from drivers), injured approximately 20 persons in the Mwenge, Kariakoo, and Tandika areas of Dar es Salaam. Police allegedly beat the touts and forced them to lie in dirty rain water.

At year's end there was no further information regarding two 2005 beating incidents in which the Tanzanian People's Defense Forces (TPDF) attacked street hawkers in Dar es Salaam and used iron rods against villagers in the Boko district.

Unlike in 2005 there were no reports that police used excessive force to break up demonstrations.

Unlike in 2005 there were no reports that police sexually abused individuals in detention.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and life threatening. In 2005 the established maximum capacity of the country's prison facilities was 23,000, and the prison population was estimated to be 46,000. During the year local prisons held 23,968 convicted prisoners and 21,017 pretrial detainees for a total of 44,985 prisoners. In 2005 then minister of Home Affairs John Chiligati stated that the country needed 156 prison facilities, compared with the 122 that existed. On July 9, he told parliament there was overcrowding in all of the prisons in the country.

During the year the Commission for Human Rights and Good Governance inspected more than 10 prisons for human rights violations. In October 2005 the Government acknowledged severe problems of overcrowding, infectious diseases, lengthy pretrial detention of prisoners, and holding juveniles together with adult prisoners.

Prisoners experienced poor living conditions and lacked access to basic human needs. NGOs reported that prisoners received poor diets as a result of substandard sanitation and hygiene. In January 2005 more than 15 inmates at Ukonga maximum security prison in Dar es Salaam complained of a poor diet and severe beatings from prison guards and overcrowded cells. Authorities often moved prisoners to different prisons without notifying prisoners' families.

Prison dispensaries offered only limited medical treatment, and friends and family members of prisoners generally had to provide medications or the funds with which to purchase them. Diseases were common and resulted in numerous deaths in prisons. According to NGO reports, the leading causes of death were malaria, tuberculosis, HIV/AIDS, cholera, and diseases related to poor sanitation. In February, to prevent the spread of HIV/AIDS in prisons, the Government established 12 voluntary counseling and testing centers to provide services to penal institutions.

There were reports that guards beat and sexually abused prisoners during the year.

No investigation report was issued during the year from the Government commission investigating the September 2005 arrest, detention, and torture by a prison officer in Mwanza of two traditional militiamen. On the order of the prisons officer, eight inmates beat and sexually molested the two men, who required hospitalization after the detention.

The law requires prisoners to be separated based on age and gender; however, in practice many overcrowded prisons lacked separate cells for male, female, and juvenile prisoners. There were approximately 10 separate youth prisons throughout the country. The Government considered prisoners between the ages of 18 and 21 to be "young prisoners" and required prisons to separate them from the older adult prison population at night. Pretrial detainees were held together with convicted prisoners and were allowed to receive food from the outside.

Local NGOs, international organizations, and diplomatic observers were permitted to monitor prison conditions during the year. For example, on May 8, the Tanzania Red Cross Society visited Segerea Prison in Dar es Salaam. The International Committee of the Red Cross (ICRC) visited prisoners at the International Criminal Tribunal for Rwanda, in Arusha. The Government permitted the Office of the UN High Commissioner for Refugees (UNHCR) to visit prisons holding refugees in Dar es Salaam and in the west. The ICRC also visited two detention centers in Zanzibar in December 2005 but did not monitor facilities for domestic prisoners during the year.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention; however, both were problems.

*Role of the Police and Security Apparatus.*—The national police force, under the Ministry of Public Safety and Security, has primary responsibility for maintaining law and order. The Field Force Unit is a division of the police force. Sungusungu Citizens' patrols continued to support the police force, including in refugee camps. Police were not responsible for overseeing sungusungu, who worked with local government leaders. The TPDF, under the Ministry of Defense, is responsible for external security and had some domestic security responsibilities.

The police force remained underfunded and inefficient. The use of excessive force, police corruption, and impunity were serious problems.

Citizens often complained that police were slow to investigate crimes and prosecute criminals. Although not lawyers, police acted as public prosecutors in the primary courts. Many judicial experts criticized this arrangement, which allegedly allowed police to manipulate evidence in criminal cases and at times resulted in cases being thrown out of court. According to NGO reports, there were instances in which the police lost evidence, and suspects with sufficient means successfully avoided prosecution by bribing police officers. Police also used the threat of arbitrary arrest to extort money. Communities perceived a general lack of protection amid an increase in crimes committed by armed persons. Lack of trust in the police force and in the court system contributed to incidents of mob justice during the year. Internal mechanisms within the police hierarchy were available to investigate violations committed by police, but, despite improvements, continuing police misbehavior suggested that they were not used effectively.

There continued to be numerous press reports and complaints from civil society groups and citizens about police corruption during the year. The Prevention of Corruption Bureau reported many public complaints of corruption that implicated the police force and local authorities. In July the Kagera Region headed the list of cor-

ruption complaints, with 558 complaints recorded in 2005. In November the press reported that drugs worth thousands of dollars were stolen from police custody at the Ministry of Home Affairs' antinarcotics unit in Dar es Salaam. The unit commander was replaced, and two policemen were arrested. The case was pending at year's end.

In January President Kikwete directed the Ministry for Public Safety and Security and senior police officers to take disciplinary action against any police officer who was "ethically not upright." In March the police force launched investigations of a police sergeant alleged to possess property not commensurate with his income. Regional Police Commander Alfred Tibaigana stated the officer would be dismissed if found to be at fault. During the year Tibaigana also stated that another police officer who allegedly collaborated with a civilian to rob residential property would also face dismissal if found guilty.

During the year the police force held training seminars on surveillance detection, human rights, expediting investigations, finalizing criminal cases, and handling opposition party members and leaders.

The law grants legal status to the traditional sungusungu neighborhood and village anticrime groups. Local governments appoint the members with the help of individual households who decide which among them will join the sungusungu watch. The sungusungu remained active in rural areas such as Tabora, Shinyanga, and Mwanza regions as well as in refugee camps, but were not present in most urban areas. Sungusungu have the authority to arrest persons, but they do not have the authority to carry firearms and instead carried wooden clubs for protection. Sungusungu have been criticized for using excessive force, including the severe beating of suspects, which on occasion resulted in death. It was customary for residents of a neighborhood in which sungusungu operated to either donate a small sum to the sungusungu for patrols or, if they did not have money, to provide one person from their household to participate in patrols. In refugee camps, in addition to a regular police contingent, sungusungu groups composed of refugees acted as quasi-official security forces.

*Arrest and Detention.*—The law requires that persons be apprehended openly with warrants based on sufficient evidence, and authorities generally complied with the law. The law also requires that a person arrested for a crime, other than a national security detainee (as defined under the Preventive Detention Act), be charged before a magistrate within 24 hours of arrest; however, in practice the police often failed to comply with this requirement. The law gives accused persons the right to contact a lawyer or talk with family members but authorities at times denied this right. Prompt access to counsel was also limited by the lack of lawyers in rural areas, the lack of communication systems and infrastructure, and the illiteracy and poverty of the accused. Authorities promptly informed detainees of the charges against them. The Government provided legal representation for indigent defendants as for all suspects charged with murder or treason. The law does not allow the possibility of bail for the offenses of murder or armed robbery and imposes strict conditions on freedom of movement and association when bail is granted in other cases. In the primary and district courts, bribes at times determined whether bail was granted.

Under the Preventive Detention Act, the President may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. The act requires that the Government release persons detained under this act within 15 days of detention or inform them of the reason for their detention; it also allows a detainee to challenge the grounds for detention at 90-day intervals. The Government has additional broad detention powers under the law, which permit regional and district commissioners to arrest and detain for 48 hours persons who may "disturb public tranquility." The act was not invoked during the year.

In July minister for Justice and Constitutional Affairs Mary Nagu stated that the courts of law received 36 civil litigation cases alleging unlawful detention instituted by aggrieved parties in connection with the 2005 elections. Five of the cases were thrown out for failing to meet legal requirements. The remaining 31 cases were pending in courts at year's end.

Unlike in 2005, a national election year, there were no reports of arbitrary detention of opposition leaders or supporters.

There was no information about the case of Abdul Rashid, a resident of Dar es Salaam who claimed he was arbitrarily arrested in September 2005. He was charged with destroying a CCM campaign poster. Rashid denied the charges.

Police arrested refugees for leaving refugee camps without permits (see Section 2.d.).

Unlike in 2005 there were no reports that Union security forces based in Zanzibar or the archipelago's own security forces, known as vikosi, committed human rights

violations during the year, and there were no allegations that CCM's Zanzibar chapter worked with the *vikosi* to recruit members of the Janjaweed, an allegedly pro CCM gang, to intimidate the political opposition.

Approximately 44 percent of the prison population consisted of pretrial detainees or remand prisoners. Detainees charged with criminal matters generally waited several years for trial, due to the time required to complete police investigations, a lack of judges to hear cases, and an inadequate judicial budget. Demands by police and court officials for bribes further delayed the trials of those who could not afford to pay. Pretrial detention at times exceeded the sentence of the crime with which detainees were charged. Observers estimated that approximately 5 percent of persons held in remand ultimately were convicted, and often those convicted already had served their full sentences before their trials were held. A government official estimated that it took up to five years for homicide cases to reach the high court. At year's end some suspects had spent as many as 10 years in prison without having their cases heard before a court. In July the minister for justice and constitutional affairs issued a directive requiring courts of law to clear all current criminal and civil cases within 60 days to reduce the number of cases pending in courts. There were no reports at year's end concerning progress toward meeting this objective.

*Amnesty.*—In February the President of Zanzibar pardoned three persons convicted of burning down a hotel belonging to a businesswoman and former opposition candidate for President of Zanzibar.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the judiciary remained underfunded, corrupt, inefficient, and subject to executive influence. Corruption was particularly pervasive among lower court officials and court clerks.

Independent observers questioned the system's ability to provide a defendant with an expeditious and fair trial. Court clerks took bribes to decide whether or not to open cases and to hide or misdirect the files of those accused of crimes. Magistrates of lower courts occasionally accepted bribes to determine guilt or innocence, pass sentences, or decide appeals of cases coming from the primary courts to district courts.

The Justice Department faced a critical shortage of court buildings. In July the Ministry of Justice and Constitutional Affairs purchased court buildings for Mtwara and Songea zonal offices and new offices opened in Iringa and Sumbawanga. Despite these efforts, few courts were available to citizens, and the cost of traveling to the nearest court was often prohibitive.

The Government continued its program to reform the judiciary. In partnership with bilateral and multilateral donors, the Government during the year increased expenditures on the judiciary by approximately 40 percent to: improve judicial access for detainees and for those in rural areas; and to improve the overall governance and administration of justice. In 2005 the Government doubled its previous year's judicial expenditures to address judicial inefficiency and corruption and to increase personnel qualifications.

The legal system is based on British common law and recognizes customary and Islamic law in civil cases. In criminal matters both Christians and Muslims are governed by statutory or common law.

A Judicial Service Commission, chaired by the chief justice of the Court of Appeal, appointed all judges except those for the Court of Appeal and the high courts, who were appointed by the President. All courts, including Islamic courts in Zanzibar, were staffed by civil servants.

The country has a five-tier judicial system whose highest court is the Court of Appeal. In addition in Zanzibar, whose population is 95 percent Muslim, there is a system of Islamic *khadi* courts, with its own hierarchy topped by a *khadi* court of appeal. These courts hear matters involving customary Islamic law on family and related matters. On the mainland, civil law essentially governs all persons involved in cases of child custody and divorce. Islamic and customary law govern other family matters for Muslims and Christians respectively. On the mainland, all persons, including Muslims, are subject to the Marriage Act of 1971, a consolidation of family law that recognizes Islamic and customary marriages but subjects them to state regulation and civil law protections for women.

Although a majority of Zanzibar judges were Muslim, there were some Christian judges, and some Muslim groups complained it was inappropriate for Christian judges to administer Islamic law for Muslims in family matters without training in Islamic law. The leaders of BAKWATA, the council that governs matters of Islam on the mainland, called for the establishment of a *kadhi's* court for the mainland. A heated debate arose between Muslim leaders and Catholic bishops. The bishops

warned the President against allowing the establishment of the court. The matter remained contentious at year's end.

In family matters the content and application of some customary laws and Islamic law discriminated against women, both on the mainland and in Zanzibar.

There was one juvenile court; however, it was overburdened and handled cases only for young offenders in Dar es Salaam, where it was located. Juvenile offenders in other regions were tried in adult courts.

The law also provides for commercial courts, land courts, housing tribunals, and military tribunals. Military tribunals do not try civilians. Defendants before military tribunals may appeal to the high court and the Court of Appeal.

*Trial Procedures.*—Criminal trials were generally open to the public and to the press; however, there were exceptions. Courts that held secret proceedings—such as in drug trafficking cases—generally were required to provide reasons for holding such proceedings. In cases involving terrorism suspects, the law provides that everyone except the interested parties may be excluded, and information may be suppressed, purportedly to protect the identity of witnesses.

There is no trial by jury in any of the country's courts. The law provides for the presumption of innocence. Defendants or their lawyers have access to evidence held by the Government, the right to question witnesses, and the right to present evidence on the defendant's behalf. All defendants charged with civil or criminal matters—except parties appearing before Zanzibar's kadhi court system and cases examining the constitutionality of Zanzibar laws—could appeal decisions to the high courts and the Court of Appeal of Tanzania. The law provides a right to defense counsel for defendants accused of murder and treason, as well as for indigent defendants in all other serious cases. There were only a few hundred practicing lawyers in the country, although the number continued to increase. Most indigent defendants charged with lesser crimes did not have legal counsel. Most defendants in urban areas who could not afford to hire a legal representative or lawyer represented themselves in court, but women and the needy were allowed legal aid. The Government sought to provide legal representation for underrepresented groups by requiring lawyers to take a specified number of legal aid cases with a broad geographical distribution. The law prohibits advocates from appearing or defending clients in primary-level courts.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Civil proceedings are administered in the High Court or at the magistrate or district level. Persons may bring lawsuits seeking damages or the cessation of human rights violations; however, civil judicial procedures often were slow, inefficient, and corrupt.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law generally prohibits such actions without a search warrant; however, the Government did not consistently respect these prohibitions in practice. Only courts can issue search warrants; however, the law also authorizes searches of persons and premises without a warrant if necessary to prevent the loss or destruction of evidence connected with an offense, or if circumstances are serious and urgent. In practice members of security forces rarely sought warrants and often searched private homes and businesses at will. The law relating to terrorism permits police of a certain rank to conduct searches without a warrant in certain urgent cases; there were no reports that the act has ever been implemented in practice.

Unlike in 2005 there were no reports that Zanzibari paramilitary groups engaged in looting of houses, shops, and religious institutions.

The security forces reportedly monitored telephones and correspondence of some citizens and foreign residents.

During the year the Government forcibly evicted or displaced individuals and demolished or repossessed their homes in an effort to clean up urban areas such as Dar es Salaam and Arusha. In late September and early October, authorities made a large-scale effort to move hawkers and petty traders (machinga in Swahili) located throughout these cities to locations designated for business. The Government provided machinga with several notices of its intentions and justified the effort as a way to "ensure the country's cities attracted investors and eliminated hiding places for thugs."

By year's end a case involving 135 villagers who claimed they had been illegally evicted from their land and homes by district-level officials in 2001 had not come to trial. The case was filed in June 2005 after the Government failed to respond to a ruling by the Human Rights and Good Governance Commission that gave the

Government 30 days to compensate and resettle the villagers and requested that a report be submitted on the matter by May 2005.

Until March women in Zanzibar who became pregnant out of wedlock could be imprisoned for up to two years. In theory the law could also be applied to men; however, because DNA testing was not available in Zanzibar, only women have been sentenced under the law. During the year one woman was convicted under the act and served a suspended sentence. On March 5, President Karume signed a law that replaces prison penalties with community service for women convicted of this offense. During the year the office of Zanzibar's director of public prosecution published regulations that stipulate the kind of community service that could be imposed.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech but does not expressly provide for freedom of the press; in practice the Union government partially limited these rights, and the semi-autonomous Zanzibar government significantly limited these rights. Laws limiting the media's ability to function effectively and an inefficient judiciary limited freedom of speech and press, particularly on Zanzibar, which has a separate media policy from the mainland.

The print media were subject to considerable government restriction, including the enforcement of a code of ethics. Although the code is described as voluntary, the Government has fined and suspended newspapers under this code. Journalists, intimidated by defamation laws that impose criminal penalties, practiced self-censorship. However, the mainland government allowed political opponents unrestricted access to the media. Although the media is primarily government-controlled in Zanzibar, opponents of the Government had access to the media there as well.

Under the administration of President Kikwete, freedom of speech increased. Encouraged by the President's public support of press freedom, the press was able to expose corrupt officials more forthrightly. For example, in March a private newspaper wrote about a high-level diplomat assigned to Italy who was accused by authorities of embezzling \$3 million (3.8 billion shillings).

Political parties are required by law to support the continuation of the Tanzanian Union, and persons using "abusive" language about the country's leadership are subject to arrest; however, these provisions were not applied during the year. On the mainland opposition political party members and others openly criticized the Government and ruling party. On Zanzibar the opposition frequently used media outlets on the mainland to criticize the Zanzibar government. Unlike in 2005 there were no reports of restrictions on political and religious speech by Muslims.

Registering newspapers remained difficult and was at the discretion of the registrar. During the year the number of newspapers, radio stations, and journalists grew. On the mainland there were more than 785 publications, including newspapers, in-house publications, and periodicals, including 14 active dailies and more than 20 weeklies. Many of the mainland's newspapers were privately owned. There were a dozen periodicals in the country, some of which were owned or influenced by political parties, including not only the ruling CCM but also the opposition Civic United Front (CUF) and Chadema parties. Mainland publications, including one government-owned newspaper, regularly criticized the Government.

Approximately 33 radio stations and nine television stations, including 16 cable networks, broadcast in Dar es Salaam and a few other urban areas on the mainland. Many radio stations and all but one television station were privately owned. There were some government restrictions. For example, radio stations could not broadcast in tribal languages.

According to the Zanzibar information service, a government agency, one of the two newspapers in Zanzibar was privately owned, and one was government-owned. The Government controlled the content of radio and television broadcasts, including outlets that were privately owned. On Zanzibar there was one government-owned radio station and four private ones. On Pemba there were two radio stations, one of them was an affiliate of the Government radio station on Zanzibar and the other private. Many residents of Zanzibar were able to receive the less restricted broadcasts from the mainland.

Unlike in 2005 there were no reports that government officials on the mainland beat members of the media. An investigation was ongoing into the alleged September 2005 beating by prison officials and others of photographer Mpoki Bukuku and human rights activist and reporter Christopher Kidanka, who attempted to cover the eviction of families from houses being repossessed by the prisons department. The case was still pending at year's end. Both journalists were also suing the prisons department for damages.

On August 21, Reporters Without Borders criticized the Government for threatening to deport a journalist to Kenya who appeared in the film *Darwin's Nightmare*. Officials stated that the film, which addresses natural resources and poverty in the Lake Victoria area, damaged the economy and image of the country. The film's director accused the Government of conducting a "campaign of intimidation" against individuals who appeared in his film, including Richard Mgamba, an investigative journalist for the *Citizen* newspaper. Mgamba fled Mwanza on August 4, when a demonstration against the film was organized by local authorities and police. Local authorities threatened Raphael Tukiko, a night watchman who appeared in the film, with arrest and ordered him to report to the police. At year's end there was no additional information regarding these cases.

There was at least one report that nongovernmental actors harassed or used violence against members of the media during the year. In April unidentified persons made death threats against editors and journalists of the *This Day* newspaper, warning them against reporting on graft in public institutions. The editor of the newspaper told a press conference that someone offered the journalists approximately \$20,000 (25.5 million shillings) to stop publishing investigative stories against societal ills. Authorities dropped two of three charges in the 2005 cases of CUF supporters accused of assaulting journalists in Dar es Salaam in November 2005. The third was out on bail awaiting trial at year's end.

Authorities in Zanzibar continued to restrict the activities of reporters. In August the Government denied permission for an outside broadcasting crew of the BBC to broadcast a regional meet-the-listeners show from Zanzibar; the BBC had broadcast such programs from the mainland and neighboring countries. On September 10, authorities arrested three journalists on Pemba when they were leaving a village where they had been investigating reports of food scarcity.

On June 26, on the mainland the inspector general of police (IGP) met with the editors of various private media organizations to discuss ways to create an environment for cooperation between the police and the press. Admitting the relationship had been characterized by enmity, mistrust, and conflict, the new IGP stated that he wanted to see the police and media reach an understanding and wanted to continue meeting with the press on a regular basis.

Media groups in Zanzibar continued to call for the elimination of what they considered unnecessarily severe laws limiting press freedom. In addition they criticized the lack of legal protection for journalists' sources and whistle blowers.

On the mainland journalists and NGOs belonging to the Media Law Reform Project continued to complain that the Government deliberately weakened press freedom and limited information to the press by means of a 1976 law that grants the information minister wide discretion to suspend or close down newspapers as well as other legislation. They also criticized laws that prohibit journalists from writing about prisons or the police without obtaining prior permission from those organizations.

Unlike in 2005 there were no reports during the year of the authorities suspending newspapers, either in Zanzibar or on the mainland. The two newspapers suspended briefly in 2005 were fully operational during the year.

There were reports of discriminatory newsprint pricing by the Government; however, unlike in 2005 there were no reports that the Government selectively advertised in favored private newspapers.

In August several members of parliament complained to media owners that the owners used their media assets to promote their own interests, which they said was an abuse of ownership. Minister of Information, Culture and Sports Muhammed Seif Khatibu stated that the practice violated the country's information and broadcasting policy, which requires that the media be used in the public interest. By contrast, on Zanzibar, an official at the Ministry of Information stated in August that the purpose of the media was to keep the peace, implying that controversial reports were not welcome.

The threat of application of the law on defamation, which imposes criminal penalties, intimidated journalists and caused many to practice self-censorship. While the law specifies that the plaintiff must prove malicious intent, many media observers criticized the courts for ignoring this provision and imposing heavy, politically-motivated penalties on the media; however there were no reports of specific instances of this practice during the year, according to the Media Council of Tanzania, which represents media houses, training institutions, and journalists.

The Zanzibar government cited public security as a pretext to suppress views that it found politically objectionable. After closing the independent newspaper *Dira* in 2004, Zanzibar authorities continued to harass its editor; however, during the year the Government issued a passport to Nabwa (see Section 2.d.).



Lack of media access to government information remained a serious problem. In a speech during the year, the President urged civil servants to volunteer information to the media when it is required, and some government institutions began to do so; however, the President did not acknowledge that civil service regulations prohibit government workers from divulging government information to the media. This restriction effectively allows only a handful of high-level government representatives to relay information to the media (see Section 3).

In May an association of individuals with interests in the media—academics, officials from the Ministry of Information, owners of private media, and representatives of civil society—urged the Government to revise a 1994 media policy to give the media more leeway in providing information to the public and to abolish restrictions that prohibit any privately owned radio or television station from broadcasting to more than 25 percent of the country. No action had been taken on these proposals by year's end.

According to the Media Institute of Southern Africa, freedom of the press continued to be threatened by lack of training, mediocrity, low salaries, and corruption in the profession of journalism.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The number of Internet cafes and Internet providers increased during the year; however, only 10 percent of citizens had access to electricity, severely limiting such access in general.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly, and the Government generally respected these rights in practice during the year.

The Government requires organizers of rallies to obtain police permission in advance. Police have the authority to deny permission on public safety or security grounds or if the permit seeker belongs to an unregistered organization or political party. During the year authorities arrested citizens for assembling without the appropriate permit. For example, according to the June 25 edition of the Msemakweli newspaper, policemen in Rukwa Region forcibly dispersed preachers from different regions for congregating and preaching without a permit.

There were no reports that the Government prevented opposition parties from holding rallies during the year on the mainland; however, in May authorities in Zanzibar denied the CUF a permit to hold a demonstration and march to protest the Zanzibar speaker's demands that he review the questions of the opposition before they present them in the Zanzibar House of Representatives. Authorities did not authorize the march but permitted a public demonstration.

Unlike in 2005, when security forces on several occasions interfered with citizens' rights to assemble peacefully, particularly for political rallies or demonstrations, there were no reports of such interference during the year.

In October the Government removed a ban on demonstrations by Uamsho (also known as the Islamic Revival or Center for Islamic Propagation), an umbrella organization for conservative Muslim organizations. Uamsho asked for police protection during a demonstration to protest events in Iraq and the Government granted that request (see Section 2.c.).

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice, although the Government continued to impose registration requirements on political parties. Unregistered parties were prohibited from fielding candidates during the 2005 elections, but in the absence of elections during the year this restriction was not employed.

The registrar of political parties has sole authority to approve or deny the registration of any political party and is responsible for enforcing regulations on registered parties. Under the law citizens may not form new political parties spontaneously but must comply with certain requirements to register them with the office of the registrar.

Parties granted provisional registration may hold public meetings and recruit members. To secure full registration and to be eligible to field candidates for election, provisionally-registered parties have six months to submit lists of at least 200 members in 10 of the country's 26 regions, including two of the five regions of Zanzibar.

During the year the Government continued to implement a legal requirement that all NGOs register with a government-appointed NGO Coordination Unit (see Section

4). Failure to register or meet any of the act's other requirements is a criminal offense.

In May Union government authorities and Zanzibar officials agreed that the quasi governmental human rights commission that operated on the mainland would be permitted to operate in Zanzibar following amendments to the mainland human rights and good governance law. The sides agreed that the Zanzibar minister for good governance would be allowed to present any findings of human rights violations in Zanzibar to the Zanzibar House of Representatives rather than to the Union parliament, and that the mainland minister for human rights and good governance would consult with his Zanzibar counterpart before making any regulations that affected Zanzibar.

*c. Freedom of Religion.*—The constitution provides for freedom of religion; however, there were some limits on freedom of religion.

The Government requires that religious organizations register with the registrar of the Ministry of Home Affairs. To register, a religious organization must have at least 10 followers and must present a constitution, the resumes of its leaders, and a letter of recommendation from the district commissioner of the locale where the organization would be based. Muslim groups on the mainland also were required to submit a letter of recommendation from BAKWATA, the council that governs matters of Islam on the mainland, and the office of the mufti in Zanzibar. These organizations recommend approval or disapproval of the registration to the chief government registrar. There were no reports that the Government refused to register any group during the year on the mainland; however, in Zanzibar the mufti recommended the denial of two groups, an Ahmadia group and a Baha'i group, because of alleged contradictions between their beliefs and Islamic beliefs. The Ahmadia group filed suit against the office of the mufti because of this recommendation and the case was pending at the end of the year.

The law prohibits preaching, or distributing materials, considered inflammatory or a threat the public order. During the year the Government occasionally rejected requests from religious groups seeking to hold demonstrations because of the possibility that the gathering could become confrontational or inflame religious tensions.

On August 22, the Kigoma District Court banned Christian minister Cecil Simbulanga from "inflammatory preaching" that insulted Islam; Simbulanga subsequently was released on bail. On October 16, the court allowed Simbulanga to preach provided he make no more anti-Islamic statements. On December 22, Simbulanga again was arrested and taken to court for insulting Islam while preaching; he was denied bail and remained in detention at year's end.

The media reported in June that a group of preachers from different regions were chased away by policemen in Rukwa Region for congregating and preaching without a permit (see Section 2.a.).

There was no further information about two Christian women who were arrested in Dar es Salaam in August 2005 and charged with burning a copy of the Koran.

In September the Zanzibar government dropped charges against two leaders of Uamsho who were charged in 2004 with demonstrating without a permit.

A government ban, in the form of an administrative order, prohibiting religious organizations from engaging in politics remained in effect. In addition politicians were prohibited by law from using language intended to incite one religious group against another, or to encourage religious groups to vote for certain political parties. The law imposes fines and jail time on political parties that campaign in houses of worship or educational facilities. However, in 2005 several religious leaders sought involvement in politics, and authorities did not impose sanctions.

Government policy forbids discrimination against any individual on the basis of religious beliefs or practices; however, Muslim groups continued to charge that the Government discriminated against them in government hiring, education, and law enforcement practices, while Christian groups complained that the Government gave all of the sensitive government positions to Muslims. On June 27, following the newly elected President's nomination of Muslims to many key positions, Catholic bishops issued a statement urging him to avoid bias in government appointments. Muslim representatives appealed to the Government to introduce kadhi courts and Shari'a law to the mainland for the adjudication of Islamic matters. Christian groups warned that such courts would violate government neutrality among religions and that the Union constitution did not provide for a national kadhi court. Muslim clerics, including the chief mufti of BAKWATA, urged Christians not to interfere in matters that concerned the Muslim community.

In June Catholic bishops asked the President for government intervention in what they described as an infringement of the freedom of worship in the form of "rampant slanderous religious public addresses" that could easily spark religious tension and breach of the peace. The President responded that since the state was secular, the

Government would not take sides regarding allegations of blasphemy. However, he also warned the public against misusing their freedom of worship.

In Zanzibar a “mufti law” authorizes the President of Zanzibar to appoint an Islamic leader, or mufti, of Zanzibar, who serves as a public employee of the Zanzibar government. The mufti must approve the registration of Islamic societies and supervise Zanzibari mosques. Some Muslim groups asserted that the law gives the Zanzibar government undue influence in religious affairs.

*Societal Abuses and Discrimination.*—Although relations among religions in society remained generally amicable, there was some tension between Muslims and Christians and one report of religious societal violence. A church in the Temeke district of Dar es Salaam was burned on February 12, a few days after robbers had ransacked it. There were no reports of progress in apprehending individuals who burned down a Catholic church in the Mikese district of Morogoro Region in April 2005 or of young Muslim men who beat a pastor and a deacon in Dar es Salaam in September 2005. Also in September 2005, Muslim youths entered a primary school in the Temeke district of Dar es Salaam and beat a group of religious teachers for teaching Muslim students about Christianity.

In 2005 there were reports that at certain Muslim religious rallies in urban centers, some participants publicly criticized Christianity, which, on occasion, resulted in fighting.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them; however, bureaucratic inefficiency and corruption hindered compliance, and respect for the right of asylum continued to suffer occasional lapses.

Police at checkpoints sometimes solicited bribes.

Passports for foreign travel were difficult to obtain at times, mostly due to bureaucratic inefficiency and official demands for bribes; however, the waiting time averaged only three days.

The law does not permit the forced exile of citizens, and the Government did not use forced exile in practice.

After the October 2005 Presidential election in Zanzibar, approximately 100 Zanzibaris claiming to be members of the CUF fled to Kenya, reportedly for fear of persecution by pro-CCM government forces. The CUF denied that they were members and indicated it knew nothing of the fate of the Zanzibaris.

Unlike in previous years there were no charges that the director of immigration used the citizenship law to reject citizenship for reasons of personal prejudice.

In April the Government issued a passport to Ali Nabwa, the managing editor of the defunct Zanzibar newspaper, *Dira*; however, the Government did not restore his citizenship. Ali Nabwa had been deprived of citizenship in 2004 for publishing articles critical of government officials and also for exposing corruption in the Government. In August the Zanzibar immigration department notified Nabwa that because he was “not a Tanzanian citizen” and was persona non grata in Zanzibar, he should pay \$400 (510,000 shillings) for a temporary residence permit or \$600 (765,000 shillings) for a permanent residence permit. Nabwa disregarded the Zanzibar notification, asserting that the Union-level Ministry of Home Affairs had the final say regarding citizenship. However, at year’s end he had not received official notification about the status of his citizenship.

*Protection of Refugees.*—The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, however, the Government did not provide protection against refoulement, the return of persons to a country where they feared persecution. The Government deported more than 1,700 Burundians and 15,000 Rwandans identified as illegal immigrants, and did not cooperate with the UNHCR to ensure that none held valid refugee status. On occasion the Government also failed to inform the UNHCR about the arrival of new asylum seekers and did not allow the UNHCR to be present at border screenings for refugees. During the year the Government occasionally refused entry to those seeking asylum or refugee status at the border and failed to conduct timely refugee status determinations.

At year’s end there were approximately 685,000 refugees in the country, primarily from Burundi and the Democratic Republic of the Congo (DRC), including approximately 285,000 in 14 UNHCR-assisted camps in the northwest. An estimated 400,000 were in self-sufficient refugee settlements or villages. There also were ap-

proximately 2,700 Somalis who lived in a coastal settlement camp and received some UNHCR assistance.

It remained illegal for refugees to live outside their camps or settlements, or to travel outside of their camps without permits, although they were permitted to collect firewood within two and a half miles of their camps. Refugees often traveled more than five miles outside of their camps to collect firewood because closer supplies were inadequate. These refugees, usually women and children, often were targets for theft, physical abuse, and rape. During the year such incidents decreased after officials urged refugees to travel in groups; only one rape was reported between October and December.

Refugees apprehended outside the designated areas without permits, particularly in urban areas such as Dar es Salaam, were subject to arrest and imprisonment for up to six months or made to pay a fine of approximately \$39 (50,000 shillings). During the year approximately 1,000 refugees and asylum seekers found outside camps without permits were prosecuted for unlawful presence. The Government softened its approach to minor infractions by refugees, prosecuting them under the law dealing with refugees, which calls for up to three days' detention or community service, or both; the immigration law calls for two years' imprisonment followed by deportation to the countries from which they sought refuge.

The UNHCR, with government cooperation, continued to provide security for refugees; however, crime—including killings, robberies, rapes, and domestic violence—continued to be a serious problem in and around the refugee camps. During the year the Government investigated, prosecuted, and punished perpetrators of abuses in the refugee camps but many cases involving crime and abuse outside the camps were referred to local authorities. Inhabitants of refugee camps were adversely affected by delays and limited access to courts, common problems facing citizens as well. There were reports that some refugees engaged in vigilante justice within camps, occasionally beating other refugees. Unlike in 2005 there were no reports that police based in refugee camps sexually exploited female refugees or that women and children engaged in prostitution in the refugee camps.

Burundian and Congolese refugees continued to return home, motivated by increased security in Burundi and the DRC as well as strong encouragement from the Government and UNHCR assistance. On June 20, a tripartite commission composed of the UNHCR and the Governments of Tanzania and Burundi announced that beginning in September, it would “promote,” rather than simply “facilitate,” voluntary repatriation to Burundi. More than 40,000 Burundian refugees returned home during the year. The UNHCR continued to facilitate voluntary repatriation of refugees to the DRC, and more than 20,000 returned during the year. The majority of returns were voluntary; however, some refugees returned under the perceived threat of refolement or restrictions on their activities in Tanzania. For example, during the year the Kibondo district commissioner continued to visit camps and urge refugees to return home. The restriction of refugees to their camps also encouraged repatriation.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in elections on the mainland and in Zanzibar. However, legal and financial provisions that favored the ruling CCM party, electoral irregularities, and political violence limited the effectiveness of the electoral process in Zanzibar.

*Elections and Political Participation.*—Separate elections are held on the mainland and on Zanzibar, although sometimes on the same day, in which citizens of the two parts of the Union elect local officials, members of the National Parliament, and a Union (national) President. In addition Zanzibaris elect a President of Zanzibar and members of the Zanzibar House of Representatives in polls that are not open to mainlanders.

In December 2005 Jakaya Kikwete, the CCM candidate, was elected President of the Union with 80.2 percent of the vote in an election widely considered by observers as more free and fair than previous elections; however, the campaigns preceding them were marked by violence in some regions. In National Assembly elections, the CCM won 206 out of 233 elected seats in the Union parliament, while the CUF won 19.

In October 2005 voters in the semi-autonomous archipelago of Zanzibar elected a President, legislators, and local representatives for the archipelago. CCM candidate Amani Karume, the incumbent President, won the Zanzibari presidency with 53 percent of the vote in an election marred by irregularities and violence.

Harassment of political parties was considerably diminished during the year in comparison with the election year of 2005.

In Zanzibar, particularly on the island of Pemba, political opposition members claimed that the Government discriminated against them in hiring. The Government was the largest employer in Zanzibar.

On February 6, Lucas Omahe Galani was sentenced to 10 years in prison for assaulting CCM Presidential candidate Jakaya Kikwete during a rally in Mwanza.

In June a court dismissed for lack of evidence the case against at least 46 supporters of the CUF accused in 2005 of instigating election-related violence in the Donge constituency of the Zanzibar North Region.

Unlike in 2005 there were no reports that the Government restricted political opponents by denying their permit requests to hold rallies or by harassing them and detaining them for short periods of time.

Individuals and parties could freely declare their candidacy and stand for election; however, there were government restrictions on political candidates. The law prohibits persons from running for office unless they are representing a registered political party; it requires all registered political parties to support the Union with Zanzibar, and it prohibits parties based on ethnic, regional, or religious affiliation.

CCM's candidates have been elected repeatedly since the country's first multiparty election. Its political dominance has been due partly to government restrictions on the political opposition, and also to the disorganization and lack of funding of most opposition parties. In addition the election law provides for parliamentarians completing a term to receive \$15,686 (20 million shillings) as a "gratuity," which incumbents used in campaigns to facilitate their reelection. Several NGOs and opposition parties criticized this provision, saying that it made it extremely difficult for aspiring parliamentary candidates from the opposition parties to mount an effective and fair competition. CCM supporters, however, blamed opposition parties for fielding unknown candidates during election periods instead of building grass-root support and for concentrating on urban instead of rural areas where the majority of voters reside.

The law requires that women occupy at least 30 percent of seats in parliament. Women are appointed by their respective political parties to serve in seats set aside for them, according to the number of seats their parties win. After the 2005 elections there were 75 special seats for women. At year's end there were 91 women in the 320-seat parliament. Women occupied 18 seats in the 81-seat Zanzibar House of Representatives and held four positions in the cabinet of the Zanzibar government. After taking office in December 2005, President Kikwete appointed seven female government ministers (compared with four in the former administration) and 10 female deputy ministers. Some of these women were appointed to head key ministries such as the ministries of foreign affairs, finance, and justice. During the year at least seven women served as judges of the High Court and one woman served as a justice of the Union Court of Appeal.

There were 11 ministers of Asian origin in the 320-seat National Assembly.

*Government Corruption and Transparency.*—Despite improvements in the past decade, corruption remained a pervasive problem throughout the Government. There was a strong public perception of corruption in the executive and legislative branches. In 2005 the Ministry of Finance estimated that 20 percent of the Government's budget in each fiscal year was lost to corruption, including theft, fraud, and fake purchasing transactions. Corruption was especially pervasive during the election campaign in 2005.

There was little accountability in most government entities. According to the controller auditor general's annual report for 2004, the Ministry of Health could not account for more than half of its budget for that year.

In April findings published by Research on Poverty Alleviation indicated that 62 percent of respondents felt that the Government was doing fairly well in handling corruption. Public perception of the extent of corruption among public officials, while remaining high, declined noticeably. For example, the percentage of police being perceived as involved in corrupt practices dropped from 80 percent to 72 percent and that of elected officials from 58 percent to 38 in the past two years.

Transparency International reported in its 2005 Corruption Perceptions Index that citizens perceived slightly less corruption than in 2004 but considered corruption to be a "severe" problem. The country's rating did not change from 2005. The Global Integrity Report issued during the year, based on the research of more than 200 journalists, rated the country "very weak" overall with poor performance in areas ranging from anticorruption to government accountability.

Under a Presidential directive, authorities took steps to improve accountability in government during the year. For example, the Ministry of Lands and Human Settlement revoked longstanding rights of occupancy (the nearest thing to land owner-

ship; all land in the country is owned by the state) which had not been developed for a long time, including that of one of its own junior ministers.

In August the President directed that a review of the financial rules and regulations of both central government and local authorities be conducted to facilitate the prosecution of officials who embezzled public funds. The President underscored the unacceptability of the common practice of charging those responsible for embezzlement of public funds with misdemeanor “misconduct,” rather than with the criminal offense of embezzlement.

On April 25, the High Court outlawed the practice of *takrima*, the use of hospitality, gifts, and favors to constituents during election campaigns. The court issued its decision in connection with a lawsuit against the practice brought by the Legal and Human Rights Center, a local NGO. During a debate on the issue in 2005 and early in the year members of the political opposition, and legal experts said that the law authorizing *takrima* provided a significant “loophole for corruption,” and favored the ruling CCM, which had the greatest access to government subsidies.

The Government continued to use specialized agencies to fight corruption during the year but their effectiveness was limited. A Good Governance Coordination Unit was charged with implementing anticorruption legislation, coordinating anticorruption efforts, and collecting information from all the ministries for publication in quarterly reports; however, this three-person unit continued to be severely under-resourced.

On the mainland the Prevention of Corruption Bureau (PCB) was responsible for investigating cases of corruption and referring them to the courts for prosecution. The PCB did not operate on Zanzibar and remained under the authority of the office of the President, factors which hindered its ability to resist political pressures and prosecute high-level corruption cases. During the year the PCB continued to refer cases of major corruption to the director of public prosecution (DPP); however, the prosecution of corruption cases remained slow and inefficient. By year’s end approximately 5 percent of corruption cases reported to the PCB’s regional offices during the five years ending in December 2004 had been heard by a court of law. In November President Kikwete appointed a new director general of the PCB, who indicated that the DPP continued to refer approximately two cases in 10 to the court for prosecution.

According to PCB most corruption-related complaints involved mining, land matters, energy, and investment. The director general indicated toward the end of the year that the PCB was investigating 20 percent more corruption cases than during the previous year, including cases involving alleged corruption in the public sector.

NGOs reported that most allegations of corruption involved the Tanzania Revenue Authority, local government officials, licensing authorities, hospital workers, and the media. There were no cases of prosecution of high-level government officials during the year.

The case of a top administrator of Zanzibar’s Joint Presidential Supervisory Commission accused of embezzling donor funding in 2004 remained pending at year’s end.

Authorities in Zanzibar continued to resist efforts by the Union government to open an office of its ethics secretariat in Zanzibar to investigate corruption there. An office of the Commission for Human Rights and Good Governance did exist in Zanzibar but did not have a permit from the Zanzibar government to investigate corruption cases. The British newspaper, the *Guardian*, reported on December 30 that the Zanzibar cabinet refused to endorse a bill that would have established an anticorruption body, instituted a code of ethics for Zanzibar leaders, required leaders to declare their wealth within one month of being appointed or elected to office, and outlawed *takrima* in Zanzibar during elections. The article quoted the deputy attorney general of Zanzibar saying that the ministers had found the bill poorly drafted.

The Commission for Human Rights and Good Governance, which already had an office in Zanzibar, was given the right to operate there during the year (see Section 2.b).

Access to government information remains very limited. A 2005 constitutional amendment to provide public access to information has not apparently altered this situation—the act does not explicitly mention government information. Government officials estimated that 90 percent of all government documents, including administrative forms, were classified. According to access-to-information advocates, laws relating to national security, broadcasting, newspapers, prisons, restricted areas, official secrets, and police blocked public access to government information (see Section 2.a.). There was no mechanism for appealing denials, and many citizens continued to call for the amendment of these laws.

Parliament continued to use the Parliamentary Online Information System (POLIS) to increase access to government information. However, POLIS' reach remained limited, since only approximately 300,000 of the country's 37 million citizens had Internet access.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to the views of NGOs; however, human rights organizations reported that authorities did not respond, or were slow to respond, to requests for information. The Government of Zanzibar reportedly regarded NGOs as anti-government by nature.

Although many parliamentarians harbored mistrust towards NGOs and believed they existed solely to make money, their attitude warmed considerably under the administration of President Kikwete, according to independent observers. Female parliamentarians were particularly aware of NGO activities in delivering services at the grassroots level. The new speaker of the National Assembly gave NGOs greater access to parliament during the year; however, cooperation between parliamentarians and NGOs in policy formulation, monitoring, and evaluation of public policy remained weak.

Active domestic human rights NGOs included the Center for Human Rights Promotion, the Legal and Human Rights Centre, Tanzania Media Women's Association, and Tanzania Women Lawyers' Association. There were also many smaller local human rights NGOs based outside of Dar es Salaam. The Zanzibar Legal Services Center was one of the few active human rights organizations in Zanzibar. All of these organizations were independent of the Government.

Government representatives met with domestic human rights NGOs and participated in training seminars on subjects including international humanitarian law, female genital mutilation, child labor, trafficking in persons, and women's rights.

The 2002 NGO Act, which does not apply to Zanzibar, requires all NGOs to register with a government-appointed NGO coordination unit within the vice President's office. From February 2005 through December 2006, more than 1,000 NGOs (some new and some pre-existing) registered with the NGO Coordination Unit under the act.

The Zanzibar government also supported some NGO activity, but was less tolerant of NGOs that criticized the Government. Despite repeated applications for registration, the African Human Rights and Justice Protection Network had not been registered by year's end.

On the mainland, in April, the educational NGO Haki Elimu, which had been prohibited from publishing articles or studies on schools, resumed operations under new conditions set by the Ministry of Education and Vocational Training. Haki Elimu agreed that they would no longer visit schools or publish articles or studies on the country's education system. Haki Elimu continued its activities in such areas as advocacy, facilitation of investigative journalism, and community organizing.

There were no developments in the 2004 killing of an NGO worker in Ngara district by unidentified armed assailants, and there were no reports that the authorities were actively pursuing the case (see Section 1.a.).

Relations between the Government and the UNHCR, which maintained a sizable presence for the operation of the country's 13 refugee camps, were occasionally strained (see Section 2.d.). One difficulty that arose during the year was the expulsion of more than 5,000 illegal immigrants from the western part of the country to Rwanda. Perceptions among some of the press and public were that the expelled immigrants were refugees, causing concern on both sides of the border among relief agencies, including the UNHCR.

The Commission for Human Rights and Good Governance operated independently without government interference. It enjoyed government cooperation on the mainland and received the right to be active in Zanzibar. The commission employed more than 160 individuals and operated with a budget of approximately \$2.4 million (3.1 billion shillings), an increase from its 2005 budget of approximately \$2.1 million (2.7 billion shillings). However, it remained underfunded, understaffed, and overburdened by a caseload of unresolved complaints. The commission received additional complaints as a result of awareness campaigns conducted through the media. Through June 20, the commission received 14,487 complaints and made recommendations to the Government regarding 8,627. The commission categorized 1.8 percent of the complaints as human rights violations and most of the rest as related to maladministration by the Government. At year's end the commission was in the

process of introducing a computerized case management system to improve the process.

In September the commission published a report on prison conditions and outlined recommendations for improvement by the Government (see Section 1.c.).

Although the 2001 legislation that created the commission authorized it to operate in both the mainland and Zanzibar, Zanzibar authorities prevented it from doing so until a parliamentary amendment was enacted in October (see Section 3).

The Union parliamentary committee for constitutional, legal, and public administration is responsible for reporting and making recommendations regarding human rights. The majority of committee members were from the ruling CCM party, reflecting that party's more than two-thirds majority. Nevertheless the committee acted independently of government and political party influence and many observers viewed it as a critic of the Government.

The Government continued to host the International Criminal Tribunal for Rwanda War Crimes (ICTR) in Arusha, and the Government was supportive of, and cooperated with, the ICTR.

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

The constitution prohibits discrimination based on nationality, ethnicity, political affiliation, race, or religion; however, the Government did not always effectively enforce these prohibitions. Discrimination based on gender, age, or disability was not prohibited specifically by law but was discouraged publicly in official statements and by government policies. Discrimination against women, refugees, minorities, and persons with HIV/AIDS persisted, and societal ethnic tensions continued to be a problem in some parts of the country.

*Women.*—Domestic violence against women remained widespread. The law prohibits assault but does not specifically prohibit spousal battery. Cultural, family, and social pressures often prevented women from reporting abuses, and authorities rarely took action against physical abusers of women. Police were often unwilling to pursue domestic abuse cases. For example, in December Agnes Mbuyamajuu, a woman who endured severe beatings for more than five years from her husband, told reporters that the beatings endangered her life, but that police had not taken her complaints seriously.

Traditional customs that subordinate women remained strong in both urban and rural areas, and at times magistrates in rural areas upheld such practices. Abuse was not limited to spousal abuse. An April survey by the World Health Organization reported that approximately 25 percent of the women interviewed had been subjected to nonpartner physical violence since the age of 15, and one in 10 experienced sexual violence since the age of 15. About one in 10 reported sexual abuse before age 15.

Society considered wife-beating to be an acceptable practice. Some women were punished by their husbands for not bearing children. The courts recognized domestic violence as grounds for divorce, and women who sought advice from mainland legal aid clinics most commonly cited domestic abuse as the reason for wanting a divorce. Generally, women tolerated prolonged domestic abuse before seeking a divorce.

In May Sooi Sadira, a 12-year-girl from Saitsambu village in Ngorongoro District, was killed by her father after she refused an arranged marriage with a 30-year-old man. Sadira stayed with her new husband for one night. After she was raped, she fled to her home where her father organized a team of youths to beat her with bundles of sticks. According to the Arusha regional police commander, Sooi's father, Sadira Ole Karenmbu, and another suspect, Basilio Matei, remained at large. In December two local NGOs organized a 300-person demonstration to condemn the killing.

The law provides for life imprisonment for persons convicted of rape; however, rape continued to be a serious problem. During the year several persons were prosecuted and convicted for rape and battery under the law. Sexual and gender-based violence continued to be a problem in the refugee camps (see Section 2.d.).

No information on the prevalence of rape was available, but only an estimated 5 percent of rape cases resulted in court proceedings. According to a Zanzibar high court judge, cases are at times dismissed due to lack of evidence. Some police reportedly advised rape victims to clean themselves before going to hospitals for examinations, which contributed to the removal of important evidence. During the year Zanzibar's main island, Ugunja, had only one hospital that conducted post-rape examinations. This hospital was private, and the law requires post-rape examinations to be conducted at government hospitals. In addition, since rape victims had to wait for as long as six days for examinations, much crucial evidence was lost. The only public hospital on Pemba Island continued its practice of conducting post-rape ex-



aminations only once a week. Rape and sexual abuse of girls and women with disabilities reportedly was prevalent during the year.

The law prohibits female genital mutilation (FGM), also known as female circumcision; however, it was fairly widespread. The law provides that anyone who has custody, charge, or care of a girl under 18 and who causes her to undergo FGM, commits the offense of cruelty to children.

A Ministry of Health report released in December indicated that the percentage of women and girls who underwent FGM declined from 18 percent in 1995 to 15 percent in 2005. Other data suggested that, while the prevalence of the procedure was declining, the average age of victims had decreased to less than 10 years, with some newborns reportedly undergoing FGM. In Singida Region FGM was often performed on infants when they became sick with malaria or other diseases so that any deleterious effects resulting from the procedure would not raise suspicion among neighbors and relatives. FGM was practiced by approximately 20 of the country's 130 tribes and was most prevalent in 11 mainland regions, including Arusha, Singida, Kilimanjaro, Morogoro, and Dar es Salaam. In the rest of the country, fewer than 5 percent of the population practiced FGM. Most frequently employed was clitoridectomy, the least severe form of FGM; however, infibulation, the most severe form of mutilation, was also practiced, mainly in the northern highlands and the central zone.

Penalties for practicing FGM on females under 18 were from five to 15 years' imprisonment, a fine not exceeding \$235 (300,000 shillings), or both. The law also provides for the payment of compensation by the perpetrator to the person against whom the offense was committed. The law does not establish a minimum fine and does not provide legal protection for women 18 years of age or older. Many observers believed that the law mainly targets the parents or relatives of the victim; it was not widely perceived to target the practitioners, or *ngaribas*, hired to perform FGM.

There were no reports of prosecutions related to FGM during the year. There were no further developments in the two FGM-related arrests and prosecutions initiated in 2005. Enforcement of the anti-FGM law was difficult for a number of reasons: many police officers and many communities were not aware of the law; police did not have adequate resources to protect victims; and victims were often reluctant to testify against family members and neighbors who forced them to undergo FGM. Some witnesses feared reprisals from supporters of FGM.

Corruption also made it difficult to enforce the anti-FGM law. Some villagers reportedly have given local leaders sums as great as \$235 (300,000 shillings) to be allowed to have their daughters circumcised without fear of arrest or prosecution. In addition courts dismissed most cases under the pretense of lack of evidence, often despite strong evidence from the victims and even confessions from their parents, guardians, or the FGM practitioners.

The Government continued to implement the 2001–15 national plan of action for the prevention and eradication of violence against women and children, a strategy which included the elimination of FGM by involving the practitioners, community leaders, men, and women. Anti-FGM groups urged parliamentarians and local government officials to take a greater role in enforcement, although parliamentarians have no enforcement capabilities.

During the year the Government and NGOs continued to make some progress in reducing the practice of FGM. During the year the Anti-Female Genital Mutilation Network and a coalition of anti-FGM NGOs engaged in awareness-raising activities and conducted research on FGM. During the year anti-FGM groups continued to sensitize the *ngaribas* about the harmful effects of FGM and to train them for other occupations.

Reducing the practice of FGM remained difficult because some regional government officials favored or profited from the practice or feared speaking out against it because of the perceived political consequences of opposing FGM and the power of traditional leaders who supported FGM. Some communities that were aware of the law prohibiting FGM viewed it as an unjust threat to a cultural tradition. A lack of medical information on the harmful and long-term health effects of FGM remained a problem. Many communities believed FGM increased fertility, reduced sexual desires leading to prostitution, and reduced infant mortality. Many fathers believed they would receive higher bride prices for daughters who had undergone FGM. In addition *ngaribas* relied on the practice for income.

The law prohibits prostitution; however, prostitution, including child prostitution, remained common. Poor rural women and young girls immigrating to urban areas were most at risk. In 2005 there were reports that female refugees engaged in prostitution. There were no reports on this problem during the year.

The law prohibits sexual harassment of women in the workplace. The extent of the problem was unknown.

The law provides for equality of women; however, inheritance and marriage laws do not consistently provide full equality, and in practice women's rights often were not respected. The Ministry of Community Development, Women, and Children, and the Ministry of Justice were responsible for protecting the legal rights of women. Women generally were not discouraged from seeking employment outside the home. Discrimination against women was most acute in rural areas, where women were relegated to farming and raising children and had almost no opportunity for wage employment.

The country's immigration laws do not recognize that a man can be a dependent, making it difficult for the foreign husband of a female citizen to obtain a residency permit, and since the Government does not recognize dual citizenship, a female citizen who marries a foreign man may have difficulty residing legally in the country, and, in practice, may be forced to give up her own citizenship. This was increasingly a problem in the refugee camps for Tanzanian women who married Burundian men who did not qualify for residence permits because of their refugee status.

The law gives individuals the right to use, transfer, and own land without distinction of gender and recognizes women's occupancy rights. Civil society activists reported widespread discrimination against women in property matters related to inheritance and divorce. This was particularly the case in Zanzibar and parts of the mainland where judges made concessions to customary and Islamic law. Women whose unions had not been legalized under customary, Hindu, Muslim, Christian, or civil marriage laws were particularly vulnerable when they separated from their partners or their partners died. Zawadiel Mchome, the Singida regional administrative secretary, stated in 2005 that robbing widows of property left by their husbands had become common in the region.

Under Zanzibar law, unmarried women under the age of 21 who become pregnant are subject to two years' imprisonment (see Section 1.f.).

Several NGOs organized workshops and seminars, and some ran legal aid clinics, addressing a wide range of women's rights issues.

*Children.*—The Government continued its commitment to children's rights and welfare during the year. The Government made some constructive efforts to address children's welfare, including close cooperation with the UN Children's Fund (UNICEF) and other international and local organizations to improve the well-being of neglected children and of the country's estimated two million orphans.

The law provides for seven years of compulsory education, through the age of 15. Primary education was compulsory, free, and universal on both the mainland and Zanzibar; however, there were inadequate numbers of schools, teachers, books, and other educational materials to meet the demand.

During the year fees continued to be charged for enrollment beyond form two, the equivalent of the second year of high school. As a result, some children were left without access to secondary education; however, in 2005 the Government reduced school fees by half and provided subsidies to cover the remaining fees through a secondary school development program. In many cases parents had to pay for books, uniforms, and school lunches, and some children were unable to attend school because poorly paid teachers demanded money to enroll them or because teachers were absent.

The ratio of boys to girls in primary and secondary school was nearly equal. The net primary school enrollment rate was 86 percent, 87 percent for boys and 85 percent for girls. In a few regions the rate of enrollment in school for girls generally declined with each additional year of schooling, largely because girls often had to care for younger siblings, do household work, and enter early marriages, often at the behest of parents. The practice of forcing pregnant girls out of school continued.

Overall school completion rates were the same for boys and girls: 56 percent for primary school and 33 percent for secondary.

Child sexual abuse remained a problem, and there were many convictions during the year; most persons convicted for the sexual abuse of children were given the maximum sentence of 30 years' imprisonment.

Corporal punishment in schools was a problem. In September a school teacher, Noel Namkumba of Msingi Mtonya School, was arrested and indicted for caning two students and kicking, beating and knocking out the front teeth of a third. Use of caning continued to decline during the year following public outreach efforts by the Government, particularly the Ministry of Education, and the press. However, the minister of education stated in May that stubborn students in primary and secondary schools would continue to be caned because caning was supported by law. The minister warned teachers not to cane students haphazardly or arbitrarily.

FGM was performed on girls (see Section 5, Women).

Under the law sexual intercourse with a child under 18 years is considered rape regardless of consent; however, the law was not effectively enforced. In an apparent

contradiction, family law provided for girls as young as 15 to be considered adults for the purposes of marriage and sexual intercourse. In order to marry, a girl under 18 is required to obtain the consent of her father, mother, or guardian. An orphaned girl with no guardian who desired to get married at 15, 16, or 17 needed no consent. The courts had discretion to allow the marriages of parties who were 14 years old if they were satisfied that there were special circumstances which made the proposed marriage desirable. Additionally, the law allows African-Asian girls to marry as young as 12 so long as the marriage is not consummated until the girl reaches the age of 15.

During the year the Government continued its efforts to enforce the law penalizing any person responsible for impregnating a schoolgirl.

The law criminalizes child prostitution; however, sexual exploitation and trafficking in persons, including children, were problems. (see Section 5, Trafficking).

In the regions of Iringa and Mbeya, there were reports that individuals practicing witchcraft killed children and school students, allegedly to remove and sell body parts and skin. In 2005 there were at least three convictions related to this practice.

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

Male and female infanticide continued to be a problem. In June the bodies of 22 infants were discovered at dumping sites in Arusha. Police conducted autopsy reports that revealed that the babies died of suffocation. The Arusha regional police commander said his office was committed to tracking down those responsible for infanticide. There were no reported prosecutions for this offense during the year.

The large number of orphans in the country continued to be a problem. In 2005 UNICEF estimated there were two million orphans, most of them orphaned by AIDS. An International Labor Organization (ILO) report released during the year estimated the number at 2.5 million. In the refugee camps, orphans were generally absorbed into other families, and those who were not absorbed generally qualified as extremely vulnerable individuals and received additional support and counseling. There were significant numbers of street children in both Dar es Salaam and Arusha. Street children had limited access to health and education services because they lacked a fixed address and money to purchase medicines, school uniforms, and books. They were also vulnerable to sexual abuse by older street children and homeless persons.

*Trafficking in Persons.*—The law does not prohibit all forms of trafficking, and there were reports that the country was a country of origin, transit, and destination for women and girls trafficked for forced labor and sexual exploitation and, to a lesser extent, boys trafficked for forced labor. Victims were lured by the promise of an income, the opportunity to attend school and better living conditions, especially from rural to urban areas.

It was impossible to quantify the incidence of trafficking during the year, but the practice existed in many regions of the country. Most victims were trafficked internally; boys were trafficked for exploitative work on farms, in mines, and in the large informal sector, while girls from rural areas were trafficked to the towns for involuntary domestic labor. Many of these youths fled abusive employers and turned to prostitution for survival. Most victims came from the regions of Iringa, Mwanza, Dodoma Kigoma, Dar es Salaam, and Arusha. Girls were reportedly trafficked to South Africa, Saudi Arabia, the United Kingdom, and possibly other European countries for forced domestic labor. Indian women—who entered the country legally to work as musicians, singers, and dancers in restaurants and nightclubs—were at times exploited as prostitutes after arrival. On September 4, immigration officers deported five Indian women on arrival at the Dar es Salaam airport on suspicion that they were destined to work as dancers for some Mujira clubs. On Zanzibar some hotels sponsored girls for hotel work who then become bar maids or prostitutes; hotels were used by traffickers for prostitution activities.

Children in low-income families were at significant risk of being trafficked, and girls were more vulnerable than boys since girls were considered more of an economic burden on their families. Girls who completed primary school but did not enter secondary school were at particularly high risk. The country was also experiencing a boom in the number of child-headed households as more adults succumbed to HIV/AIDS-related disease and death, leaving their dependents at very high risk for child labor and trafficking.

Trafficking methods varied. Some trafficking victims left their homes with assistance from their family; some left on their own to escape life in rural areas; and some were transported by someone who had offered to help them find city work, legitimate or otherwise. There were reports that men recruited village girls who had completed primary school but were not entering secondary school. The men offered the girls money and employment and promised the girls a better life if they accompanied them to urban areas; however, these girls reportedly ended up in prostitu-

tion or domestic labor. Another method of trafficking involved low-income parents entrusting a child to wealthier relatives or respected members of the community who were charged with caring for the child as one of their own. Some persons took advantage of this traditional practice and placed the child in a situation where he or she was at risk of being exploited or abused. At times small-scale, freelance agents who recruited children from rural villages organized their placement and transport to households.

The constitution and law prohibits trafficking in persons and makes it punishable by 10 to 20 years' imprisonment or a fine of between approximately \$78 (100,000 shillings) and \$235 (300,000 shillings). The ministries of public security and safety, justice and constitutional affairs, foreign affairs, and home affairs shared responsibility for combating trafficking.

There were no reports of prosecutions for trafficking during the year. According to the Ministry of Home Affairs, two cases of trafficking were reported in 2005. No further developments on these cases were available at year's end.

The Government's antitrafficking enforcement efforts progressed during the year. More officials recognized the terms "trafficking in persons" and "human trafficking," and acknowledged that trafficking in persons was a problem. Authorities participated in research conducted by Research International and sponsored by the International Organization for Migration (IOM). It was designed to help determine the extent and magnitude of the trafficking problem. A few key officials in the Ministry of Foreign Affairs and the Ministry of Public Safety and Security continued active efforts to increase public awareness of the problem, encourage more effective legislation, and track prosecutions. Several officials gave interviews on the subject to the media.

The Ministry of Foreign Affairs coordinated an inter-ministerial committee on trafficking, which met three times during the year. The Ministry of Public Safety and Security established an anti-human-trafficking section within the criminal investigations division during the year. The Ministry of Health and Social Welfare, with foreign cooperation, developed a training manual for health workers who have direct contact with victims of trafficking.

There were isolated reports that some police officials accepted bribes to ignore commercial sexual exploitation.

During the year the Government continued to try to protect trafficking victims, but resources devoted to the effort were limited. Local police and officials from the Social Welfare Department identified and informally referred child trafficking victims to NGOs that worked with street children and child prostitutes, provided small donations of food and other goods to these NGOs, and identified land available for building new shelters. During the year the Government and NGOs conducted media campaigns to inform the public about the dangers of trafficking, and the Government continued its nationwide awareness campaign on the worst forms of child labor, such as prostitution and forced domestic labor.

The Government worked well with NGOs and complemented the work of the IOM. The IOM conducted psycho-social training on trafficking in June and held a two-day seminar for journalists in August on the role of media in preventing trafficking in persons. The IOM developed and distributed materials for a public campaign to raise awareness of trafficking throughout the country. During the year the Ministry of Labor conducted several seminars in different parts of the country on child labor.

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with disabilities, but there is no specific law to implement this provision. Although there was no official discrimination against persons with disabilities, persons with physical disabilities were effectively restricted in employment, education, access to health care and other state services by physical barriers and inadequate budget resources. The Government mandates access to public buildings, transportation, or government services for persons with disabilities through several pieces of legislation, such as the law that precludes the issuance of building permits for architectural structures that do not provide access for persons with disabilities. However, few buildings were accessible, not all structures required building permits, and the majority of buildings in the country were constructed before 1997, when this requirement came into force. Funds for retrofitting existing structures were not provided. The ministries of education, justice, and labor were responsible for enforcing the protection of rights of persons with disabilities for education, legal claims, and labor rights, respectively. The Department of Social Welfare had responsibility for coordinating disabilities matters. A few local NGOs also tried to highlight the plight of persons with disabilities in society. Resources were allocated during the year for a review of existing laws and procedures in this area (see Section 1.e.).

According to the NGO Disabled Aids and General Engineering (DAGE), most private commuter buses would not stop for persons with physical disabilities. DAGE

called on the Government to look into ways of helping the disabled community move about safely and conveniently in urban centers.

During the year the Ministry of Education continued to support the special fund created in 2005 to increase access to education, particularly by persons with disabilities and other disadvantaged members of the community.

There were reports that students with disabilities dropped out of school that lacked inadequate facilities. For example, the families of blind students were not able to provide them with expensive brail paper and tape recorders.

In September 2005 the Ministry of Education barred a local NGO, Haki Elimu, from undertaking or publishing any studies regarding government schools; in one of several television advertisements critical of the Government, the NGO highlighted the fact that government schools had no proper facilities for visually impaired students and students without limbs (see Section 4). The Government lifted the ban early in the year, but the NGO had to agree not to report on educational matters in the future.

In 2005 the ruling party CCM amended its election manifesto to allocate an extra seat in parliament for persons with disabilities, bringing to two the number of seats allocated to persons with disabilities. CCM decided that one such seat should be filled from Zanzibar and one from the mainland.

The law provides that a voter with a disability such as blindness may ask a person of his own choice—other than the poll workers—to assist in casting his vote.

There were incidences of rape and sexual abuse of girls and women with disabilities.

Cultural practices and beliefs in some areas contributed to feelings of discrimination among persons with disabilities.

For example, the NGO TRACED revealed that a family in Mafinga District in Iringa Region has been hiding a girl with severe disabilities for 15 years.

*National/Racial/Ethnic Minorities.*—There were no laws or official policies that discriminated against Asians or any other race; however, many African citizens viewed unfavorably the approximately 1.5 million Asians in the country, who continued to experience some societal discrimination. Citizens of Asian origin occupied key positions in government and were elected to parliament. High-ranking government officials continued to publicly emphasize on many occasions that they would not tolerate racist sentiments or bias of any kind. However, public concern regarding the Asian minority's prominent economic role persisted. In 2005, prior to the national elections, three small opposition parties emphasized that, if elected, they would "take back" control of the national wealth and resources from foreign investors and the Asian population, and would redistribute it to persons of African and Arab descent who the parties considered to be true Tanzanians. However these parties did not win any seats, and authorities have not pursued discriminatory policies.

There were isolated instances of tribal conflict over land or livestock. In September clashes reportedly took place between pastoralists and agriculturalists in Mbarali, which resulted in one death and left 12 injuries.

*Indigenous People.*—The Barabaig and other nomadic groups in the north continued to seek compensation for past government discrimination, which included government efforts to make them adopt a more modern lifestyle and efforts to restrict their access to pastoral lands that were turned into large government wheat farms. The authorities provided compensation to indigenous people who were relocated, but problems persisted.

*Other Societal Abuses and Discrimination.*—Homosexuality and lesbianism are illegal in the country. The law in Zanzibar establishes a penalty of up to 25 years' imprisonment for men who engage in homosexual relationships and seven years for women in lesbian relationships. There were no reports that anyone was punished under the law during the year.

Homosexuals faced societal discrimination, especially at the community level. In September Uamsho blocked a local restaurant's planned celebration of Freddie Mercury's birthday because the Zanzibar-born rock star was gay. The Tanzania Parliamentarians' AIDS Coalition addressed discrimination against persons infected with HIV/AIDS. However, there were reports that discrimination in housing, healthcare, and education continued to occur against the estimated 3.5 million persons in the country living with HIV/AIDS. There were isolated reports that private employers fired or did not hire persons based on the perception that they had HIV/AIDS. The Government, working with NGOs, continued to sensitize the public about HIV/AIDS-related discrimination and to create safeguards for HIV/AIDS patients' human rights. A network of lawyers, policy-makers, and doctors continued lobbying efforts and other activities to deal with legal, ethical, and human rights problem associated with HIV and AIDS.

### Section 6. Worker Rights

*a. The Right of Association.*—The law allows workers to form and join unions without prior authorization; however, in practice many private sector employers adopted antiunion policies or tactics that limited this right. Senior management employees may not belong to trade unions that also represent non-senior management employees.

By year's end labor legislation passed in 2004 was partly operational with the Labor, Economic, and Social Council established by that legislation in place. Efforts to launch the Commission for Mediation and Arbitration and the labor court were nearly complete at year's end; however, implementing regulations and institutions were still in progress.

The 2004 legislation, which applies to the mainland but not to Zanzibar, recognizes the organizational rights of trade unions and establishes a registration procedure for trade unions and employer associations. Only a trade union that has signed up more than 50 percent of a collective bargaining unit may bargain with the employer. A trade union or employers' association must register within six months of its establishment and failure to register is a criminal offense subject to sanctions imposed by the lower courts.

The 2004 laws are intended to strengthen the power of the registrar of organizations (appointed by the minister of labor) to regulate trade unions, employer organizations, and federations. It gives any authorized representative of a registered trade union access to employer's premises to recruit members, subject to any conditions that are reasonable and necessary to safeguard life or property or to prevent undue disruption of work. An employer is obliged to deduct union dues if the employee authorizes him to do so. If the employer fails to remit the dues within seven days of deducting them, he is liable to pay an additional 5 percent per day. A union field branch may be established at a work place with 10 or more trade union members, and an employer is obliged to grant reasonable leave for trade union representatives to attend training and for the reasonable activities and duties of trade union officers.

The Union and Zanzibar governments do not share the same labor laws, and they enforced them separately. The labor law of the mainland applies to both public and private sector workers. The mainland's law requires a trade union for employees to consist of at least 20 members.

The sole labor federation, the Trade Union Congress of Tanzania (TUCTA), had 317,000 members in 2005—less than 2 percent of the total workforce of 18 million. Approximately 27 percent of the workforce that is engaged in paid, "formal sector" employment was unionized. In the agricultural sector, which was the country's single largest employer, an estimated 5 to 8 percent of the work force was unionized.

Under the law a mainland-registered trade union is entitled to a number of representatives in the TUCTA based on the size of its membership. For organizations of 100 or more, a specified number of representatives, based on membership size, must be women if women are employed in the work unit.

On the mainland the law prohibits discriminatory activities by an employer against union members; however, there were several reports of antiunion discrimination in the formal private sector during the year. Employers found guilty of antiunion activities were required under the law to reinstate workers; however, the 1996 Warioba Commission, which was established to study corruption in the country, found that bribes often determined whether a worker dismissed from his job was actually reinstated.

Most labor unions reported that private sector employers, particularly those attracted to the country by privatization and economic reforms, practiced antiunion discrimination. Although the 2004 law prohibited such actions, some of these investors reportedly threatened to terminate or lay off employees who wanted to join trade unions and some employers did not allow unions to call for and hold recruitment meetings at their workplaces.

The labor law in Zanzibar applies only to private sector workers. Zanzibar workers were not allowed to join mainland-based labor unions. The Zanzibar labor law requires a union with 50 or more members to be registered and sets literacy standards for trade union officers.

The labor law in Zanzibar does not protect trade union members from antiunion discrimination, and there were several reports of such discrimination during the year.

*b. The Right To Organize and Bargain Collectively.*—The law provides for collective bargaining, and workers and employers practiced it freely during the year; however, the law does not apply to the public sector. The Government set wages admin-

istratively for employees of the Government and state-owned organizations, who constituted less than 5 percent of the work force.

In Zanzibar the law prohibits strikes. On the mainland workers have the legal right to strike after complying with certain legal requirements and cumbersome procedures.

On the mainland earlier legislation remained in effect pending the implementation of the 2004 Act. Under that legislation, a union that was not satisfied with a decision of the Industrial Court could conduct a legal strike if, in a vote taken in the presence of a government labor officer, a minimum of two-thirds of its members voted in favor of striking. Some labor rights observers said this requirement served as an intimidating factor to union members in the public sector. The mediation and conciliation procedures of the earlier legislation could prolong a dispute for months without resolving it.

On the mainland there were no laws prohibiting retribution against legal strikers, but retribution was not a problem.

Despite the rights conveyed in the 2004 legislation, some labor rights observers, such as the Legal and Human Rights Centre, raised concerns that language in the 2004 act may in practice make striking more difficult for workers in some sectors. The act restricts the right to strike when to do so would endanger the life and health of the population, a limitation that effectively increased by approximately 50 percent the number of workers that were considered "essential," and, therefore, not allowed to strike. Workers in certain sectors (water and sanitation, electricity, health services and associated laboratory services, firefighting, air traffic control, civil aviation telecommunications, and any transport services required for the provisions of these services) are restricted from striking and workers in other sectors may be deemed to be subject to this limitation either temporarily or permanently after a process involving investigation, notice, presentation, public hearing, and publication.

There are two export processing zones (EPZs) in Zanzibar and three on the mainland. Labor law protections applied to EPZ workers. EPZ working conditions on the mainland were comparable to those in other areas; however, in Zanzibar there were unconfirmed reports of labor abuses.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and the Employment and Labor Relations Act of 2004 specifically prohibits forced labor by children and closed loopholes in the constitutional ban on such labor. However, there continued to be reports that forced and compulsory labor by children occurred (see Sections 5 and 6.d.).

According to a 2004 survey of the Geita Gold Mine, 85 percent of workers interviewed reported they were forced to work overtime under the perceived threat of termination.

The law allows prisoners to work without pay on projects such as agriculture within the prison so that the prison could be self-sufficient. Prisoners were also used to provide forced labor on projects outside of the prison, such as road repair and government construction projects.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor remained a problem, compounded by HIV/AIDS. Data from 2000–01 (the latest available) indicated that 35.4 percent of children ages five to 14 were working. Legislation enacted in 2004 outlaws the exploitation of children in the workplace and prohibits forced or compulsory labor; however, at year's end, implementing regulations and institutions such as a Commission for Mediation were not in place, resulting in weak enforcement of child labor provisions. In 2005 the Government hired additional inspectors to improve enforcement once the law is fully operational. Nevertheless, child labor remained a problem.

Although enforcement remained weak, the Government implemented some measures to ameliorate the problem, including increasing the number of labor inspectors, ensuring that children of school age attend school, imposing penalties on parents who did not enroll their children in school, and sensitizing employers in the formal sector against employing children who are below the age of eighteen.

The law establishes the minimum age for contractual employment at 14 and provides that children may be employed only to do light work that is unlikely to be harmful to their health and development and does not prejudice their attendance at school. The law stipulates that children under 18 shall not crew on a ship or be employed in a mine, factory, or any other worksite where working conditions may be hazardous, including informal settings and agriculture.

The law establishes criminal penalties for employers of child labor as well as forced labor; violators can be fined an amount not exceeding \$3,921 (5 million shil-

lings), imprisonment for one year, or both. No penalties were imposed during the year.

In 2005 the ILO and UNICEF reported that children who left home to work as domestic laborers in other towns or villages were often subjected to commercial sexual exploitation. According to the Conservation Hotel, Domestic, and Allied Workers Union (CHODAWU) and the ILO, the majority of domestic child laborers were girls, mostly between the ages of 13 and 15. Most of them worked between 12 and 14 hours each day, seven days a week, without rest or extra compensation for the long hours worked; at times they worked under abusive conditions.

The ILO estimated that 3,000 to 5,000 children were engaged in seasonal employment on commercial farms, at times under hazardous conditions. In mining regions between 1,500 and 3,000 children worked in unregulated gemstone mines as “snake boys,” who worked with explosives and crawled through narrow tunnels to help position mining equipment. Children were also found working in such occupations as fisherman, barmaids, street vendors, car washers, and garbage scavengers. They also worked in semi-skilled crafts such as carpentry and auto repair. Girls as young as seven years old, and increasingly boys, were involved in prostitution within the country and were at times trafficked (see Section 5). Child labor was widespread in Zanzibar; children were used in fishing, clove picking, domestic labor, petty business such as selling cakes, and commercial sexual exploitation near tourist attractions.

The Ministry of Labor remained responsible for enforcement of labor laws along with the Commission for Mediation and Arbitration and the Labor Court. In 2005 an additional 40 officers and inspectors were recruited and trained, increasing the national labor inspection force to 145.

District- or community-level child labor coordinating committees and subcommittees identified and monitored cases of child labor, but they did so with varying degrees of effectiveness. Representatives of the ILO, UNICEF, and local NGOs concluded that these problems were due to a lack of resources and not a lack of political will to fight child labor.

Several government ministries, including the Ministry of Labor, Youth Development, and Sports, have special child labor units. The Government continued to implement, in collaboration with the ILO, a “Timebound” program to eliminate the worst forms of child labor. The program sought to eliminate child labor in commercial agriculture, mining, domestic work, and prostitution in 11 districts by 2010. With the support of the ILO, the Government under the Timebound program tracked the number of children prevented from entering, and the number withdrawn from the worst forms of child labor in eleven districts. From January 2002 through June 2006, over 20,000 children were prevented from entering, or were withdrawn from, the worst forms of child labor in mining (2,081 prevented/1,466 withdrawn) domestic labor (3,292/2,701), commercial agriculture (2,813/1,408) and commercial sex (2,992/4,045). The numbers for the mining and commercial sex sectors exceeded the targets established for those arenas.

For example, the Kiota Women’s Health and Development Organization (KIWOHEDE), an NGO working as an implementing agency under Phase I of the Timebound Program undertook withdrawal and prevention activities, targeting children in commercial sexual exploitation. From January through May, KIWOHEDE prevented 314 and withdrew 1,289 children, positively affecting a total of 1,603 children.

Under the Timebound program, several local NGOs, including KIWOHEDE, continued to identify and withdraw children from exploitative child labor. KIWOHEDE worked to rehabilitate exploited girls who work as prostitutes or domestic servants. Another organization, CHODAWU, established village-level inspections to identify cases of exploitative labor. CHODAWU also coordinates with grassroots child labor committees to withdraw children from exploitative situations.

*e. Acceptable Conditions of Work.*—The legal minimum wage for employment in the formal sector was approximately \$38 (48,000 shillings) per month. Even when supplemented with various benefits such as housing, transport allowances, and food subsidies, the minimum rate did not provide a decent standard of living for a worker and family, and workers depended on their extended family or on a second or third job. Most workers, particularly in the growing informal sector, were paid much less than the minimum wage. For example, domestic workers reportedly earned approximately \$5.49 (7,000 shillings) per month.

There were reports that to avoid legal requirements that they provide certain benefits and salary minimums to employees employed for more than three months, employers made a practice of firing employees before the three month period expired.

There was no standard legal workweek for private sector workers, but most private employers retained a six-day, 44- to 48-hour workweek. A five-day, 40-hour workweek was in effect for government workers. Generally it was illegal to employ



women to work between 10 p.m. and 6 a.m.; however, employers frequently ignored this restriction.

Several laws regulate safety in the workplace. The Ministry of Labor, Youth, and Sports Development managed an inspection system; however, its effectiveness was limited. Labor standards were not enforced in the informal sector, where a large percentage of the workforce was employed.

Workers could sue an employer if their working conditions did not comply with the Labor Ministry's health and environmental standards. Through the union, a worker may file a labor complaint before a labor officer, who convenes a hearing where the employer and employee state their cases. The employee or employer may appeal that decision to the minister of labor. Some labor officers accepted bribes from employers not to accept or certify these complaints. There were no reports that workers who lodged and won such complaints faced retribution; however, workers did not have the right to remove themselves from dangerous situations without jeopardizing their employment if they lodged a complaint and lost.

## TOGO

Togo, with a population of 5.5 million, is a republic governed by President Faure Gnassingbe, who was declared President in April 2005 in an election marred by severe irregularities. President Gnassingbe replaced his father, former President Gnassingbe Eyadema, who died in February 2005 after 38 years in power. Eyadema and his party Rally of the Togolese People (RPT), strongly backed by the armed forces, dominated politics and maintained firm control over all levels of the country's highly centralized government until his death. The civilian authorities generally did not maintain effective control of the security forces.

The human rights situation in the country improved; however, serious human rights problems continued, including the inability of citizens to change their government; beatings and abuse of detainees; government impunity; harsh prison conditions; arbitrary and secret arrests and detention; lengthy pretrial detention; executive control of the judiciary; frequent infringement of citizens' privacy rights; restrictions on the press, including closing media outlets; restrictions on freedom of assembly and movement; harassment of human rights workers; female genital mutilation (FGM) and violence against women; discrimination against women and ethnic minorities; trafficking in persons, especially children; child labor; and lack of worker's rights in export processing zones (EPZs).

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports that the Government or its agents committed any politically motivated killings; however, security forces committed unlawful killings.

For example, on May 7, the police arrested and detained Yaya Moussa, a cellular phone dealer whom police accused of being a gang member. Police subsequently beat and abused Moussa and then took him to a hospital, where he died of his injuries on May 10. No action had been taken against the responsible police by year's end.

There were no developments in the case of the April 2005 killings in Sokode and Aneho by government forces.

According to a 2005 UN Development Program (UNDP) assessment, approximately 100 persons died following the 2005 Presidential election; a September 2005 report by the UN High Commissioner for Refugees (UNHCR) estimated 400 to 500 deaths (see Section 4). Unlike during the previous year, security forces did not conduct house-by-house campaigns of violence or target neighborhoods thought to be opposition strongholds, killing persons in their houses and shooting at those who tried to flee.

Unlike in the previous year, there were no reports that security forces used live ammunition to disperse demonstrators. No action was taken against security force members responsible for such killings in 2005.

No action was taken against the gendarmes who beat to death a young man in April 2005, the members of the Presidential Election Security Force who shot and killed another young man on the same day, or the security forces who flew over the location of a subsequent demonstration and shot and killed protesters.

Unlike in the previous year, there were no reports of summary executions. In 2005 there were reports of mass graves, and military personnel reportedly transported more than 100 unidentified bodies to unknown destinations.

In 2005 there were numerous reports of killings perpetrated by militias, both those affiliated with the ruling party and those aligned with the opposition; however, there were no reports of such killings during the year.

No action was taken against militants who set fire to eight Malians suspected of practicing voodoo or mob members responsible for killing four persons from Niger.

There were no developments in the April 2005 killing by unknown assailants of the Kpele-Adeta prefecture and the sub-brigadier of the Attorney General's office.

In April 2005 the Government created the Special Independent Investigation Commission to probe the violence and vandalism that occurred before, during, and after election day. The commission held security forces, the ruling party, and opposition party members responsible for the violence and recommended that individuals involved be prosecuted. However, the Government held no trials during the year and conducted no prosecutions against the perpetrators.

*b. Disappearance.*—Unlike in the previous year, there were no reports of politically motivated disappearances. There were no developments in the 2005 disappearance of Police Commissioner Emile Kodjovi Dadji, who was believed to have been detained in an unknown location.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits torture and physical abuse of prisoners and detainees; however, such practices continued to occur, although there were fewer instances than in the previous year. Some prisoners credibly claimed that security forces beat them during detention. Impunity remained a problem, and the Government did not publicly prosecute any officials for the 2005 abuses.

One prisoner died during the year as a result of police abuse (see Section 1.a.).

Security forces beat demonstrators (see Section 2.b.).

Unlike in the previous year, there were no reports that military forces systematically raped women.

*Prison and Detention Center Conditions.*—Prison conditions remained very harsh, with serious overcrowding, poor sanitation, and unhealthy food. At year's end Lome's central prison, built to hold 500 prisoners, held 1,550 inmates, including 56 women. Medical facilities were inadequate, and disease and drug abuse were widespread. Sick prisoners reportedly had to pay approximately three dollars (1,500 CFA francs) to guards before being allowed to visit the infirmary. There were reports that prison security officials sometimes withheld medical treatment from prisoners. Lawyers and journalists reported that prison guards charged prisoners a small fee to shower, use the toilet, or have a place to sleep.

The Government provided no statistics on the number of prison deaths, but it is believed prisoners died as a result of poor living conditions.

The children of convicted women were often incarcerated with their mothers, who were held separately from male prisoners. Juvenile detainees were not held separately from adults. Pretrial detainees were not held separately from convicted prisoners.

Local nongovernmental organizations (NGOs) were allowed access to all prisons in the country. In May a delegation of the International Committee of the Red Cross (ICRC) visited prisons to assess the prison conditions. In June a joint parliamentary mission from the African, Caribbean and Pacific Group of States and European Union (EU) also visited prisons to verify the presence of political prisoners. The delegations were allowed to meet with certain prisoners in private to conduct interviews. Diplomatic representatives were given access to their detained citizens.

*d. Arbitrary Arrest or Detention.*—The constitution and the law prohibit arbitrary arrest and detention; however, the Government generally disregarded these prohibitions.

*Role of the Police and Security Apparatus.*—The security forces consist of the army, navy, air force, the national security service (including the national police and investigation bureau), and the gendarmerie. The police are under the direction of the Ministry of Security, while the Ministry of Defense oversees the gendarmes and military. By law, the police and gendarmes are responsible for law enforcement and maintenance of order within the country. However, the army, charged with external security by law, was in command of domestic security. Approximately 75 percent of the army's officers and soldiers were from the former and current President's ethnic group, the Kabye, which represents approximately 15 percent of the population.

Police were generally ineffective and corrupt, and impunity was a problem. Police often failed to respond to societal violence (see Section 2.b.). The Government in general did not investigate or punish effectively those who committed abuses, nor did it prosecute persons responsible in previous years for unlawful killings and disappearances. During the year, the Government trained and recruited 936 new gen-

darmes; more than 50 percent of the newly recruited gendarmes were from Kabye. Gendarme training included respect for human rights.

*Arrest and Detention.*—The law authorizes judges, senior police officials, prefects, and mayors to issue arrest warrants; however, persons were detained arbitrarily and secretly. Although detainees have the right to be informed of the charges against them, police sometimes ignored this right. The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. Family members and attorneys officially had access to a detainee after 48 or 96 hours of detention, but authorities often delayed, and sometimes denied, access. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail; however, in practice detainees often were held without bail for lengthy periods with or without the approval of a judge. Minors detained since the 2005 election have not had access to a lawyer.

Unlike in the previous year, there were no reports that the Government resorted to false charges of common crimes to arrest, detain, and intimidate political opponents.

The charges against King Togbe Ahuawoto Savado Zankli Lawson VIII, the Guin traditional leader of Aneho, were still pending at year's end. The King, who had allowed a police officer seeking refuge to stay at his palace, had been charged with sequestering the officer, possession of firearms, and inciting trouble.

Security forces arbitrarily arrested demonstrators (see Section 2.b.).

According to the Government, the 77 persons imprisoned for their involvement in election violence were released in 2005.

The Government denied the existence of political detainees; however, several persons arrested after the election and affiliated with the opposition were being held in a prison near Kara, an area of strong RPT support. Amnesty International (AI) reported that dozens of persons were in detention following the election. Security forces sometimes moved political detainees to informal detention centers under the control of the military or RPT militia. Because the Government did not acknowledge any political detainees, it did not permit any organizations access to them.

There were no developments in the 2005 arrest and detention of two opposition members and four former military officers for suspected coup plotting. The detainees, including Kossi Tudzi of the Union of Forces for Change (UFC) and Hermes Wamede da Silveira of the Alliance of Patriots for Unity and Action, remain incarcerated with no trial scheduled.

On December 13, UFC members Anate Andre Abbey, Kossi Jomo Azonledzi, and Koffi Akoumey were convicted for bombing a post office. They were sentenced to 14 months in prison (equal to the time they had been held in prison since September 2005) and immediately released.

In June 2005 the UN delegation visited Lome Prison and interviewed a woman detained without charge since 1998 for her political convictions. The woman, who had no lawyer and was not provided one by the Government, was released in July 2005.

A shortage of judges and other qualified personnel, as well as official inaction, resulted in lengthy pretrial detention—in some cases several years—and confinement of prisoners for periods exceeding the time they would have served if tried and convicted. Almost 80 percent of inmates were pretrial detainees.

*Amnesty.*—Unlike in the previous year, no prisoners were discharged to relieve prison overcrowding.

*e. Denial of Fair Public Trial.*—Although the constitution provides for an independent judiciary, the executive branch continued to exert control over the judiciary and corruption was a problem. Lawyers often bribed judges to influence the outcome of cases. A judicial reform process started in 2005 had not yet been fully implemented at year's end.

There were three associations of magistrates in the country: the Union of Magistrates of Togo (SMT), the National Association of Magistrates (ANM), and the Professional Association of Magistrates of Togo (APMT). A majority of the APMT members were supporters of the late President Eyadema. Judges who belonged to the pro-Eyadema APMT reportedly received the most prestigious assignments, while judges who advocated an independent judiciary and belonged to the ANM or SMT often were assigned to second-tier positions. For example, in Lome, the Presidents of the Constitutional Court, Supreme Court, Court of Appeals, and Court of First Instance were members of the APMT as were the public prosecutor and the Attorney General. In Kara, the President of the Court of Appeals and the President of the Court of First Instance were members of the APMT.

The Constitutional Court stands at the apex of the court system. The Constitutional Court is the highest court for constitutional issues while the Supreme Court is the highest court for civil judicial cases. The civil judiciary system includes the Supreme Court, Appeals Courts, and Courts of First Instance. A military tribunal exists for crimes committed by security forces; its proceedings are closed. The court system remained overburdened and understaffed.

*Trial Procedures.*—The judicial system employs both traditional law and the Napoleonic Code in trying criminal and civil cases. Trials were open to the public, juries were used, and judicial procedures generally were respected. Defendants have the right to counsel and to appeal. The Bar Association provides attorneys for the indigent. Defendants may confront witnesses and present evidence on their own behalf.

In rural areas, the village chief or council of elders is authorized to try minor criminal and civil cases. Those who reject the traditional authority can take their cases to the regular court system, which is the starting point for cases in urban areas.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees; however, the Government held numerous detainees and prisoners on political charges (see Section 1.d.).

*Civil Judicial Procedures and Remedies.*—Both the constitution and the law provide for civil and administrative remedies for wrongdoing, but the judiciary did not respect such provisions, and most citizens were unaware of them.

*g. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such practices, but security forces often infringed on these rights. In criminal cases, a judge or senior police official may authorize searches of private residences, and in political and national security cases the security forces need no prior authorization. Unlike in the previous year, there were no reports that security forces forcibly entered houses without warrants and beat persons.

From April 2005 until August 2005, security forces throughout the country entered houses by force, searching for opposition sympathizers (see Section 1.a.); no action was taken against the perpetrators during the year.

Citizens believed that the Government monitored telephones and correspondence, although such surveillance was not confirmed.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government continued to restrict these rights. The Government at times interfered with radio stations during the year. Journalists and radio and television broadcasters practiced self-censorship.

Although the Government did not censor individual expression, most persons practiced self-censorship because of past violent reprisals at the hands of government agents.

There was a lively independent press, most of which was heavily politicized, and some of which was highly critical of the Government. More than 15 privately owned newspapers were published with some regularity. The only daily newspaper, *Togo-Presse*, was owned and controlled by the Government. There were several independent newspapers that published on weekly and bi-weekly schedules. The official media heavily slanted their content in favor of the Government.

Radio remained the most important medium of mass communication. Some private radio stations broadcast domestic news; however, they offered little of the political commentary and criticism of the Government that was widespread in the print media.

The station director of Radio Lumiere, who fled the country after a military detachment seized Radio Lumiere's transmitter and broadcasting equipment in 2005, remained in self-exile at year's end. Radio Lumiere remained closed.

The government-owned Togo Television was the only major television station in the country. Four smaller television stations operated during the year, but their broadcasts were limited to certain geographic areas. TV-2, RTDS, and TV7 carried France-based TV-5's international news programming, and TV-Zion's content was of a primarily religious nature. TV7 also carried weekly political debates through the program *Seven on Seven*, a weekly political forum in which governing and opposition party leaders, human rights organizations, and other observers participated in discussions on political issues and expressed criticism or support for the Government.

Unlike in the previous year, security forces did not detain journalists.

Despite governmental promises to do so, no investigation was conducted during the year into the October 2005 beating by masked men of Jean-Baptiste Dzilan, also known as Dimas Dzikodo, the country's most outspoken journalist and publisher of the independent newspaper *Forum de la Semaine*.

The constitution established the High Authority of Audiovisuals and Communications (HAAC) to provide for the freedom of the press, ensure ethical standards, and allocate frequencies to private television and radio stations. Although nominally independent, in practice the HAAC operated as an arm of the Government.

On May 12, the HAAC suspended for one month Radio Nostalgie's special daily program on the national political dialogue, charging that the guests who participated in a May 9 program "attacked and systematically threatened national and international personalities" and "incited the population to insurrection." The guests in question, Alex Konu of TV7 and Francis Amuzun of the Togo Ethics Media Committee, had criticized the presence of the Economic Community of West African States Special Envoy Mai Manga Boucar at the dialogue legitimizing the fraudulent results of the April 2005 Presidential elections.

Unlike in the previous year, the President of the HAAC did not ban or threaten to ban radio programs that discussed political events. The 2005 bans against Radio Nostalgie, Nana FM, and Kanal FM were lifted, and the stations broadcast live and taped political programs during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet access was easily available except in remote rural locations.

*Academic and Cultural Events.*—The Government did not restrict academic freedom or cultural events, although security forces maintained a presence at the University of Lome. According to students and professors, a government informer system continued to exist and undercover gendarmes attended classes.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government generally restricted this right, although less than in previous years.

A political party wishing to hold a demonstration or rally on public property is required to notify the minister of security, although no notification is required for rallies on private property.

Unlike in the previous year, the Government did not ban street demonstrations.

On August 30, street protests throughout the northern city of Kara erupted after police failed to respond immediately to the killing of a motorcycle-taxi driver by a Beninese national; police claimed they were unable to go to the scene of the crime because they lacked transport. The police called for military support after the demonstrators moved to the police station, and soldiers used clubs and teargas to disperse protesters. In the following days soldiers patrolled the streets, detained numerous young men arbitrarily, and transported other detainees to outlying villages where the young men were forced to walk back to Kara in the middle of the night. After four days, the military released all the young men, the informal curfew was lifted, and people were allowed to circulate freely.

No action was taken against the military personnel who in February 2005 beat students in Lome when they walked out of classes to show support for an opposition-led civil boycott.

No action was taken against security forces who beat and shot bullets at demonstrators in February 2005; five civilians died.

Despite government promises to do so, no investigation was conducted into the use of excessive force by security forces during the February 2005 dispersal of a peaceful women's march; five persons were killed.

*Freedom of Association.*—Under the constitution and law, citizens have the right to organize associations and political parties, and the Government generally respected it in practice. Unlike in previous years, the Government did not deny official recognition to associations, including human rights groups, and did not impose restrictions on political parties.

There were many NGOs; they were required to register with the Government. The Government established requirements for recognition of associations and NGOs. The Ministry of Territorial Administration issues official recognition documents. Upon filing with the ministry, associations are given a receipt allowing them to begin operations. The Civil Security Division enforces the regulations and is the agency responsible for handling problems or complaints concerning an association or an organization. If an application provides insufficient information for recognition to be

granted, the application remains open indefinitely. Members of groups that are not officially recognized could organize activities but do not have legal standing.

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

The Government recognizes three main faiths as state religions: Roman Catholicism, Protestantism, and Islam. Other religions, such as animism, Mormonism, and Jehovah's Witnesses, were required to register as associations. Official recognition as an association affords the same rights as the official religions.

*Societal Abuses and Discrimination.*—There were no reports of anti-Semitic acts. For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the law provides for these rights, the Government restricted them in practice. Armed security checkpoints and arbitrary searches of vehicles and individuals were common. Undisciplined acts of some security forces manning roadblocks, such as frequent demands for bribes, impeded free movement within the country.

Unlike in the previous year, the Government did not close land borders and air access to the country, as it did following former President Eyadema's death and prior to the elections.

The constitution prohibits forced exile, and the Government did not employ it. However, several opposition and human rights workers remained in self-imposed exile because they feared arrest.

An estimated 40,000 citizens fled to Ghana and Benin in 2005 as refugees following election-related violence. Although some refugees returned due to government outreach mentioned above, many did not return home because of fear for their security. According to UNHCR, by year's end approximately 6,500 refugees remained in Benin and 6,000 in Ghana. UNHCR is facilitating returns for Togolese refugees who express an interest in returning.

*Internally Displaced Persons (IDPs).*—Almost all of the persons who fled their homes following former President Eyadema's death and the Presidential elections had returned to their homes by year's end.

During the year, the High Commission for Repatriates and Humanitarian Action traveled to Ghana and Benin to assure the Togolese refugees that their safety would be guaranteed back home; the commission also organized sensitization tours throughout the country and donated food and clothes to returned refugees and IDPs. The commission issued messages in various media encouraging the population to welcome returned refugees and IDPs.

There were no reports that the Government targeted the 2005 IDPs or forcibly returned them.

*Protection of Refugees.*—The laws do not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

A voluntary repatriation program for 508 Ghanaian refugees was still not implemented because of continuing unrest and instability in Ghana along the Togo-Ghana border. These refugees have been integrated into society and no longer receive assistance. According to the Government, there were approximately 800 refugees (mostly from Rwanda and the Democratic Republic of the Congo) registered in Lome and approximately 1,200 additional refugees living in rural villages. According to the Government, there were 12,386 refugees in Togo, of which 1,391 (mostly from Cote d'Ivoire, Central African Republic, Liberia, Nigeria, Congo, Democratic Republic of Congo, Rwanda, and Sierra Leone) were living in Lome; 10,990 refugees fled the north of Ghana following the social unrest and were living in rural villages, especially in Dankpen and Bassar (Togo-Ghana border) areas.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to approximately 100 persons during the year.

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

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

The constitution provides for the right of citizens to change their government peacefully; however, the Government restricted this right in practice. The Govern-

ment and the state remained highly centralized. The national government appoints officials and controls the budgets of government entities at all levels, including prefectures and municipalities, and influences the selection of traditional chiefs. The National Assembly exercised no real oversight of the executive branch of the Government.

*Elections and Political Participation.*—In February 2005 the Government announced the death of former President Eyadema. The constitution prohibited any revision of the document in the case of a Presidential vacancy. Nevertheless, the National Assembly held an extraordinary session to amend the constitution and electoral code, dismiss Speaker Fambare Ouattara Natchaba, and elect Eyadema's son Faure Gnassingbe as the new speaker, allowing him constitutionally to step into the presidency. The Constitutional Court, vested with guaranteeing respect of the law, swore Faure in as President in the middle of the night. In response to international and internal pressure, Faure resigned the presidency. The National Assembly elected a new speaker, Abass Bonfoh, who then became interim President.

Although the constitution required holding elections within 60 days of a vacancy in the presidency, the international community and local opposition contended that the election timeframe, culminating with elections in April 2005, was not sufficient to ensure a free and fair election. Although the interior minister publicly stated that conditions for a credible election had not been met, the elections were held as planned in April 2005. Accredited international election observers noted massive irregularities during the election itself.

Four persons were killed in Mango on election day when security forces, who were removing ballot boxes from a polling site, opened fire on opposition supporters who tried to prevent them.

The Electoral Commission announced Faure had received 60 percent of the vote and declared him President. An opposition candidate filed a complaint with the Constitutional Court based on flaws in the voting procedures. The court certified the results without an investigation.

During the year there were significant developments in the Government's 2004 commitments to the EU to organize fair and transparent legislative elections, to hold local elections, and to organize a national dialogue with the main opposition parties. In April the Government organized a national dialogue with the main opposition parties, which resulted in a Global Political Agreement on August 20 and the creation of a new government of national unity, including representation from nearly all the major political groups and a prime minister belonging to one of the main opposition groups. The main task of this new government is to organize free and fair legislative elections, which President Gnassingbe announced in September would be scheduled for June 2007.

There were five female members in the 81-member National Assembly and five female ministers in the 34-member government of national unity Cabinet. Members of the southern ethnic groups remain underrepresented in both the Government and the military, relative to their percentage of the general population.

*Government Corruption and Transparency.*—Official corruption was a problem and there was widespread public perception of corruption in both the executive and legislative branch. The Anti-Corruption Commission (CAC) was generally ineffective. While it continued to investigate current relatively low-level and former high-level officials, it did not use fair and transparent procedures to deal with allegations of corruption. The CAC allowed most senior government officials accused of corruption to continue in their positions and did not investigate allegations made against them. For example, the CAC levied allegations of corruption against the director general of the Social Security Agency, yet he remained in his position.

According to the Government's official poverty reduction strategic paper, prepared in conjunction with the World Bank and UNDP, corruption and lack of transparency in the management of public funds was a problem throughout the Government. The constitution provides for the creation of a court of accounts to oversee public expenditures; however, the Government failed to initiate its creation.

Although the press code provides for public access to government information, the Government did not permit access to either citizens or noncitizens, including foreign media.

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

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

There were several domestic private human rights groups, including the Togolese League of Human Rights (LTDH), the Center for Observation and Promotion of the Rule of Law, and the Togolese Association for the Defense and Protection of Human Rights. Years of government threats and intimidation of human rights leaders, combined with a lack of results from human rights initiatives, have led some human rights groups to become inactive. A few groups, such as the Togolese Movement for the Defense of Liberties and Human Rights, the African Committee for the Promotion and Support of Human Rights, and the African Center for the Rehabilitation of Victims of Torture and Repression served as apologists for the Government by making public statements explaining the behavior of the Government in a favorable way.

Unlike in the previous year, the Government did not restrict the activities of domestic NGOs or refuse accreditation. In 2005 the Government did not allow any domestic groups to participate as observers during the elections; targeted workers of independent human rights NGOs; and used the HAAC and the RPT youth organization to suppress criticism of its human rights policies.

Unlike in the previous year, LTDH members did not receive death threats or experience home surveillance by unknown individuals.

The Government met with some domestic NGOs that monitor human rights but took no action in response to their recommendations.

In April AI and a group of international NGOs criticized the Government for failing to bring to justice those involved in election-related violence during 2005. In July a delegation from AI visited the country to more formally assess the Government's actions during the 2005 election violence. AI scheduled the release of its report for November 26, but postponed it at the request of the Government. In December the Government accused AI of provoking a "useless and redundant controversy."

In September 2005 the UNHCR released the findings of its June 2005 visit to the country to investigate election-related violence. The report revealed that approximately 500 persons died and that the Government was responsible for significant human rights violations (see Section 1.a.).

Supporters of the President continued to dominate the National Commission for Human Rights. On July 31, the National Assembly elected 16 of 17 new independent members; however, at year's end they were still waiting to be sworn in.

A permanent human rights committee exists within the National Assembly, but it did not play any significant role in policy-making and was not independent of the Government.

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

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not enforce these provisions effectively. Violence and discrimination against women, FGM, trafficking in persons, and discrimination against ethnic minorities and individuals with HIV/AIDS were problems.

*Women.*—Domestic violence against women continued to be a problem. The law does not specifically prohibit domestic violence. Police generally did not intervene in abusive situations, and women were not made aware of the formal judicial mechanisms that would give them protection. According to a local women's rights NGO, wife beating was estimated to affect approximately 6 percent of married women.

The law criminalizes rape and provides for prison terms of five to 10 years for anyone found guilty of rape. The law does not specifically penalize spousal rape. Although the Government was diligent in investigating and prosecuting instances of rape, reports were rare because of the social stigma associated with being raped.

FGM continued to be practiced on approximately 12 percent of girls. The most commonly practiced form of FGM was excision, which usually was performed on girls a few months after birth. Most of the larger ethnic groups did not practice FGM. FGM is illegal and penalties for practitioners ranged from two months to five years in prison as well as substantial fines. The law was rarely applied because most FGM cases occurred in rural areas where neither the victims nor the police understood the law. Traditional customs often superseded the legal system among certain ethnic groups. The Government continued to sponsor seminars to educate and campaign against FGM. Several NGOs, with international assistance, organized educational campaigns to inform women of their rights and how to care for victims of FGM. Although no statistics were available, the Government and NGOs believed the practice decreased significantly in urban areas since the 1998 anti-FGM law but continued to occur in remote and rural villages.

The law prohibits prostitution, including running a brothel, and provides for fines of up to \$2,000 (1 million CFA francs) for brothel owners and panderers. Prostitution in Lome was fairly widespread since economic opportunities for women were



severely limited. Several prostitutes in Lome reported that they had to pay security forces to pass through certain parts of town; this payment most often took the form of sex. Members of the security forces raped prostitutes who protested the payment. The Government has not acted to stop this practice.

A Presidential decree prohibits sexual harassment and specifically targeted harassment of female students, although the authorities did not enforce the law.

Although the law declares women equal under the law, women continued to experience discrimination, especially in education, pension benefits, and inheritance as a consequence of traditional law. A husband legally could restrict his wife's freedom to work or control her earnings. In urban areas women and girls dominated market activities and commerce; however, harsh economic conditions in rural areas, where most of the population lived, left women with little time for activities other than domestic tasks and agricultural fieldwork. The Labor Code, which regulated labor practices, requires equal pay for equal work, regardless of gender, but this provision generally was observed only in the formal sector. Under traditional law, which applied to the vast majority of women, a wife has no maintenance or child support rights in the event of divorce or separation and no inheritance rights upon the death of her husband. Polygamy was practiced. Women can own property with no special restrictions.

The Ministry of Social Affairs and Promotion of Women, along with independent women's groups and related NGOs, continued to campaign actively during the year to inform women of their rights.

*Children.*—Although the law provides for the protection of children's rights, government programs often suffered from a lack of money, materials, and enforcement. There were many practices that discriminated against children, especially girls.

The Government provided education in state schools, and school attendance is compulsory for both boys and girls until the age of 15. According to the UN Children's Fund's (UNICEF), although 99 percent of boys and 83 percent of girls started primary school, only an estimated 68 percent of boys and 59 percent of girls continued. For secondary school, the net secondary school enrollment is 36 percent for boys, 17 percent for girls, but only 21 percent of boys and 11 percent of girls continued. The Ministry of Education estimated that one-third of the national budget was spent on education.

Orphans and other needy children received some aid from extended families or private organizations but little from the Government. There were social programs to provide free health care for poor children.

FGM was performed on approximately 12 percent of girls (see Section 5, Women).

Statutory rape is illegal and punishable by up to five years of imprisonment and up to 10 years if violence was involved. The prison term is 20 years if a victim is a child under 14, is gang-raped or if the rape results in pregnancy, disease, or incapacitation lasting more than six weeks. Although the law explicitly prohibits sexual exploitation of children and child prostitution, the Government did not effectively enforce the prohibitions (see Section 5, Trafficking).

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

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

*Trafficking in Persons.*—The law prohibits trafficking in children but not adults; however, there were reports that persons were trafficked to, from, or within the country. The 2005 Law for the Repression of Child Trafficking provides for prison sentences and fines for anyone who recruits, transports, hosts, or receives trafficked children, as well as prison sentences for parents who willingly facilitate the trafficking of their children. The law provides for prison sentences from three months to 10 years and fines ranging from \$2,000 to \$20,000 (one to 10 million CFA francs) for traffickers of children and/or their accomplices. Anybody who assists and/or provides information, arms, or transportation to facilitate the trafficking is considered an accomplice. The Government filed a complaint against 16 traffickers who were awaiting prosecution at year's end. The Government, along with international and local NGOs continued to train judges, security forces, and volunteer local committees on the 2005 antitrafficking law; by year's end 36 members of the security forces had received training.

Volunteer local committees investigated reports of trafficking. The ministries of education, interior, and social affairs worked with the International Labor Organization (ILO) to establish approximately 300 committees by year's end. From 2002 through 2006, local committees had rescued approximately 4,000 victims of child trafficking.

The National Committee for the Reception and Social Reinsertion of Trafficked Children is represented in each prefecture and works with local officials to reintegrate returned trafficking victims. It reported that 2,458 children ranging from

ages five to 17 were repatriated to the country between 2002 and 2004. The Office of the Director General of Protection of the Child reported that since August 2005, security forces intercepted a total of 101 children up to 17 years-of-age in the process of being trafficked out of the country and the Government returned them to their families.

The Government had little or no funding to investigate traffickers or trafficking rings. The police had limited success in intercepting victims of trafficking, and prosecution of traffickers was rare. Most persons that security forces arrested or detained for trafficking ultimately were released for lack of evidence.

Government agencies involved in antitrafficking efforts included the Ministry of Social Affairs and Protection of Women; the Ministry of Health; the Ministry of Security; the Ministry of Justice; the Ministry of Labor; and the security forces (especially police, army, and customs units). The Government cooperated with the Governments of Ghana, Benin, and Nigeria under a quadripartite law allowing for expedited extradition among those countries.

The country remained a country of origin, transit, and destination for trafficking in persons, primarily children. More young girls than boys were the victims of trafficking. Trafficking in women for the purpose of prostitution or nonconsensual labor as domestic servants occurred.

Trafficking occurred throughout the country. The majority of the country's trafficking victims were children from the poorest rural areas, particularly those of Kotocoli, Tchamba, Ewe, Kabye, and Akposso ethnicities and mainly from the Maritime, Plateau, and Central regions. Adult victims usually were lured with phony job offers. Children often were trafficked abroad by parents misled by false information. Sometimes parents sold their children to traffickers for bicycles, radios, or clothing, and signed parental authorizations transferring their children into the custody of the trafficker.

Children were trafficked into indentured and exploitative servitude, which amounted at times to slavery. Most trafficking occurred internally, with children trafficked from rural areas to cities, primarily Lome, to work as domestics, produce porters, or roadside sellers. Victims were trafficked elsewhere in West Africa and to Central Africa, particularly Cote d'Ivoire, Gabon, and Nigeria; in Europe, primarily France and Germany; and in the Middle East, including Lebanon and Saudi Arabia. Children were trafficked to Benin for indentured servitude and to Cote d'Ivoire and Ghana for domestic servitude. Boys were trafficked for agricultural work in Cote d'Ivoire and domestic servitude and street labor in Gabon. They were fed poorly, clothed crudely, cared for inadequately, given drugs to work longer hours, and not educated or permitted to learn a trade. There were reports that young girls were trafficked to Nigeria for prostitution.

The country was a transit point for children trafficked from Burkina Faso, Ghana, Cote d'Ivoire, and Nigeria. There were credible reports that Nigerian women and children were trafficked through the country to Europe (particularly Italy and the Netherlands) for the purpose of prostitution.

Traffickers were believed to be men and women of Togolese, Beninese, and Nigerian nationalities.

There were no reports that governmental authorities or individual members of government forces facilitated or condoned trafficking in persons. There were no reports that customs, border guards, immigration officials, labor inspectors, or local police received bribes from traffickers, although it was possible given the high level of corruption in the country.

The Government provided only limited assistance for victims, primarily because of a lack of resources. The NGO *Terre des Hommes* assisted recovered children until their parents or next-of-kin could be notified. Assistance was also available from the government-funded Social Center for Abandoned Children. CARE International-Togo worked with three NGOs—*Terre des Hommes*, *La Colombe*, and *Ahuefa*—on reinsertion of trafficked children, awareness campaigns for parents and communities, keeping children in schools, and supporting women's income-generating activities. During the year the ILO worked with other NGOs to increase awareness of the trafficking problem.

During the year local government officials worked closely with NGOs *Plan Togo* and *The World Association for Orphans-Afrique* to conduct public awareness campaigns and training workshops. Four workshops were held during the year, training approximately 150 lawyers, journalists, judges NGO representatives, and security personnel. The ILO and UNICEF assisted the Government in organizing and training regional and local committees and in sensitizing and educating parents on the dangers of child trafficking and labor throughout the country.

*Persons With Disabilities.*—A new law enacted in November 2005 prohibits discrimination against persons with disabilities in employment, education, access to

health care, or in the provision of other state services, but the Government did not effectively enforce these provisions. There was no overt state discrimination against persons with disabilities, and some held government positions; but societal discrimination against persons with disabilities existed. The Government does not mandate accessibility to public or private facilities for persons with disabilities. Although the law nominally obliged the Government to aid persons with disabilities and shelter them from social injustice, the Government provided only limited assistance.

*National/Racial/Ethnic Minorities.*—The population included members of approximately 40 ethnic groups that generally spoke distinct primary languages and were concentrated regionally in rural areas. Major ethnic groups included the Ewe (between 20 and 25 percent of the population), the Kabye (between 10 and 15 percent), the Kotokoli (between 10 and 15 percent), the Moba (between 10 to 15 percent), and the Mina (approximately 5 percent). The Ewe and Mina were the largest ethnic groups in the southern region and the Kabye was the largest group in the less prosperous northern region.

The relative predominance in private sector commerce and professions by members of southern ethnic groups, and the relative prevalence in the public sector and especially the security forces of members of late President Eyadema's Kabye group and other northern groups, were sources of political tension. Political parties tended to have readily identifiable ethnic and regional bases: the RPT party was more represented among northern ethnic groups than among southern groups; the reverse was true of the UFC and Action Committee for Renewal opposition parties.

In addition, due to the congruence of political divisions and ethnic and regional divisions, human rights abuses motivated by politics at times had ethnic and regional overtones.

*Other Societal Abuses and Discrimination.*—A 2005 law prohibits discrimination against persons infected with HIV/AIDS; however, such persons continued to face significant societal discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution and law provide workers, except security forces (including firefighters and police), with the right to join unions, and they exercised this right in practice. The Ministry of Economy and Development estimated that the country's total workforce was approximately 1.6 million out of an estimated working population of 2.3 million persons. Approximately 72 percent of the working population was in the agriculture sector where employment was not stable and wages were low. The informal sector provided for an estimated 22 percent of total employment. Approximately 60 to 70 percent of formal sector workers were union members or supporters.

The Ministry of Labor failed to enforce the prohibition on antiunion discrimination.

*b. The Right To Organize and Bargain Collectively.*—The constitution and the December labor code nominally provide workers with the right to organize and bargain collectively; however, the Government limited collective bargaining to producing a single nationwide agreement that had to be negotiated and endorsed by representatives of the Government, labor unions, and employers. All formal sector employees were covered by the collective bargaining agreement that set nationwide wage standards for all formal sector workers. The Government participated in this process both as a labor-management mediator and as the largest employer in the formal sector, managing numerous state-owned firms that monopolized many sectors of the formal economy. The collective bargaining process did not occur for several years under the late President Eyadema. Individual groups in the formal sector could attempt to negotiate agreements more favorable to labor through sector-specific or firm-specific collective bargaining, but this option was rarely used.

The constitution and law provide most workers the right to strike, except for members of the security forces and government health workers. The new labor code of December 5 prohibits retribution against strikers by employers.

The law provides exemptions from some provisions of the Labor Code, notably the regulations on hiring and firing for companies in the EPZs. Employees of EPZ firms did not enjoy the same protection against antiunion discrimination as did other workers. Workers in the EPZs were prevented from exercising their freedom of association because unions did not have free access to EPZs or the freedom to organize workers.

*c. Prohibition of Forced or Compulsory Labor.*—The new labor code prohibits forced or compulsory labor, including by children; however, there were reports such practices occurred (see Sections 5 and 6.d.). Children sometimes were subjected to forced labor, primarily as domestic servants.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The new labor code prohibits the employment of children under the age of 15 in any enterprise; however, child labor was a problem. According to UNICEF, 60 percent of children in the country were involved in child labor. The use of children to work on family farms was widespread. Some children started working as young as age five. These children routinely missed at least two-thirds of the school year. In some cases children worked in factories.

For some types of industrial and technical employment, the minimum age is 18. Inspectors from the Ministry of Labor enforced these age requirements but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and small scale trading, very young children traditionally assisted in their families' work. In rural areas, parents sometimes placed young children into domestic work in other households in exchange for one-time fees as low as \$25 to \$35 (12,500 to 17,500 CFA francs).

Trafficking in children was a problem (see Section 5).

The Ministry of Social Affairs and Promotion of Women was responsible for enforcing the prohibition of the worst forms of child labor. Few resources were allotted for its implementation, and enforcement was weak, but the ministry funded a center for abandoned children and worked with NGOs to combat child trafficking.

*e. Acceptable Conditions of Work.*—The Government sets minimum wages for different labor categories, ranging from unskilled through professional positions. In practice employers often paid less than the official minimum wage often, mostly to unskilled workers. Official monthly minimum wages ranged from approximately \$20 to \$33 (10,000 to 16,000 CFA francs) and did not provide a decent standard of living for a worker and family. Many workers supplemented their incomes through second jobs or subsistence farming. The Ministry of Labor was responsible for enforcement of the minimum wage system but did not enforce the law in practice.

Working hours of all employees in any enterprise, except for the agricultural sector, normally are not to exceed 40 hours per week; at least one 24-hour rest period per week is compulsory, and workers are expected to receive 30 days of paid leave each year. Working hours for employees in the agricultural sector are not to exceed 2400 hours per year (roughly 46 hours per week). The law requires overtime compensation, and there are restrictions on excessive overtime work; however, the Ministry of Labor's enforcement was weak, and employers often ignored these provisions.

In November the Government responded to a threatened strike by unions to make good on most salary and pension payments which were in arrears.

A technical consulting committee in the Ministry of Labor set workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice, the ministry's enforcement of the various provisions of the Labor Code was limited. Large enterprises are obliged by law to provide medical services for their employees and usually attempted to respect occupational health and safety rules, but smaller firms often did not. Although workers have the legal right to remove themselves from unsafe conditions without fear of losing their jobs, in practice some could not do so. Labor laws also provide protection for legal foreign workers.

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## UGANDA

Uganda, with a population of 26.4 million, is a republic led by President Yoweri Museveni, who continued to dominate the Government. The February 23 Presidential and parliamentary elections generally reflected the will of the electorate; however, both were marred by serious irregularities. The Government and the Lord's Resistance Army (LRA) entered into peace talks in July to end the 20-year war in the north of the country. A cessation of hostilities agreement and direct negotiations between the LRA and the Government have improved the security situation. The negotiations were on-going at year's end. On December 16, the Government and the rebels extended a cessation of hostilities until February 2007. The on-going conflict in the Karamoja region intensified during the year and resulted in numerous deaths and the displacement of thousands of civilians. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The Government's human rights record remained poor. Although there were improvements in a few areas, serious problems remained, including: unlawful killings by security forces; disappearances; security forces use of torture and abuse of suspects; vigilante justice; harsh prison conditions; official impunity; arbitrary arrest; incommunicado and lengthy pretrial detention; restrictions on the right to a fair trial and on freedoms of speech, the press, and association; limited freedom of religion; abuse of internally displaced persons (IDPs); restrictions on opposition parties; electoral violence and irregularities; government corruption; violence and discrimination against women; female genital mutilation (FGM); violence and abuse of children, particularly sexual abuse; trafficking in persons; violence and discrimination against persons with disabilities; forced labor, including by children; and child labor.

LRA-perpetrated violence in the north decreased significantly during the year as the army drove the LRA into southern Sudan and the Democratic Republic of Congo (DRC). At the height of the war, the LRA, led by Joseph Kony, committed serious abuses and atrocities, including the abduction, rape, and killing of civilians. The LRA used children as soldiers, held children and others in slave-like conditions, and subjected female captives to rape and other forms of severe sexual exploitation. Thousands of children known as "night commuters" traveled from conflict areas or IDP camps each night to urban centers to avoid abduction by the LRA and to escape systemic social problems such as poverty and domestic violence, although their numbers dropped substantially throughout the year as regional security improved.

The Government took steps to improve human rights during the year. The Uganda People's Defense Forces (UPDF) continued to professionalize and demonstrated a marked improvement in respect for human rights. The Government improved conditions in the central prisons and passed a comprehensive labor law to eliminate burdensome requirements to form a union and to improve workplace conditions.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces committed numerous unlawful killings during the year and were responsible for deaths as a result of torture.

On August 20, special police constables in Arua District opened fire in a disco and killed Pater Alida and Kennedy Amaru, both primary school pupils. Media reports stated that Amos O'Bani, acting area subcounty chief, had ordered the police to fire on the dancers for violating a by-law prohibiting night clubs in the area. Constables Osua Biazio, Tom Candia, and David Ezaruku were subsequently arrested for murder; the case was ongoing at year's end.

UPDF soldiers were responsible for killings. On May 9, Ekemu Ocen and Odong Chamali, UPDF soldiers based in Kasese District, killed four civilians and three armed soldiers in Kiteso village. On May 24, Ocen and Chamali were arrested while trying to escape to the DRC. On May 31, a court martial sitting in Kasese started public hearings in which the two soldiers were charged with murder. On August 31, the court martial found Ocen guilty of murder and sentenced him to death. The case against Chamali, who was charged with two counts of robbery, was ongoing at year's end.

On June 2, UPDF soldiers from the Pabwo detachment in Gulu District killed Wilfred Kinyera and Joel Oryem after they were arrested. In August Michael Abonga, Kinyera's brother, filed a petition with the Uganda Human Rights Commission (UHRC) Tribunal against three soldiers for allegedly murdering Kinyera and Oryem. The UPDF arrested the three suspects, whose trial at the fourth division court martial was ongoing at year's end.

On May 24, UPDF soldiers in Gulu District killed a civilian identified as Dola in the Awach IDP camp. The UPDF claimed that Dola was a drug addict who was killed trying to enter the camp at night without identifying himself to the guards. No further action was taken by year's end.

During the year the fifth division court martial charged Alex Okullo, a member of the Local Defense Unit (LDU) militia in Kitgum District, in the March 2005 killing of two civilians. Okullo was released on bail; his case was transferred to the High Court in Gulu and was pending at year's end.

In 2005 the fourth division court martial convicted UPDF Private Tony Eremo of the March 31, 2005 killing of high school student Francis Ocaya Okot. Eremo was charged by the fourth division Court martial and convicted of manslaughter. Upon appeal, Eremo's case was transferred to the High Court; the case was pending at year's end. In August 2005 UPDF Privates Lazarus Avil Kwasigwee and Johnson Asiimwe killed businessman Sam Abol in an alleged attempt to rob him. The fifth

division court martial convicted the two soldiers of robbery only and they were serving their sentence in Lira Prison at year's end.

On January 2, the fourth division court martial in Gulu sentenced UPDF Private Joel Lubangakene to death for the December 2005 killing of 18-year-old Ojok Ojara in Lalogi IDP Camp in Gulu District. Lubangakene remained in prison at year's end. There were no developments in the December 2005 UPDF killings case of seven civilians during a protest of Ojara's murder.

Special police constables Joel Adrama and Dickson Anguyo, who beat to death Zacharia Ocitia in June 2005, were awaiting trial at year's end.

There were no developments in the August 2005 killing of suspected robbers Edson Sajabi, Charles Mworozi, and Benon Kankirihoby during a security force crackdown on criminals.

During the year security forces committed killings during apprehension. For example, on April 24, police in Mbarara killed two suspected armed robbers who had staged an illegal roadblock at Nyamityobora forest on the Mbarara-Masaka highway. There were no arrests made in the case by year's end.

On April 16, Joseph Mugenyi and Muwanguwa Matayo, police constables at Wandegaya Police Station, were arrested for the April 15 killing of a suspected drug dealer in Mulago. The Director of Public Prosecutions (DPP) dropped charges against Mugenyi after findings by a DPP office investigation exonerated him. Matayo was initially released shortly after the arrest; however, the DPP investigation recommended that he be re-arrested for the killing. Matayo was on the run at year's end.

Security forces were responsible for a number of deaths in custody, some due to torture. On May 4, Abdu Semugenyi, arrested in April on suspicion of being associated with the Allied Democratic Forces (ADF) rebels, was tortured to death in military custody in Kololo, a Kampala suburb, according to a Human Rights Watch (HRW) report. The UPDF denied that Semugenyi was tortured and stated that he escaped from his bodyguards and that his whereabouts were unknown.

On August 5, police in Kampala killed Masensio Edema after he confessed his involvement in a July 31 bomb attack which resulted in two deaths and several injuries. On August 23, the police stated that Edema was killed while trying to escape police custody.

The trial of police officers Stephen Kasiba, Hannington Opio, and Julius Oboch, who were charged with the January 2005 killing in custody of Noah Katungi, was ongoing at year's end.

Investigations into the cause of the September 2005 death of John Atwine, a key suspect in a high-profile killing, were ongoing at year's end.

Police attempts to prevent mob lynchings resulted in deaths (see Section 2.b.).

Security forces committed accidental killings during the year (see Section 1.g.).

There were no developments in the February 2005 killing of Abdallah Mumiro by police in Busia District.

During the year security forces killed numerous civilians during anti-LRA operations and disarmament campaigns in the Karamoja region; paramilitary forces were also responsible for killings (see Section 1.g.).

LRA attacks continued during the year and resulted in deaths (see Section 1.g.).

Raids by armed cattle rustlers in Karamoja continued during the year and resulted in deaths (see Section 1.g.).

Killings by rebel and terrorist groups, including a July 31 bomb attack in Kampala allegedly carried out by the rebel group the People's Redemption Army (PRA), resulted in deaths and injuries (see Section 1.g.).

The war in the north and violence in Karamoja resulted in significant numbers of deaths due to interethnic violence (see Section 5).

Incidents of vigilante justice were reported frequently during the year. There were numerous instances in which mobs beat, stoned, or burned to death individuals suspected of committing crimes. On March 5, residents of Te-Okole in Amuca Parish, Lira District, lynched four robbers. No arrests were made by year's end.

On May 3, residents of Ndongwe village in Masaka District lynched Herman Katende, a traditional healer over the death of Godfrey Kalanzi, a resident who was killed on May 2. No arrests were made by year's end.

On June 22, the Magistrate's Court in Kampala District referred two businessmen to trial in the High Court for killing a suspected thief in 2005. The suspects were awaiting trial at year's end.

There were no developments in the following 2005 mob killings: the January killing of a rape suspect in Lira District, the May killing of a suspected cannibal in Mukono District, and the June killing of a thief in Kampala.

There were reports of the ritual killings of children during the year (see Section 5).

*b. Disappearance.*—On May 22, Robert Mugenyi, a member of the opposition party Forum for Democratic Change (FDC), disappeared from his home in Kiwatule, Kampala District. The police opened an investigation; however, Mugenyi's whereabouts remained unknown at year's end.

There was no information on Otim Orach, who UPDF soldiers in Gulu District arrested in March 2005. Orach allegedly was told that he would not be released until he swore allegiance to President Museveni's ruling party, the National Resistance Movement (NRM). The UPDF denied any knowledge of Orach or the reported events.

In May 2005 police rescued Geoffrey Mwebase and two other persons who were kidnapped by six armed men in military uniform. The suspects were charged with kidnapping and they remained on remand in Simba Prison, Masindi District at year's end.

Defense lawyers for Achikulo Abuko, Amir Yahaya, Kesia Yasin, and Zacharia Obba, who were transferred from Luzira Prison to incommunicado detention in another prison after being charged along with opposition leader Kizza Besigye for treason in November 2005, met with their clients during the year.

In July six of the 10 members of the opposition party Uganda People's Congress arrested by the Chief of Military Intelligence (CMI) in 2004 were released on bail; the remaining four were released without charge in 2005.

There were no developments in the 2004 missing persons case of James Kashaia.

At year's end Captain Robert Ruteinama, who was held in incommunicado detention by the UPDF since 2003, was released.

According to the UN Children's Fund (UNICEF), the LRA and other rebel groups have abducted approximately 38,000 persons since 1986; however, LRA abductions decreased during the year after the LRA's leadership was driven from the north by the UPDF. An estimated 205 persons were abducted since January. Unlike in previous years, abductions typically were generally temporary in nature, and abductees were used more frequently as porters for LRA supplies than as combatants. However, some abductees continued to be trained as guerillas (see Section 1.g.). In previous years, most victims were children and young adults whom the LRA forced into slavery as laborers, soldiers, guards, and sex slaves (see Sections 1.g. and 5).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were credible reports that security forces tortured and beat suspects. Detainees died as a result of torture. Many of these incidents occurred in unregistered detention facilities and were intended to force confessions. The UHRC received approximately 246 complaints of torture during the year. The UHRC and other human rights organizations conducted human rights training for the police and military throughout the year.

In May 2005 the UN Committee Against Torture (UNCAT) noted its concern of continued allegations of torture in the country and the apparent impunity of its perpetrators. Reports from human rights organizations, including HRW and the Foundation for Human Rights Initiative (FHRI), cited examples of torture such as caning, severe beating, and inflicting pain to the genitals carried out by security forces in previous years. Security units involved in torture included the police, the UPDF, CMI, and the Violent Crime Crack Unit (VCCU); on occasion, such torture resulted in death (see Section 1.a.).

On May 4, Abdu Semugenyi, arrested in April on suspicion of being associated with the ADF rebels, died of injuries sustained during torture (see Section 1.a.).

On January 8, Sergeant Gilbert Odong, a UPDF soldier attached to Lawiye Adul detachment in Gulu District, used a burning jerry can to inflict injuries on the breasts of Patricia Atim. No action was taken against Odong by year's end.

On February 10, 12 UPDF soldiers at a security check point in Nzaipi, Adjumani District, beat Juma Muwonge into unconsciousness. Muwonge was taken to Lacor Hospital for treatment. There were no arrests by year's end.

A June report by the UHRC implicated the army in acts of torture against Karamojong during the ongoing disarmament exercise in the region (see Section 1.g.).

On August 13, police in Arua District beat Dr. Joram Ajeani, the country's former envoy to the DRC, during a security operation; Ajeani claimed he was attempting to defend youths arrested in a sweep of the Paradise night club in Arua town. On September 24, Ajeani filed a suit against the police for torture; the case was ongoing at year's end.

Human rights groups reported that security forces and prison officials raped persons in detention facilities during the year. There were reports that UPDF soldiers raped persons, particularly in conflict areas and in or near IDP camps (see Section 1.g.).

Security forces harassed, detained, and forcibly dispersed opposition activist and student demonstrators (see Sections 1.d. and 2.b.).

The UHRC Tribunal made 44 rulings on torture cases received from previous years. On March 14, the UHRC Tribunal District awarded approximately \$11,891 (22 million shillings) to Leo Busoke as compensation for the illegal arrest and death by torture of his father, Gabriel Byaruhanga. In 2003 Byaruhanga was arrested on allegations that he was an ADF collaborator. On July 10, the UHRC Tribunal awarded approximately \$21,622 (40 million shillings) to Paul Kalyambwa as compensation for having been tortured in 2003 by prison wardens while in custody in Kasese District.

In August the Justice and Constitutional Affairs Ministry reported that the Government had paid approximately \$14,054,000 (26 billion shillings) to 470 individuals, but owed approximately \$32,432,000 (60 billion shillings) in compensation to other torture victims.

There were no developments in the April 2005 case of UPDF Private William Bisogo, who was arrested for inflicting torture.

The court martial of John Barigye Bakirahi and Peter Agom, UPDF soldiers charged with spying for the Rwandan government who claimed they were tortured throughout their detention in CMI custody, began in May 2005 and was ongoing at year's end.

During the year civilians were killed, injured, and displaced as a result of security force operations against the LRA (see Section 1.g.).

The LRA continued to commit numerous atrocities, including the killing, torture, sexual abuse, and kidnapping of civilians, primarily children. However, these abuses decreased as LRA forces moved outside the country during the year (see Section 1.g.).

There were numerous instances in which mobs attacked suspected thieves and other persons known or suspected to have committed crimes (see Section 1.a). Motivated in part by distrust or misunderstanding of the formal judicial system, these mobs engaged in beatings, lynchings, and other forms of mistreatment.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and frequently life threatening, primarily as a result of the Government's inadequate funding of prison facilities. In addition there were several reports that security forces and guards tortured inmates.

Prison conditions came closest to meeting international standards in Kampala, where prisons provided medical care, running water, and sanitation; however, these prisons also were among the most overcrowded. There were an estimated 18,300 inmates in the country's central prisons, which was approximately three times their planned capacity. Severe overcrowding also was a problem at juvenile detention facilities and in women's wings of prisons. The remand home in Kampala, designed for 45 persons, held 94 children. The reception center, designed for 30 persons, held 62 juveniles under the age of 12. The Community Service Act sought to reduce prison congestion by allowing minor offenders to do community service in lieu of imprisonment. As a result, 1,340 offenders were sentenced to community service during the year. The UHRC noted improved conditions at central prisons during the year, including cleaner and more structurally secure buildings, an increase in uniforms for inmates, and adequate food rations. Although the law provides for access to prisoners by their families, lack of understanding of this right and fear of prison authorities often limited family visits.

There were an estimated 7,000 inmates in the local prisons. Serious concerns included incidents of torture, congestion, inadequate staff, and lack of food, water, medical care, and bedding. Forced labor also was reported in local government prisons. Security forces and prison officials reportedly raped detainees during the year.

The UHRC reported allegations that prison officers sometimes demanded bribes to allow visits; no investigations of these allegations were conducted during the year. In 2005 the Government gave 59 senior prison officers the powers of magistrates to try inmates and prison staff suspected of committing offenses. No prison officials were tried during the year.

Inmates at most prisons grew maize, millet, and vegetables; however, the UHRC accused prison farms of overworking inmates, and prisoners as young as 12-years-old performed manual labor from dawn until dusk (see Section 6.c.).

Prisons were believed to have high mortality rates from overcrowding, malnutrition, diseases spread by unsanitary conditions, HIV/AIDS, and lack of medical care. On March 20, David Isabirye, a student at Bupadhenko Secondary school, was found dead in a prison cell in Kamuli District; the cause of death was unclear and no further action was taken. On May 10, inmates died in a prison in Lira District as a result of negligence by prison authorities; three others died of HIV/AIDS related dis-



eases. The Prisons Service registered 150 deaths between January and June as a result of malaria, tuberculosis, and HIV/AIDS.

Female prisoners in central prisons were held in separate facilities; however, conditions remained poor. Services and facilities for female prisoners in local prisons, including separate cells, were lacking.

Due to lack of space in juvenile facilities, juveniles often were held in prisons with adults. In Kampala jails, pretrial detainees were separated from convicted prisoners; however, in the rest of the country, pretrial detainees and convicted prisoners sometimes were held together.

On May 3, parliament passed the Prisons Bill 2003, which separates the Prisons Service from the Ministry of Internal Affairs and provides it with its own budget. The bill provides the central Prisons Service with responsibility for local prisons, which have the harshest conditions; provides for inspection of prisons and conformity to minimum standard for treatment of prisoners; abolishes corporal punishment in prisons; and allows free access to prisons by human rights activists, magistrates, and judges.

During the year the Government permitted access to prisons by the International Committee of the Red Cross (ICRC); foreign diplomats; and local nongovernmental organizations (NGOs), principally FHRI; and the Uganda Prisoners' Aid Foundation. The UHRC visited 136 places of detention including central government and local government prisons and police cells during the year. Prison authorities required advance notification of visits, a process that was sometimes subject to administrative delays.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit such practices; however, members of the security forces arrested and detained citizens arbitrarily during the year.

*Role of the Police and Security Apparatus.*—The police force, under the Ministry of Internal Affairs, has the primary responsibility for law enforcement and maintenance of order in the country. The UPDF is the key security force and has partial responsibility for maintaining order in the north, where it was deployed to protect civilian IDPs from rebel attacks. The Internal Security Organization (ISO), under the direct authority of the President, is a domestic intelligence-gathering body. ISO personnel occasionally detained civilians. The External Security Organization, which also reports to the President, also gathers intelligence and occasionally detained civilians. The CMI, under UPDF control, detained civilians suspected of rebel and terrorist activity. LDUs reinforced government efforts to protect civilians from LRA attacks. In some cases LDUs also participated in offensive military operations and carried out police functions.

Security forces continued to be constrained by limited resources, including low pay and lack of vehicles, equipment, and training. Security forces committed numerous abuses, and impunity was a problem. Police officials faced charges of bribery during the year; the police commissioner for human resources reported that 49 members of the police force were discharged or dismissed for accepting bribes. In conjunction with the UHRC and international organizations such as the ICRC and the UN Office of the High Commissioner for Human Rights (UNOHCHR), the UPDF and the police continued a training program to educate military officers on internationally recognized human rights standards. In addition the police, UPDF, and the prisons service used human rights manuals in their training programs. The UPDF made attempts to improve relations between soldiers and civilians. The Police Human Rights Desk investigated police abuses during the year and reported the following complaints: mismanagement of case papers (205); torture and harassment (46); unlawful arrest and detention (34); abuse of office (30); irregular or discreditable conduct (30); corrupt practices (20); indulging in civil matters (8); and sexual harassment (3). Of these, 176 were investigated during the year.

*Arrest and Detention.*—The law requires search warrants be issued by judges or prosecutors before arrests are made; however, in practice suspects often were taken into custody without warrants. Despite a provision that suspects must be charged within 48 hours of arrest, many persons were detained longer without being charged. Suspects must be brought to trial or released on bail within 120 days (360 days for a capital offense); however, if the case is presented to the court before the expiration of this period, there is no limit on pretrial detention. Detainees must be informed immediately of the reasons for their detention, although authorities did not always enforce these procedural protections in practice. The law provides for bail at the discretion of the judge but was not generally provided in practice.

Suspects must have access to a lawyer; however, there was no provision ensuring family visitation. By law, indigent suspects are provided a lawyer; however, this was

not enforced in practice due to resource constraints of the Government. Incommunicado detention was a problem during the year.

The Antiterrorism Act permits suspects to be held for more than 48 hours without charge and states that persons convicted of terrorist acts that “directly result in the death of any person” shall be sentenced to death. In 2005 the UPDF general Court martial charged FDC opposition leader Kizza Besigye and 22 other FDC members with terrorism and possession of illegal arms under suspicion that they were members of the PRA. The 23 suspects were simultaneously facing similar charges of treason in the High Court. Besigye and five codefendants filed a petition with the Constitutional Court claiming the court martial was unconstitutional for subjecting suspects to criminal proceedings in two courts on similar charges. The petition also claimed that the court martial exceeded its powers by charging the suspects, since the court martial is a subordinate court to the High Court. On January 31, the Constitutional Court ruled in favor of the accused on the first claim but did not answer the second claim. The accused later filed an appeal with the Supreme Court to clarify a ruling on the outstanding issue of court powers. By year’s end, the Supreme Court had not ruled on the appeal.

On February 14, the court martial dropped the charges against Besigye; however, it defied the Constitutional Court’s ruling and proceeded with hearings in the case against the remaining 22 suspects. On June 2, the court martial dropped the terrorism charges against all the suspects; however, the charges of unlawful possession of firearms were preserved. The suspects appeared in court on July 10 and remained in jail at year’s end.

Security forces arbitrarily arrested political activists during the year. On February 21, the police force’s Criminal Investigations Department (CID) in Kampala briefly detained Yusuf Nsibambi, one of Besigye’s lawyers, for allegedly inciting violence. On February 10, while addressing a press conference at FDC offices in Kampala, Nsibambi was reported to have told FDC supporters to ignore police summons and to resist arrest. He was released the same day.

On March 16, security forces in Mbarara arrested and detained Private Alan Barigye, a UPDF soldier, on charges of desertion; on March 15, Barigye signed an affidavit in defense of Besigye’s Presidential election petition. Barigye remained in CMI custody at year’s end.

Police arrested journalists during the year (see Section 2.a.).

On January 9, police in Kampala released Muwanga Kivumbi, the national coordinator of Popular Resistance Against Life Presidency, on bail after he was interrogated for seditious remarks he made at an opposition Democratic Party rally in Soroti in December 2005. Kivumbi was alleged to have called President Museveni a liar and a conman. The case was pending at year’s end.

On February 4, Joseph Agupio, a former Arua District mobilizer for Kizza Besigye’s campaign, was released after being detained since February 2005.

Otim Orach, who UPDF soldiers in Gulu District arrested in March 2005, remained missing at year’s end (see Section 1.b.).

On January 3, the court acquitted Members of Parliament (MPs) Ronald Reagan Okumu and Michael Ocula, as well as Stephen Otim, for the 2002 killing of Alfred Bongomin, a former local government chairman of Pabbo subcounty in Gulu District; the three were arrested in March and April 2005.

On August 25, Christopher Turyarugayo, who was arrested in March 2005 for wearing an opposition T-shirt, appeared in court. In April 2005 Turyarugayo was accused of being a member of the PRA, charged with treason, and later released on bail. There were no further developments in the case by year’s end.

On March 7, the High Court acquitted FDC opposition leader Kizza Besigye of a rape charge originating in 1997. On March 20, the Government filed an appeal with the Supreme Court challenging the High Court’s decision. The appeal was pending at year’s end.

Mass arrests during police sweeps for criminals remained a problem. On July 19, police in Mubende District arrested 110 suspected criminals following complaints by residents in the area. On August 6, in two separate operations, police in Iganga District arrested 142 persons suspected of robbery and prostitution.

Prisons authorities reported that no detainees remained in prison from 2005 mass arrests by year’s end.

During the year the UHRC received 144 complaints from persons claiming to have been arbitrarily arrested. The UHRC tribunal confirmed that 25 of the complaints were cases of arbitrary arrest and awarded compensation; the Government made no disbursements during the year.

There were reports of political detainees, and the Government continued to arrest persons for treason. The FDC claimed that approximately 29 supporters were arrested during the year for political reasons. In 2005 the ICRC registered approxi-

mately 200 detainees held for offenses against the security of the state. The Government permitted access to political detainees by international humanitarian organizations.

The Government continued to make arrests based on treason charges. Treason suspects were subjected to numerous abuses, such as detention without charge, detention in unregistered and unofficial locations, and mistreatment, including torture (see Section 1.c.). The Prison Service held 38 pretrial treason suspects and five prisoners convicted of treason during the year.

On March 20, a court in Kampala released Emmanuel Turyahikayo, a treason suspect, on bail; Turyahikayo was arrested in March 2005.

On May 24, a court in Kampala charged Azia Turigye, Hassan Isigoma, and Bashir Mustafa with treason and remanded them to Luzira Prison. The prosecution alleged that the suspects plotted to overthrow the Government in Bugiri, Mbarara, Bundibugyo, Kasese, and Mbarara districts by providing intelligence information to ADF rebels since January 2004.

On June 22, a court in Kampala released Patrick Ssentongo, a treason suspect, on bail after he was detained for three weeks.

On January 2, opposition leader Kizza Besigye was released on bail; the other 22 suspects arrested with Besigye in 2004 remained in jail. In November 2005 authorities charged Besigye and the 22 others with treason as members of the PRA. The High Court granted bail to 15 of the accused, including Besigye, but the military forced all of them to remain in prison. On February 15, the High Court ordered that the remaining PRA suspects should be released on bail, as the bail granted in November 2005 was still valid. However, prison authorities re-arrested the suspects in defiance of the High Court. In 2005 the Attorney General filed a petition with the Constitutional Court challenging the decision to grant bail for Besigye. On September 25, the Constitutional Court ruled that the courts of judicature have discretion to grant or not to grant bail, upholding Besigye's release.

On April 4, the treason trial of the suspects, including Besigye, began. On May 18, the trial was halted following a May 15 petition filed by defense lawyers challenging the constitutionality of the continued detention of the 22 PRA suspects after they had been granted bail. On October 17, the Constitutional Court ruled that former rebels were free to testify against the defendants in the case.

On June 1, authorities released Patrick Ochola, Johnson Otim, and Sula Serumbi; the three, who were arrested in 2004 for allegedly plotting to overthrow the Government, were members of the unregistered political party Citizen Multiparty Democracy.

In August 2005 the High Court granted bail to 12 persons charged with treason for collaborating with the PRA. The suspects had been detained since 2003. There were no further developments in the case.

Legal and human rights groups criticized the excessive length of detention prior to trial, which in many cases amounted to several years; such lengthy pretrial detentions both violated the constitutional rights of the detainees and contributed substantially to prison overcrowding (see Section 1.c.). The average time in pretrial detention was between two and three years, but could be as long as seven years. The Prisons Service reported that out of 19,317 inmates being held during the year, 10,933 were pretrial detainees. The UHRC heard several cases brought by prisoners challenging the length of their detention.

Human rights groups reported that civilians were detained in military barracks and unregistered detention facilities known as safe houses. There were credible allegations that the CMI ordered detainees held incommunicado at police stations or in so-called safe houses.

During the year NGOs reported allegations of unlawful detentions by the VCCU. A June article in the Red Pepper tabloid stated that five men detained at VCCU headquarters since their July 2005 arrest sued the inspector general of police for unlawful arrest. The Attorney General's office stated that they had no record of the case.

*Amnesty.*—The Government has offered a blanket amnesty to former combatants for treason charges since 2000 as a means to induce defection and surrender of LRA rebels and members of other rebel groups. In July the Amnesty Commission reported that 21,435 persons benefited from the amnesty law since its implementation in 2000. Of this number, 11,981 were from the LRA, 4,265 from the West Nile Bank Front, 3,111 from the Uganda National Rescue Front-II, 1,795 from the ADF, and 766 from other rebel groups.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice; however, the President has extensive legal powers of judicial appointment. The

President appoints Supreme Court, High Court, and Court of Appeal judges with the approval of parliament. The President also nominates, for the approval of parliament, members of the Judicial Service Commission, who make recommendations on appointments to the judiciary. The judiciary ruled against the Government on several high-profile cases during the year; however, judicial corruption was a common problem. The lower courts remained understaffed, weak, and inefficient.

The highest court is the Supreme Court, followed by the Court of Appeal, which also functions as the Constitutional Court; the High Court; the Chief Magistrate's Court; Local Council (LC) Subcounty Courts, LC parish courts; and LC village courts.

The Constitutional Court ruled against the Government on several cases during the year, including a February 17 decision that dismissed a petition filed by the Attorney General to annul Kizza Besigye's Presidential candidacy in the February 23 elections.

The LC Courts have the authority to settle civil disputes, including land ownership and debt cases, and criminal cases involving children. These courts, often the only ones available to villagers, reportedly exceeded their authority by hearing criminal cases not involving children. LC Court decisions can be appealed to Magistrate's Courts; however, there often were no records made at the village level, and some defendants were not aware of their right to appeal.

On June 6, parliament passed the Local Council Courts Act 2006 to expand the administration of justice at the local level; to define the jurisdiction, powers, and procedure of the established courts; and to provide for other related matters.

*Trial Procedures.*—An inadequate system of judicial administration and a lack of resources resulted in a serious backlog of cases and limited the right to a fair trial. All nonmilitary trials are public, but without juries. Defendants have the right to be present and to consult with an attorney in a timely manner. The law requires that the Government provide an attorney for indigent defendants accused of capital offenses, but there rarely was enough money to retain adequate counsel. By law defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have limited access to government-held evidence relevant to their cases. There is a presumption of innocence, and defendants have the right of appeal.

Specialized courts also exist. The Industrial Court adjudicates labor disputes. Commercial Courts resolve commercial disputes; they have significantly improved commercial justice and reduced case backlogs.

The military court system often did not assure the right to a fair trial. Although the accused has the right to legal counsel, some military defense attorneys were untrained and could be assigned by the military command, which also appoints the prosecutor and the adjudicating officer. The law establishes a court martial appeals process; however, a sentence passed by a military court, including the death penalty, could be appealed only to the senior leadership of the UPDF. Under circumstances deemed exigent, a field court martial could be convened at the scene of the crime. The law does not permit appeal of a conviction under a field court martial. The military general court martial can try civilians charged with crimes listed under the UPDF Act.

On August 31, Brigadier Henry Tumukunde, the former director of the ISO, was released from military detention but restricted to his home for violating army rules and regulations; in 2005 Tumukunde said he would not join President Museveni's political party after retirement and he claimed that he had been prevented from retiring from the army. The case was on going at year's end.

The VCCU arrested 679 suspects on various counts during the year, including aggravated robbery, killing, illegal possession of firearms, and desertion. The VCCU referred 139 civilian suspects found in possession of military property to military courts for trial. In addition the unit referred 310 suspects to civil courts and released 230 persons after investigations exonerated them.

*Political Prisoners and Detainees.*—There were reports of political prisoners and detainees during the year.

Bright Gabula Africa, whose death sentence for treason was upheld by the Supreme Court in 1995, remained imprisoned pending the outcome of his appeal to the Advisory Committee on the Prerogative of Mercy, a largely autonomous constitutional body. Gabula Africa was visited by international humanitarian groups during the year.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. In the case of a human rights violation, there is access to the UHRC, which has the powers of a court under the constitution. These powers

include the authority to order the release of detainees, payment of compensation to victims, and other legal remedies.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions. At times the police did not obtain search warrants, as required by law, to enter private homes and offices. There were no developments in the July 2005 case of the illegal search and seizure of the home of Juliet Mukasa, a women's rights activist and chairperson of the NGO Sexual Minorities In Uganda, by local government officials.

The Antiterrorism Act authorizes certain law enforcement officials to intercept communication to detect and prevent terrorist activities. There were reports of such interceptions during the year.

Unlike in the previous year, there were no reports that the Government punished family members of suspected criminals and political opposition members.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Human rights groups reported that there was marked improvement in the UPDF's respect for human rights and its prosecution of violators of human rights during the year; however, serious problems remained, particularly in the LDUs. Security forces tortured and killed civilians suspected of collaborating with the LRA and raped women and girls.

Security forces sometimes changed engagement tactics to reduce the numbers of civilian casualties incurred during operations in the northern and eastern parts of the country; however, security forces killed and injured numerous civilians, including noncombatant children during the year.

On June 1, UPDF soldiers in Gulu District killed two civilians at Pabwo parish in Bungatira subcounty. A suspect was arrested and was being tried by the fourth division Court martial at year's end.

On August 16, a UPDF patrol unit in Kitgum District killed Samuel Odida Opira, the LC one chairman of Paibwor East Ward, in Labuje IDP camp. The August 18 New Vision newspaper quoted Lieutenant Chris Magezi, the UPDF's spokesperson for operations in the north, as saying that Opira was killed when he failed to identify himself to patrolling forces. No further information was available at year's end.

On May 21, eight members of the Amuka LDU militia in Lira District killed 12 civilians and injured 28 others in the Ogwete IDP camp. The UPDF initially said the civilians were killed during an exchange with LRA rebels and that the militia was trying to protect the camp; however, in June the fourth division court martial sentenced five of the militiamen to four years in prison and dismissed them from service. Sergeant Benson Opio, the LDU detachment commander, was sentenced to one year imprisonment. One of the militia members was killed evading arrest, and the whereabouts of the remaining suspect were unknown at year's end.

Security forces mistakenly killed civilians believed to be LRA rebels during the year. On January 14, a UPDF patrol unit in Gulu District mistakenly killed three hunters in Lakwatomer, Omoro County; the unit claimed it had mistaken the hunters for LRA rebels. In January UPDF soldiers in Lira District killed Samuel Abor and Charles Odong, residents of Aromo IDP camp, after they mistook them for LRA rebels.

The suspects in the April 2005 killings of two female residents of Pajule IDP camp were being tried by the fifth division Court martial at year's end.

During the year the suspects in the April 2005 killings of five female IDPs in Kitgum District were convicted of murder, dismissed with disgrace from the army, and were serving their sentences at year's end.

The UPDF continued to search for the UPDF soldier who killed Ben Oketta and his wife Donica Ajok as they worked in their garden at Olwal IDP camp in August 2005. The soldier has been at large since the incident.

There were no developments in the February 2005 torture of a farmer by UPDF soldiers, who caned the farmer and pulled on his testicles with a rope; the farmer was suspected of collaborating with the LRA.

Security forces were implicated in reports of rape and sexual violence against women and girls. In some instances, perpetrators were arrested after victims complained. However, most incidents went unpunished. Human rights groups reported that many cases were not filed due to victims' fear of repercussion, social stigma in their communities, and distrust of the legal process.

The four LDU soldiers arrested and charged for the March 2005 rape of four women in an IDP camp in Kitgum District were serving their sentence at year's end.

There were no developments in the May 2005 rape of two girls by four UPDF soldiers in Kumi District.

On April 5, the High Court in Arua awarded approximately \$44,000 (82 million shillings) to two Acholi girls who were raped by UPDF soldiers at Awere IDP camp in 2002.

On February 2, the army released a 2003–05 report on action taken against human rights violations by UPDF in the north. The report indicated that the army court martial tried and convicted seven soldiers for rape.

On June 16, Voice of America radio quoted Radhika Coomaraswamy, the UN Special Representative for Children and Armed Conflict, as stating that an estimated 5,000 children are serving in the armed forces in violation of UN Security Council resolutions. The Government denied recruitment of children in the army.

There were credible reports that security forces and some government officials provided material support to armed groups operating in the eastern DRC. Militia fighting resulted in the deaths of hundreds of civilians in the DRC.

The UPDF drove the majority of LRA combatants out of the country during the year, and the security situation in the north significantly improved, allowing thousands of internally-displaced persons to return to or near their homes of origin. On August 26, the Government and the LRA agreed to a cessation of hostilities under which the LRA agreed to assemble at designated points in southern Sudan while peace negotiations continued. On December 16, the Government and the rebels extended a cessation of hostilities until February 2007. Sporadic LRA activity occurred during the early part of the year, including attacks on private homes, schools, and IDP camps in which persons were killed, injured, raped, or abducted. During the year LRA attacks resulted in the deaths of numerous persons, including children, injuries, and the destruction of homes and property, but at a significantly lower level than in previous years. There were no reported abductions since August.

On January 7, four civilians were killed and several others injured when LRA rebels attacked civilians attending a disco in Nzaipi area in Adjumani town, Adjumani District.

On February 13, six civilians were killed during an attack by suspected LRA rebels in Alito subcounty, Apac District.

On April 5, four hunters were killed by suspected LRA rebels at Opijo in Okidi parish in Atiak, Gulu District.

On April 23, LRA rebels abducted five civilians from Amwa Teduka in Adel parish, Apac District.

On June 27, LRA rebels abducted three people when they raided Marindi parish in Adjumani District.

On August 10, LRA rebels foraging for food abducted two people from Ngukedi village in Pader District. The whereabouts of the captives remained unknown.

No legal action was taken against LRA rebels who were responsible for numerous killings in 2005 and 2004.

During the war, the LRA abducted hundreds of civilians for training as guerrillas; most victims were children and young adults whom the LRA forced into virtual slavery as laborers, soldiers, guards, and sex slaves (see Section 5).

On July 24, Minister of State for Disaster Preparedness and Refugees and Coordinator of the Arrow Boys militia Musa Ecweru stated in the Weekly Message newsletter that more than 2,000 children were still missing from Teso region since the LRA's invasion of the area in 2004.

The ongoing conflict in the Karamoja region intensified during the year; inter-clan cattle raids between Karamojong tribes in the eastern subregion increased and the Government's forced disarmament campaign continued. Raids by armed Karamojong warriors in Katakwi, Kotido, Bukwa, and Kapchorwa districts and the response by the UPDF resulted in approximately 1,448 deaths since 2003, including an estimated 459 during the year according to the Conflict Early Warning and Early Response Network (CEWARN). These exchanges caused the deaths of warriors, civilians, and security forces, and incidents of abuse resulted in the displacement of an estimated 2,425 persons to IDP camps. According to the UN World Food Program (WFP), the violence impacted food security leaving 500,000 Karamojong displaced as result of drought. The Government's mandatory disarmament program for Karamoja continued during the year along with negotiations for a Karamojong-led solution. The UPDF and the police continued efforts to improve security conditions by arresting cattle rustlers and attempting to prevent cross-border incursions.

On May 4, UPDF forces in Nakapiripirit District killed four warriors during the "cordon and search" operations in the ongoing forceful disarmament exercise in the region. The UPDF denied the incident, stating that the army did not register any operation in Nakapiripirit. Three UPDF soldiers were reportedly killed in the exchange.

Clashes between Karamojong warriors and the UPDF continued to cause civilians in the region to remain in and seek out IDP camps (see Section 2.d.). Unlike in pre-

vious years, the Karamojong IDPs received assistance from the Government and aid agencies including the WFP; however, international humanitarian organizations and human rights groups reported that the standard of living for these IDPs worsened during the year.

Ethnic Karamojong warriors killed civilians and security forces during the year. On January 16, suspected Bakora Karamojong warriors in Nakapiripirit District killed five herdsman and stole more than 600 cattle and 70 goats in two raids in the district. There were no developments in the case at year's end.

On March 11, ethnic Pokot warriors from Kenya killed 20 persons including six UPDF soldiers during a cross-border raid. The suspects escaped back across the Uganda-Kenya border. The Government was in negotiations with the Government of Kenya to pursue the suspects at year's end.

On May 19, Karamojong warriors in Nakapiripirit District killed three UPDF soldiers and injured six people during an ambush on a military vehicle. There were no developments in the case at year's end.

On July 21, suspected Karamojong warriors killed three civilians in Lira District. There were no developments in the case at year's end.

There were no developments in the 2005 cases of ethnic Pokot warriors' killing of civilians and police officers.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government at times restricted these rights. In addition the law criminalizes offenses committed by the media and limited the media's ability to function effectively. The Government at times harassed and intimidated journalists. Journalists continued to practice self-censorship.

At times the Government attempted to impede criticism through detention and interrogation of politicians who made public comments critical of the Government. For example, on January 3, police in Rukungiri interrogated Ingrid Turinawe, the FDC's secretary for women's affairs, about remarks she made against the Government on the local radio in November 2005.

On January 5, Ken Lukyamuzi, President of the Conservative Party, was interrogated at CID for allegedly stating in December 2005 that there would be war if President Museveni was re-elected.

On February 14, police in Kampala interrogated Reagan Okumu, MP for Aswa County in Gulu District, for stating that President Museveni wanted to sell land belonging to the Acholi people.

In February 2004 the Uganda Law Council upheld the regulation prohibiting lawyers from making public statements on legal matters that were before the court; however, the ban continued to be widely disregarded without penalty.

The independent media were generally active and expressed a wide variety of views. There were many privately owned publications and broadcasts. The Daily Monitor, the country's largest independent daily newspaper, consistently criticized the Government. The Weekly Observer, an independent journal, continued to publish critical pieces despite the Government's pursuit of a case against an Observer editor and reporter. The East African, a Kenya-based weekly publication that provided extensive reporting on the country, continued to circulate without government hindrance.

The international media faced new accreditation regulations for foreign journalists, including vetting by the newly-established government Media Center; a new regulation restricting in-country travel by international journalists was rescinded soon after it was promulgated. NGOs and opposition figures claimed the regulations still in place delayed the process of accreditation for foreign journalists.

The New Vision, a government-owned daily newspaper, sometimes included reporting that was critical of the Government.

The Government continued to operate the only public radio and television stations whose reporting was not considered to be independent. Government-controlled media provided more coverage of President Museveni's reelection campaign than his opponents'. The Uganda Journalist Safety Committee reported that during the week of February 9–15, in the run-up to the elections, electronic media devoted 43 percent of overall election coverage to President Museveni versus six percent to opposition candidate Kizza Besigye.

Independent radio stations that hosted opposition political candidates on talk shows in which critical statements were made against the Government or the military were sometimes subject to government interference. On March 13, the Government's Broadcasting Council shut down Choice FM radio station in Gulu, accusing the station of "violating minimum broadcasting standards," citing a section of the Electronic Media Act that bars programs "likely to cause public insecurity or vio-

lence.” On March 14, Choice FM issued a press release alleging acts of intimidation by the police and the UPDF prior to the station’s closure. The Broadcasting Council ordered Choice FM to pay a fine, and the station was reopened on July 28.

In November 2004 Minister of Information James Nsaba Buturo instructed the Broadcasting Council to revoke the licenses of those stations that “abuse the President or use offensive language and fail to correct the behavior.” Buturo also announced that no additional licenses would be issued for stations seeking to broadcast in Kampala; in 2003 the Broadcasting Council proposed regulations that would limit the number of FM radio stations, allegedly to prevent overburdening the airwaves and adversely affecting the quality of broadcasting. Critics charged that the restrictions targeted independent radio, which was the primary news source for 80 percent of the population. While the ban on new radio stations, which was widely disregarded in practice without penalty, was lifted this year for upcountry radio stations, it still holds for Kampala.

Security forces arrested and harassed journalists who criticized the Government during year. On February 1, police in Lira District arrested four journalists working with Radio Unity for allegedly airing programs which discouraged people in the north from attending the January 31 campaign rallies in support of President Museveni. The journalists were later released without charge.

On March 9, Canadian freelance journalist Blake Lambert was denied re-entry to the country following a visit to South Africa. Lambert’s international reporting and his domestic radio commentary included criticism of the Government; the Government gave no official reason for the entry denial.

On March 13, police in Kampala detained Arinaitwe Rugyendo and Nathan Obore of the Red Pepper tabloid for publishing a leaked cabinet list. The two were later released without charge.

On March 20, police raided Open Gate FM in Mbale. They subsequently confiscated computers and arrested David Opio and Ongole Manase for failure to record a March 18 talk show in which Nathan Mafabi Nandala, MP and senior leader of the FDC, made statements critical of the Government. The two employees were later released on bail, and the computers were returned. There were no further developments at year’s end.

On July 13, the Uganda Journalists Union (UJU) received a certificate of registration allowing it to operate as a trade union after more than a decade of seeking approval by the Ministry of Gender, Labor, and Social Development. Registration allows the UJU to advocate for the rights of journalists at places of work.

There were no developments in the September 2005 incident where Major General Kahinda Otafiire, then minister of water, lands, and environment, pointed a gun at Mike Odongkara, a photojournalist with the Daily Monitor.

The Government restricted media content during the year. On June 8, the court martial in Mbarara banned media coverage of a case in which Major Noel Niwe Drago, a UPDF officer, allegedly gave classified information about the army to the FDC during the February Presidential elections. On the same day, Ruth Nabasa, a magistrate in Mbarara, banned journalists from taking photographs in the High Court.

The 2005 ban on media coverage of the trial of opposition leader Kizza Besigye continued; however in practice the ban was widely disregarded without penalty.

Media laws require that journalists be licensed and meet certain standards, such as possessing a university degree in journalism or the equivalent. A 1994 law also provides for a Media Council with the power to suspend newspapers and deny journalists access to state information.

Some journalists noted that government intimidation resulted in journalistic self-censorship.

The Government used libel laws to suppress criticism of political leaders. On January 24, the Magistrate’s Court in Kampala charged Winnie Byanyima, wife of the leader of the FDC, and Jack Sabiiti, FDC national treasurer, with libel and providing false information; Byanyima and Sabiiti had alleged in December 2005 that the Government paid Deputy Chief Justice Latecia Kikonyongo and Justice of the High Court Remmy Kasule approximately \$162,150 (300 million shillings) to keep Besigye in prison. The libel trial began on February 14 and was ongoing at year’s end.

During the year the Government arrested critical journalists and banned newspaper content, citing national security. For example, on March 3, police in Gulu arrested Martin Ojara Mapenduzi, a journalist with Choice FM Radio, after the station broadcast a program on February 28 that the Government deemed seditious and a threat to security. The journalist was later released.

On June 23, police in Kampala interrogated Joachim Buwembo, a journalist with the Daily Monitor, for promoting sectarianism.



On December 8, the Daily Monitor newspaper was served with an order filed by Attorney General Khiddu Makubuya and signed by the High Court registrar, to refrain from publishing a series of articles chronicling the history of the country's security services; the High Court temporarily permitted the paper to resume the series, allowing the publication of only unclassified material, until the case is heard. The case was ongoing at year's end.

In August 2005 President Museveni threatened to arrest journalists that irresponsibly disregarded national security interests in the course of their reporting and close any press organization that threatened the country's national security. The Minister of State for Information, James Buturo, told journalists that even when facts were true, their reporting must be informed by an imperative to preserve national interests.

In June 2005 the Daily Monitor's then-political editor Andrew Mwenda was questioned by police in connection with an article alleging that President Museveni had not protested comments made in his presence criticizing members of the Bairu ethnic group. Police said the article could "create ethnic discontent," but did not bring further charges against Mwenda at that time. In August 2005, the Broadcasting Council closed KFM radio station on grounds that it breached a national security provision in the electronic media law after Mwenda, who was also a KFM talk show host, made comments critical of the Government and the President's handling of the helicopter crash that killed Sudanese Vice President John Garang. Mwenda was subsequently arrested and jailed for several days before being released on bail. The council later reopened the station but ordered that the producer of Mwenda's talk show, Angelo Izama, be fired. Mwenda later left the country and Izama took over as one of the hosts of the show. Mwenda was charged in the Magistrate's Court on 15 counts of sedition and promoting sectarianism, the latter referring to the 2005 Daily Monitor article. Mwenda's lawyers applied for a stay of execution in order to file a petition in the Constitutional Court, declaring that the two laws that were the basis for the charges were unconstitutional. While still abroad, Mwenda continued to await trial at year's end.

At year's end the December 2005 government suit against the chief editor and a staff reporter of the independent Weekly Observer newspaper for publishing material of a sectarian nature was on hold pending the outcome of a petition entered in the Constitutional Court in the Mwenda case. A December 2005 article reported that FDC party members believed that President Museveni and a small group of army generals from the President's Bahima ethnic group had conspired to keep opposition leader Kizza Besigye in jail.

An out of court settlement was reached in the 2005 case against the Weekly Observer editor and two journalists. The UPDF had sought an injunction against the publication of information about the existence of "ghost soldiers" in the army because it was deemed prejudicial to the security of the state; it was agreed that no additional stories would be published.

*Internet Freedom.*—Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by electronic mail; however, at times the Government restricted access. On February 13, the Government directed Uganda Telecom to block access to radiokatwe.com, a website that published antigovernment gossip. NGOS and opposition figures alleged that the move reflected a crackdown on Internet freedom.

Access to the Internet increased during the year. However, access for the majority of the population remained constrained due to high costs of equipment and subscriber fees and a lack of user education. Approximately 5 percent of the population used it monthly and 56 of the country's 80 districts were equipped with Internet capabilities after a public-private partnership began in September 2005.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom; however, the Government censored cultural events during the year.

In May the Media Council halted a screening of a documentary about the play "Vagina Monologues," which the Media Council banned in February 2005 on the grounds that it promoted "unnatural sex acts, homosexuality, and prostitution." The cabinet also endorsed the ban the next day.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law restricts freedom of assembly for unregistered political groups and parties. For groups legally authorized to operate, permits were not required for public meetings; however, groups were required to notify the police prior to such gatherings. Police denied permission to hold public rallies and forcibly dispersed demonstrations during the year. Police attempts to prevent mob lynchings resulted in deaths. For example, on July 4, police in Luwero District killed a resident and injured several oth-

ers while they were dispersing a mob that raided Wobulenzi police post in an effort to lynch a murder suspect. No arrests were made by year's end.

On August 7, Benson Atwai, special police constable in Apac District, killed Jimmy Opio while attempting to disperse a crowd that tried to lynch a man accused of witchcraft. No arrests were made by year's end.

Police forcibly dispersed student demonstrators during the year. For example, on November 7, police in Kampala arrested 45 students during a Makerere University lecturers' strike, which began on November 4. On November 8, the students were charged with taking part in an illegal riot; all were released on bail on November 10. The case was ongoing at year's end (see Section 6.b.). On July 25, police in Pader District shot and injured three students of Pajule Technical College when they tried to disperse a student demonstration. There were no reports of an investigation by year's end.

No action was taken against police responsible for injuring protestors during forcible dispersals of demonstrators in 2005. Trials were pending at year's end for demonstrators charged with illegal assembly in March, June, and November 2005.

The November 2005 ban on demonstrations related to Besigye's trial remained in effect.

In July 2005 the court dismissed the case against 17 activists from the Popular Resistance to a Life Presidency for attempting to hold an illegal assembly in Kyotera, Masaka District.

*Freedom of Association.*—The constitution provides for freedom of association and, unlike in the previous year, the Government generally respected these rights.

On April 7, parliament passed the NGO Registration (Amendment) Act. The law requires NGOs, including religious organizations, to renew their registration permits annually unless they are registered under the Trustees Incorporation Act or the Companies Act. NGOs raised concerns that the new law would impede their ability to operate effectively.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice with some minor restrictions. The law requires religious groups and foreign missionaries to register with the Government; failure to register is a criminal offense.

Bans against nighttime prayer meetings by evangelical churches, reportedly for security and noise abatement reasons, were still in effect in residential areas of several districts during the year.

On August 1, the Supreme Court in Kampala dismissed an appeal filed in March 2005 by members of the Seventh Day Adventist Church seeking a ban on weekend classes at Makerere University. The seven-man panel held that the university's policy was "rational, fair, and proportional."

During the year there were no reports of violence by the Government or its agents against religious groups, leaders, or individual members.

Unlike in the previous year, there were no reports that local government took any new actions to restrict operation of religious organizations for reasons of security. National government policy did not include restrictions.

The Government continued to refuse registration to the World Last Message Warning Church due to continuing suspicions arising from the killings of more than 1,000 citizens in Kanungu in 2000. There were some reports that the Government refused to grant registration to other self-proclaimed religious groups on the grounds that the groups were not legitimate religious organizations. Several religious groups that were shut down by police as suspected "cults" in previous years remained inactive at year's end.

Unlike in the previous year, there were no reports of religiously-motivated arrests.

On February 25, the six suspects charged with the March 2004 killings of two missionaries escaped from prison and fled.

The two Muslim religious leaders and five other suspects arrested on treason charges in 2004 were convicted of treason and serving their prison sentenced at year's end.

Muslims occupied positions of authority in local and central government; however, some Muslim leaders claimed that the number of positions did not reflect their percentage of the population. President Museveni appointed six Muslim ministers to his cabinet during the year, in comparison to three in 2005.

No action was taken against LRA rebels responsible for killing, injuring, and abducting religious workers in 2004.

*Societal Abuses and Discrimination.*—There were generally amicable relations between religions in society during the year. However, there were reports of evangelical Christian groups who accused each other of practicing witchcraft.

The Jewish community represents less than 1 percent of the population. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights; however, the Government at times limited them in practice. A married woman must obtain her husband's written permission on her passport application if children are to be listed on her passport. There were reports that government agents blocked the travel of opposition party members. On April 22, police in Kampala stopped Kizza Besigye from visiting Owino Market in Kampala, citing security concerns. Besigye was required to seek court authorization to travel abroad while facing treason charges.

There was no information on whether the law permits or prohibits forced exile. However, the Government did not use forced exile during the year.

*Internally Displaced Persons (IDPs).*—Continued attacks by the LRA and Karamojong warriors caused many ethnic Acholis and Iteso to leave their homes for urban centers, IDP camps, and villages guarded by the UPDF and LDUs (see Section 1.g.). According to the UN Office of the Coordinator for Humanitarian Affairs, there were more than 1.5 million registered IDPs as a result of this violence. At year's end the number of IDPs per affected district in the north was: Amuru, 368,238; Gulu, 320,232; Kitgum, 305,525; Pader, 415,164; Lira, 184,374; and Apac/Oyam, 128,190. During the year, an estimated 2,425 Karamojong were displaced as a result of the UPDF/Karamojong clashes related to forced disarmament. According to WFP, another 500,000 Karamojong have been displaced due to drought.

UPDF soldiers reportedly raped women and girls, and security forces detained and mistreated suspected LRA collaborators in the camps (see Section 1.g.). In November the UN High Commissioner for Human Rights reported incidents of inhuman and degrading treatment during the on-going forced disarmament exercise in Karamoja, including rape of the Karamojong by the UPDF.

The Government had not clearly articulated a position on the movement of IDPs by year's end; however, in practice IDP movement was restricted. In previous years security forces severely restricted freedom of movement for IDPs and imposed nighttime curfews on many camps. Spokespersons for the Government have stated the Government's commitment to protecting freedom of movement and relaxed some past restrictions on the movement of IDPs as the security situation in the north improved.

During the year, the LRA killed and injured persons during attacks on IDP camps (see Section 1.g.). In the north security forces continued their policy of maintaining UPDF detachments at IDP camps as a means of protecting civilians and denying support to the LRA.

During the year there were reports of attacks by Karamojong warriors on IDPs in Pader and Kitgum districts.

Although the Government and domestic and international humanitarian organizations provided assistance to the estimated 230 IDP camps in the north, health and living conditions remained precarious. A June 2 UNICEF report stated that despite improved security in the north, most IDPs, particularly women and children, were deprived of access to education, basic health care, safe water, protection, and shelter. However, as the security situation in the northern districts improved during the year, IDPs increasingly traveled outside the camps to farm, hunt, and gather wood and water (see Section 1.g.). During the year the Government approved a plan to assist returnees and worked with the UN High Commissioner for Refugees (UNHCR) and the other international organizations to prepare IDPs to return to their home areas. In Lira District, IDPs returned to their home areas in large numbers. In other northern districts, IDPs said they would return once they had guarantees of security from the Government.

Unlike in previous years, the Karamojong IDPs received assistance from the Government and humanitarian agencies including the WFP; however, international humanitarian organizations and human rights groups reported that the standard of living for these IDPs worsened during the year (see Section 1.g.).

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the definition of the 1951 UN Convention Relating to the Status of Refugees and its 1967 protocol. On March 23, the parliament passed the Refugee Bill, which brings the country into compliance with international law and treaties with regard to refugee rights and obligations. On May 24, the President assented to the bill. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. Approximately 80 percent of the esti-

mates 215,328 refugees in the country were from southern Sudan; there also were refugees from the DRC, Rwanda, Burundi, Somalia, and other countries.

The Government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and 1967 Protocol and also provided land for temporary resettlement to citizens from neighboring countries.

The Government generally cooperated with UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. There were no reports of refugee abuse or discrimination by government authorities. Following the signing of a tripartite agreement among the country, Sudan, and UNHCR in March, UNHCR began facilitating small-scale repatriation of Sudanese refugees to southern Sudan. By December more than 5,300 Sudanese had been safely returned to southern Sudan in facilitated convoys and another 16,400 had spontaneously returned. The Government assisted in returns as required under the tripartite agreement and made public statements that refugees would be permitted to remain in country if they were not prepared to return at this time.

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

The constitution and law provide citizens with the right to change their government; however, the ruling party's domination of the Government and some restrictive constitutional and statutory provisions limited citizens' effective exercise of this right.

*Elections and Political Participation.*—On February 23, the country held its first multiparty general elections since President Museveni came to power in 1986; a July 2005 national referendum resulted in the adoption of a multiparty system of government and the subsequent inclusion of opposition parties in elections and government. The election generally reflected the will of the people, although serious irregularities occurred. Ruling NRM candidate President Museveni was declared the winner with 59.26 percent of the vote, giving him a third term in office following the passage of a controversial amendment in June 2005 to eliminate Presidential term limits. Opposition FDC leader Kizza Besigye captured 37.39 percent of the vote, while the remaining contestants received less than 2 percent of the vote each, according to official figures from the Electoral Commission.

On March 7, Besigye filed an election petition challenging the results of the elections. On April 6, the Supreme Court narrowly rejected the petition, ruling that although serious irregularities had occurred, they did not substantially affect the outcome of the race. The opinion acknowledged that irregularities included disenfranchisement of voters, particularly with regard to names missing from the voter roll; counting and tallying problems; bribery; intimidation; incidents of violence; multiple voting; and ballot stuffing in some areas. The international community, including the delegation of Commonwealth election observers, generally concurred with these findings.

The police recorded 450 cases of violence during the election period. On February 15, Lieutenant Ramadhan Magara, a UPDF soldier, killed two persons and injured several others when he fired into a crowd gathered to see Besigye during his visit to Buganda Kingdom in Mengo. Magara was arrested and the case was ongoing at year's end.

Parliamentary contests, which included seats for 11 new districts approved by parliament in June 2005, resulted in the election of 309 members, including 205 from the NRM, 37 from the FDC, nine from the Uganda Justice Forum (JEEF), and 37 independent members.

More than 100 election challenges were filed following the parliamentary elections. Charges included bribery, intimidation, incidents of violence, multiple voting, and ballot stuffing. The High Court nullified six election results, and special elections for the seats in question were scheduled during the year. The courts dismissed more than 20 other petitions during the year; the remaining were pending before the courts at year's end.

In October 2005 FDC leader Kizza Besigye returned from self-imposed exile and was elected as the party's Presidential candidate. In November 2005 police arrested and charged Besigye and 22 other FDC members with treason for allegedly organizing the rebel group PRA. The 23 suspects were also charged with terrorism and possession of illegal arms by the UPDF Court martial (see Section 1.d.).

On July 11, Minister of Local government Kahinda Otafiire warned public servants working in local government against openly declaring their political affiliations, stating that it would place them at risk for being dismissed. He was responding to complaints from opposition MPs that FDC members were being discriminated against in employment.

The ruling NRM regularly held rallies, conducted political activities, and in 2003 registered the National Resistance Movement Organization, the ruling political party that generally operated without restriction. Approximately 33 parties were allowed to function, including political parties that existed in 1986, when the NRM assumed power.

Opposition parties were active during the year. On June 19, the leading opposition party named a 21-member shadow cabinet. During the year the NRM party twice invited the six main political parties to discuss multiparty cooperation; the meetings were attended by all the invited parties except FDC and JEEMA, which boycotted.

There were 99 women in the 333-member parliament. There were seven female ministers and seven female junior ministers in the President's 66-member cabinet. Female activists were concerned that the number did not meet the required 40 percent female representation in the cabinet. One woman served as deputy speaker and another as deputy chief justice of the Supreme Court. Women also headed the Inspectorate General of government and the CID.

There were 105 members of minority groups in parliament. The law requires elections through electoral colleges for the seats reserved for special interest groups in parliament: 80 seats were reserved for women; five for organized labor; five for persons with disabilities; five for youth; and 10 for the Army, which were selected by the UPDF High Command and chaired by President Museveni.

*Government Corruption and Transparency.*—Corruption continued to be a major problem; however, unlike in the previous year, the Government took action to investigate and prosecute offenders. The law requires the declaration of wealth by government officials and their family members, and the Government enforced the law during the year. The July 18 auditor's report presented to parliament cited several instances of "recklessness, carelessness, wastefulness, and negligence" on the part of public officials in the State House, the Office of the President, and the Ministries of Defense, Foreign Affairs, Finance, and Health. The State House reportedly failed to account for approximately \$97,800 (181 million shillings) advanced to several officers for hotel accommodation, transportation and travel abroad.

On July 6, police in Kampala arrested Chris Ongyero, a deputy passport officer, and Edith Manyire, an immigration officer, and subsequently charged them with abuse of office and irregular conduct. The prosecution alleged that the suspects issued passports and visas to suspected Congolese rebels and drug traffickers. On August 17, the suspects were released on bail, and the case was ongoing at year's end.

On August 26, President Museveni suspended Justice Richard Oscar Okumu Wengi on allegations of gross misconduct, corruption, forgery of court documents, impropriety, and bias. The President appointed a tribunal of five judges to investigate Wengi's alleged conduct. The tribunal had not begun investigations at year's end.

In an August 30 report for the President, the inspector general of government held two ministers responsible for problems with a multi-billion shilling national identity card procurement. Findings of the report showed that Minister for Information and Communication Technology Ham Mulira and Minister of State for Regional Cooperation Isaac Musumba broke tendering laws. The report recommended that both ministers be prosecuted. On February 1, the Government suspended the project over alleged corruption in the awarding of the contract. There were no further developments by year's end.

A September Uganda Muslim Supreme Council (US) land probe recommended that the Mufti Sheikh Shaban Ramadhan Mubajje and his deputy, Sheikh Twaib Mukuye, be dismissed for mismanaging the council's affairs. The probe found that Mubajje endorsed US land transfers without the knowledge of the executive. The probe also recommended the dismissal of Vice Chair of the US Hassan Basajabalaba and US General Secretary Idris Kasenene.

In August 2005 the Global Fund to Fight AIDS, Tuberculosis, and Malaria suspended grants worth \$201 million (362 billion shillings) to the country after an investigation uncovered evidence of serious mismanagement of funds. The Government suspended all officers who had been managing the funds, and instituted an independent probe commission to investigate the incident. The commission started work in September 2005. In a report released on May 30, the commission stated that high level officials were implicated in mismanagement of funds and recommended further investigation and prosecution.

On September 12, two officials of the National Council of Sports appeared before CID's Serious Crimes Office and were charged with fraud, forgery, and false accountability following the release of the commission's report. The suspects, including Assistant Secretary General Nicholas Muramagi and Administrative Secretary Tim-

othy Magala, allegedly submitted forged applications for two nonregistered sports organizations to receive funds for HIV/AIDS awareness programs. Approximately \$15,700 (29 million shillings) was received by the NGOs, but not accounted for. The suspects were released on bail and ordered to report to CID on September 18.

During the year the 2003 court martial of army officials suspected of maintaining under-strength units and pocketing salary payments for so-called “ghost soldiers” continued. Three suspects were acquitted for lack of sufficient evidence. On July 5, the court martial acquitted Brigadier Stephen Kashaka of charges of causing financial loss, obtaining money by false pretense, and abuse of office. On July 28, the court acquitted Colonel Mark Kodili, formerly the UPDF’s chief of personnel and administration, of the same charges. On August 24, the court also acquitted Brigadier Henry Tumukunde, but he remained under house arrest for violating army rules and regulations (see Section 1.d.).

The law provides for public access to government information, and the Government provided such access in practice. On April 20, the Access to Information Act 2005 came into effect. The law provides citizens with the right to access information and records of government ministries, statutory corporations, and other government agencies. It also empowers persons who are denied access to public records to take the matter to court.

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

A number of domestic and international human rights groups generally operated without government restriction (see Section 2.b.), investigating and publishing their findings on human rights cases. Government officials generally were receptive to their views. Active, independent domestic groups included: FHRI, Human Rights Focus, Human Rights Network, Human Rights and Peace Center of Makerere University, the International Federation of Human Rights, the Justice and Peace Commission, the Uganda Journalist Safety Committee, the Uganda Prisoner’s Aid Foundation, and the Uganda Association of Women Lawyers. Government officials continued to attend conferences and seminars hosted by NGOs on social problems and cooperated with NGOs on legal and prison reforms.

In response to the Government’s 2003 call for a code of NGO conduct to minimize corruption, Minister of State Matia Kasaija launched the Quality Assurance Certification Mechanism on September 20, which put in place minimum standards for NGO activities including fighting corruption.

The Government allowed visits by the ICRC, UNHCR, and several international human rights NGOs, including Amnesty International, HRW, and the International Justice Mission. During the year the ICRC continued its visits to prisons, police stations, and military detention facilities. In September 2005 the ICRC signed a new agreement with the Government to permit ICRC visits for the next three years.

On January 12, UNOHCHR signed a cooperation agreement with the Government to reinforce the mechanisms for protection of human rights in the north. In August officials from the African Union’s Commission on Human and People’s Rights visited the country to investigate allegations of human rights abuse.

A March 16 report prepared by the Control Arms Campaign presented to the UN Security Council charged that the country continued to systematically violate the UN arms embargo with impunity, fueling human rights abuses in the region. A January 2005 report by a UN Security Council panel implicated the Government for violating an UN-imposed arms embargo in the DRC by funneling weapons, including land mines, and military support into the DRC to the Forces Armées du Peuple Congolais, an Ituri-based militia group. The Government denied the report’s claims.

The law establishes the UHRC as a permanent independent body with quasi-judicial powers. The President appoints the UHRC’s eight-member board. Under the law the UHRC may subpoena information, order the release of detainees, and order the payment of compensation for abuses. In several cases during the year, the UHRC Tribunal awarded compensation to complainants who proved their allegations against the Government (see Sections 1.c. and 1.d.). The UHRC continued to pursue suspected human rights abusers, including high-level officials in the Government and military, and had branches countrywide. The UHRC did not have adequate resources to investigate all complaints it received.

During the year the UHRC Complaints and Investigations Department in Kampala received 1,141 complaints, of which 246 involved torture. The UHRC Tribunal received new 54 cases of alleged abuse; 184 cases, including those from previous years, were pending hearing by the Tribunal; 25 torture cases were awarded damages, seven cases were dismissed; and one case was resolved through mediation.

Human rights fall under the Parliamentary Committee on Legal and Parliamentary Affairs. The committee handles policy related issues, bills, and budgets in respect to the UHRC.

In December 2005 the International Court of Justice issued its judgment that the armed activities of the Government in the DRC between August 1998 and June 2003 violated the international prohibition against aggressive use of force, international human rights, and international humanitarian law. The ruling determined that the Government should pay reparations to the DRC. The Government had taken no action on the court's recommendations by year's end.

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

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the Government did not enforce the law in matters of locally or culturally prevalent discrimination against women, children, persons with disabilities, or certain ethnic groups. Continued instability in the northern region led to violations of the rights of some Acholi and Lango, ethnic groups that comprise a significant part of the population; LRA rebels, although predominantly Acholi themselves, were responsible for the most serious human rights violations.

*Women.*—Violence against women, including rape and domestic violence, remained common. A 2003 Johns Hopkins University study indicated that one in three women living in surveyed rural areas experienced verbal or physical threats from their partners, and 55 percent sustained physical injuries as a result of domestic abuse. The law prohibits assault, battery, and rape; however, there were no laws that specifically protected women from spousal abuse. Many law enforcement officials continued to view wife beating as a husband's prerogative and rarely intervened in cases of domestic violence. Women remained more likely to sue for divorce than to file rape or assault charges against their husbands.

Reports of domestic violence increased during the year. On August 8, the Gulu police reported that from January to August 450 cases of domestic violence were reported compared to 512 total cases reported in 2005. The Child and Family Protection Unit in Masaka reported that since January, 31 cases of domestic violence were reported as compared to 58 cases in 2005.

A 2003 HRW report concluded that married women were particularly vulnerable to HIV/AIDS infection as a result of forced sex in marriage by husbands with multiple partners or wives. The HRW report identified numerous social and legal obstacles to women's ability to protect themselves against HIV/AIDS infection in abusive relationships.

On May 4, the Center for Domestic Violence Prevention launched a public awareness week to sensitize the public on domestic violence issues.

Rape is illegal. Although the Government arrested, prosecuted, and convicted persons for rape during the year, there were reports that some cases were not investigated. Incidents of rape of IDPs in the north by security forces remained a serious problem (see Section 1.g.). Women and girls continued to be victims of abduction and rape by rebel forces. According to a June 2005 UNICEF study on sexual-and-gender-based violence at a northern IDP camp, 469 cases were reported to police in Gulu District in 2004. The study revealed that the three most common forms of gender-based violence were rape, child sexual abuse, and physical assault. Teenage girls and young women were the most common victims of gender-based violence.

The law requires that bride prices be nonrefundable gifts to the parents of the bride. The constitutional amendments approved by parliament did not include a provision to abolish bride prices, despite 2003 recommendations to do so from civil society groups.

There was no national law against FGM, which was practiced by the Sabinu ethnic group located in rural Kapchorwa District, and the Pokot ethnic group along the northeastern border with Kenya. However, since January, 16 subcounties of Kapchorwa and Bukwo Districts passed bylaws to make the practice of FGM illegal. The Government, women's groups, and international organizations continued programs to combat the practice through education. These programs, which received some support from local leaders, emphasized close cooperation with traditional authority figures and peer counseling.

Prostitution was illegal; however, it was common. There were no credible statistics available on the occurrence of prostitution, including child prostitution, during the year.

There were reports of trafficking in women and girls during the year (see Section 5, Trafficking).

Sexual harassment is prohibited by law, but was a common problem, and the Government did not effectively enforce the law. On March 28, parliament passed the Employment Bill 2005 which sets the basic terms and conditions of work, including

prohibition of forced labor, discrimination, and sexual harassment in employment. On August 17, the third division court martial in Soroti District sentenced Hassan Abacha, a UPDF Warrant Officer II, to six months in jail and a demotion for sexually harassing five foreign female soldiers during an August joint military training course.

Traditional and widespread societal discrimination against women continued, especially in rural areas. Many customary laws discriminate against women in the areas of adoption, marriage, divorce, and inheritance. Under local customary law in many areas, women cannot own or inherit property or retain custody of their children. There were limits on a married woman's ability to travel abroad with her children (see Section 2.d.).

Traditional divorce law in many areas requires women to meet stricter evidentiary standards than men to prove adultery. Polygamy is legal under both customary and Islamic law. In some ethnic groups, men can "inherit" the widows of their deceased brothers. Women did most of the agricultural work but owned only 7 percent of the agricultural land. A May 2005 World Bank report estimated that 80 percent of all unpaid workers were women. Employers in the private sector frequently failed to apply the statutory provision that provides women with maternity leave.

There were several active women's rights groups in the country. On March 13, Law and Advocacy for Women in Uganda, a women's rights organization, filed a petition in the Constitutional Court challenging the law that imposes limitations on a widow's inheritance of her husband's property. On October 17, the Constitutional Court heard the petition as well as another on criminal adultery filed by the same organization in September 2005. The case was ongoing at year's end.

On April 4, a report released by the Agency for Accelerated Regional Development and Actionaid showed that 87.8 percent of women in three subcounties in Nebbi District never attained formal education and were not aware of their rights in society.

A June International Crisis Group report stated that women were often excluded from peace agreements and conflict resolution processes, and were underrepresented in the security.

The Government, in conjunction with numerous NGOs, sponsored workshops and trainings throughout the country to increase awareness of women's rights.

*Children.*—The Government demonstrated a commitment to improving children's welfare and education received the largest percentage of the national budget. However, the Government did not enforce effectively the Children's Statute, which outlines broad protections for children, due to the large proportion of children in the population (56 percent of the population was under the age of 18), staffing and fiscal constraints on the judiciary, and cultural norms. The law stipulates parents' responsibilities and provides extensive protection for children in a wide variety of areas, including financial support, foster care placement, adoption, determination of parentage, and treatment of children charged with offenses. The law also prohibits children from taking part in any activity likely to injure the child's health, education, or mental, physical, and moral development; however, the Government often did not enforce these prohibitions.

The Government's Universal Primary Education (UPE) program provided free education through the seventh grade; however, education was not compulsory. The UPE program made education more accessible financially; however, parents still had to pay for school supplies and some school costs. The UPE increased funding for education, provided additional skills training for teachers, and reduced the student to textbook ratio. Strained finances, corruption, instability, infrastructure problems, and inadequate teacher training prevented full implementation. Teachers were rarely paid on time, and many did not show up for work when the Government was late in paying their wages. In June the Government requested from parliament an increase in teachers' wages from approximately \$70 (130,000 shillings) to approximately \$108 (200,000 shillings) per month.

According to UNICEF, the country's primary school enrollment rate was 79 percent for both boys and girls, who theoretically had equal access to education in the lower grades; however, the proportion of girls in higher grades remained low because families traditionally favored boys when making educational decisions. Boys also were more likely to finish primary school and performed better on examinations for admission into secondary school. The Government continued several programs to promote a national plan for the education of girls. On October 12, the Government launched Universal Secondary Education.

The Government provided subsidized health care through a national health care program, and boys and girls had equal access. However, health clinics did not have adequate resources to provide comprehensive treatment.



Child abuse remained a serious problem, particularly rape and other sexual abuse of girls known as "defilement." Defilement applied to all cases of sexual contact outside of marriage with girls younger than 18 years of age, regardless of consent or the age of the perpetrator. Defilement carried a maximum sentence of death; however, in practice defilement cases often were settled by a payment to the girl's parents. The perpetrators of defilement often were family members, neighbors, or teachers. A 2005 Save the Children survey of 1,400 children conducted during the year found that 46 percent of girls were sexually abused and 20 percent were raped. Since January police registered 97 cases in Kasese, 46 in Kayunga, 42 in Gulu, and 34 in Soroti. On August 28, the regional CID officer for the north stated that 989 girls were defiled in IDP camps in Lira, Kitgum, Gulu, Apac, and Pader Districts since January.

On March 24, a court in Mukono referred Paddy Katongole, a primary school teacher, for trial in the High Court on charges of defiling a seven-year old pupil in September 2005. The case was ongoing at year's end.

There were no developments in the 2004 or 2005 cases of defilement by primary school teachers.

There were reports of child abuse. On August 3, a court in Luwero District charged Frederick Mbazira, a teacher at Katikamu Seventh Day Adventist Secondary School, with causing bodily harm to Beatrice Achieng, a student. On July 29, Mbazira beat Achieng into paralysis after she and other students failed to complete a geography assignment. The case was pending at year's end.

On August 3, authorities in Arua District closed Mandela Comprehensive Secondary School after a group of teachers indiscriminately beat students, five of whom were admitted to the district main hospital in critical condition. There were no reports of action taken against the teachers.

On August 7, the Ministry of Education banned corporal punishment in schools and colleges.

There were reports of the use of children in ritual sacrifice. On August 16, a court in Kampala District charged a traditional doctor and a housewife with kidnapping a two-year-old boy with intent to kill him for sacrifice. The suspects were remanded to Luzira Prison, and the case was ongoing at year's end. On August 8, pupils from schools around Kampala petitioned parliament over increased cases of human sacrifice and asked the Government to put in place tough laws to curb the crime.

FGM was performed on girls in the Sabiny and Pokot ethnic groups (see Section 5, Women).

The legal age for marriage is 18 years, but the marriage of young girls by parental arrangement was common, particularly in rural areas. On July 16, the Kumi District Health Educator reported that 60 percent of girls in the district left school between the ages of 12 and 15 years due to early marriages.

Child prostitution and trafficking were problems (see Section 5, Trafficking).

The law prohibits service in the military by persons under 18 years of age; however, there were reports that individuals under the age of 18 enlisted in the army and in local militias, sometimes in collusion with local officials. On June 16, the UN Special Representative for Children and Armed Conflict stated that an estimated 5,000 children were serving in the country's armed forces. The UPDF denied that it had actively recruited child soldiers, but stated some might have joined through deception or oversight.

There continued to be reports that the UPDF detained some former LRA child combatants for long periods, and in some cases may have used them in intelligence and reconnaissance missions.

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

According to UNICEF the LRA has abducted approximately 12,000 children since 2002 and continued to abduct children during the year. The LRA forced children into virtual slavery as laborers, soldiers, guards, and sex slaves. In addition to being beaten, raped, and forced to march until exhausted, abducted children were forced to participate in the killing of other children who attempted to escape. More than 85 percent of LRA captives were made up of children whom the LRA abducted and forced to fight as rebels; most LRA rebels were between the ages of 11 and 16.

During the year the UPDF rescued 114 children from LRA captivity. The UPDF's Child Protection Unit provided treatment to returned abductees upon arrival at military facilities. The unit also escorted former abductees to NGO facilities, which provided assistance and counseling to the children and their families. The Government also worked closely with NGOs in the north to facilitate their assistance programs for amnesty seekers and rescued children; however, these programs were primarily financed by donors.

Improved security in the north contributed to significant reductions in the number of children known as "night commuters" who traveled from conflict areas or IDP

camps each night to urban centers to avoid abduction by the LRA. UNICEF reported that as of December 2,700 commuters sought shelter in Kitgum and Gulu; approximately 35,000 were regular night commuters in 2005. A June UNICEF study indicated that children continued to commute due to reasons other than LRA activity, such as endemic poverty and domestic violence. During the year the Government cooperated with NGOs to operate shelters for such children in tented dormitories and other semi-permanent structures; in other cases children slept under balconies or on the grounds of schools, churches, and hospitals. Conditions ranged from harsh to adequate. There were credible reports that many displaced girls became involved in prostitution.

UNICEF reported in January that two million children have been orphaned since the beginning of the war as a result of conflict and instability, including population dislocation, and that 940,000 children nationwide have been orphaned by HIV/AIDS. The Government supported programs to assist children affected by HIV/AIDS and conflict in the north.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, the law does prohibit trafficking-related offenses. There were reports that persons were trafficked to, from, and within the country. There were no available statistics on the extent of trafficking in persons. The maximum penalty for the procurement of women for purposes of prostitution or detention with sexual intent is seven years' imprisonment; the maximum penalty for trading in slaves is 10 years' imprisonment.

The national police force is responsible for investigating trafficking-related crimes and maintains a Child and Family Protection Unit to train local police on women and children's rights. The UPDF is responsible for capturing, disarming, or eliminating LRA combatants who perpetrate human trafficking crimes in the north.

Adults and children also were trafficked internally for labor, commercial sexual exploitation, and criminal activities.

Trafficking in persons primarily occurred internally. The LRA abducted children to be soldiers, sex slaves, and porters; freelance operators, including taxi drivers and hotel/bar operators, conducted the commercial sex trafficking. Children also were trafficked to Pakistan and the United Arab Emirates.

Victims of internal trafficking were subjected to hazardous working conditions, and commercial sex victims were subjected to physical abuse and the risk of contracting sexually transmitted diseases. Victims of commercial sex trafficking in urban centers often came from small rural villages.

The Government made arrests of suspected traffickers during the year. The penal code specifies penalties for several trafficking-related offenses, such as forced labor, and there were a number of trafficking cases prosecuted under these laws. The Government's prosecution of child defilement cases included an undetermined number of cases involving trafficked children.

On December 19, police in Kampala arrested Rauff Razick Mohammed, a Pakistani national, who was found holding five Sri Lankan men against their will. On December 20, a court in Kampala charged Mohammed and his two accomplices with unlawful confinement and demanding money with menace. Mohammed pled guilty to trafficking in humans and was issued deportation orders.

On July 20, the Government set up a committee to investigate the alleged sale of girls in cattle markets in Katakwi District.

In July police in Katakwi District arrested suspected human traffickers and rescued four girls.

In July police in Kabale District arrested two Indian nationals and their Ugandan accomplices on suspicion of involvement in human trafficking at Katuna border post as they attempted to flee the county into Rwanda.

A December police report stated that there were 185 recorded cases of child abduction and disappearance since January. Of these, 42 children were recovered, four were killed in child sacrifice, and 139 were unaccounted for. The report was based on cases received from the majority of districts throughout the country.

The Government, through the military and civilian agencies, continued efforts to combat LRA trafficking in persons. The Government began "Operation Iron Fist" in 2002 to eradicate the LRA threat and has continued to offer amnesty to former rebels, providing resettlement packages with educational benefits and vocational training. The Government also established protected camps garrisoned by the UPDF and LDUs that have helped to prevent abductions (see Sections 1.b. and 2.d.).

In March 2005 the Government began participating in a national working group to combat anti-trafficking. The working group was mandated to support efforts to write a new anti-trafficking law, coordinate NGO activities to prevent trafficking, assist victims, and oversee an initiative to conduct pilot prosecutions of trafficking-related crimes. No reported action was taken during the year.

*Persons With Disabilities.*—The law provides protection for persons with disabilities from discrimination in employment, education, or the provision of other state services; however, the Government did not enforce the law effectively. There was widespread discrimination by society, and employers limited job and educational opportunities for persons with disabilities. There was no statutory requirement that buildings be accessible to persons with disabilities. The law requires that children with disabilities be given necessary special facilities; however, inadequate funding hampered enforcement of this provision.

On March 27, the Uganda National Association for the Deaf (UNAD) protested the failure by UBC-TV to provide for a sign language interpreter during its news bulletins. UNAD stated that the absence of interpreters at UBC-TV and other public places such as courts, hospitals, and schools was a violation of human rights. According to UNAD, deaf persons represent 30 percent of the 2.5 million persons with disabilities in the country.

Five seats in parliament were reserved for representatives of persons with disabilities. Government agencies responsible for protecting the rights of persons with disabilities included the Ministry of State for Disabled Persons and the Ministry of Gender, Labor, and Social Development (MGLSD), but both ministries lacked sufficient funding to undertake or support any significant initiatives.

*National/Racial/Ethnic Minorities.*—Civil strife in the north and east led to the violation of the rights of members of the Acholi, Langi, and Iteso ethnic groups, who primarily resided in the districts of Apac, Arua, Gulu, Kitgum, Lira, Pader, and Soroti. LRA rebels, who themselves largely were Acholi, committed abuses against ethnic Acholi and other ethnic groups; however, attacks decreased compared to the previous year due to operations by the UPDF and the ongoing peace negotiations. The LRA was implicated in the killing and kidnapping of Acholi and other tribe members (see Section 1.g.). During the year the UPDF committed abuses against ethnic Acholi during combat operations against the LRA.

The ongoing conflict in the Karamoja region intensified during the year and inter-clan raids by armed Karamojong warriors in Katakwi, Kotido, and Kapchorwa Districts in the northeast resulted in approximately 459 deaths according to a study conducted by CEWARN. The raids reportedly exacerbated ethnic tensions in the northeast (see Section 1.g.).

*Other Societal Abuses and Discrimination.*—Homosexuals faced widespread discrimination and legal restrictions. It is illegal for homosexuals to engage in sexual acts, based on a legal provision that criminalizes “carnal acts against the order of nature” with a penalty of life imprisonment.

On August 8, the Red Pepper tabloid published a list of 45 first names and professions of alleged homosexual men. HRW condemned the tabloid’s decision to publish the list and called for the Government to end harassment and condemnation of homosexuals and sexual rights activists. There were unconfirmed reports that arrests were made following the publication of the article.

On August 14, a court in Kampala charged David Kaloke with having “carnal sex” in September 2005 with Michael Mukiibi, a 16-year-old student of Kyebando. Kaloke was released on bail and the case was pending at year’s end.

In July 2005 parliament amended Article 31 of the constitution to prohibit same sex marriage.

Persons with HIV/AIDS continued to face discrimination among local communities and employers. On July 17, the director of the country’s HRW HIV/AIDS program called for an end to abuses of persons living with HIV/AIDS. The NGO cited the example of Vivian Kavuma, who was reportedly murdered in June by her lover after she disclosed she was an HIV/AIDS patient. No arrests were made in the case by year’s end.

International and local NGOs, in cooperation with the Government, sponsored public awareness campaigns that aimed to eliminate the stigma of HIV/AIDS. Counseling and testing for HIV/AIDS was free and available at health centers and local NGOs across the country. Counselors encouraged patients to be tested with their partners and family so that they all received information about living with HIV/AIDS. Persons living with HIV/AIDS formed support groups to promote awareness in their local communities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised such rights in practice, with the exception of many “essential” government employees, including police, army, and management-level officials. In March four labor reform bills were passed, including the Employment Act, the Occupational

Safety and Health Bill, the Labor Union Bill, and the Labor Dispute Bill, which significantly improved labor laws concerning workers' rights. The Labor Unions Act repeals the 1976 Trade Unions Decree which required 51 percent or more of the work force to support unionization and at least 1,000 employees to join. The law also bars employers from interfering in the worker's rights of association and makes it a criminal offense for an employer to obstruct this right. However, the Government generally did not enforce this provision in practice. For example, employers in the fish industry were not penalized for prohibiting workers from unionizing.

In 2005 union officials estimated that 350,000 workers were unionized, representing approximately 5 percent of working age citizens. The Government failed to enforce the rights of some employees to join unions in newly privatized industries and factories.

On July 13, the UJU received a certificate of registration allowing it to operate as a trade union after more than a decade of seeking approval by the MGLSD.

The new law prohibits antiunion discrimination by employers; however, there were reports that incidents in the hotel and textile sectors went uninvestigated. There were also reports that several private companies in the fisheries industry urged workers not to take part in unionization efforts during the year.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference and provides for collective bargaining; however, the Government did not protect these rights in practice. Some employers ignored the legal requirement to enter into collective bargaining agreements with registered unions.

All public service unions, including medical staff and teachers, were not allowed to negotiate their salaries and employment terms. The Government fixed the terms and conditions for all civil service workers. There were also reports that workers at Steel Rolling in Jinja were not allowed to negotiate conditions of employment.

On March 28, parliament passed the Labor Disputes (arbitration and settlement) Bill, which provides for the fast resolution of labor disputes and elevates the industrial court to the status of the High Court.

The law provides for the right to strike and workers exercised this right; however, the Government did not always protect this right. Government policy required labor and management to make "every effort to reconcile labor disputes before resorting to strike action."

On November 4, a strike against low wages by Makerere University lecturers began, resulting in the closure of the university on November 12. On December 20, the General Assembly of Makerere University Academic Staff Association (MUS) voted to end the strike. Wage negotiations between MUS and the Government were ongoing at year's end (see Section 2.b.).

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Employment Act includes provisions prohibiting forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.).

While the law does not expressly prohibit prison labor, it states that such labor becomes forced if the worker is "hired out to or placed at the disposal of a private individual, company or association." The UHRC reported that forced labor was a serious problem in local government prisons during the year (see Section 1.c.). Prison officials hired out prisoners to work on private farms and construction sites, where the prisoners were often overworked. Throughout the country prison officials routinely supplemented their meager wages with cash crops grown by prisoners on the prison grounds. Male prisoners performed arduous physical labor while female prisoners produced marketable handicrafts such as woven basketry. Juvenile prisoners performed manual labor, often for 12 hours per day. Compensation, when paid, generally was very low. The law states that any person found using forced labor will be monetarily fined, imprisoned for up to two years, or to both.

Forced labor by children occurred during the year (see Section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits employees from hiring workers below the age of 18; however, statutory orders issued by the Ministry of Labor permit the employment of children under age 14 in "light work," provided it does not interfere with the child's education. Children under the age of 12 are prohibited from being employed in any business or workplace and all children are prohibited from being employed between the hours of 7 pm and 7 am. Nevertheless, child labor was common, especially in the informal sector. Demographics contributed to the problem of child labor; more than half of the population was under 18 years of age. Many children left school and went into agricultural or domestic work to help meet expenses or perform the work of absent or infirm parents, a situation common throughout the country (see Section 5). The

problem was particularly acute among the large orphan population. A joint International Labor Organization (ILO) and MGLSD survey, released in 2005, estimated that approximately 2.7 million children were employed as workers.

In urban areas children sold small items on the street, worked in shops, begged for money, and were involved in the commercial sex industry (see Section 5). Children were also employed in the tea-harvesting sector, sugarcane fields, and stone quarries. The MGLSD reported new incidents of the worst forms of child labor, including children involved in illicit activities such as cross border smuggling.

The law prohibits forced and bonded labor by children; however, a lack of resources prevented the Government from enforcing this prohibition effectively. There were reports that the UPDF used former LRA child soldiers on reconnaissance and intelligence missions (see Section 5).

The LRA often forced abducted children into virtual slavery as guards, laborers, soldiers, and sex slaves (see Section 5).

National level institutions that are responsible for child labor and abuse issues include the National Council of Children, the police force's Child and Family Protection Unit, the industrial court, and the MGLSD; however, financial constraints limited their efforts. In June 2005 the MGLSD launched the Orphans and Vulnerable Children Policy, which extended social services to children working in the worst forms of child labor and other target groups. The Government also coordinated its efforts to stop child labor through the National Steering Committee on Child Labor, which included representatives of the MGLSD, the Ministry of Education and Sports, the Ministry of Local government, the Federation of Uganda Employers, the National Organization of Trade Unions, NGOs, journalists, and academics. In 2004 the MGLSD conducted 1,505 labor inspections, including both initial and follow up visits, in 16 districts nationwide. There have been no further inspections since that time. District officers cited a lack of logistical and financial support as the major impediment to adequately conducting inspections.

The Government organized a number of child labor awareness workshops, disseminated printed information, and sponsored radio and television discussions to educate the public on child labor issues. The Government also cooperated with the ILO, foreign governments, and NGOs in several initiatives to combat child labor, including the education and reintegration of children into their communities. Several human rights NGOs continued programs to remove children from hazardous work situations.

*e. Acceptable Conditions of Work.*—The Employment Act includes provisions for district labor inspectors in order to “secure the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work”; however, no inspections were carried out during the year due, in part, to financial constraints.

The minimum legal wage was \$3.50 (6,000 shillings) per month, a rate set in 1984, which did not provide a decent standard of living for a worker and family and was not effectively enforced. The Government and the private sector negotiated a new rate in 2003; however, no minimum wage legislation had been passed by year's end.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. According to the new law, the legal maximum workweek is 48 hours; however, exceptions can be made between the employer and employee. The law provides for an employee who works in excess of 48 hours per a week to be remunerated at the minimum rate of 1.5 times the normal hourly rate and two times the hourly rate during public holidays. The law also states that working hours may not exceed 10 hours per day or 56 hours per week; however, an employee may work in excess of 10 hours a day if the average number of hours over a period of three weeks does not exceed 10 hours per day or 56 hours per week. Employees are granted a 30 minute break for every eight hour work shift. For every four months of continuous employment, an employee is entitled to seven days of paid annual leave per calendar year. Many industries paid workers incrementally to avoid overtime and circumvent the prohibition on child labor.

The Occupational Safety and Health Bill focuses on the general duties, obligations, and responsibilities of employers regarding the safety and health of workers. The Workers Compensation Act provides compensation based on an employee's monthly salary for injuries or other hazards that occur at work. Whereas in previous years women were entitled to six weeks of maternity leave, the Employment Act now allows for a minimum of 60 working days of maternity leave and four days of paternity leave.

The MGLSD's Department of Occupational Health was responsible for enforcement of occupational safety regulations. In practice inspections were rare, primarily due to the lack of vehicles and funding for inspection trips. There were fatal acci-

dents at several construction projects during the year. The new law provides workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment and, unlike in previous years, there were no reported cases of workers being dismissed for refusal to perform dangerous work. Strong unions in certain dangerous industries protected some such workers.

## ZAMBIA

Zambia is a republic governed by a President and a unicameral national assembly with a population of 11.5 million. On September 28, President Levy Mwanawasa, candidate of the ruling Movement for Multi-Party Democracy (MMD), was re-elected; the MMD won 72 out of 150 elected seats in the National Assembly. On October 26, MMD candidates won two more seats in the National Assembly in elections that were delayed due to the deaths of candidates during the campaign period for the general elections. Domestic and international observer groups characterized the election as generally peaceful and transparent; however, they cited several irregularities. The civilian authorities generally maintained effective control of the security forces.

The Government's human rights record remained poor; although there were improvements in a few areas. Human rights problems included: election irregularities; unlawful killings; torture, beatings, and abuse of criminal suspects and detainees by security forces; poor and life-threatening prison conditions; arbitrary arrests and prolonged detention; long delays in trials; arbitrary interference with privacy; restrictions on freedom of speech and press, and intimidation of journalists; restrictions on assembly and association; government corruption and impunity; violence and discrimination against women; child abuse; trafficking in persons; discrimination against persons with disabilities; and limited enforcement of labor rights and child labor laws.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any political killings; however, security forces committed numerous unlawful killings during the year. The Legal Resources Foundation (LRF), an independent human rights organization that counseled victims' families and represented them in actions against the Government, consistently investigated and publicized such incidents; however, the Government rarely punished perpetrators. Police and government officials encouraged police officers to use their weapons when apprehending suspects. On August 24, the permanent secretary of the Ministry of Home Affairs stated that officers should not "keep their guns like a bunch of roses." In December 2005 the Police Inspector General was quoted in the media as saying that the police had a "shoot-to-kill" policy. On October 26, following a series of highly publicized police shootings, government officials moderated their stance on the use of police force with the release of a directive that restricted the use of firearms by police officers, required officers on general patrol be unarmed, and recalled police firearms into armories under strict control. On October 30, the minister of home affairs stated the Government would retrain police on the use of force.

On February 3, police in Lusaka shot and killed three men who attempted to rob a shopkeeper; police stated that the men fired on them first. On March 19, police shot and killed Joseph Phiri as he ran from officers seeking to question him in connection with a theft.

On August 28, Lucas Msuya, a Tanzanian national, died in police custody at the Northern Province Nakonde border crossing with Tanzania. Two police officers were arrested and charged with murder in connection with the death. The officers claimed that the suspect died as a result of injuries he received when he was beaten by a mob that suspected him of theft. A trial court acquitted the officers after witnesses testified that the suspect had severe injuries when police took him into custody. Although the officers were acquitted, police reported that they were subjected to administrative disciplinary measures for not having taken the suspect for medical attention.

On September 9, a police officer in Lusaka shot and killed two teenagers and wounded another after they refused his command to leave a funeral home where they had been sitting by a fire; the police officer was subsequently arrested and charged with murder. The killings sparked riots (see Section 2.b.).

On October 13, police in Kitwe were accused of causing a panic in a crowded nightclub that killed two high school students. Witnesses stated that the police locked the doors of the nightclub and whipped the students, who had been attending a party.

On October 25, police shot and killed a man in Lusaka's Matero township. The man had been among a group of people protesting the detention of a minibus driver. The killing sparked riots that damaged vehicles and buildings.

On November 11, police in Lufwanyama shot and wounded three juveniles at the Katembula Youth Training Center. Police said that they had fired their weapons to disperse a group of youths who were trying to prevent the arrest of two juveniles on assault charges. The shooting was under investigation at year's end.

The case of the six Drug Enforcement Commission (DEC) officers charged with the March 2005 torture and killing of a detainee for selling drugs in Kafue was ongoing at year's end.

There were no developments in the investigation into the April 2005 death in police custody of Danny Phiri.

In the July 2005 case of Joseph Nyirenda, who suspiciously died in police custody, a coroner's report released during the year concluded that Nyirenda had died of strangulation, but offered no other conclusions.

Unlike in the previous year, there were no deaths as a result of police forcibly dispersing demonstrations during the year.

Mob violence which targeted suspected criminals, witches, persons suspected of sexual impropriety, or persons with mental illness resulted in killings during the year. For example on February 4, gunmen shot to death 60-year-old Benson Sikazwe in Northern Province, reportedly because he was suspected of being a witch. On February 6, a mob in Luapula Province beat to death 76-year-old Albert Jere and his wife, 72-year-old Tipoti Chisense, after the couple had been summoned to a local chief's place to answer charges that they had engaged in witchcraft. On April 19, a mob in North Western Province beat to death 72-year-old Mary Lukboto because they suspected her of being a witch. On August 12, a mob in Eastern Province killed a man believed to be mentally ill after the man killed three people with an axe.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however there was no implementing legislation, thus police frequently used excessive force including torture when apprehending, interrogating, and detaining criminal suspects or illegal immigrants.

During the year the Human Rights Commission (HRC), formerly the Permanent Human Rights Commission, reported that torture was prevalent in police stations, noting that "police officers continue to rely on torture as an interrogation technique." The HRC urged the Government to draft and enact legislation that would criminalize torture and provide for compensation to victims. Authorities also detained, interrogated, and physically abused family members or associates of criminal suspects in attempts to identify or locate suspects (see Section 1.f.). Officers who tortured, beat, or otherwise abused suspects generally were not disciplined or arrested for such acts.

On March 27 and 28, police officers in Kapiri Mposhi beat Joshua Nyangwali while he was in custody waiting to be transported to prison to serve a sentence on theft and burglary charges. As a result of the beating Nyangwali sustained a broken arm, for which he was denied medical treatment. Nyangwali's sister sought assistance from the LRF in filing a civil suit against the officers.

On March 17, a court dismissed theft charges against Mike Simakusa, who claimed that for three days in July 2005 police put him in *kampelwa* to force a confession of theft. The *kampelwa* involves using ropes or handcuffs to bind a suspect by the hands and feet, or sometimes just the feet, and hanging the suspect upside down from a rod and beating him. Simakusa continued to seek assistance from the LRF in filing a civil suit against the officers.

On May 20, two police officers in Kafue shot and wounded three men who refused the officers' demand to close the bar they were operating. The two officers were arrested and the case was ongoing at year's end.

On June 15, Lemmy Mungochi and Allan Phiri filed a lawsuit claiming damages for torture and false imprisonment. The plaintiffs claimed that in June 2004 police in Chipata arrested them on false robbery charges. Police did not release Mungochi and Phiri from custody until they paid \$1,200 (4.8 million kwacha) to the alleged victim of the robbery, who was later discovered to be living at the Chipata police camp. The case remained pending at year's end.

The civil suit filed by Langton Sakala remained pending at year's end. Sakala charged that the police beat and tortured him from December 2004 to January 2005 following his detention on theft charges.

There were no developments in numerous other cases of police abuse in 2005 and 2004.

On April 19, a court awarded \$80,000 (322 million kwacha) to David Lungu for injuries sustained from police brutality in June 2001. Lungu had been among a group of students who protested a teachers' strike when police detained and beat him until he was unconscious, leaving him paralyzed from the waist down.

According to human rights groups, police occasionally demanded sex from female detainees as a condition for their release. There also were reports that police officers raped women. In the April 2005 case where a police officer was charged with raping a woman in Kalomo, police reported that the case was dropped after their investigation revealed that the woman's parents pressured her to file charges after they discovered she was having a consensual affair with the officer.

Victims of state-sponsored torture following the 1997 coup attempt were still awaiting compensation recommended in 2000 by a special commission appointed to investigate allegations of torture. The civil case against former DEC Deputy Commissioner Teddy Nondo, former Commissioner of Police Emmanuel Lukonde, and Minister of Justice George Kunda was still pending at year's end; Commissioner Lukonde died in 2005.

There were reports that traditional rulers employed corporal punishment. For example, on September 10, Chief Kazembe in Luapula Province whipped five women and a man who disrespected his throne. After whipping the subjects, Kazembe brought them to a police station where they were detained for one day. The subjects had upset Kazembe by singing campaign songs in support of the MMD party.

The 2004 case against Chief Mushili for assaulting and extorting from his subjects was referred for mediation in 2005, which subsequently failed. The case was back in court and ongoing at year's end.

Mob violence resulted in killings and injuries (see Section 1.a. and 2.b.).

*Prison and Detention Center Conditions.*—Prison conditions were poor and life threatening. An inefficient judiciary and two-month strike by government prosecutors during the year delayed court proceedings and exacerbated overcrowding. The country's prisons, which were built to hold 5,500 inmates, held nearly 15,000 prisoners. Lusaka Central Prison which was designed to accommodate 200 prisoners held more than 1,200 inmates, forcing some inmates to sleep sitting upright. Poor sanitation, inadequate medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of dysentery, cholera, and tuberculosis, which were compounded by overcrowding.

Prisoners routinely complained that authorities denied them access to medical care, as provided for by law. Failure to remove or quarantine sick prisoners and the lack of infirmaries at many prisons resulted in the spread of airborne illnesses such as tuberculosis, leading to prisoner re-infection and death. For example, in January it was reported that a suspected cholera outbreak killed five prisoners in Lusaka Central Prison. Drugs to combat tuberculosis were available but the supply was erratic. Many prisoners were malnourished because they received only one serving of corn meal and beans per day, called a "combined meal" because it represented breakfast, lunch and dinner.

In August the Ministry of Home Affairs ordered the closure of Luwingu Prison, noting that conditions at the prison posed a risk to prisoners. The Zambian Prison Service was ordered to use other facilities to accommodate displaced prisoners pending the reopening of Luwingu.

The HIV/AIDS prevalence rate in prisons was estimated at 17 percent. Antiretroviral treatment (ART) was available to some prisoners with HIV/AIDS; however, poor nutrition often rendered ART ineffective.

Juveniles often were not held separately from adults. Infants and young children of incarcerated women were held along with their mothers. Pretrial detainees were not held separately from convicted prisoners. Prisoners with mental disabilities were not held separately from the general prison population.

The Government permitted prison visits by both domestic and international non-governmental organizations (NGOs) and by resident foreign diplomats during the year. In May the HRC issued two highly critical reports on prisons in Lusaka and Central Provinces based on inspections conducted in 2004 and 2005, respectively. The HRC noted a number of problems including: accommodations that were "filthy, congested and unfit for human habitation"; insufficient facilities to house juvenile detainees; poor food and nutrition; and inmates' lack of access to the courts. The International Committee of the Red Cross, provincial human rights committees, and the LRF periodically inspected prison conditions during the year.



*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government did not respect these prohibitions.

*Role of the Police and Security Apparatus.*—The police, divided into regular and paramilitary units under the Ministry of Home Affairs, have primary responsibility for maintaining law and order. The Zambia Security Intelligence Service (ZSIS), under the office of the President, is responsible for intelligence and internal security. Police posts in towns throughout the country reported to one of nine provincial police stations, which in turn reported to the central police command in Lusaka. Although the Government has identified a need for 27,000 police officers, only 14,689 were employed.

Lack of professionalism, investigatory skills, and discipline in the police force remained serious problems. The NGO Institute of Human Rights Property and Development Trust conducted human rights training for senior police officers in 2005. From November 27–30, the Government hosted a four-day human rights workshop for police in southern Africa that was sponsored by the British government and the Commonwealth Secretariat; however, the use of excessive force continued, and corruption was widespread. Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions. Police released prisoners for bribes, extorted money from victims, and required “document processing fees” or “gas money” to commence investigations.

In an effort to address these issues, the Police Public Complaints Authority (PPCA) met eight times during the year to review complaints regarding police conduct that were not resolved through internal police channels. By year’s end, the PPCA had received 269 complaints of police misconduct and reviewed 210 cases; it concluded on 54 cases. The PPCA did not recommend that any police officer be dismissed during the year but officers were fined and punished for offenses, including unlawful detention. In one case, the PPCA recommended that the director of public prosecutions exhume the body of a person who died several months after his release from police custody. The person’s family alleged that he had died as a result of injuries sustained in police beatings. The investigation was ongoing at year’s end. The PPCA dismissed several complaints against police officers, finding that the cases were already being tried in the courts.

In May the Lusaka High Court ruled that the inspector general of police did not have the authority to terminate the employment of police officers, as recommended by the PPCA in 2003, and nullified the inspector general’s decisions of termination. The court ruled the power to terminate employment, rests exclusively with the chairperson of the prison and police service commission. In addition, the court clarified that the PPCA did not have the statutory authority to punish police officers, but could only recommend disciplinary measures to the inspector general. The PPCA appealed the high court ruling, but was reviewing its procedures to comply with the court’s decision.

*Arrest and Detention.*—The constitution and law provide that authorities obtain a warrant before arresting a person for some offenses, but other offenses have no such requirement. For example, police are not required to obtain a warrant when they suspect that a person has committed offenses including treason, sedition, defamation of the President, unlawful assembly, or abuse of office. In practice, police rarely obtained warrants before making arrests (see Section 1. f.).

According to the law, suspects being arrested are informed of their rights, including the immediate right to an attorney. The law provides that persons arrested must appear before a magistrate within 24 hours of their arrest; however, detainees were frequently held for longer periods because prosecutors routinely required that officers collect additional evidence before presenting cases to a magistrate. There was a functioning bail system; however, prisons were overcrowded in part because of the numerous offenses for which bail is not granted, including treason, murder, aggravated robbery, and violations of narcotics laws.

In practice police generally did not respect the prisoners’ right to apply for bail. Indigent detainees and defendants rarely had the means to post bail. The Government’s legal aid office, responsible for providing representation for indigent detainees and defendants in criminal or civil cases, assisted very few arrestees.

The Government’s appeal of the July 2005 Lusaka High Court decision to grant bail to opposition leader Michael Sata on charges that he incited riots was still pending at year’s end.

Arbitrary arrest and detention remained a problem, although there were fewer reported instances than in previous years. Criminal suspects were arrested on the basis of insubstantial evidence, uncorroborated accusations, or as a pretext for extortion. For example on March 19, the Mumbwa police arrested Regina Lungu after an acquaintance accused her of theft. Police released Lungu after her husband paid

\$125 (500,000 kwacha) for which he did not receive a receipt. Similarly, on April 12, police arrested Emmanuel Chilando at the request of his former employer and held him without charge for three days. Chilando stated that his former employer had asked the police to arrest him due to concerns that he was losing customers to Chilando's new employer.

On September 10, police detained five persons, on the request of a traditional leader, for their support of the ruling MMD party (see Section 1.c.).

Police stations frequently acted as "debt collection centers," where police officers acting on unofficial complaints detained debtors without charge until they paid the complainants; in return, the police received a percentage of the payments. Officers found engaging in this practice reportedly were disciplined.

Police arbitrarily arrested family members of criminal suspects (see Section 1.f.).

Authorities detained at least two journalists during the year (see Section 2.a.).

Prolonged pretrial detention was a problem. In criminal cases detainees must be charged and brought before a magistrate within 24 hours; in practice, prisoners often waited more than one month from incarceration to the initial appearance before the magistrate. In some cases defendants were awaiting trial for as long as two to three years.

Approximately one-third of the nearly 15,000 people incarcerated in prisons had not been convicted of a crime or received a trial date. Broad rules of procedure give wide latitude to prosecutors and defense attorneys to request delays or adjournments. Other factors contributing to long delays were inadequate resources, inefficiency, lack of trained personnel, and labor unrest (see Section 1.e.). Attorneys and family members were permitted access to pretrial detainees.

On March 27, the Lusaka High Court ordered that Cosmas Tembo be released from custody, finding that he had been held without trial for more than three years after being wrongly arrested on charges of robbery.

In May the LRF filed a petition for bail on behalf of John Chishimba Mutale, who had been held in custody without trial since he was arrested and charged with murder in 1994. On June 8, the Kasama High Court granted Mutale bail on the condition that he report to the police twice a month and appear in court as required.

There were no developments in the Government's appeal of the 2004 Lusaka High Court ruling that the Government was liable for holding Crispin Samulula in custody from 1996 to 2001 without trial.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judicial system was hampered by inefficiency, corruption, and lack of resources. Government officials used their offices to circumvent standard police and judicial procedures.

During the year the courts continued to act independently and at times made judgments and rulings critical of the Government. For instance, the courts issued an order compelling the Government to submit a list of nominees for a media governing board to parliament in accordance with its obligations under the Independent Broadcast Authority (IBA) Act (see Section 2.a.). The courts also prohibited the ruling MMD party from running negative campaign ads against opposition leader Michael Sata on the state-controlled television station.

Poor working conditions caused many magistrates to leave their jobs. There were 134 magistrates employed at the end of the year; fully qualified attorneys filled approximately 24 magistrate positions during the year, up from 19 in 2005; lay magistrates filled the rest. During the year government prosecutors went on strike for two months, delaying court proceedings and exacerbating prison overcrowding (see Sections 1.c. and 1.d.). Judicial support staff went on strike in October leading to additional delays.

The Supreme Court has appellate jurisdiction for all legal and constitutional disputes. The High Court, which held regular sessions in all nine provincial capitals, has authority to hear criminal and civil cases and appeals from lower courts. Magistrate courts have original jurisdiction in some criminal and civil cases; customary courts heard most civil and petty criminal cases in rural areas.

*Trial Procedures.*—Trials in magistrate courts are public, and local courts employ the principles of customary law, which vary widely throughout the country. Defendants have the right to be present and to consult with an attorney; however, many defendants lacked the resources to retain a lawyer, and government legal aid was limited. Defendants have the right to be present at their trial, confront witnesses, access government-held evidence related to their cases, and to appeal. Defendants are considered innocent until proven guilty.

Courts were congested, and there were significant delays in trials while the accused remained in custody (see Section 1.d.). In cases where the magistrate's court did not have jurisdiction, at least six months elapsed before a magistrate committed

the defendant to the High Court for trial. Following committal, preparation of the magistrate court record for transmittal to the High Court took months, or in some cases, as long as a year. Once a case reached the High Court for trial, court proceedings lasted an average of six months.

Lawyers are barred from participating in proceedings in courts that apply customary law, and there are few formal rules of procedure.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. For matters concerning police abuse, the PPCA acted as an independent and impartial disciplinary body (see Section 1.d.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, the Government frequently did not respect these prohibitions in practice. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency. Police routinely ignored this requirement and arrested suspected criminals at their homes without an arrest warrant.

The law grants the DEC and the ZSIS authority to wiretap telephones for probable cause.

Authorities sometimes detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating suspects. For example, on June 8, 66-year-old Margaret Lukonto was detained by police, bound in a kampelwa and beaten as officers demanded that she reveal the location of her son, whom they wanted to question on theft charges. Lukonto was seeking the LRF's assistance in filing a civil suit.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government at times restricted these rights. The law includes provisions that may be interpreted broadly to restrict these freedoms. Journalists in the government-owned media generally practiced self-censorship.

The private print media routinely criticized the Government. A number of privately owned newspapers questioned government actions and policies, and these generally circulated without government interference.

The government-controlled Times of Zambia and Zambia Daily Mail were two of the most widely circulated newspapers.

In addition to the government-controlled radio station, there were numerous private radio stations.

In 2004 the Ministry of Information and Broadcasting Services (MIBS) ordered that Breeze FM, a commercial radio station in Chipata, stop relaying BBC broadcasts. MIBS claimed that Breeze FM's license permitted local and regional broadcasts only. Though the order was still in effect at year's end, the station remained a partner station of the BBC and continued to rebroadcast a selection of BBC programs.

The government-owned Zambia National Broadcasting Corporation (ZNBC) was the principal local-content television station. Opposition political parties and civil society groups complained that government control of the station and of two major newspapers limited their access to mass communication. In the lead-up to the September 28 Presidential and parliamentary elections, ZNBC offered substantially less coverage to opposition candidates than it did to candidates from the ruling MMD party (see Section 3).

On October 11, the Supreme Court reserved ruling on the Government's appeal of a High Court decision compelling the minister of information to implement the ZNBC amendment and Independent Broadcasting Authority (IBA) Act of 2002. The ZNBC Amendment Act of 2002 was intended to transform the state-owned ZNBC into a public broadcaster, with an independent board of directors. The IBA Act provides for the establishment of an independent regulatory authority to govern all forms of broadcasting under the guidance of a transparently recruited board of directors. Under both the IBA and ZNBC Acts, independent media bodies recommend members to sit on the boards of the IBA and ZNBC, respectively. The minister of information is to submit the names of the recommended board members to parliament for ratification. To date, the minister of information has refused to submit the names to parliament, arguing that the names are only "recommendations," which he is free to reject.

Several private television stations, including foreign media, broadcast locally. MUVI TV began broadcasting local news three times a day in 2005. Multichoice, a

telecommunications company based in South Africa, and CASAT provided satellite and analog wireless subscribers with television services. Broadcasts of foreign news sources were available in the country.

A new private TV station, MOBI TV, was by year's end conducting test transmissions. MOBI TV had licenses to air free and pay television broadcasts. CB TV also began test broadcasts in Ndola. New radio stations that began broadcasting during the year included Hot FM in Lusaka, and Zambezi FM in Southern Province. Macha Radio in Choma was conducting test transmissions at year's end. Two private newspapers, *The Nation* and *Health Journal*, also began publishing during the year.

The police harassed and arrested journalists during the year; however, unlike previous years, there were no reports that the MMD ordered attacks on independent newspapers.

The Government continued to pursue its appeal from a 2004 High Court ruling that blocked the deportation of journalist Roy Clarke. In a column published in the independent *Post* newspaper, Clarke had allegedly defamed the President. At a November 21 hearing, the Supreme Court continued the case after the Government asked for more time to prepare its appeal.

On March 9, the journalists hosted a radio call-in show asking for comments on the ritual murder of a five-year-old boy (see Section 5).[.] On March 10, police arrested two radio journalists in Monze and charged them with libel and intent to cause public alarm and fear. A day after the broadcast, a mob attacked the suspects in the killing. Police attributed the attack to statements allegedly made by the journalists; a charge the journalists denied. On March 11, the journalists were released from custody, and the charges were subsequently dropped.

On September 28, police attempted to close Radio Q FM in Lusaka, which was broadcasting live coverage of the Presidential, parliamentary, and local elections. Police officers visited the radio station and accused it of inciting the public to riot. They directed the station to cease live broadcasts; however, the station did not comply.

Supporters of opposition leader Michael Sata attacked the offices of the independent *Post* newspaper, alleging that it had reported inaccurate news about their leader during the September 28 polls.

The Government exercised considerable influence over the government-owned media, including reviewing articles prior to publication and censoring individuals responsible for published articles or programs deemed offensive by the Government. For example, on November 30, the board of the *Zambia Daily Mail* fired Godfrey Malama from his job as Managing Director of the newspaper. In a dismissal letter, the board said that Malama had acted unprofessionally when, on September 29 and 30, he published articles which reported that opposition leader Michael Sata was leading in the vote count following the September 28 Presidential elections. As a result of such pressure, journalists in the government-owned media generally practiced self-censorship, and the government-owned media continued to be supportive of the Government.

In response to headlines and stories alleging official corruption, those accused and others brought libel suits against the media. For example, Deputy Secretary to the Cabinet Robert Mataka sued the *Zambian Watchdog* newspaper and its editor for libel. He alleged that in its August 21-26 edition, the newspaper published a false and malicious story claiming that Mataka bought a house belonging to the Zambia Law Development Commission using questionable means. The case was pending at year's end.

During the year there were defamation suits filed by political leaders. Michael Sata, opposition leader and President of the Patriotic Front (PF) party, sued state-owned *Zambia Daily Mail* for libel, claiming damages from articles that questioned his suitability as a candidate for the country's presidency. The articles focused on some of Sata's statements made at public rallies, which the newspaper characterized as threats to Chinese investors. The case was pending at year's end.

On February 14, the Government dropped charges against the Managing Director of the independent *Post* newspaper, Fred M'membe, who was arrested in November 2005 and charged with defaming the President in connection with an editorial that questioned the President's honesty and integrity.

The law provides that investigative tribunals can call journalists and media managers, who print allegations of parliamentary misconduct, as witnesses. Failure to cooperate with a tribunal can result in charges of contempt punishable by up to six months in jail. The media criticized these provisions as clear infringements of freedom of the press and as a means for parliamentarians to bypass the court system.

There were no government restrictions on the Internet or academic freedom and cultural events. Although the law gives the University Council a mandate to address

faculty concerns, the minister of education was empowered to appoint the members of the council; some academics criticized this provision as an infringement of academic freedom.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government restricted this right.

During the year government officials, opposition leaders, and NGOs continued to criticize the Public Order Act (POA), which requires rally organizers to notify police seven days in advance of a rally; however, civil society organizations noted that the POA was administered more fairly than in past years, particularly in the run-up to the September 28 general elections. Civil society organizations credited the more even-handed administration of the POA to better training of police officers and the decentralization of the decision-making process with regard to approving requests to demonstrate, although the POA does not technically require rally organizers to obtain a permit.

In March police in Kasama refused to grant opposition leader Michael Sata permission to hold a political rally planned for March 17. Sata charged that the police offered no justification for the refusal given and that he had adhered to the prescribed administrative procedures. The rally did not occur.

On November 20, police denied opposition leader Michael Sata permission to hold four political rallies in Lusaka. On November 27, Solicitor General Sunday Nkonde overturned the police decision and granted Sata permission to hold the rallies. On December 5, President Mwanawasa said in a public speech that he had asked the solicitor general to resign for interfering with the decision to deny the rally. The solicitor general did not resign, and Sata went forward with the rallies.

Police forcibly dispersed demonstrations during the year; however, unlike previous years, no deaths resulted.

On September 9, residents in Lusaka rioted for more than 10 hours following the police shooting of three teenagers (see Section 1.a.). The rioters attacked a police substation and burned government and private vehicles; 20 suspects held in police cells escaped, and the police dispersed the crowd with teargas and arrested 48 persons.

On September 13, police used teargas to disperse Lusaka residents demanding the release of the 48 persons arrested on September 9. The 48 persons did not post bail and were still in custody at year's end.

There were no developments in the lawsuits and appeal arising from the December 2004 arrest of four journalist and 11 members of parliament on charges that they violated the POA.

The results of the investigation into the September 2004 shooting death of a high school student during a demonstration were not released by year's end.

*Freedom of Association.*—The law provides for freedom of association, but the Government placed some limits on this right. All organizations must formally apply for registration to the Registrar of Societies. In most cases, authorities routinely approved these applications; however, the registration process is long and involves the exercise of considerable discretion on the part of the Registrar. During the year, there were no cases in which the Registrar refused to register an organization, although it did threaten to deregister organizations that had not paid fees or were otherwise not in compliance with the law.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice. Although the constitution declared the country a Christian nation, in practice the Government generally respected the right of all faiths to worship freely.

The Government required the registration of religious groups and approved all applications for registration from religious groups without discrimination; however, in March then Foreign Minister Ronnie Shikapwasha stated publicly that the Government would begin consulting with the Council of Churches before it registered church groups.

In January the High Court overturned the Government's 2005 decision to deregister the Universal Church of the Kingdom of God, thereby allowing it to continue operations pending judicial review. The church continued to operate and petitioned the court to find the Government in contempt for violating the order staying proceedings against the church. The court had not ruled on the church's petition by year's end.

*Societal Abuses and Discrimination.*—There were approximately 80 persons in the Jewish community. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights; however, the Government intermittently limited them. Police continued to man numerous roadblocks around the country to control criminal activity, enforce customs and immigration regulations, check drivers' licenses, and inspect vehicles for safety compliance. Police at times extorted money and goods from motorists at these roadblocks.

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

*Protection of Refugees.*—The law does not provide for the granting of refugee status or asylum in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has established a system for providing protection to refugees. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN convention and the 1967 Protocol.

The country hosts an estimated 144,500 refugees, mainly from Angola and the Democratic Republic of Congo (DRC). As of June 30, according to the UNHCR, 8,000 Angolans were repatriated. In addition eight Rwandans were repatriated and five were resettled in third countries. The Government assisted in the resettlement of 192 DR Congolese refugees to third countries.

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

The constitution and law provide citizens with the right to change their government, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

*Elections and Political Participation.*—On September 28, President and MMD candidate Levy Mwanawasa was re-elected with 43 percent of the vote; Patriotic Front (PF) candidate Michael Sata received 29 percent of the vote; United Democratic Party Alliance candidate Hakainde Hichilema received 25 percent of the vote; and 150 members of parliament (MPs) also were elected. On October 9, eight other MPs were appointed by the President.

Five political parties contested the Presidential elections. There were instances of unfair campaign and electoral practices; however, domestic and international observers characterized the electoral process as transparent and peaceful. Observers gave the Electoral Commission of Zambia (ECZ) high marks for its role in organizing the elections, particularly with regard to voter registration and education; however, some members of the public were not able to register to vote because the Government did not efficiently issue National Registration Cards, which were required for registration. Civil society groups also criticized the ECZ's failure to establish a special vote for domestic monitors and others unable to vote at designated polling stations and charged that parties and candidates had uneven access to electronic and print media. In addition, the lack of regulations governing campaign finance resulted in an uneven playing field for contestants.

Following the vote, there were reported problems with the counting, tabulation, and reconciliation of ballot that undermined confidence in the results of the elections. The problems were attributed to inadequate training for election officials, compounded by poorly designed and unnecessarily complicated return forms. There were also problems with the system for the electronic transmission of results, which the ECZ was forced to abandon in favor of faxing or physically delivering results to Lusaka. The difficulties with the management of election results supported suspicions that the elections were rigged, fueling riots by supporters of opposition candidate Michael Sata in Lusaka and in cities in Copperbelt Province.

In the four by-elections held during the year, there were numerous reports of vote buying and misappropriation of government resources for unfair electoral advantage. For example, in Mporokoso, the vice-President reportedly threatened to discipline public service workers who voted for the opposition. In Milanzi suspected MMD members threw a Molotov cocktail at the vehicle of an opposition MP.

The constitution requires that both parents of a candidate for the office of President be citizens by birth or descent, effectively discriminating against potential candidates based on their parentage. The constitution also prohibits traditional chiefs from running for political office unless they resign from their chieftainships.

There were 22 women elected to parliament in the September 28 elections. On October 9, the President appointed two more women to parliament.

In December 2005 the Constitution Review Commission released its final draft constitution. The Government had taken no steps to change the constitution by

year's end; however, in May the President signed into law a new electoral act that many civil society groups characterized as a disappointment. The new act disregarded many of the recommendations contained in the 2005 report of the Electoral Reform Technical Committee, including a recommendation that the President be elected by more than 50 percent of the vote and a recommendation that the ECZ be given the authority to set the date for Presidential elections to prevent unfair advantage for the President and ruling party.

*Government Corruption and Transparency.*—The anticorruption campaign the Government launched in 2002 continued during the year. Trials of former government officials charged with abuse of office and theft proceeded, resulting in the conviction on October 10 of Samuel Musonda, former managing director of the government-owned Zambia National Commercial Bank. The Government continued its collaboration with the international community to improve its capacity to investigate and prevent corruption. Parliamentary committees sustained their scrutiny of executive branch operations. The Anti-Corruption Committee increased its prosecution and public educational activities.

Despite these efforts there remained a widespread public perception that corruption was pervasive in almost all government institutions. Controls over government funds and property were often weak, investigative units often lacked authority and personnel, and officials dealing with the public frequently demanded illicit payments with impunity. Additionally, the Government had no clear policy for the disposal of confiscated assets, and there was lack of transparency surrounding the liquidation of assets seized in the campaign against corruption.

During the year the Government continued to investigate and prosecute senior officials allegedly involved in corruption during the administration of former President Chiluba. In 2004 the Government began its prosecution of Chiluba himself in magistrate court. The prosecution was ongoing at year's end, although the court was frequently in recess due to Chiluba's poor health.

On October 16, the Government arrested and filed corruption charges against former State House press aide Richard Sakala. On October 23, the Government filed charges against former President Chiluba's wife, Regina Chiluba, for unlawfully obtaining property and other assets.

In 2004 the Government also filed corruption charges against several officials of the current administration and former military commanders including, Lieutenant Generals Wilford Funjika, Sande Kayumba, and Geojago Musengule, who were charged in separate cases of procurement fraud. Their trials were ongoing in civilian courts in the country and in the United Kingdom at year's end.

The corruption trial of Kashiwa Bulaya, a former official of the ministry of health, was ongoing at year's end.

The law does not provide for public access to government information; however, the Government provided information to media and interested parties on an ad hoc basis. Information related to defense and security forces was withheld from public access.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with such groups.

Domestic human rights organizations continued to press for a more transparent democratic electoral system. Human rights and election NGOs monitored by-elections during the year and organized civic education activities to improve voter participation and information.

The HRC oversaw human rights committees in all provincial capitals, interceded on behalf of persons whose rights it believed were denied by the Government, and spoke on behalf of detainees and prisoners. During the year the HRC opened a new office in Livingstone; however, independent human rights groups complained that the HRC was understaffed, underfinanced, and lacked sufficient authority to enforce its recommendations.

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

The constitution and law prohibit discrimination based on race, tribe, gender, place of origin, marital status, political opinion, color, or creed; however, violence and discrimination against women and persons with disabilities remained a problem.

*Women.*—Domestic violence against women was a serious problem, and wife beating and rape were widespread. There is no specific law for domestic violence, and cases of domestic violence were prosecuted under the general assault statutes. Pen-

alties imposed for assault vary, depending on the severity of injury and whether a weapon is used. The Victim Support Unit (VSU) was responsible for handling problems of domestic assault, wife beating, mistreatment of widows by the deceased husband's relatives, and property grabbing; however, in practice, the police often were reluctant to pursue reports of domestic violence and preferred to encourage reconciliation.

The law prohibits rape, and courts generally sentenced rapists to hard labor. In 2005 the VSU recorded 216 cases of rape and 1,511 cases of defilement, which includes forced or unforced sex with a person under the age of 16. The penal code does not specifically prohibit marital rape and statutes that criminalize rape cannot be practically used to prosecute cases of rape in marriage. To date courts have not tried a case involving marital rape, although the crime was known to be common.

Due to traditional and cultural inhibitions, many cases of violence against women and children remained unreported. The VSU reported that it was difficult to prosecute cases of abuse against women because victims often refused to cooperate, and there was a lack of forensic equipment needed to develop evidence. The Government and NGOs expressed continued concern about violence against women.

Prostitution is illegal, and police routinely arrested street prostitutes for loitering. There were no reliable statistics on the number of prostitutes in the country.

Trafficking in women and children was a problem (see below).

An amendment to the penal code enacted in September 2005 prohibits the sexual harassment of children but there are no laws that specifically prohibit sexual harassment of adults, and sexual harassment in the workplace was common. During the year the minister of education warned that teachers found to have sexually harassed students would be dismissed immediately.

The law entitles women to equality with men in most areas; however, women were severely disadvantaged in formal employment and education. Married women who were employed often suffered from discriminatory conditions of service. Women had little independent access to credit facilities; in most cases, they remained dependent on their husbands, who were required to cosign for loans. As a result few women owned their own homes. Some small financial institutions allowed women to sign independently for loans.

Customary law and practice also place women in a subordinate status with respect to property, inheritance, and marriage, despite constitutional and legal protections. Polygyny is permitted if the first wife agrees to it at the time of her wedding. Under the law a deceased man's children equally share 50 percent of an estate; the widow receives 20 percent; the man's parents receive 20 percent; and other relatives receive 10 percent. The widow's share must be divided equally with any other women who can prove a marital relationship with the deceased man, thus granting inheritance rights to other wives, mistresses, and concubines. However, under the traditional customs prevalent in most ethnic groups, all rights to inherit property rest with the deceased man's family. Property grabbing by relatives of the deceased man remained widespread, although increased training of local court officials may have resulted in a slight decrease in the practice. Many widows were ignorant of the law, and as a result received little or nothing from the estate. The fines that the law mandates for property grabbing were extremely low. The police, through its VSU, treated instances of property grabbing as criminal offenses.

The common traditional practice of "sexual cleansing," in which a widow had sex with her late husband's relatives as part of a cleansing ritual, continued to occur; however, some traditional leaders have banned it. A September 2005 amendment to the penal code makes it illegal for any person to engage in a harmful cultural practice such as sexual cleansing or to encourage another person to engage in the practice.

NGOs that predominantly represented women's interests were particularly active as lobbying organizations. The NGO Coordinating Committee, an umbrella organization for women's NGOs, was influential in the Oasis Forum, which continued to conduct civic education programs on the issue of constitutional reform.

*Children.*—Although the Government sought to improve the welfare of children through the Ministries of Labor and Social Security, Sport Youth and Child Development, as well as Education, scarce resources and ineffective implementation of social programs continued to adversely affect children.

Government policy provided for free basic education for the first nine years of elementary school; however, education was not compulsory, and many children did not attend school. The Government eliminated school fees and mandatory uniforms for primary education students in order to increase school attendance, but many teachers and school administrators still required students purchase uniforms or pay a fee before they would allow them to attend classes. The net enrollment ratio for children of primary school age increased from 66 percent in 1999 to 97 percent by 2005.



The large rise in the net enrollment ratio was due in part to a revision in the formula used to calculate the figure, which included 500,000 students enrolled in non-governmental community schools. Inadequate educational facilities and a scarcity of educational materials were problems. Some areas have established community schools; however, these schools had fewer resources than public schools and required contributions from parents.

The number of girls and boys in primary school was approximately equal; however, fewer girls attended secondary school. There were reports that teachers sexually abused female students. The UN Children's Fund (UNICEF) officials noted that sexual abuse in schools discouraged or prevented many girls from attending classes. The Government continued its collaboration with UNICEF on the Program for the Advancement of Girls' Education to work with families and community leaders to keep girls in school and to bring back those who had left.

There were approximately one million children under the age of 15 in the country who were orphaned, approximately 750,000 of these as a result of HIV/AIDS. These children faced greater risks of child abuse, sexual abuse, and child labor. Approximately 75 percent of all households were caring for at least one orphan, and children headed approximately 7 percent of households due to the death of both parents. The Government instituted programs to increase public awareness of HIV/AIDS.

Child abuse was a problem. Approximately 1,511 cases of child sexual abuse were reported in 2005, according to police statistics.

Early marriage was a problem. Although a person must be at least 16 years old to marry under statutory law, there is no minimum age for marriage under customary law. A few traditional leaders spoke against early marriage and took steps to discourage it, but the majority of traditional leaders condoned the practice. Courts intervened in cases of gross abuse.

There are laws that criminalize child prostitution; however, the law was not enforced effectively, and child prostitution was widespread. Although the Government removed and rehabilitated some street children during the year, the presence of an estimated 20-30,000 street child throughout the country contributed to the proliferation of street begging and prostitution. The laws against pornography and the sexual exploitation of children under the age of 21 were sporadically enforced.

Trafficking of children for sexual exploitation occurred (see below).

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

During the year the Government continued implementation of a strategy to provide shelter and protection to street children, including prostitutes. During the year 204 street children graduated from two government-operated rehabilitation camps located in Chipata and Kitwe. After graduating from the rehabilitation camps, the children were placed in Youth Resource Centers located throughout the country, where they received specialized training in trades such as carpentry, tailoring, and farming.

*Trafficking in Persons.*—There were reports that persons were trafficked to, from, and within the country. The law prohibits the trafficking of any person for any purpose, but it does not define trafficking. Persons convicted of trafficking were subject to a term of imprisonment from 20 years to life. The law had not been used to prosecute a case of trafficking at year's end. Convictions of the crimes of abduction, assault, or seeking to have sex with a minor could be punished with sentences up to life imprisonment with hard labor.

The Government did not collect or maintain data on the extent or nature of trafficking in the country; however, trafficking, particularly in the form of child prostitution was believed to be significant. Female citizens were trafficked within the country and to other parts of Africa and to Europe, and the country was used as a transit point for regional trafficking of women for prostitution. Traffickers fraudulently obtained Zambian travel documents for their victims before proceeding to other destinations. During the year there were reliable reports that women were trafficked to the country for commercial sex work.

A 2004 survey of service providers, community members, and children located in four cities indicated that traffickers came from a variety of backgrounds and included family members, truck drivers, prostitutes, and business persons. Foreign traffickers were said to have come from Asia, Europe, North America, and countries in the region. During the year the International Labor Organization (ILO) launched a study, in cooperation with the Ministry of Home Affairs, to determine the nature and extent of trafficking in children in the country.

In April immigration officials detained two Chinese women at Lusaka International Airport as they attempted to board a flight for London using false Hong Kong travel documents. The women were repatriated after officials determined that they were likely victims of human trafficking. No arrests were made in the case.

In the 2004 cases against Bangu Kasenge and Delphine Bakuna Chibwabwa related to trafficking in persons, the Government during the year dropped the charges against one defendant and deported him to the DRC. The other defendant fled the country after he was released on bail.

Traffickers often use promises of employment to entice young girls and women to leave their homes and families and then force them into prostitution.

Through its social welfare agencies, the Government provided counseling, shelter, and protection to victims of child prostitution or referred victims to NGOs that provided such services. There was no formal screening or referral process. In some cases victims have been placed in protective custody at rehabilitation centers or victim support shelters operated by NGOs.

When government officials understand that individuals are victims of trafficking, they do not treat victims as criminals. In identified cases, victims have not been detained, jailed, deported, or prosecuted for violations of other laws. When trafficking investigations have substantiated allegations, the Government has encouraged victims to assist with investigation and prosecution. The Government did not have its own means of protecting victims and witnesses; however, it arranged for protective custody and security protection through facilities operated by NGOs.

The Government did not have programs that specifically targeted trafficking, although law enforcement officers attended training courses that raised awareness of the problem. A government interagency committee on human trafficking, chaired by the Ministry of Home Affairs, also met during the year to promote coordination and information sharing among agencies. Government agencies responsible for combating trafficking include the police, immigration authorities, and the ministries of justice, labor, and education.

*Persons With Disabilities.*—The law prohibits discrimination in general, but there is no law that specifically prohibits discrimination against persons with physical and mental health disabilities in employment, education, or access to health care. Persons with disabilities faced significant societal discrimination in employment and education. Public buildings, schools, and hospitals did not have facilities to accommodate persons with disabilities. The Government did not legislate or otherwise mandate accessibility to public buildings and services for persons with disabilities.

A person with mental disabilities was attacked and killed during the year (see Section 1.a).

*Other Societal Abuses and Discrimination.*—The law prohibits “carnal knowledge of any person against the order of nature,” but it does not specifically outlaw homosexuality. There was societal discrimination against homosexuals.

The Government actively discouraged societal discrimination against those living with HIV/AIDS; however, there was strong societal discrimination against such individuals, and much of the population believed that persons infected with HIV/AIDS should not be allowed to work.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law recognizes the right of workers to form and belong to trade unions, and workers exercised these rights in practice. Police officers were not permitted to form unions and remained nonunionized at year's end. In 2005 only 11 percent of the eligible workforce was employed in the formal sector, and approximately 60 percent of the formal sector was unionized.

The Industrial and Labor Relations (IRA) Act establishes burdensome registration procedures. For example, no organization can be registered unless it has at least 100 members, and with some exceptions, no trade union can be registered if it claims to represent a class of employees already represented by an existing trade union. Unions may be deregistered under certain circumstances; however, the IRA provides for notice, reconsideration, and right of appeal to an industrial relations court.

The law prohibits discrimination by employers against union members and organizers; however, the law was not always enforced.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The right to collective bargaining, without government interference, is protected in law and freely practiced.

There are no export processing zones.

The law provides for the right to strike, except for those engaged in “essential services”; however, there has not been a legal strike since 1993. In addition to the Zambia Defense Force, the judiciary, the police, the prison service, and the ZSIS, the law also defines essential services as any activity relating to the generation, supply, or distribution of electricity; the supply and distribution of water; sewerage;

fire departments; and the maintenance of safe and sound conditions in underground working environments such as shafts and machinery in the mining sector. The law permits strikes only after all other legal recourse has been exhausted, which can be a cumbersome process. The law prohibits employers from retribution against employees engaged in legal union activities; however, workers engaged in illegal strikes did not enjoy this protection. Employers decide whether to retain such workers or dismiss them given there is no legal obligation; the Government at times intervened for political reasons when such dismissals occur.

Unlike in the previous year, the Government did not respond to striking civil servants with threats of mass firing, arrests, and revocation of rally permits.

There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see Section 5). The law authorizes the Government to call upon citizens to perform labor in specific instances, such as during national emergencies or disasters. The Government also may require citizens to perform labor that was associated with traditional civil or communal obligations, as when a traditional leader or other dignitary called upon all members of a village to assist in preparing for a visit; however, there were no reports of such activities during the year.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits employment of children in any commercial, agricultural, or domestic worksite and the engaging of a child in the worst forms of child labor as defined in international conventions. The law also prohibits slavery and the procurement or offering of a child for illicit activities.

The minimum age for employment is 18, or, with the consent of a parent or guardian, a child may be employed at the age of 16. Nevertheless, child labor was a problem in subsistence agriculture, domestic service, and informal sectors, where children under the age of 16 often were employed, and the law was not enforced. The Labor Commissioner effectively enforced minimum age requirements in the industrial sector, where there was little demand for child labor.

Approximately 600,000 children were in the work force, of which approximately 87 percent worked in the agricultural sector. During the year children, often orphans who had lost both parents to HIV/AIDS, continued to migrate to urban areas where they lived as street children. In urban areas children commonly engaged in street vending.

Child labor was most concentrated in the areas of construction, farming, transportation, prostitution, household work, quarries, and mines.

The Ministry of Labor and Social Security (MLSS) is responsible for the implementation and enforcement of child labor laws and regulations. The MLSS can bring charges that provide for penalties ranging from a fine to imprisonment for violations. Labor inspectors may also enter family homesteads and agricultural fields to check for child labor violations.

During the year the Government allocated \$142,500 (570 million kwacha) for MLSS to investigate child labor problems, almost twice the amount allocated in 2005. Because more than 80 percent of child labor in the country occurred in the agricultural sector, most often with the consent of families, the MLSS labor inspectors focused on counseling and educating families that engaged children in child labor and did not refer any cases for prosecution during the year. The MLSS employed 50 child labor inspectors in 22 field stations located throughout the country; however, it reported that inadequate resources hampered its enforcement efforts. For instance, labor inspectors frequently found it difficult to access transportation, making it difficult to conduct inspections in vast rural areas. Labor inspectors also found it difficult to carry out inspections because the majority of child labor occurred in informal sectors of the economy that were difficult to regulate. As a result, child labor inspectors conducted fewer than 50 formal inspections during the year, choosing instead to focus their efforts on raising awareness and educating the public about child labor issues. In cooperation with NGO partners, the Government continued its efforts to remove children from child labor. The children, mainly urban orphans, were placed in formal and transitional classes, while others were given vocational skills training (see Section 5).

The Government continued to provide awareness and training activities for officials charged with enforcing child labor laws and also began to train five labor inspectors as prosecutors; however, the MLSS reported that resource constraints prevented it from providing all required training. During the year the ILO's International Program on the Elimination of Child Labor launched a 42-month, \$3,900,000 (16 billion kwacha) project, aimed at building the Government's capacity

to design, implement and monitor initiatives to address the worst forms of child labor as defined in international conventions.

*e. Acceptable Conditions of Work.*—The minimum wage for nonunionized workers, whose wages and conditions of employment were not regulated through collective bargaining, was determined by category of employment. On June 2, the Government published a statutory instrument that raised the minimum wage to \$67 per month (268,000 kwacha) based on a 48-hour workweek, the legal maximum for nonunionized workers. The minimum wage did not provide a worker and family with a decent standard of living; most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on the extended family. The minimum wage act was criticized because it did not apply to domestic servants.

For unionized workers, wage scales and maximum workweek limits were established through collective bargaining. In practice almost all unionized workers received salaries considerably higher than the nonunionized minimum wage. The minimum workweek for full-time employment was 40 hours, which was the normal workweek. The law requires two days of annual leave per month of service. The law provides for overtime pay. Employers must pay employees who work more than 48 hours (45 hours in some categories) in one week at a rate of one and a half times their hourly rate. Workers receive double the rate of their hourly pay for work done on a Sunday or public holiday. The Government effectively enforced these standards.

The law also regulates minimum health standards in industry, and city and district councils were responsible for enforcement. The inspector of factories under the minister of labor handled factory safety; staffing shortages limited enforcement effectiveness. The MLSS continued to conduct labor inspections during the year and ordered businesses to close when it found significant violations of labor laws. The law protects the right of workers to remove themselves from work situations that endangered health or safety without jeopardy to their continued employment, but workers did not exercise this right in practice. The Government acted when well-known occupational health problems existed, such as requiring that underground mine workers receive annual medical examinations. For example, in November, the Environmental Council of Zambia ordered Chisteel Zambia Limited, a Chinese-owned steel company, to close its factory in Lusaka, citing the company's failure to install pollution abatement equipment or to provide workers with protective equipment.

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## ZIMBABWE

Zimbabwe, with a population of approximately 11.6 million, is constitutionally a republic, but the Government, dominated by President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) since independence, was not freely elected and is authoritarian. The last two national elections, the Presidential election in 2002 and the parliamentary elections in March 2005, were not free and fair. Although the constitution allows for multiple parties, the ruling party and security forces intimidated and committed abuses against opposition parties and their supporters and obstructed their activities. The divided Movement for Democratic Change (MDC) is the country's principal opposition; despite the fraudulent elections, the MDC factions held 41 of 120 elected seats in the House of Assembly and seven of 50 elected seats in the Senate at year's end. The civilian authorities generally maintained control of the security forces, but often used them to control opposition to the ruling party.

The Government engaged in the pervasive and systematic abuse of human rights. The ruling party's dominant control and manipulation of the political process through intimidation and corruption effectively negated the right of citizens to change their government. Unlawful killings and politically motivated kidnappings occurred. The state sanctioned the use of excessive force and torture, and security forces tortured members of the opposition, union leaders, and civil society activists. Prison conditions were harsh and life threatening. Security forces arbitrarily arrested and detained journalists, demonstrators, and religious leaders; lengthy pretrial detention was a problem. Executive influence and interference in the judiciary were problems. The Government continued to forcibly evict citizens and to demolish homes. The Government continued to use repressive laws to suppress freedom of speech, press, assembly, movement, association, and academic freedom. Government corruption and impunity remained widespread. High-ranking government officials made numerous public threats of violence against demonstrators. The following

human rights violations also continued to occur: harassment of human rights and humanitarian nongovernmental organizations (NGOs) and interference with their attempts to provide humanitarian assistance; violence and discrimination against women; child labor and prostitution; discrimination against persons with disabilities and ethnic minorities; an increase in the number of HIV/AIDS orphans and child-headed households; harassment and interference with labor organizations critical of government policies; and attempts to supplant legitimate labor leaders with hand-picked supporters.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports of politically motivated killings by the Government or ruling party supporters; however, security forces killed several persons during apprehension.

On June 29, two police officers in Bulawayo assaulted a group of men at a bar when they overheard one of the patrons saying that he wished President Mugabe had died instead of the recently deceased minister of information and publicity. Two of the men, Gift Jubane and Prince Ndebele, died a day later as a result of their injuries. The other victims, several of whom required hospitalization, reported that during the beating police accused them of working with the MDC to topple the Government. The two unidentified police officers were suspended. An investigation was ongoing at year's end.

Unlike in the previous year, there were no reports of killings by war veterans or ZANU-PF supporters.

There were no developments in the following killings from 2005: the March killing of Gift Chimbandi, a war veteran burned to death reportedly as a result of a dispute with other war veterans living on a seized farm; the April killing of a 70-year-old grandmother, who was beaten to death during an assault on suspected MDC supporters; the April killing of Ebrahim Mofat, who was beaten to death for suspicion of burning houses belonging to ZANU-PF supporters; and the May killing of Godwin Ganda, a war veteran believed to have spearheaded the first farm occupation in the country in 1998.

Unlike in the previous year, there were no reports that prisoners died from abuse by prison officials or guards.

*b. Disappearance.*—There were no reports of disappearances during the year; however, there were reports of politically motivated kidnappings and related torture committed by ZANU-PF supporters. Domestic human rights organizations believed that many such incidents were not reported due to fear of retribution by progovernment factions. The Government often did not investigate reported abductions and torture of MDC supporters.

For example, on July 9, eight unidentified men reportedly abducted an MDC youth organizer in Chitungwiza and took him to a nearby army barracks where he was left with a group of soldiers. The victim, who was released after a few hours, claimed that his abductors told the soldiers he was an MDC supporter, and that the soldiers beat him during an interrogation to elicit the names of other soldiers who were assisting the MDC in organizing opposition to the Government. The soldiers threatened to kill the youth if he went to the authorities.

No action was taken against ZANU-PF supporters responsible for the February 2005 abduction of MDC candidate Godfrey Gumboand, nor the April 2005 abductions of Wilson Mushonga, the son of an MDC candidate, and a group of his colleagues.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment, security forces continued to engage in such practices. Police reportedly used excessive force in apprehending and detaining criminal suspects, as well as ordinary citizens, for holding meetings or participating in demonstrations. Government supporters continued to assault suspected opposition members. Violent confrontations between various youth groups aligned with either the Government or the opposition continued.

Human rights groups reported that physical and psychological torture perpetrated by security agents and government supporters increased during the year. The Zimbabwe Human Rights NGO Forum recorded 337 cases of torture during the first nine months of the year. Youth militia forces, trained by ZANU-PF, were deployed to harass and intimidate suspected supporters of the MDC and Zimbabwe Congress of Trade Unions (ZCTU).

There were reports of indoctrination against political opposition (see Section 5).

Security forces committed political violence, including instances where soldiers and persons in military uniforms beat civilians, particularly in areas suspected of heavy support for the opposition. Army and police units participated in or provided logistical support to perpetrators of political violence and generally permitted their activities. Individuals targeted for harassment and torture tended to be active members of the opposition or high-level ZANU-PF members in disfavor with the ruling party. According to the Human Rights Watch (HRW) report *You Will Be Thoroughly Beaten—The Brutal Suppression of Dissent in Zimbabwe*, “police have arbitrarily arrested hundreds of civil society activists” for participating in “routine meetings or peaceful demonstrations, often with excessive force, and in some cases subjected those in custody to severe beatings that amounted to torture.”

No action was taken against the perpetrators of the following 2005 abuse cases: the February abduction and torture by unidentified persons of a Curuve man believed to be an MDC supporter; the April arrest and beating by police of MDC MP-elect Nelson Chamisa; or the assaults and intimidation through the year of persons perceived to be supporting the opposition, including teachers, civil servants, health workers, and laborers.

The trial of Kenny Karidza, who was arrested and tortured in 2004 for allegedly selling state secrets to foreign governments, had not begun by year's end.

On September 13, police arrested more than 100 members of the ZCTU to prevent the labor movement from staging nationwide marches planned that day. Police severely beat several of the organizers, including ZCTU Secretary General Wellington Chibembe (see Section 6.a.). Numerous ZCTU members were hospitalized as a result of their injuries.

War veterans and ZANU-PF supporters continued to harass, intimidate, and abuse journalists considered to be sympathetic to the opposition (see Section 2.a.).

Security forces repeatedly used force to disperse nonviolent gatherings and demonstrations; security forces also beat participants and demonstrators (see Section 2.b.).

There was at least one report of a politically motivated rape during the year. A woman alleged that police in Harare detained her for three days after she attended an MDC meeting in April. Upon her release, she claimed that police forced her into a van and took her to an isolated area where a police officer raped and beat her. The victim reported that the police officer threatened her with death if she reported the incident.

According to a Zimbabwe Torture Victims/Survivors Project report released in December, at least 15 percent of Zimbabwean women refugees interviewed at a counseling center in Johannesburg, South Africa between February 2005 and September 2006 reported they had been raped in Zimbabwe; the victims most frequently named members of ZANU-PF, police, military, and the Central Intelligence Organization (CIO) as the perpetrators.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and life-threatening. The Government's 47 prisons were designed for a capacity of 16,000 prisoners but held approximately 25,000 according to media reports. In December 2004 the Law Society of Zimbabwe (LSZ) conducted a prison inspection at Khami Maximum Prison in Bulawayo. The inspection revealed that the prison, built to accommodate 650 prisoners, had 1,167 inmates. Poor sanitary conditions persisted, which aggravated outbreaks of cholera, diarrhea, measles, tuberculosis, and HIV/AIDS-related illnesses. Human rights activists familiar with prison conditions reported constant shortages of food, water, electricity, clothing, and soap.

Harsh prison conditions and a high incidence of HIV/AIDS were widely acknowledged to have contributed to a large number of deaths in prison. The Institute of Correctional and Securities Studies, a local NGO, estimated that 52 percent of the country's prisoners were HIV positive. One doctor who worked with former prisoners in the Harare area estimated that the prevalence figure was closer to 60 percent. In February Zimbabwe Prisons Service Commissioner General Paradzai Zimondi described the mortality rate in prisons as a “cause for concern.”

The LSZ also reported that 127 prisoners in Khami prison died in 2004; the deaths were attributed to overcrowding and unsanitary conditions resulting in the spread of diseases, including tuberculosis.

In August the Institute for War and Peace Reporting (IWPR) reported that torture in prisons was common. IWPR quoted Roy Bennett, a former MDC parliamentary deputy jailed for eight months in Chikurubi prison beginning in 2005, as saying he saw other prisoners “crippled” from beating on the soles of their feet. Bennett added that “if you are too slow in sitting down or squatting—because you can't talk to the guards standing up, you have to grovel on the floor to talk to them—you are beaten.”

The Government did not make any efforts to improve prison conditions during the year.

Juveniles were not held separately from adults. The Prison Fellowship of Zimbabwe, a local Christian organization working with former inmates, estimated that more than 200 children were living in the country's prison system with their detained mothers. Pretrial detainees generally were held in group cells until their bail hearings. Once charged, if detainees were refused bail, they were held in a separate remand prison.

The law provides that international human rights monitors have the right to visit prisons, but government procedures and requirements made it very difficult to do so. Permission was required from the commissioner of prisons and the minister of justice, which sometimes was not granted or took a month or longer to obtain. The Government granted local NGOs access on a number of occasions during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, some laws effectively weakened this prohibition, and security forces repeatedly arbitrarily arrested and detained persons.

*Role of the Police and Security Apparatus.*—The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. Although the ZRP officially is under the authority of the Ministry of Home Affairs, in practice the President's office controlled some roles and missions. The Zimbabwe National Army and Air Force, under the Defense Ministry, were responsible for external security; however, there were cases in which the Government called upon them for domestic operations. The CIO, under the Ministry of State for National Security, is responsible for internal and external security. The police, the military, and the CIO became increasingly politicized as they were frequently used to suppress dissent and opposition to the Government.

The police are centrally controlled, with the command center in Harare. The police are hierarchically divided, with provincial headquarters overseeing two to three district headquarters, each of which supervises up to seven stations. Severely depleted human and material resources, especially fuel, further reduced police effectiveness during the year. It was difficult for rank-and-file police to remain impartial due to continued politicization within the force's upper echelons, which further lowered their professionalism. There also were reports that untrained or unqualified personnel were hired into the police solely because of their support for ZANU-PF. Corruption increased in part due to low salaries and a worsening economy.

*Arrest and Detention.*—Arrests require court-issued warrants. The law requires that police inform an arrested person of the charges before taking the individual into custody. Although the law requires a preliminary hearing before a magistrate within 48 hours of an arrest (or 96 hours over a weekend), authorities disregarded the law if a person did not have legal representation. Police typically arrested individuals accused of political crimes on Friday, which permitted legal detention until Monday. In several cases police claimed not to know where they were holding a detained individual, which delayed a hearing on bail release. There were multiple reports of security forces arbitrarily arresting opposition and civil society activists, interrogating and beating them for information about their organization's activities, and then releasing them the next day without charges. Security forces rarely were held accountable for abuses.

Although the Criminal Procedures and Evidence Act substantially reduces the power of magistrates to grant bail without the consent of the Attorney General or his agents, in practice a circular issued by the Attorney General giving a general authority to grant bail lessened the negative effect of the law. High court judges granted bail independently. The Act allows police to hold persons suspected of committing economic crimes for up to four weeks without bail.

Authorities often did not allow detainees prompt or regular access to their lawyers and often informed lawyers who attempted to visit their clients that detainees were "not available" (see Section 1.e.). In February, for example, police officials in Harare denied activists arrested during the annual Women of Zimbabwe Arise (WOZA) Valentine's Day march access to their attorney, Tafadzwa Mugabe, for five days. Family members sometimes were denied access unless accompanied by an attorney. Detainees, particularly those from rural areas without legal representation, sometimes were held incommunicado. Family members and attorneys often could not verify that a person had been detained until the detainee appeared in court.

Unlike in the previous year, there were no reports that victims or witnesses of crimes were detained or charged with the crime after reporting it to police.

The Official Secrets Act, Public Order and Security Act (POSA), and the Criminal Law (Codification and Reform) Act ("the criminal code") grant the Government a wide range of legal powers and give extensive powers to the police, the minister of

home affairs, and the President to prosecute persons for political and security crimes that are not clearly defined.

The July enactment of the amended criminal code served to repeal the Sexual Offenses Act (SOA) and consolidated a variety of criminal offenses, including crimes against public order. The Institute for Justice and Reconciliation and the Solidarity Peace Trust reported that almost all the offenses in POSA were transferred to the criminal code, in some cases with drastic increases in the penalties. For instance, making a false statement prejudicial to the state now carries a maximum prison sentence of up to 20 years in prison. POSA requires that an organizer of a meeting or demonstration give the requisite notice to police before holding a public event; such requests were routinely denied (see Section 2.b.).

Police arbitrarily arrested journalists and religious leaders (see Sections 2.a. and 2.c.).

Police arrested persons holding meetings and during forcible dispersal of gatherings (see Section 2.b.).

There were no developments in the arrest cases reported in 2005 and 2004.

Prolonged pretrial detention remained a problem, and some detainees were incarcerated as long as nine years before trial or sentencing because of a critical shortage of magistrates and court interpreters. One prominent NGO estimated that in 2005 the courts would require at least two years to address the backlog of cases.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however the judiciary was under intense pressure to conform to government policies, and the Government repeatedly refused to abide by judicial decisions.

The law provides for a unitary court system consisting of headmen's courts, chiefs' courts, magistrates' courts, the high court, and the Supreme Court. Civil and customary law cases may be heard at all levels of the judiciary, including the Supreme Court.

Magistrates, who are part of the civil service rather than the judiciary, heard the vast majority of cases. Legal experts said that increasingly defendants in politically sensitive cases were more likely to receive a fair hearing in magistrates' lower courts than in higher courts where justices were more likely to make political decisions. Other judicial officers such as prosecutors and private attorneys also faced political pressure.

The Government and police routinely failed to enforce court decisions that went against their interests. Furthermore, the Government routinely continued to delay payment of court costs or judgments awarded against it in civil cases.

Judges are appointed to serve until the age of 65 and may extend their terms until the age of 70 if they remain in good physical and mental health. The constitution provides that they may be removed from the bench only for gross misconduct and that they cannot be discharged or transferred for political reasons.

In January the high court found Justice Benjamin Paradza guilty of obstruction of justice for trying to influence a fellow judge in a murder case. Paradza, charged in 2003, maintained that consultations with colleagues were common among judges and were not improper. Paradza reportedly fled the country; the judge sentenced him in absentia.

*Trial Procedures.*—The constitution provides for the right to a fair trial; however, this right frequently was compromised in practice due to political pressures. Trials were held by judges without juries and were open to the public, except in certain security cases. Every defendant has the right to a lawyer of his choosing, but a local attorney reported that most defendants in magistrates' courts did not have legal representation. In criminal cases an indigent defendant may apply to have the Government provide an attorney, but this was rarely granted except in capital cases where the Government provided an attorney for all defendants unable to afford one. Litigants in civil cases may request legal assistance from the NGO Legal Resources Foundation or Zimbabwe Lawyers for Human Rights (ZLHR).

Attorneys sometimes were denied access to their clients (see Section 1.d.). Defendants enjoy a presumption of innocence, the right to present witnesses, and the right to question witnesses against them; however, these rights were not always observed in practice. In 2005 a local NGO reported that the Government sometimes denied those rights for political reasons. Defendants and their attorneys generally had access to government-held evidence relevant to their cases. The right to appeal exists in all cases and is automatic in cases in which the death penalty is imposed.

The Zimbabwe Women's Lawyers Association (ZWLA) reported in 2005 that some magistrates in the country were not aware of some of the contents of the SOA, that the law was in effect, or lacked complete understanding of how to apply it. ZWLA's research illustrated that many magistrates continued to make judgments based on old laws.



There was a large volume of rape cases in the Harare victim-friendly courts, special courts created to accommodate children and sexual offense victims, that had specially trained magistrates and prosecutors and equipment that allows the victims to testify without being seen. These courts were understaffed, in part because many magistrates left the country seeking to improve their circumstances.

Military courts deal with courts-martial and disciplinary proceedings only for military personnel. Police courts, which can sentence a police officer to confinement in a camp or demotion, handle disciplinary and misconduct cases. Defendants in these courts have the right to appeal to the Supreme Court.

*Political Prisoners and Detainees.*—There were numerous reports of political detainees throughout the year, including opposition officials, their supporters, and civil society activists. Most were held for one or two days and released. During the year police severely beat and tortured numerous opposition and civil society leaders while in detention (see Section 1.c.). At year's end there were no political detainees in police custody.

Unlike in previous years, there were no reports of political prisoners.

*Civil Judicial Procedures and Remedies.*—There was an independent and impartial judiciary in civil matters; however, in practice the judiciary showed indications of being politically influenced or intimidated in cases involving high-ranking government officials, politically connected persons, or violations of human rights. There were systematic problems enforcing domestic court orders, as resources for the judiciary and police were severely strained (see Section 2.a.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, but the Government did not respect these provisions in practice. Security forces searched homes and offices without warrants; the Government was believed to monitor some private correspondence and telephones, particularly international communications; and the Government forcibly displaced persons from their homes. The Government coerced ruling party support in food distribution and agricultural inputs (see Section 3).

The law permits the Government to monitor and intercept e-mails entering and leaving the country. Security services reportedly continued to monitor e-mail and Internet activity and acquired new technology to do so; however, the extent of monitoring was unknown (see Section 2.a.).

Failure to serve court orders was a problem (see Section 2.a.).

In May 2005 the Government embarked on Operation Restore Order without prior notice, in which more than 700,000 persons lost their homes, their means of livelihood, or both. The Government's stated reason for the operation was to curb illegal economic activities and crime in slums and illegal settlements in several cities and towns, but it made no provision for the affected before beginning the operation. Those who returned to rural areas often faced unemployment, food shortages, and other economic and social stresses. An estimated 300,000 children lost access to education as a result of displacement. The operation disrupted medical care, particularly for HIV/AIDS patients. The Government reportedly prevented or interfered with UN and other humanitarian organizations' efforts to provide shelter and food assistance. The Government's actions were widely condemned by local civil society organizations and the international community.

In July 2005 the Government announced a new operation, Garikai (Shona for "live well"), supposedly to provide housing plots for new homes and to set up new vending sites for those who lost homes or businesses; the program proceeded slowly.

During the year the Government continued with a campaign of forced evictions and the demolition of homes and businesses in high-density suburbs in several cities and towns despite a court order prohibiting further evictions.

On June 15, municipal police in Harare forcibly evicted a group of approximately 150 persons living on land previously razed during Operation Restore Order.

On July 14 and 15, police demolished the Magaba informal marketplace in Harare's high-density suburb of Mbare, displacing approximately 200 vendors who made their livelihoods at the market.

In September police in Harare evicted 20 families from the Epworth high-density suburb and 35 vendors from Glen View 1 high-density suburb.

A September Amnesty International study confirmed that "despite the Government's numerous public statements about a reconstruction program to address the homelessness created by Operation Restore Order, almost none of the victims have received any assistance from the Government." The AI study found that while authorities demolished more than 92,000 homes, the Government has only built approximately 3,300 new permanent shelters for those displaced as of May. Many of the displaced persons were unable to afford the program application fee or the cost of a housing plot if one was made available to them. There were credible reports

that civil servants, military, and ruling party supporters were the main beneficiaries of the plots and vending sites.

A 2005 constitutional amendment transferred title of all land previously acquired to the state, prohibited court challenges to the acquisitions, and allowed the Government to acquire any agricultural land for any purpose simply by publishing a notice of acquisition.

Disruptions at farms and seizures of property continued and were sometimes violent. In September the Government summoned two white commercial farmers in Karoi to appear in magistrates' court for failing to vacate their properties after receiving 90-day notices. A magistrate in the lower court, however, declined to hear the matter and dismissed the case for lack of jurisdiction. The eviction notices were also subject to a pending legal challenge in the high court at year's end. During the year, more than 80 white commercial farmers were ordered to surrender their land to the Government, leaving approximately 500 of an original 4,500 large-scale producing farmers in the country. On December 20, the Gazetted Land (Consequential Provisions) Act passed into law requiring all farmers whose land was compulsorily acquired by the Government and who are not in possession of an official offer letter, permit, or lease, to cease to occupy, hold, or use that land within 45 days and vacate their homes within 90 days. According to a local NGO, only a small number of farmers had received an offer letter or lease. Failure to comply is a criminal offense punishable by a maximum fine of \$3.20 (Z\$800.00) and a maximum prison sentence of up to two years.

In 2004 the Government evicted and burned the homes of thousands of families accused of squatting on farms acquired by the Government in Mashonaland West, Mashonaland East, and Manicaland. The Government blocked international organizations from assisting these displaced farmers. Many of the affected were displaced again during Operation Restore Order.

No action was taken against security officials involved in numerous 2005 cases of land invasions, seizures of property, and attacks on farm owners and workers.

No action was taken, nor was any anticipated, in the numerous other reported 2005 and 2004 cases of arbitrary interference with citizens' homes.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of expression, but legislation limits this freedom in the “interest of defense, public safety, public order, state economic interests, public morality, and public health.” The Government restricted this right in practice. Journalists and publishers practiced self-censorship.

The Government continued to restrict freedom of speech, particularly by independent sources or those making or publicizing comments critical of President Mugabe. Using POSA authority, the Government arrested individuals for criticizing Mugabe in public; they were usually fined and released.

In February Media Monitoring Project Zimbabwe, a local NGO, quoted State Security Minister Didymus Mutasa as stating the authorities would “not relent in their determination to hound into extinction the country's few remaining alternative sources of information.” SW Radio Africa reported that Mutasa warned journalists that “the net will soon close in on them,” stating they were “threatening national security” and accusing them of selling out the country to the “enemy by writing falsehoods with the intention of agitating violence.”

The Ministry for Information and Publicity controlled the state-run media while the Ministry for National Security acquired a controlling financial interest in the Daily Mirror, a formerly privately owned newspaper. Consequently, the Government controlled the only three daily newspapers—the Chronicle, the Herald, and the Daily Mirror. The news coverage in these newspapers, and in the state-controlled media as a whole, generally positively portrayed the activities of government officials, negatively portrayed opposition parties and other antigovernment groups, and downplayed events or information that reflected adversely on the Government.

There were two independent major weekly newspapers, the Zimbabwe Independent and the Standard, and a semi-independent weekly paper, the Financial Gazette, all three of which continued to operate despite threats and pressure from the Government. The newspapers continued to criticize the Government and ruling party; however, they also continued to exercise some self-censorship due to government intimidation and the continuing prospect of prosecution under criminal libel and security laws.

None of the media outlets closed in previous years were re-opened. The four newspapers closed by the Government in the last three years remained closed.

Radio remained an important medium of public communication, particularly for the majority of the population living in rural areas. The Government controlled all

domestic radio broadcasting stations through the state-owned Zimbabwe Broadcasting Holdings, supervised by the Ministry for Information and Publicity.

There were credible reports that the deputy minister of information routinely reviewed ZBC news and repeatedly excised reports on the activities of groups and organizations opposed to or critical of the Government.

The popularity of independent shortwave and medium wave radio broadcasts to the country continued to grow resulting in government jamming of news broadcasts by radio stations based in other countries. Voice of America (VOA) and SW Radio Africa based in the United Kingdom were both jammed for extended periods of time during the year.

In December there were reports that CIO agents seized radios donated to teachers in the area of Gokwe. A local Gokwe magistrate ordered the radios returned after ZLHR successfully filed a complaint. Gokwe police, however, reportedly refused to serve the court order, leaving the ZLHR lawyers to do it themselves.

The Government controlled the only domestically based television broadcasting station.

The Broadcasting Authority of Zimbabwe has not issued licenses to private television and radio broadcasters since its establishment in 2001. All televisions and radios in the country must be registered with the Government.

International satellite television broadcasts were available freely through private firms, but were not available to most citizens due to their expense and the requirement for payment in foreign currency.

Security forces arbitrarily harassed, arrested, and detained journalists who contributed to published stories critical of government policies or security force operations.

On January 18, police in Mutare arrested Sydney Saize, an independent journalist, for allegedly filing a false story for VOA claiming that militants of the ruling ZANU-PF party had beaten teachers in the city. Police released Saize without charge after detaining him for three days.

On April 30, police in the southwestern border town of Plumtree arrested Beauty Mokoba and Keketso Seofela, journalists with Botswana Television, for allegedly investigating an outbreak of foot-and-mouth disease in Botswana and the possible connection with cross-border cattle rustling. Police released the two journalists after two days and charged them under the Access to Information and Privacy Protection Act (AIPPA) for allegedly practicing journalism without accreditation. The trial of the two journalists was pending at year's end.

On July 19, police arrested and detained Godwin Mangudya, a freelance journalist, and Ndamu Sandu, a journalist for the Standard, while covering a Combined Harare Resident's Association demonstration against City of Harare officials. Police released the two journalists after they each paid an admission of guilt fine under the Miscellaneous Offences Act.

On September 13, police arrested and detained Mike Saburi, a freelance camera person attempting to cover the ZCTU demonstrations. Prosecutors withdrew charges and released Saburi from remand before he could enter a plea.

Unlike in the previous year, immigration officials did not seize the passports of a newspaper owner; however, in December the Government announced a decision to strip a newspaper owner of his citizenship and not to renew his passport (see Section 3, Elections and Political Participation).

During the year the Government failed to provide a conclusive resolution of investigations into the 2002 bombing of independent shortwave broadcast station Voice of the People's (VOP) Harare offices, but intensified the harassment of VOP staff and board members. In December 2005 police and officials from the Government appointed by the Broadcasting Authority of Zimbabwe raided the VOP's offices and arrested three journalists and the station manager for operating without a license. This harassment continued during the year with legal measures and intimidation. On January 19, police arrested and detained four employees of Arnold Tsunga, one of the VOP trustees facing trial, for failing to disclose Tsunga's whereabouts to police. Two days later another set of police officers visited the house of Nhlanhla Ngwenya, another trustee of VOP, and threatened to take away some of his properties as ransom.

On September 25, the state argued for a third postponement in the trial. The Harare magistrate refused to place the defendants on further remand, effectively dropping the charges. However, he did not rule that they could again operate as VOP, did not order the return of their seized equipment, and did not set the date of the next hearing.

There were no developments in other 2005 or 2004 cases of harassment, abuse, and detention of journalists.

The Government continued to use AIPPA, signed by President Mugabe in February 2002, to serve as the primary justification to control media content. The main provisions of the law give the Government extensive powers to control the media and suppress free speech by requiring the registration of journalists and prohibiting the "abuse of free expression."

In January the Media and Information Commission (MIC), created under the AIPPA, threatened to cancel the license of the Financial Gazette if it did not retract a story that had questioned the commission's independence from government. On January 29, the commission refused to renew the accreditation of fifteen journalists working for the Zimbabwe Independent, until the paper retracted a similar story.

The legal wrangling between the MIC and the Associated Newspapers of Zimbabwe that began with the 2003 banning of the independent Daily News and its Sunday edition for not having registered for a license, continued to move from court to court.

In February the Government passed the General Laws Amendment Act (GLAA), which amends sections of the POSA to allow authorities to monitor and censor "the publication of false statements that will engender feelings of hostility towards—or cause hatred, contempt or ridicule of—the President or acting President." The GLAA recommends a jail term for any journalist who "insults the President or communicates falsehoods."

The criminal code makes it an offense to publish or communicate false statements prejudicial to the state. Legal experts have criticized this section saying that it imposes limits on freedom of expression beyond those permitted by the constitution. An extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties. In addition, antidefamation laws criminalize libel of both public and private persons.

The Broadcasting Services Act, which parliament's legal committee found to be unconstitutional but which was still in force, gives the minister of information final authority to issue and revoke broadcasting licenses. The act allows for one independent radio broadcaster and one independent television broadcaster but requires them to broadcast with a government-controlled signal carrier. Throughout the year legal rights groups criticized the act for limiting free speech.

*Internet Freedom.*—There were no government restrictions on the Internet; however, the law permits the Government to monitor all international e-mail messages entering and leaving the country, and security services reportedly continued to monitor Internet activity (see Section 1.f.). Internet access was available but due to a lack of infrastructure was not widely accessed by the public beyond commercial centers.

In September parliament began consideration of an Interception of Communications Bill that would greatly expand the Government's ability to monitor internal communications and Internet usage. The proposed bill generated a significant amount of domestic and international criticism given its potential to further suppress freedom of expression in the country.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom. The University of Zimbabwe Amendment Act and the National Council for Higher Education Act restricted the independence of universities, subjecting them to government influence and extending the disciplinary powers of the university authorities over staff and students. On October 1, the Zimbabwe Council of Higher Education Act came into effect, which mandates the establishment of a nine-member council made up of members of the higher educational community from both public and private institutions. The council advises the minister on matters pertaining to education, including funding for higher education and accreditation of higher education institutions. The minister of higher education and technology, however, selects and appoints the council members and continues to control the state universities and appoint their chancellors and vice chancellors; the minister also appoints vice chancellors and other senior members of university administration, the deans of faculty, and most members of the university council.

CIO personnel have taken on faculty and other positions and have posed as students at the University of Zimbabwe and other state universities to intimidate and gather intelligence on faculty who speak out against government policies as well as on students who might protest government actions. In response to intense government scrutiny, both faculty and students often practice self-censorship in the classroom and academic work. According to the Zimbabwe National Students Union, seven students were suspended or expelled during the year for engaging in student activism (see Section 2.b.).

Cont Mhlanga of Amakohosi Theatre Productions in Bulawayo was arrested and briefly detained in early May on the grounds that his plays were antigovernment and meant to incite an uprising against the Mugabe regime.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly; however, the Government restricted this right in practice through laws such as POSA, which many legal experts believed were unconstitutional. POSA does not require permits for meetings or processions, but it requires that organizers notify the police of their intentions to hold a public gathering seven days in advance. Failure to do so results in criminal prosecution as well as civil liability. Although many groups that conducted meetings did not seek permits, other groups informed the police of their planned events and were denied permission, or their requests went unanswered. Police insisted that their permission was required to hold public gatherings and sometimes approved requests; however, they disrupted many events whether or not permission was sought. Police personnel attended many political meetings without invitation, ostensibly to protect attendees from potential violence by unruly persons. The CIO also routinely sent personnel undercover to monitor meetings perceived to be potentially antigovernment.

The police repeatedly used force to break up nonviolent demonstrations by critics of the Government and erected roadblocks in urban areas to prevent public gatherings from taking place. Police also arrested numerous demonstrators during the year. For example, in February police in Harare arrested 63 members of WOZA during the group's annual Valentine's Day demonstration. The marchers were released after a few days and in August a court magistrate found the women not guilty, ruling that the demonstration did not constitute a breach of public peace. In Bulawayo more than a hundred WOZA marchers were arrested for the Valentine's Day march, but all were released after a short detention without charges.

On February 23, police arrested 62 National Constitutional Assembly (NCA) supporters in Harare as they protested on President Mugabe's birthday. The protesters were initially charged under the Miscellaneous Offences Act for allegedly breaching the peace, but all were released the next day after they paid admission of guilt fines.

On May 4, police in Bulawayo arrested 185 WOZA supporters, including 73 children, who marched against escalating school fees for the term that began that month. The children were released the same day and the adults five days later. WOZA also conducted a smaller demonstration against school fees in Harare, but there was no police response.

On August 21, WOZA supporters demonstrated against the Government's currency redenomination program. Police in Bulawayo arrested 183 women; they were detained for several days and then released.

On September 13, police arrested, detained, and beat more than 100 members of the ZCTU to prevent the labor movement from staging country-wide marches planned for that day (see Section 6.a.).

On September 20, police ordered approximately 180 demonstrating members of the National Constitutional Assembly (NCA) to sit on the ground. Police then beat and arrested the demonstrators. Police released the demonstrators that evening after each paid a fine.

On September 25, police violently disrupted a peaceful march by about 500 NCA members demonstrating for a new constitution and protesting the September 13 assaults. After ordering the demonstrators to sit, police beat them, triggering a stampede in which 24 persons were injured.

On November 29, police in Bulawayo arrested and detained more than 50 WOZA demonstrators, including children, marching to commemorate the international campaign "16 Days of Gender Activism" and the release of the group's Peoples' Charter. Numerous persons were injured in a stampede, including a one-year-old baby who suffered a broken leg when police attempted to disperse the crowd by beating the demonstrators. Several WOZA members also alleged that police beat them during detention. Police released 23 of the demonstrators that night and released the remaining group two days later. The demonstrators awaited trial at year's end. There were no reports of action taken against the police.

There was no further action in the 2005 cases in which opposition political figures were harassed or arrested by government authorities.

In response to growing unrest among student groups angered at increasing tuition, the Government stepped up its harassment of university student unions. For instance, on February 15, police arrested and quickly released 20 student protesters at Bulawayo's National University of Science and Technology. On September 8, police arrested and briefly detained 70 student leaders in Mutare.

High-ranking government officials, including President Mugabe and State Security Minister Didymus Mutasa, used the state-controlled media to threaten violence against anyone who protested against the Government. In the weeks prior to the ZCTU protests, the state-controlled newspaper the Sunday Mail quoted Mutasa as saying the protest would be a “grave mistake,” and that security forces would not hesitate to “crush” the protesters. On September 25, President Mugabe defended the September 13 assault on ZCTU protestors by telling a crowd of supporters that the ZCTU organizers who “resisted police orders” were inviting a violent response. According to an HRW report released in November, assault and arrest of peaceful demonstrators appeared to be intended to harass and deter activists from engaging in their right to assemble.

There was no action taken against police who used excessive force to disperse a number of demonstrations and rallies in 2005 and 2004.

*Freedom of Association.*—Although the constitution and law provide for freedom of association, the Government restricted this right in practice for many organizations. Organizations generally were free of governmental interference as long as the Government viewed their activities as nonpolitical. ZANU-PF supporters, sometimes with government support or acquiescence, intimidated and abused members of organizations perceived to be associated with the opposition (see Section 1.c.). The Government raided the offices and inquired into the activities of some NGOs it believed opposed government policies (see Section 4).

The formation of political parties and unions was not restricted; however, the Government interfered with activities of political parties and unions during the year (see Sections 3, 6.a. and 6.b.).

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice. The Government and the religious communities historically have had good relations; however, the Government continued to criticize and harass religious leaders who spoke out against the Government’s human rights abuses. Church leaders and members who criticized the Government faced arrest, detention, and, in the case of foreigners, possible deportation.

In August police arrested Bishop Levee Kadenge, Reverend Pius Wakatama, Reverend Ancelimo Magaya, and Reverend Brian Mungwindi, four leaders of the Christian Alliance, after a meeting of the Christian Alliance leadership. Police released the group without charge after questioning them about the activities of their organization and plans to start a political party.

Unlike in the previous year, there were no reports that the Government forced congregants to dismantle their places of worship.

Religious organizations that operate schools or medical facilities are required to register those specific institutions with the appropriate ministry regulating their activities.

Traditional indigenous religions generally included or accommodated belief in the efficacy of witchcraft, which was viewed at times as the cause of unknown diseases. Harmful witchcraft was sometimes used for defensive or retaliatory purposes. The Government amended the widely criticized Witchcraft Suppression Act that identifies witchcraft practices as “those commonly associated with witchcraft” and criminalizes those practices only if intended to cause harm. Under this new framework, spoken words alone are no longer considered to be a witchcraft practice or evidence of illegal activity. The amendment criminalizes witch hunts, imposes criminal penalties for falsely accusing others of witchcraft, and rejects the killing of a witch as a defense for murder. At year’s end there were no new or outstanding cases under the witchcraft law. Attacks on individuals in witchcraft-related cases appear to be prosecuted under laws for assault, murder, or other crimes.

Tension between government and some indigenous churches resulted from the latter’s disdain for scientifically-based medical practices. Some members of indigenous churches and groups believed in healing through prayer only and refused to have their children vaccinated. The Ministry of Health had limited success in vaccinating children against communicable childhood diseases in these religious communities. Human rights activists also criticized these indigenous churches for sanctioning marriages for underage girls.

Unlike in previous years, there were no reports of Muslims being refused time to worship by employers.

*Societal Abuses, Discrimination, and Anti-Semitism.*—There were no reports of societal violence, harassment, or discrimination against members of religious groups, including interreligious and intrareligious incidents.

There were approximately 270 Jews in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights; however, the Government restricted them in practice.

During the year police continued routinely to erect roadblocks staffed with armed police in and around cities and rural districts, especially during election periods and before demonstrations and opposition meetings. In August when the Government issued new currency notes to replace old bills, police significantly increased the number of roadblocks and the intensity of their searches. Additionally, the Government deployed soldiers and youth service training center graduates to augment the roadblocks and border security. Police claimed that they were looking for criminals, smuggled goods and food, illegal weapons, or in the August exercise “excessive” amounts of cash, but legal rights groups asserted that the measures were designed to discourage or limit opposition organizing. Periodic roadblocks established by the Zimbabwe Revenue Authority along the main highways from South Africa and Botswana to search for foreign currency remained in place. Police also searched for and confiscated smuggled maize at roadblocks on major roads.

A 2005 constitutional amendment allows the Government to restrict foreign travel for reasons of national security and public order. Since the high court ruled in December 2005 that the seizure of passports from three regime critics was illegal and ordered their return, there have been no further attempts to seize passports under the amendment. In December, however, the Government announced a decision to strip a newspaper owner of his citizenship and not to renew his passport (see Section 3, Elections and Political Participation.).

During the year travel bans on a variety of persons remained in effect, including British government officials, members of the British parliament, a foreign human rights activist, and journalists. Foreign correspondents were denied visas during the year. The Government’s immigration authorities denied entry to a delegation of foreign labor unionists.

The constitution prohibits forced exile, and there were no reports that the Government employed forced exile. A number of persons, including former government officials, prominent businessmen, human rights lawyers, left the country and remained in self-imposed exile.

*Internally Displaced Persons (IDPs).*—Following Operation Restore Order in May 2005, the number of internally displaced persons increased dramatically. According to the UN special envoy’s report released in July 2005, an estimated 700,000 persons lost their homes or businesses in the operation, and approximately 2.4 million persons were directly affected. The Government’s campaign of forced evictions and the demolition of homes and businesses continued during the year (see Section 1.f.). Meanwhile, the Government program Operation Live Well, purportedly launched to build housing for those displaced, primarily benefited government officials and the police rather than victims of Operation Restore Order. Many of those displaced continue to lack permanent shelter. Although humanitarian agencies had access to most displaced persons, the Government continued to interfere with some organizations’ efforts to assist IDPs during the year. Civil society activists believed that residents were routinely targeted for eviction for political reasons.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government generally cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

According to the UNHCR, there were 3,200 refugees and asylum seekers registered in the country during the year. The largest groups of refugees and asylum seekers continued to be from the Democratic Republic of Congo, Rwanda, and Burundi.

According to law, refugees must live at Tongogara refugee camp, but the camp only had a capacity for 2,000 persons and afforded no means to earn a livelihood. Most other refugees lived in urban areas without the permission of the Government. UNHCR reported that approximately 1,100 refugees were living in and around Harare. In some cases, the Government permitted refugees with special needs to live in urban centers. The Government granted work permits to a few refugees, primarily those with special skills.

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

The constitution provides citizens with the right to change their government peacefully; however, this right was restricted in practice because the political process continued to be tilted heavily in favor of ZANU-PF, which has ruled continuously since independence in 1980.

*Elections and Political Participation.*—The Presidential election in 2002 and the parliamentary elections in March 2005 resulted in the election and continued domination of President Robert Mugabe and the ruling ZANU-PF party; the elections were neither free nor fair. Although the constitution allows for multiple parties, the ruling party and security forces intimidated and committed abuses against opposition parties and their supporters and obstructed their activities.

In the March 2005 parliamentary elections, ZANU-PF distorted the political campaign and manipulated voter registration rolls and vote tallies to ensure its large margin of victory. ZANU-PF captured 78 out of the 120 contested seats. Western observers declared the elections fundamentally flawed.

Approximately 10 percent of would-be voters were turned away from the polls, especially in opposition areas, in the March 2005 parliamentary elections. In all, more than 100,000 potential voters appear to have been turned away. Most voters were rejected because they tried to vote in the wrong constituency due to inadequately publicized redistricting, and no longer appeared on the voter roll. Rejected potential voters were likely to be disproportionately opposition voters because the demographics matched those of MDC supporters. Critics noted the process for registering voters was legal but confusing and some voters may have been excluded from the voters roll intentionally. The office of the registrar general, which maintains the voters roll, is not independent from the Government.

Election observers also noted voter intimidation at polling stations. Some polling stations were located in areas regarded as intimidating to voters, such as at a police station or next to a local ZANU-PF headquarters. At some stations, police officers and other unidentified individuals recorded the names of those who voted, a procedure intimidating to some voters. Some chiefs also reportedly pressured villagers to vote for the ruling party. There were reports that voters in some districts had been told that the translucent ballot boxes would be used to note how individuals voted.

On election day in March 2005, the ZANU-PF candidate for Insiza, Andrew Langa, threatened to shoot MDC polling agents at Silalatshani Business Center as they were being deployed in readiness for the election. The MDC polling agents reported the incident to the Gwanda police station, but police took no action to prevent intimidation. Consequently, the polling station opened without MDC polling agents.

Observers at numerous polling stations reported that in many cases police, rather than election officials, communicated vote counts to the tabulation centers, which exceeded the role of the police to maintain order. Observers also reported that opposition party agents and observers were not allowed to witness the vote tabulation in key districts. Contrary to the Electoral Act, many polling stations did not post their results.

These reports and conflicting election results issued by the ZEC, the first only hours after the poll closed and the second a few days later, suggested that the final toll was manipulated. Discrepancies heavily favored the ruling party; of the 19 constituencies where the final results differed by more than five thousand from the initial reports, ZANU-PF candidates won 18. The number of rejected potential voters combined with the discrepancies in the Government's announced tallies exceeded the candidate's margin of victory in 24 constituencies, 20 of them won by ZANU-PF.

In September 2005 the Government used its two-thirds majority in parliament to pass a constitutional amendment that established a 66-member Senate. The Government was criticized for creating the Senate, which was widely seen as a vehicle for patronage and a useless and expensive body. It will sit for a single five-year term and has no independent political authority.

The MDC's President called for a boycott of the elections. However, several other MDC leaders opposed the boycott decision. Twenty-six candidates ran under the MDC banner.

Of the 50 elected seats, ZANU-PF won 19 unopposed and an additional 24 on election day; MDC candidates won seven. However, the boycott appeared to have been successful, as turnout was historically low, at only 19 percent of eligible voters. In addition President Mugabe appointed six seats, and the ruling party-controlled council of chiefs appointed 10, giving ZANU-PF an overwhelming majority of seats.



There were few regional and no international observers. Domestically, the Zimbabwe Election Support Network (ZESN) mounted a small observation effort. However, ZESN observed that at some polling stations there were much larger numbers of voters than at others, a possible indication of fraud, and that the circumstances remained heavily tilted toward the ruling party.

The ZEC, which was created in 2005, presided over three parliamentary by-elections and country-wide rural council elections during the year. The President appointed a large majority of ZEC members. MDC reported that only a few of the names it submitted appeared on the list that went to the President.

The Government invested immense powers in the presidency through the Electoral Act, enacted in 2005, including full control of the voter roll and registration, and the ability to change district lines without notice on the eve of an election. Electoral officers often did not operate in a fully open and transparent manner.

In July the Supreme Court found unconstitutional the process of judicial appointments to the electoral court, which was established in 2005 to resolve electoral disputes. As a result of the Supreme Court's decision, all pending and new complaints arising from elections must be heard by the already overburdened ordinary courts.

In the by-elections and rural council elections during the year, the Government's manipulation of the electoral process disenfranchised voters and skewed elections in favor of ruling party candidates. In the run-up to the rural council elections in October, ZEC disqualified hundreds of opposition candidates for failure to meet obstructive registration requirements, leaving the ZANU-PF candidates to run unopposed in over one-third of the elections. According to the ZESN, a local NGO dedicated to promoting democratic elections, one thousand voters were excluded in Kadoma for improper registration, a sizable percentage of the total turnout in that district. Also, the ruling ZANU-PF party distorted the political campaign and manipulated voter registration rolls. ZANU-PF allegedly prevailed on traditional leaders in several rural areas to get out the vote for the ruling party. The chiefs and headman in turn reportedly used pressure and threats on voters. For example, in several districts in the Manicaland province, ZESN reported that leaders forced their subjects to vote for ZANU-PF by threatening to cut off access to government-supplied maize for those who did not vote for the ruling party. Pre-election violence was not widespread; however, in one instance ZANU-PF supporters allegedly threw stones at the house belonging to Jonas Ndenda, the MDC mayoral candidate in Kadoma, breaking windows, doors and the roof. Unlike in previous years, election observers did not report voter intimidation at polling stations.

The MDC split in 2005, ostensibly over participation in the newly-recreated Senate, although long-simmering leadership divisions appear to have been the root cause. Both factions claimed the MDC name and logo. One faction, conventionally called the anti-Senate faction, remained loyal to MDC President Morgan Tsvangirai and appeared to maintain the bulk of grassroots support. Another faction, conventionally called the pro-Senate faction, emerged under the leadership of Arthur Mutambara. The pro-Senate faction held seven of 50 elected seats in the Senate at year's end.

On July 2, Member of Parliament (MP) Trudy Stevenson of the pro-Senate faction of the MDC and four other party officials were attacked after holding a rally in the Harare suburb of Tafara-Mabvuku. An independent report commissioned by the MDC concluded that the CIO had infiltrated the MDC and was probably involved, although the source of the order and motivation for the attack remained unknown at year's end.

There were reports that the Government's partisan disbursement of food and other material assistance to perpetuate public dependence on the ruling party further bolstered support for ZANU-PF and subverted electoral processes. In some areas a ZANU-PF card was required to obtain food and agricultural inputs. In August the Zimbabwe Peace Project (ZPP), a local NGO, documented 83 incidents of abuse of aid based on political affiliation in Manicaland Province, including denial of food and antiretroviral drugs to treat HIV/AIDS, as well as exclusion from the basic education assistance module (BEAM), a national financial assistance plan for school children (see Section 5). ZPP reported that most of those affected were considered to be supporters of the opposition.

The opposition also noted irregularities in the Budiro voter roll during the May by-elections, but these discrepancies were not enough to prevent an anti-Senate MDC victory.

In 2004 the high court dismissed without explanation the first phase of the MDC's legal challenge seeking nullification of the results of the 2002 Presidential elections. The second phase, involving factual evidence and witness testimony regarding the election's conduct, had not begun by year's end. During the year the Government

refused to turn over ballot boxes to the MDC for use in its legal challenge to the 2002 Presidential vote.

On February 12, the Supreme Court rejected MDC President Morgan Tsvangirai's application to have it take over the 2002 election challenge from the high court.

The President may unilaterally declare a state of public emergency for a period of up to 14 days; has sole power to dissolve parliament and to appoint or remove a vice President and any minister or deputy minister; and directly appoints 20 of the 150 MPs, including 12 nonconstituency MPs, eight provincial governors who sit in parliament, and six senators. The President also exerts great influence on the process by which the country's chiefs (traditional rulers) select 10 of their number to sit as MPs and 10 as senators. All 30 of the appointed MPs have been consistent ZANU-PF supporters. While most of the Senate appointments were ZANU-PF supporters, some appeared to chart relatively neutral positions.

The legislature, which traditionally has been subordinate to the executive branch, had a viable opposition that called on the Government to be accountable and transparent. Some parliamentary committee chairpersons gradually adopted a critical view of government policies and criticized government mismanagement, especially in areas such as agriculture and communications.

There were reports that the Government removed people from the civil service and the military who were perceived as opposition supporters. Additionally, the Government deployed soldiers and youth service training center graduates to road-blocks erected nationwide in August to enforce the currency conversion (see Section 2.d.). There also were reports that the Government assigned soldiers and youth service members to work in government ministries.

The Government routinely interfered with MDC-led local governments. Commissions appointed by Minister of Local government Ignatius Chombo continued to run the cities of Harare, Mutare, and Chitungwiza in place of democratically elected MDC mayors.

The ruling party's candidates continued to benefit from the ZANU-PF's control of the state- and party-owned firms that dominated the country's economy and from its control of the state-monopolized broadcast media (see Section 2.a.).

The Citizenship Act requires all citizens with a claim to dual citizenship to renounce their claim to foreign citizenship under the laws of the foreign country by January 2002 to retain their citizenship and the right to vote. The act also revokes the citizenship of persons who fail to return to the country in any five-year period. On December 30, the state-run newspaper the Herald reported that the Government announced a decision to strip Trevor Ncube, owner of the local independent newspapers the Standard and the Zimbabwe Independent, of his Zimbabwean citizenship and refused to renew his passport because he had a claim to Zambian citizenship and had not renounced it. Ncube challenged the decision in the high court asserting he had no entitlement to Zambian citizenship merely because his father was born there. The case was pending at year's end. Legal rights groups described the legislation and regulations as a government attempt to disenfranchise citizens of perceived opposition leanings; the more than 200,000 commercial farm workers, many of whom have origins in neighboring countries; and the approximately 30,000 mostly white dual nationals. Persons with dual citizenship experienced difficulty complying with the regulations because many other countries do not provide procedures for renouncing citizenship. The 2003 Citizenship of Zimbabwe Amendment Act removes the renunciation requirement for persons born in the country with parents from the Southern African Development Community (SADC) countries or who were born in SADC countries with parents from Zimbabwe.

There were 21 women in the 150-seat House of Assembly and 20 women in the Senate, including the President of the Senate (see Section 5, Women). There were seven women in the highest ranks in the executive branch: the vice President, three ministers, a deputy minister, and two governors. On July 6, President Mugabe appointed Rita Makarau as judge-President of the Supreme Court, which is the most senior position of the country's highest court. Makarau is the first woman to hold the position. On September 25, however, the state-controlled daily newspaper the Herald reported that the Minister of Local government, Public Works and Urban Development Ignatius Chombo presented a country position paper at the Fourth Africities Summit that found the representation of women in local government was "very low" with no female executive mayors and only two women leading local government boards. Women participated in politics without legal restriction, although according to local women's groups, husbands, particularly in rural areas, commonly directed their wives to vote for the husband's preferred candidates. The ZANU-PF congress allotted women one-third of party positions and reserved 50 positions for women on the party's 180-member central committee, which was one of the party's most powerful organizations.

There were 10 members of minority groups in the cabinet, including Vice President Joseph Msika. There were 36 members of minority groups in the 216-seat House of Assembly, including 30 Ndebele, two whites, and four Tonga.

*Government Corruption and Transparency.*—There was widespread corruption in government. Implementation of the Government's ongoing redistribution of expropriated, white-owned, commercial farms substantially favored the ruling party elite and continued to lack transparency. Top ruling party officials continued to hand-pick multiple farms and register them in the names of family members to evade the Government's one-farm policy. The Government continued to allow individuals aligned with top officials to seize land not designated for acquisition.

Top ruling party officials and entrepreneurs supporting the ruling party received priority in distribution of the country's resources, including priority access to limited foreign exchange and fuel. The Government's campaign to provide housing plots and vending sites for victims of Operation Restore Order (see Section 1.f.) mostly benefited civil servants, security forces, and ruling party supporters.

There were continuing government efforts to combat corruption, but they were ineffective and designed largely for show. A government-appointed Anti-Corruption Commission was established in January 2005, but had yet to register any notable accomplishments.

Prosecutions for corruption continued but were selective and generally seen as politically motivated. The Government targeted persons who had fallen out of favor with the ruling party or individuals without high-level political backing. Prosecutions were often for externalizing foreign currency, which was a common practice among the political and business elites (see Section 1.d.).

The Government stated that the AIPPA was intended to improve public access to government information; however, the law contains provisions that restrict freedom of speech and press, and these elements of the law were the ones the Government enforced most vigorously (see Section 2.a.). One NGO reported in 2005 that it made several information requests under AIPPA, but the Government had not provided any information. The NGO said it had taken the Government to court in several cases, but the courts had not ruled in its favor.

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

A number of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases; however, they were subject to government restrictions, interference, and harassment. The Government monitored their activities closely and was generally unresponsive to their concerns.

Domestic NGOs worked on human rights and democracy issues, including lobbying for revision of POSA and AIPPA; increasing poor women's access to the courts; constitutional and electoral reform; raising awareness of the abuse of children; conducting voter education; preserving the independence of the judiciary; and eliminating torture, arbitrary detention, and restrictions on freedom of the press and assembly. Major local human rights NGOs included the Zimbabwe Human Rights NGO Forum, ZLHR, Zimbabwe Peace Project, Crisis in Zimbabwe Coalition, and Amani Trust.

During the year police arrested or detained NGO members, often in connection with demonstrations or marches (see Section 2.b.).

The Government harassed some NGOs it believed opposed government policies with raids on their offices and investigations into their activities. On June 8, an intelligence officer from CIO raided the offices of the Combined Harare Residents Association (CHRA), alleging staff members had kidnapped a water authority official for an hour when he came to the CHRA offices to disconnect the water supply for failure to pay. On September 20, a magistrates' court cleared the CHRA staff of the kidnapping charges.

The Government continued to use the state-controlled newspaper the Herald to disparage and attack human rights groups. Articles typically dismissed the efforts and recommendations of NGOs that were considered critical of the Government as groups that merely did the bidding of "western governments." In March the Government announced plans to establish its own human rights commission, an effort designed to circumvent efforts by international human rights organizations to accurately report on the country's human rights situation.

In October 2005 the Ministry of Labor and Social Welfare announced new operational guidelines for NGOs. The guidelines require each NGO to obtain clearance in each district and province in which it operates.

The Government continued to obstruct the activities of organizations involved in humanitarian activities. NGOs continued to report difficulties in carrying out their

programs in rural areas. For most of the year, the Government restricted feeding programs to specific targets such as school feeding or home-based care programs. During and after Operation Restore Order, the Government blocked some efforts by local and international NGOs to provide humanitarian relief to those affected by the operation (see Section 1.f.).

Unlike in the previous year, the Government did not threaten NGOs with closure.

In February 2005 the African Union (AU) released a report by the African Commission on Human and Peoples' Rights (ACHPR), which reports to the AU, based on a human rights fact-finding mission the ACHPR performed in the country in June 2002. The report contained allegations of government complicity in or acquiescence to a wide range of rights abuses, including torture and arbitrary arrest of opposition MPs and human rights lawyers. The Government initially criticized the fact-finding mission and rejected its conclusions. The Government did not respond to a subsequent letter outlining remedies. After several efforts by the Government to suppress the report, the ACHPR passed a resolution in December 2005 condemning human rights abuses in the country, especially in connection with the May 2005 Operation Restore Order. During the year the Government continued to ignore the numerous recommendations listed in the resolution.

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

The constitution and law provide that no person can be deprived of fundamental rights, such as right to life, liberty, and security of person, based on his race, tribe, place of origin, political opinions, color, creed, sex, or disability; however, the constitution allows for discrimination, primarily against women, on the grounds of "customary law." Discrimination against women and persons with disabilities remained problems. The Government and ruling party infringed on rights to due process, citizenship, and property ownership in ways that affected the white minority disproportionately.

*Women.*—Domestic violence against women, especially wife beating, continued to be a serious problem and crossed racial, ethnic, and economic lines. No legislation specifically addresses domestic abuse. Musasa Project, a local NGO that works for the protection and promotion of women's rights, reported that approximately one-third of women in the country were in an abusive marital relationship. According to the Minister of Women's Affairs, Gender, and Community Development Oppah Muchinguri, approximately 60 percent of murder cases heard by the high court directly related to violence in the home. Most cases of domestic violence went unreported due to traditional sensitivities and fear of economic consequences for the family. There were newspaper reports of wife killings, and there were a few reports of prosecutions and convictions for such crimes. In one reported case, a man received a 15-year jail sentence for killing his wife in a domestic dispute. Domestic violence legislation passed parliament and was waiting the President's signature at year's end.

During the year, the Government conducted a public awareness campaign in the state media and through pamphlets and billboards. Musasa Project reported that treatment of victimized women varied because authorities generally considered domestic violence to be a private matter and usually only arrested an offender for assault if there was physical evidence of abuse. Several women's rights groups worked with law enforcement and provided training and literature on domestic violence as well as shelters and counseling for women.

The criminal code defines sexual offenses as rape, sodomy, incest, indecent assault, or immoral or indecent acts with a child or person with mental disabilities. The act makes rape and nonconsensual sex between married partners a crime; however, few cases of rape, especially spousal rape, were reported to authorities because women were unaware spousal rape was a crime and, particularly in rural areas, feared losing the support of their families. The criminal code provides for penalties up to life in prison for sexual crimes; however, there were continued reports of rape, incest, and sexual abuse of women and young girls. In many cases the victims knew their rapist. The criminal code also makes it a crime to infect anyone knowingly with HIV/AIDS, and the Government prosecuted some individuals for the crime.

Prostitution is illegal, and several civil society groups offered anecdotal evidence that the country's worsening economic problems were forcing more women and young girls, into prostitution for financial survival. During the year there were numerous media reports regarding concerted efforts by police to halt prostitution throughout the country. Police arrested both prostitutes and their clients. A local NGO reported that most prostitutes operated independently of pimps but that a growing number of minors were using pimps for protection. There were increasing reports that women and children were sexually exploited in towns along the border with South Africa and Botswana (see Section 5, Trafficking).

Labor legislation prohibits sexual harassment in the workplace; however, women commonly faced workplace sexual harassment, and there were no reports of any prosecutions during the year.

There are laws aimed at enhancing women's rights and countering certain traditional practices that discriminate against women; however, women remained disadvantaged in society. Economic dependency and prevailing social norms prevented rural women in particular from combating societal discrimination. Despite legal prohibitions, women still were vulnerable to entrenched customary practices, including the practice of pledging a young woman to marriage with a partner not of her choosing and the custom of forcing a widow to marry her late husband's brother.

The law recognizes women's right to own property independently of their husbands or fathers. Many women, however, continued to be unaware of their property and inheritance rights. Divorce and maintenance laws were favorable to women, but women generally lacked awareness of their rights.

Women and children continued to be adversely affected by the Government's ongoing campaign of forced evictions and the demolition of homes and businesses in several cities and towns (see Section 1.f.). Many widows who earned their income in the informal economy or by renting out cottages on their property lost income when their market stalls or cottages were destroyed.

Widows faced particular difficulties when forced to relocate to rural areas. Traditionally, women joined their husband's family when married and were considered an unwanted burden by their childhood families. Likewise, they were sometimes unwelcome in their husband's family in rural areas where resources were already strained.

The Ministry of Women's Affairs, Gender, and Community Development did little to advance the cause of women beyond a public information campaign and lobbying for a proposed Domestic Violence Bill. The Government gave qualified women access to training in the military and national service. Although there have been advances for women within the armed forces, they continued to occupy primarily administrative positions. According to the 2004 Zimbabwe Millennium Development Goals Progress Report, women represented 30 percent of the civil service in 2002. A local NGO reported that in recent years women progressed in health and education but in general were concentrated in the lower echelons of the workforce, especially in the financial industry. Women held positions of importance in the legislative and executive branches of the Government (see Section 3, Elections and Political Participation).

Several active women's rights groups concentrated on improving women's knowledge of their legal rights, increasing their economic power, combating domestic violence, and protecting women against domestic violence and sexual transmission of HIV/AIDS.

*Children.*—The Government's commitment to children's rights and welfare remained weak. Little action was taken during the year on the August 2005 National Action Plan for Orphans and Vulnerable Children (NAP for OVC) designed to ensure that orphans and vulnerable children are able to access education, food, health services, and birth registration and were protected from abuse and exploitation. According to one prominent child welfare advocacy group, the lack of funding remained the primary challenge in addressing the protection and promotion of welfare of children. Although legislation existed to protect children's rights, it was difficult to administer and enforce.

In October in collaboration with the UN Children's Fund (UNICEF) and other partners, the Government launched a National Girls' Education Strategic Plan to increase the likelihood of achieving universal primary education and ensuring that girls can stay in school. Education is compulsory and the Government placed responsibility on parents to enforce attendance; however, it was not free. The Central Statistical Office's (CSO) consumer price index statistics showed that school costs increased nearly 846 percent from November 2005. The Child Protection Society, a local NGO, reported that enrollment and attendance continued to decline during the year because many families could not afford to send all their children to school and economic hardships forced children to drop out to work to supplement the household income. UNICEF estimated 80 percent net primary school enrollment in 2004; however, children's welfare activists believe the number to be much lower during the year and in 2005 due to Operation Restore Order and the displacement of thousands of children from their homes and schools (see Section 1.f.).

In most regions of the country, fewer girls than boys attended secondary schools. According to the 2004 Zimbabwe Millennium Development Goals Progress Report, 42 percent of secondary school-age boys and 40 percent of girls of the same age attended school. Of these, 82 percent of the boys and 73 percent of the girls completed secondary school. The highest level achieved by most students was primary level

education. UNICEF figures through 2004 show a net secondary school enrollment of 44 percent for boys and 42 percent for girls. If a family was unable to pay tuition costs, it most often was female children who left school. The Child Protection Society reported that girls were more likely to drop out because they were more readily employable, especially as domestic workers.

Child abuse, including incest, infanticide, child abandonment, and rape continued to be serious problems during the year. The local NGO Girl Child Network reported that in 32 of the 58 districts within which it works, there were an average of 700 cases of child sexual abuse per month in 2005. Anecdotal evidence suggested that a relative or someone who lived with the child was the most likely abuser.

In March a local magistrate sentenced James Sangarwe to 22 years in jail for the rape and sexual abuse of students at Macheke Primary School in 2004. The Government also charged temporary teacher Edward Chiripamberi and handyman Only Musengi; there was no new information regarding their cases.

Girl Child Network and UNICEF reported that girls believed to be virgins were at risk for rape due to the belief among some that having sex with a virgin would cure men of HIV and AIDS.

Unlike in the previous year, there were no reports of child deaths or mutilations related to witchcraft.

The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued during the year. Arranged marriage of young girls also continued. The legal age for a civil marriage is 16 for girls and 18 for boys. Customary marriage, recognized under the Customary Marriages Act, does not provide for a minimum marriage age for either boys or girls; however, the Criminal Code prohibits sexual relations with anyone younger than 16 years of age. According to UNICEF, 29 percent of young women married as children. Child welfare NGOs reported that they occasionally saw evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans. The Musasa Project reported an increase in instances where families pledged girls and unborn babies in marriage in exchange for economic protection. Such girls often "married" well before the age of 12.

Local and regional NGOs reported instances of trafficking of children and child prostitution (see Section 5, Trafficking).

The Government gave preference to national youth service graduates among those entering and those seeking employment in the civil service, especially in the security forces. The stated purpose of the training camps was to instill national pride in youth, highlight the history of the struggle for independence, and develop employment skills; however, news reports quoted deserters as saying that the camps subjected trainees to racist and partisan political indoctrination as well as military training. There were credible reports that graduates were used for political violence. Child labor was a problem (see Section 6.d.).

There were an estimated 1.6 million HIV/AIDS orphans, and the number was increasing. The number of AIDS orphans (including children who lost one as well as both parents) was about 10 percent of the country's population. Many grandparents were left to care for the young, and, in some cases, children or adolescents headed families and were forced to work to survive. AIDS orphans and foster children were at high risk for child abuse. Some children were forced to turn to prostitution as a means of income. According to local custom, other family members inherit before children, leaving many children destitute. Many such children were unable to obtain birth certificates, which then prevented them from obtaining social services.

During the 2005 Operation Restore Order (see Section 1.f.), the Government detained many street children and took them to transit camps or juvenile detention centers. At year's end NGOs were uncertain how the operation affected the number of children living on the streets, which in previous years had risen dramatically.

The Government, with support from civil society, donors, and the private sector, has a national secretariat to implement the NAP for OVC. Both donors and the Government contributed to OVC activities, but most programs were not adequately funded to reach the large number of OVCs in the country. Among the projects designed to assist OVCs and other needy children was the BEAM program, which paid school fees, and the Children in Difficult Circumstances program (CDC), which paid other related fees. A local child welfare NGO reported that, in comparison to the high level of need, BEAM and other government funding only managed to assist a very small number of children at any given school. There also were reports that favoritism and corruption affected the beneficiary selection process.

NGOs operated training centers and homes for street children and orphans, and government officials referred children to these centers.

*Trafficking in Persons.*—No laws specifically or comprehensively address trafficking in persons, and there continued to be anecdotal reports that the country was

a source, transit, and destination country for trafficking in persons. The constitution and law prohibit forced or compulsory labor, including by children, with the exception of working for parents or the national youth service; however, there were reports that such practices occurred (see Section 6.d.). Forced labor is punishable by a maximum fine of \$3.20 (Z\$800.00), two years' imprisonment, or both. It is a crime under the Criminal Code to transport persons across the border for sex. The law provides for a maximum fine of \$20.00 (Z\$5,000.00) and a maximum prison sentence of two years (10 years if that person is under the age of sixteen) for procuring another person to become a prostitute and have sex whether inside or outside the country. Traffickers also can be prosecuted under other legislation such as immigration and abduction laws.

The primary government authority to combat trafficking is the ZRP, which relied on NGOs to alert them to any cases. In April the Government formed an interministerial taskforce to coordinate efforts to combat trafficking, but had yet to register any notable accomplishments. However, several senior government officials attended an International Organization for Migration seminar on trafficking in November.

There was little information on the extent of external trafficking beyond anecdotal reports of girls exchanging sex for passage across the South African border, women lured to other countries with false job promises, immigration officials of neighboring countries sexually abusing children during deportation, children working as domestic or agricultural workers, and employers requiring sex from undocumented Zimbabwean workers in South Africa under threat of deportation. There also were anecdotal reports that victims were trafficked to border areas, into Botswana and South Africa, and through the country to South Africa from Botswana, Ghana, and East Africa.

Anecdotal information suggested that citizens who emigrated to seek a better life were exploited while employed illegally in a neighboring country after being lured there by false employment schemes. The groups at highest risk were HIV/AIDS orphans and displaced persons.

There were reports of child prostitution, trafficking in children, and child labor. As with adults, reports suggested that those children in desperate economic circumstances, especially those in families headed by children, were most at risk. One local NGO reported that traffickers took girls from rural areas to work as prostitutes in brothels and lodges in cities under the false pretenses of job or marriage promises. The NGO also reported that rural girls were sometimes trafficked to farms as agricultural labor or to urban areas as domestic labor, where they were sometimes sexually abused.

On June 4, the state-controlled newspaper the Sunday Mail reported that a court sentenced a woman to a 48-month jail term for contravening the Sexual Offenses Act when she lured a minor to the border with South Africa with the promise of a nursing job, only to force her into prostitution.

Victims suffering from child or domestic abuse were treated with special procedures in victim-friendly courts, and trafficked persons had the option to take cases before such courts; however, there was no statistical tracking of trafficking prosecutions.

Local immigration and social services officials referred trafficking victims to NGO-funded centers. On May 30, a center funded by IOM opened in the town of Beitbridge on the border with South Africa to provide various social and reintegration services to the large number of illegal migrants repatriated from South Africa. Save the Children Norway also offered services at the center specifically for unaccompanied children and trafficking victims that included shelter and referrals for medical attention.

On June 13, a local NGO launched an antitrafficking prevention and protection project aimed at young girls, which was reported favorably by state-run media. Since June the project has conducted research, held antitrafficking workshops, distributed 2,000 brochures, and provided shelter and victim's services to 14 young girls who may qualify as trafficking victims. In August the NGO reported that many local authorities were not familiar with the trafficking problem and lacked the resources to thoroughly investigate cases, but were willing to act when cases were brought to their attention. Local police referred victims for assistance.

The state-run media prominently featured articles about trafficking in persons, and the Government had prevention programs, such as BEAM (see Section 5, Children) to provide alternatives for children at risk.

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with disabilities in employment, access to public places, and the provision of services; however, the lack of resources for training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings should be accessible to persons with disabilities,

but implementation has been slow. NGOs continued to lobby to include albinos in the definition of “disabled” under the law. Persons with disabilities faced harsh societal discrimination. Traditional belief viewed persons with disabilities as bewitched, and children with disabilities often were hidden when visitors arrived.

According to the National Association of Societies for the Care of the Handicapped, no attempts have been made to record statistics on the infection levels of HIV/AIDS in persons with disabilities, although 10 percent of citizens had disabilities. The organization also charged that except for a short period in the 1990s, instructions on the use of condoms have never been distributed in Braille for the visually impaired, and no efforts have been made to advertise condoms in sign language for the deaf.

Operation Restore Order in May 2005 (see Section 1.f.) severely affected persons with disabilities, and, according to the UN special envoy’s report on the operation, the Government held approximately 50 persons with physical and mental disabilities without care at a transit camp separated from the rest of the camp population.

The Government broadcast a regular, prime-time program on state radio to promote awareness of the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 14 percent, whites less than 1 percent, and other ethnic groups 3 percent. There was some tension between the African majority and the white minority, between the Shona majority and the Ndebele minority, and among the various Shona subgroups.

The Government attempted to attribute the country’s economic and political problems to the white minority and western countries. On some occasions, President Mugabe, members of his government, and the state-controlled media attempted to reignite resentment of the white minority. Ruling party supporters seldom were arrested or charged for infringing upon minority rights, especially those of the white commercial farmers targeted in the land redistribution program.

The disproportionate number of Shona-speaking teachers and headmasters in Matabeleland schools remained a sensitive issue.

In August during the currency redenomination program, ethnic Indian-owned businesses alleged that authorities unfairly targeted their shops during raids, ostensibly searching for evidence of involvement in speculative activities, money laundering, and hoarding large sums of cash. The state-controlled media reported that during the inspection by Reserve Bank officials of a prominent ethnic Indian businessman’s establishment, a large sum of cash was seized. In 2005 ZANU-PF officials reportedly demanded approximately the then equivalent of \$170 thousand (Z\$1 billion) from businesses and families from the minority ethnic-Indian community for the ruling party’s election campaign, and many complied, fearing retribution.

*Other Societal Abuses and Discrimination.*—Over a period of years, President Mugabe has publicly denounced homosexuals, blaming them for Africa’s ills. Although there was no statutory law proscribing the activities of homosexuals, common law prevents homosexual men, and to a lesser extent, lesbians, from fully expressing their sexual orientation and, in some cases, criminalizes the display of affection between men. On July 2, the 2004 amended criminal code became effective and broadens the definition of sodomy to include “any act involving physical contact between males that would be regarded by a reasonable person to be an indecent act.”

On August 5, six unidentified men approached the Gays and Lesbians Association (GALZ) exhibit at the Zimbabwe International Book Fair, seized GALZ literature, and forcibly removed the GALZ members from the event. Police officers and security guards working at the event stood by and watched without intervening. A nearly identical incident occurred at the same book fair in 2005. GALZ staff members believed these actions were part of an ongoing government campaign of discrimination and harassment against homosexuals. No action was taken against those who threatened the GALZ staff members in 2005 or during the year.

The Government has a national HIV/AIDS policy that prohibits discrimination against persons living with HIV/AIDS, and the law aims to protect against discrimination of workers in the private sector and parastatals. Despite these provisions, societal discrimination against persons affected by HIV/AIDS remained a problem. Although there was an active information campaign by international and local NGOs, the Ministry of Health, and the National AIDS Council to destigmatize HIV/AIDS, ostracism and condemnation of those affected by HIV/AIDS continued.

*Incitement to Acts of Discrimination.*—Throughout the year government-controlled newspapers, radio, and television stations continued to selectively vilify citizens of European ancestry and to blame them for the country’s problems. In 2004 materials



used at National Youth Service Camps identified enemies of the state in racist terms and demonized whites.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—While the Labor Relations Amendment Act (LRAA) provides private and public sector workers with the right to form or join unions without prior authorization, and workers exercised these rights, some pro-ZANU-PF employers declared their shops off-limits to the ZCTU, the national umbrella labor confederation. Furthermore, the Government also restricts union activity indirectly by defining all senior employees as managers even though such employees do not enjoy benefits attached to the title. The 2005 Labor Amendment Bill eliminated some previous public sector employee rights and excluded such employees from protection under labor laws, placing them instead under the Public Service Act, which does not provide for the right to form and belong to trade unions, collective bargaining, strikes, or alternative dispute resolution mechanisms. Employees in positions designated as managerial were excluded from general union membership. Unions must be registered with the Ministry of Public Service, Labor, and Social Welfare.

During the year approximately 800,000 persons were employed in the formal sector, 37 percent of which belonged to the 36 unions that form the ZCTU; approximately 65 percent of industries were unionized.

The Zimbabwe Federation of Trade Unions (ZFTU), a government-created alternative labor body, had few activities throughout the year. During the two weeks prior to the ZCTU demonstration on September 13, the ZFTU placed advertising in state-controlled newspapers with messages intended to discourage worker participation and create confusion about the level of support for the action. While the ZFTU continued to support splinter unions in each economic sector, there was no evidence that either employers or employees viewed the splinter unions as legitimate. In addition to fostering confusion among workers, splinter unions forced existing unions to spend scarce resources guarding against declining membership. The splinter unions did not bargain collectively, handle worker complaints, or provide worker education.

During the year the Government openly targeted the ZCTU, declaring it aligned with the opposition MDC and arresting ZCTU leaders at various labor rallies. According to HRW, use of excessive force against peaceful demonstrations has become a “common occurrence.”

On September 13, police arrested more than 100 members of the ZCTU and detained approximately 500 people, including labor leaders, to prevent the labor movement from staging nationwide, nonviolent marches planned for that day to protest for better wages, improved government management of political and economic policies, and free access to HIV/AIDS drugs. Police in Harare took 15 ZCTU leaders and activists to the Matapi police station in Harare, where several unidentified men wearing police uniforms clubbed and beat them, among the victims were ZCTU Secretary General Wellington Chibebe, ZCTU President Lovemore Matombo, and ZCTU Vice President Lucia Matibenga. Chibebe suffered cuts to the head, three broken bones, and severe bruising all over his body. Matombo suffered a broken arm and bruising. Matibenga had whip marks all over her back, a swollen neck, and a ruptured eardrum. Police denied the group access to their attorney and medical treatment until the next day. On September 15, the ZCTU leaders were released on bail, and a trial was pending at year's end. On September 25, President Mugabe made a public statement defending police treatment of the ZCTU leaders, charging that the labor activists deserved the beating for ignoring police orders. A widely-circulated video of the beatings at the point of arrest clearly showed police actions were unprovoked. An investigation into police treatment of the ZCTU demonstrators was ongoing; however, none of the officers involved had been charged by year's end.

In 2005 there were numerous attacks on ZCTU leaders by members of government-sponsored affiliates or hired assailants. Police harassed ZCTU leaders and raided and ransacked ZCTU offices. No action was taken against the perpetrators.

Although the LRAA prohibits antiunion discrimination, in practice union members faced discrimination and harassment. In January 2004 ZCTU President Lovemore Matombo was dismissed from his job at the postal service for union activities. ZCTU appealed the dismissal, but Matombo had not been reinstated by year's end, reportedly as the consequence of overloaded labor courts. A labor court handled complaints of such discrimination under the mechanism for resolving cases involving “unfair labor practices.” The determining authority may direct that workers fired due to antiunion discrimination be reinstated, although this did not happen in practice.

The International Labor Organization (ILO) continued to criticize the Government for ongoing interference with the unions' freedom of association and abuse of labor leaders. The International Trade Union Confederation also criticized government harassment of unions during the year. The Government's immigration authorities denied entry to two delegations of foreign labor unionists during the year.

*b. The Right To Organize and Bargain Collectively.*—The LRAA provides workers with the right to organize and permits unions to bargain collectively over wages and conditions of employment, and workers exercised this right in practice; however, government harassment of union leaders and interference by ZFTU sometimes made such negotiations difficult. Collective bargaining agreements applied to all workers in an industry, not just union members. The 2005 Labor Amendment Bill allows the minister of public service, labor, and social welfare (minister of labor) to appoint members to advisory councils, which resolve industrial disputes between labor and employers, without consulting ZCTU or the Employers Confederation of Zimbabwe. The law also makes lower court rulings enforceable during an appeal.

During the year the Tripartite Negotiating Forum, a consultative mechanism to discuss labor and social issues comprised of government, business, and labor representatives, continued talks but did not resolve any issues. ZCTU called for indexing wages according to the poverty datum line (PDL), which calculates the minimum required for the average family of five to pay basic expenses. In November, the PDL was approximately \$912 (Z\$228,133) per month. According to one prominent local economist, 80 percent of the country's population lived below the PDL.

The minister of labor retained the power to veto agreements that he believed would harm the economy, but he did not involve himself directly in labor negotiations unless requested to do so by one of the parties. The Labor Amendment Bill gives the minister unlimited time to review lay-offs before they become effective. When no trade union represented a specific sector, representatives of the organized workers, such as the professional associations, met with the employer associations under the mediation of labor officers from the Ministry of Labor. Some employment councils had yet to reach an agreement or were deadlocked awaiting court-supervised arbitration at year's end. Employees in positions designated as managerial were excluded from the collective bargaining process.

The Government continued to use POSA to limit the ZCTU and its affiliates' ability to meet with and consult their constituencies, although the law does not apply to labor unions. For example, unions were prevented from holding meetings with their members, sometimes by the police and under threat of arrest. Despite court rulings against them, the police continued to monitor ZCTU and other labor union meetings.

Although the LRAA explicitly recognizes the right to strike, it has been circumscribed with procedural limits including 14-day advance notice requirements, mandated 30-day reconciliation periods, possible mandatory referral to binding arbitration, and at least 50 percent of the employees must vote for the strike. The act prohibits "essential services" employees from striking on the grounds that it "endangers immediately the life, personal safety, or health of the whole or any part of the public." The law defines essential services broadly and includes: fire personnel; employees engaged in the supply and distribution of water; employees providing veterinary services; revenue agents at ports; persons in the health care field; transport and communications employees; railway engineers; licensed electricians; and broadcast personnel during a state of emergency. The law also allows that "any non-essential service may be declared an essential service by the minister if a strike in a sector, service industry, or enterprise persists to the point that the lives, personal safety, or health of the whole or part of the population is endangered." Managers also were prohibited from striking, and, in some industries, the Government defined most employees as managers. In practice the Government harassed and arrested union leaders who called for strikes and union members who attempted to participate in strikes.

Government-imposed delays prevented most employees and their unions from declaring legal strikes, and those who participated in strikes deemed illegal faced harsh sentences of up to five years in prison. On July 13, junior doctors at government hospitals in Harare and Bulawayo began a strike to demand better pay and working conditions. Deputy Health Minister Edwin Muguti said the strike was illegal and ordered the doctors back to work. The doctors returned to work in September as negotiations with the Government continued for a long-term solution. Junior doctors went on strike again in November and December, claiming the Government still had failed to meet their demands. Negotiations were ongoing at year's end.

Workers protesting health and safety standards or lack of equipment may strike without the notification and arbitration procedure.

The Export Processing Zones Act states the LRAA shall not apply to workers in export processing zones (EPZs); however, according to the ZCTU, employers generally applied the same wages and standards in the EPZs as in the general economy. The ZCTU has negotiated directly with EPZ employers to allow some unions in the EPZ, although their number and level of activity remained low.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, with the exceptions of working for parents or the national youth service; however, there were reports that such practices occurred (see Sections 5 and 6.d.). Forced labor is punishable by a maximum fine of \$3.20 (Z\$800), two years' imprisonment, or both. The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued in rural areas (see Section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the LRAA, child labor is punishable by a maximum fine of \$3.20 (Z\$800), 2 years' imprisonment, or both; however, child labor was common. Under the LRAA a child between the ages of 13 and 15 can work as an apprentice or if the work is an integral part of (or in conjunction with) "a course of training or technical or vocational education." The law further states that no person under 18 shall perform any work likely to jeopardize that person's health, safety, or morals. The status of children between 15 and 18 years of age is not directly addressed, but 15 years of age is still the minimum for light work, work other than apprenticeship, or work associated with vocational education.

The CSO released the 2004 Child Labor Report in March. According to the survey, approximately 46 percent of children between the ages of five and 17 were engaged in economic activity. The unemployment rate continued to grow, with some estimates as high as 80 percent, which decreased the number of children employed in the formal sector. However, the incidence of children who worked in the informal sector continued to increase as more children worked to fill the income gap left by ill, unemployed, or deceased relatives. Children often lacked access to necessary safety equipment and training. Children worked in the agricultural sector, as domestics, and as car-watchers. In addition there were reports of an increasing number of girls engaged in prostitution. Although the Government and NGOs increasingly discussed the problem of child labor in the agricultural, domestic, and informal sectors, they were unable to gather concrete data on the number of cases.

Although the incidence of child labor on commercial farms decreased as a result of land redistribution, most economically active children still worked in the agriculture industry. The General Agricultural and Plantation Workers' Union of Zimbabwe estimated that of the country's approximate 200,000 farm workers, 10 percent were children under the age of 16. The Employer's Confederation of Zimbabwe observed that poverty was the main cause of child labor in the country. The Zimbabwe National Council for the Welfare of Children reported that given the increasingly difficult economic climate, coupled with the high number of HIV/AIDS orphans and child-headed households, eradicating child labor in the country would be difficult.

The Child Protection Society reported that new farmers used children as cheap labor because they could not complain about working conditions. UNICEF reported children working as independent contractors so employers could evade the appearance of employing children. Zimbabwe Domestic and Allied Workers Union observed employers bringing children from their rural homes to work as domestics with parental consent. Save the Children Norway-Zimbabwe reported that sugar businesses along the Mozambique border at Catiyo used children to sell sugar across the border, often with the complicity of their parents. Children in the sugar business were paid less than adults and did not attend school. Save the Children Norway-Zimbabwe also reported children working on tea estates, which sent children to school in the morning and to work in the afternoon and evening.

Some employers did not pay wages to child domestic workers, believing they were assisting a child from a rural home by providing housing and board. In addition employers paid the parents for the child's work. Relatives often used AIDS-orphaned children as domestics without pay. There were also reports from NGOs that police rounded up street children and took them to work on farms without pay.

The Department of Social Welfare in the Ministry of Labor is responsible for enforcing child labor laws, but the department lacked the human resources to carry out inspections or any other monitoring. The Government implemented few new initiatives to prevent child labor.

In 2004 the Ministry of Labor promoted its BEAM and children in CDC programs, which were designed to pay for school fees and other items such as uniforms and books for children who could not afford to go to school; however, fewer than 18 per-

cent of children benefited from the program in 2004. Several child welfare NGOs reported that BEAM and other government programs focused on children were severely under funded. Several child welfare NGOs reported that the Government used access to BEAM and other humanitarian assistance as a political tool to reward supporters and punish persons considered to be supporters of the opposition (see Section 3).

*e. Acceptable Conditions of Work.*—There is no national minimum wage except for agricultural and domestic workers. Government regulations for each of the 22 industrial sectors continued to specify minimum wages, hours, holidays, and required safety measures. The minimum wage did not provide a decent standard of living for a worker and family, and approximately 80 percent of the population lived below the Government's poverty line. Monitoring systems were ineffective, and many agricultural and domestic workers were remunerated below the minimum wage.

Minimum wages in the formal sector changed continuously as a result of the high inflation rate. Domestic worker minimum wages were specifically separated from others; the latest monthly minimum wages, established in March, were: gardener, \$10.00 (Z\$2,500); cook/housekeeper, \$11.00 (Z\$2,656); child- or disabled-minder, \$11.25 (Z\$2,812); and child- or disabled-minder with Red Cross certification, \$12.00 (Z\$2,968).

The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. No worker is allowed to work more than 12 continuous hours; however, there was little or no enforcement, particularly in the agricultural and domestic worker sectors. Workers were unlikely to complain to authorities about violations due to fear of losing their jobs. The public service commission sets conditions of employment in the public sector. Health and safety standards were determined on an industry-specific basis.

Many of the basic legal protections did not apply to the vast majority of farm, mine, and domestic workers. In December the state media reported 74 workplace fatalities and 5,082 injuries during the year. As labor relations officers no longer existed in practice, the Ministry of Labor relied heavily on voluntary compliance and reporting by employers and employees to enforce applicable laws and regulations.

The Government designated the Zimbabwe Occupational Safety Council, a quasi-governmental advisory body made up of six representatives each from the Government, employers, and trade unions, to regulate safe work conditions; however, budgetary constraints and staffing shortages, as well as its status as an advisory council, made the council ineffective. The NSSA continued to experience difficulty monitoring the thousands of work sites across the country; however, it continued to close shops and factories not in compliance. Workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment but in practice risked the loss of their livelihood if they did so.

## EAST ASIA AND THE PACIFIC

### AUSTRALIA

Australia is a constitutional democracy with a federal parliamentary government. Its population was approximately 20.7 million. Citizens periodically choose their representatives in free and fair multiparty elections. John Howard began his fourth consecutive term as prime minister in October 2004; his Liberal and National Party coalition government held 87 of 150 seats in the lower house of the Federal Parliament and 39 of 76 seats in the upper house. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. Problems were reported in a few areas, including domestic violence against women and children, particularly in Aboriginal communities, and societal discrimination against Aboriginal people. During the year some Muslim leaders claimed that anti-Muslim sentiment in the country was increasing. There was continuing criticism by domestic labor unions and the International Trade Union Confederation of the 2005 WorkChoices law and the 1996 Federal Workplace Relations Act, particularly in regard to the laws' curbs on trade unions, restrictions on strikes, and emphasis on individual employment contracts.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings. However, in September the Queensland State coroner found that a man detained on Palm Island in 2004 had been beaten by the police while in custody and had died as a result. In December, after the Queensland State prosecutor declined to prosecute the police officer involved, the Queensland premier appointed an independent investigator to review the prosecutor's decision (See section 5).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these provisions in practice. However, there were occasional reports that police and prison officials mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous people was pervasive and that racial discrimination by some police and prison custodians persisted (see section 5).

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers.

According to the Australian Institute of Criminology's annual report on prison deaths, 34 persons died in prison custody in 2005. Eighteen persons died of natural causes, and 16 deaths were self-inflicted.

Juvenile offenders under age 17 generally were incarcerated in youth detention or training centers but could be sentenced to custody in an adult prison upon conviction of a serious criminal offense such as homicide. Since July 2005 children in immigration detention have been housed in the community under "residency determination arrangements" (see section 2.d.).

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

*Role of the Police and Security Apparatus.*—Each of the country's six state and two territorial jurisdictions has a separate police force that enforces state and territorial laws. The Australian Federal Police (AFP) enforce commonwealth laws. The minister for justice and customs oversees AFP activities, while the state police

forces report to the respective state police ministers. The police forces generally do not have problems with corruption and impunity. State and territorial police forces have internal affairs units that investigate allegations of misconduct and a civilian ombudsman's office that can either review an investigation upon request of the complainant or initiate its own inquiry into a complaint.

The police forces generally were effective; however, two independent investigations into the assaults and rioting between white and ethnic Arab youths in the Sydney area in December 2005, the results of which were released in October, criticized the New South Wales police for inadequate resources, training and communication.

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

The December 2005 antiterrorism law permits a judge to authorize “control orders” on individuals suspected of involvement with terrorism-related activities. These orders may include a range of measures, such as monitoring of suspects and house arrest, and may be in effect for up to a year without the filing of criminal charges. If a control order is still warranted after one year, a new order must be sought from a court. Both the preventive detention and control order provisions of the antiterrorism legislation expire after 10 years.

In August the Government withdrew legislation that would have required all unauthorized asylum seekers who arrive in the country by boat to be detained offshore while their asylum claims were processed (see section 2.d.). In 2004 the High Court ruled that the Government had the authority to detain asylum seekers indefinitely.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

There are federal, state, and territorial courts, which handle both civil and criminal matters. The highest federal court is the High Court, which exercises general appellate jurisdiction and advises on constitutional issues. State and territorial supreme, district, and county courts conduct most major criminal and civil trials, while the magistrates’ and specialists’ courts (such as the children’s court and administrative tribunals) adjudicate less serious criminal and civil cases and conduct preliminary hearings.

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

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. There is also an administrative process at the state and federal levels to seek redress for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An inde-

pendent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In October the state of Victoria supreme court ruled that it would pursue a case of contempt of court against Melbourne Herald Sun reporters Gerard McManus and Michael Harvey for refusing to reveal their sources for an article published in February 2004 on government plans to cut veterans' benefits. (Under a rule of practice called the "Newspaper Rule," courts may exercise their discretion in ruling whether disclosure of journalists' sources of information is necessary in a particular case "in the interest of justice.") The court was scheduled to hear the case in February 2007. At year's end the two journalists were still working as political reporters for the Herald Sun. In October 2005 the chief judge of the state of Victoria county court filed the contempt charges against the two reporters after they refused to give evidence or name their sources during court proceedings against a government employee charged with "unauthorized communication of a document" in the release of the information to the reporters.

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

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—While the rights of peaceful assembly and association are not codified in law, the Government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—On September 29, a single bullet was fired from a stationary car into the window of a mosque in Mirrabooka, a suburb of Perth, during evening prayers. No one was injured, but the bullet narrowly missed some of the worshippers. Following the incident the state government announced that it would work with local officials and police to increase safety at all mosques in the state. At year's end the police had no suspects or leads in their investigation into the shooting.

In October two Muslim schools in Perth received threatening telephone calls following controversial remarks by a Muslim cleric implying that immodestly dressed women were responsible for rape (see section 5). Police arrested a suspect and charged him with making the calls; the case was pending at year's end.

Some Muslim leaders claimed that anti-Muslim sentiment in the country was increasing in the wake of public debate about the integration of Muslim immigrants into Australian society.

The country's Jewish community numbered approximately 84,000 persons. In the 12-month period ending September 30, the Executive Council of Australian Jewry recorded 440 anti-Semitic incidents. This was a 32.5 percent increase from the number recorded in the previous 12 months and the same as the number recorded for the October 2003 to September 2004 period. Although the overall total was lower than the record set in the year ending September 2002, it was 47 percent higher than the average annual total since reports were first compiled in 1989. These incidents ranged from physical assault and/or property damage to harassment and offensive written and electronic media. In November a delegation from the Executive Council of Australian Jewry briefed 38 university vice chancellors in Sydney as part of a discussion of the ongoing problem of anti-Semitism on university campuses.

On October 14, a group of approximately 20 members of the Australian Ocean Grove Football Club in Melbourne yelled racial epithets at an Orthodox Jewish man as he walked by their bus with his two children, and punched him in the face. Witnesses surrounded the bus until police arrived. No charges were filed; however, the club subsequently apologized and agreed to visit Melbourne's Holocaust Museum.

At year's end the police investigation was ongoing in a December 2005 incident in which shots were fired at parked cars of Catholic parishioners attending a church service in the Sydney suburb of Auburn.

In December the leader of a neo-Nazi group was released from custody after reaching a plea agreement on charges of criminal damage relating to, among other things, the vandalizing of a Perth synagogue in 2004 (see section 5). Under the agreement he pled guilty to the charges and agreed to leave the state of Western Australia. A codefendant was free on bail at year's end pending a court hearing scheduled for early 2007.

At year's end the state of Victoria court of appeal had not ruled on an appeal by two Christian pastors of the Victoria civil and administrative tribunal's 2004 ruling that they publish apologies, via newspaper advertisements, for comments that the court held had vilified Muslims. The Islamic Council of Victoria filed the complaint under Victoria's Racial and Religious Tolerance Act in 2003.

The Government had a number of programs to promote anti-bias and tolerance education, including an antiracism education campaign and ongoing public awareness programs conducted by HREOC. In its annual report the Executive Council on Australian Jewry cited these programs as encouraging initiatives in responding to anti-Semitism and racism. The Government also had a national action plan, developed in coordination with a Muslim advisory group, to help bring law enforcement agencies and Muslim communities together to resolve issues of conflict and discrimination.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

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

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. The Government has established a system for providing protection to refugees subject to certain geographic and time constraints on claims by those who previously sought asylum in a safe country of transit. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum and facilitated local integration.

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

The Government sets an annual quota on the number of refugee and humanitarian visa grants it makes. In the period July 2005 through June, a total of 14,144 visas were granted under the country's refugee and humanitarian grant program. These included 12,758 visas for persons overseas and 1,386 visas for persons already in the country. Of the latter, 1,272 were initial protection visas. A further 14 temporary humanitarian concern visas also were granted.

Noncitizens arriving at a national border without prior entry authorization automatically are detained. Legal assistance is provided upon request to detainees making an initial asylum claim or application for lawful residence. Individuals may be released pending full adjudication of their asylum claim only if they meet certain criteria such as old age, ill health, or experience of torture or other trauma. However, most did not meet release criteria and were detained for the length of the asylum adjudication process. They were either released upon receiving asylum and an appropriate visa or removed once it was determined that they did not qualify for protection. During the year some asylum seekers who had been intercepted at sea continued to be housed in offshore detention centers in Nauru. In August one of the two remaining detainees in Nauru was transferred to Australia for psychiatric evaluation. In December a third country agreed to accept the second of the two for resettlement. In September six additional asylum seekers were sent to Nauru for processing of their claims and remained detained there at year's end.

As of December 15, there were 638 persons in immigration detention, including 62 in residence determination arrangements in the community. Of these 638 persons, approximately half had been detained for less than three months.

Noncitizens who arrive by boat and have their asylum claims confirmed are granted a three-year temporary protection visa (TPV), which provides full access to medical and social services but does not authorize family reunification or allow travel abroad with reentry rights. A permanent protection visa, which gives authority for family reunification and reentry rights, may be granted to an applicant at any stage of the asylum adjudication process. Denials of asylum claims may be appealed on merit grounds to the Refugee Review Tribunal, and on grounds of legal error to the Federal Court of Australia and, in certain cases, to the High Court. The minister for immigration and multicultural and indigenous affairs may exercise discretion and grant a visa after the asylum seeker has exhausted the review process. TPV and temporary humanitarian visa holders may apply for permanent visas without leaving the country.



Although long delays in processing asylum applications were not a significant problem during the year, a small number of asylum seekers remained in detention, some for years, despite having exhausted the appeal process. They could not be returned to their home country because they lacked travel documents or could not obtain necessary transit visas. In 2004 the High Court overturned the Federal Court of Australia's 2003 ruling that the indefinite detention of asylum seekers was unlawful. In May 2005 a new Removal Pending Bridging Visa (RPBV) came into effect that allows the minister of immigration to grant a visa to a person in immigration detention whose removal from the country is not practical at that time. Holders of RPBVs may work, access government services, including free medical care, and attend public school.

Under a 2005 law children may be detained only as a last resort, and no children were held in immigration detention centers during the year. Instead, "residency determination arrangements" were made with NGOs to place families with children in the community and assist them with housing and living expenses until their immigration status was resolved, subject to reporting requirements and a commitment to remain available to the immigration department.

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

In August the Government withdrew proposed legislation from Parliament that would have required all unauthorized boat arrivals in the country to have their asylum claims processed offshore. The UNHCR had expressed concern about the offshore processing proposal, noting that it did not provide for all the protections and benefits available to asylum seekers processed within the country.

There were no reports of the forced return of persons to countries where they feared persecution, before their asylum claims were considered and rejected. However, during the year refugee, church, and human rights groups continued to express concern about the Government's practices in repatriating unsuccessful asylum seekers.

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

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

*Elections and Political Participation.*—In October 2004 citizens elected a coalition of the Liberal Party and the National Party to a fourth three-year term of office. The opposition Australian Labor Party (ALP) won all six state and two territorial elections held in 2003 for New South Wales (NSW); 2004 for the Australian Capital Territory; 2005 for Western Australia (WA) and the Northern Territory (NT); and during the year for Victoria, South Australia, Queensland, and Tasmania.

Individuals and parties could freely declare their candidacy and stand for election. There are no legal impediments to public office for women and indigenous people. Both the Government and the opposition have declared their intent to increase the numbers of women elected to public office. As of October there were 64 women in the 226-seat Federal Parliament, three female ministers in the 17-member federal government cabinet, and five female ministers in the 30-member federal government ministry. There was one woman among the eight premiers and chief ministers of the six states and two territories, the chief minister of the NT. In 2005 a woman was appointed to the High Court as one of seven justices.

Aboriginals generally were underrepresented among the political leadership (see section 5). The term of the sole Aboriginal federal senator expired on June 30, 2005. No Aboriginals were elected to the Federal Parliament in 2004. There was one Aboriginal in the Tasmanian state parliament, one in the NSW state parliament, two in the WA state parliament, and four in the NT legislative assembly. The national President of the ALP, Warren Mundine, is an Aboriginal.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year.

The federal, state, and territorial governments have freedom of information (FOI) laws, which provide the public with access to government information. FOI requests generally are subject to both an application and a processing fee. Federal law enables a person to access and correct inaccurate personal information held by government ministries and agencies and to access other government information that has not been exempted to protect essential public interests or the private or business affairs of others. An applicant, including foreign media, may appeal a government decision to deny a request for information to the quasi-legal Administrative Appeals Tribunal (AAT), an executive body that reviews administrative decisions by govern-

ment entities. An adverse AAT decision may be appealed to the federal court of Australia.

The Australian Press Association and others have criticized the FOI application process as unduly lengthy and costly, particularly with regard to requests for non-personal information. In September the High Court upheld a 2005 federal court ruling that a government minister properly withheld information about application of certain tax laws, on the basis of the minister's certification that disclosure could compromise the confidentiality of government decision making. The court ruled that the Government need only show that the specific public interest ground raised for withholding information was reasonable, "even though there may be reasonable grounds the other way." The Australian newspaper had brought the case after the Government denied its request for the information. The media expressed concern that the decision could allow the Government to deny public access to virtually any information held by the executive on the basis of broad claims of possible harm.

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

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

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

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

*Women.*—The law prohibits violence against women, including domestic abuse, and the Government enforced the law. Nonetheless, violence against women remained a problem, particularly in Aboriginal communities. In October 2004 the Office for Women, which monitors women's rights and advises the federal government on issues affecting women, published a report entitled *The Cost of Domestic Violence to the Australian Economy*, which found that domestic violence cost the economy \$6.3 billion (A\$8.1 billion) in the 12-month period from July 2002 to June 2003. The report ranked domestic violence among the top five risks to women's health. The federal Department of Family and Community Services and the state departments of community services had programs to both combat domestic violence and support victims of domestic violence, and the federal, state, and territorial governments funded numerous women's shelters.

In April there were press reports on widespread domestic violence and child abuse in Aboriginal communities in Western Australia (see section 5, Children). In May the NT state prosecutor reported hundreds of cases of domestic violence and sexual abuse of women and children in Aboriginal communities in the NT. The prosecutor noted that child sexual assault in central Australia was happening at much higher rates than was currently being reported to police, as was violence against Aboriginal women and children. She also noted that the NT had no mandatory reporting law for such crimes, and that many victims were frightened of retribution within their communities if they reported the abuse to police. Federal and territorial agencies acknowledged that such abuses and the failure to report them were issues that needed to be addressed, and they also launched investigations into specific allegations.

In June the federal minister for indigenous affairs convened an intergovernmental summit on domestic violence and child abuse in indigenous communities. The summit participants agreed on the need for a comprehensive approach and proposed a package of measures, with funding of \$100.8 million (A\$130 million). In July the Council of Australian governments approved the package and funding. Key components of the plan included improved policing in remote areas, community legal education, aiding the creation of indigenous support networks, more alcohol and drug treatment programs, and a national unit to monitor school attendance records of Aboriginal children.

The law criminalizes rape, including spousal rape, and the Government enforced the law effectively when cases were reported to the authorities.

In October a senior Muslim cleric in Sydney made statements in a sermon implying that immodestly dressed women, whom he compared to "uncovered meat," invited rape. Many other Muslim leaders, as well as the Government, opposition politicians, and human rights advocates, condemned the remarks. The cleric stated that

his remarks were taken out of context, but he issued a formal apology and stated that he did not condone rape.

It is a crime in all states and territories to perform female genital mutilation (FGM) or to remove a child from the jurisdiction for the purpose of having FGM performed; maximum penalties range from seven to 21 years' imprisonment. There were no reports of new cases or prosecutions for the offense during the year.

Prostitution is legal or decriminalized in several states and territories, and the Governments of Victoria, Queensland, and the Australian Capital Territory license brothels operating within their borders. However, many brothels operated illegally. In some locations state-funded sexual health services employees visited brothels to educate workers about sexual health matters and to prevent worker mistreatment. Local governments or prostitution licensing authorities inspected brothels to assure compliance with planning laws and licensing requirements, including health and safety regulations. However, government officials faced difficulties enforcing health and safety standards in illegal brothels. Trafficking in persons, primarily women from Asia, for prostitution was a limited problem (see section 5, Trafficking).

The Sex Discrimination Act prohibits sexual harassment. The independent federal sex discrimination commissioner, which is part of HREOC, undertakes research, policy, and educational work designed to eliminate discrimination between men and women.

The HREOC received 347 sex discrimination complaints from July 2005 through June. Twenty percent of the complaints alleged discrimination based on pregnancy and 19 percent alleged sexual harassment. The commission resolved 314 of the complaints, 44 percent by conciliation.

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

Women have equal status under the law, and the law provides for pay equity. In August the Australian Bureau of Statistics (ABS) estimated that women's full-time total average weekly earnings were 80.6 percent of those of men.

*Children.*—The Government demonstrated its strong commitment to children's rights and welfare through its publicly funded educational and medical care systems. While the structure of education varied among states and territories, all children between six and 15 years of age are entitled to nine to 10 years of compulsory and free education. An ABS survey issued in February found that the full-time school participation rate for 15-year-olds as of August 2005 was 94.7 percent, with most children completing grade 12. The student retention rate from grades seven and eight to grade 12 was 81 percent for girls and 75.3 percent for boys. The Government provided universal health insurance coverage to all citizens and lawful residents from birth on a co-payment basis. The Government also provided a minimum benefit of 16.8 percent of the cost of a first child's childcare to all parents (with a smaller benefit for additional children), which increased to as much as 100 percent for the lowest income families.

State and territorial child protection agencies investigate and institute prosecutions of persons for child neglect or abuse. All states and territories have laws or guidelines that require members of certain designated professions to report suspected child abuse or neglect. The federal government's role in child abuse prevention is limited to funding research and education campaigns, developing an action plan against the commercial exploitation of children, and funding community-based parenting programs. According to the Australian Institute of Health and Welfare, there were 46,154 substantiated cases of child abuse and neglect from July 2004 to June 2005, the latest period for which national statistics were available. These included physical abuse (24 percent of cases), sexual abuse (10 percent), emotional abuse (33 percent), and neglect (33 percent).

In April the press reported on widespread alcoholism and physical and sexual abuse of children among remote indigenous communities in Western Australia. As a result a number of Western Australian Aboriginal elders supported a plan proposed by one of the elders to separate children from their parents and place them in hostels in an attempt to break the cycle of alcoholism and abuse. However, some other Aboriginal leaders opposed the proposal. While the state of Western Australia indicated tentative support for the plan, its immediate response was to allocate \$9.3 million (A\$12 million) to build new housing and provide more social services to the Aboriginal community.

In May the NT state prosecutor reported many cases of domestic violence and child abuse in NT Aboriginal communities (see section 5, Women).

In July the Attorney General of NSW released a report he had commissioned entitled *Breaking the Silence: Creating the Future—Addressing Child Sexual Assault in Aboriginal Communities in New South Wales*. The report found that sexual assault of children was a significant issue in all 29 indigenous communities visited

by researchers. The report found that in Aboriginal communities sexual assault was not well understood to be a criminal offense and seldom was reported. In response to these findings the NSW government announced it was implementing 88 recommendations that flowed from the report.

The Government has enacted tough criminal laws aimed at restricting the trade in, and possession of, child pornography; the law allows suspected pedophiles to be tried in the country regardless of where the crime was committed. The Child Sex Tourism Act prohibits child sex tourism and related offenses for the country's residents and citizens overseas and provides for a maximum sentence of 17 years' imprisonment upon conviction. During the 12-month period ending June 30, the AFP conducted 57 investigations. There were 26 prosecutions, with 14 convictions and five cases still pending before the courts at the end of the fiscal year. During the year the Government continued its awareness campaign to deter child sex tourism, through the distribution of materials to citizens and residents traveling overseas. Child protection NGOs raised community awareness of child trafficking. There were no reports of children being trafficked into the country during the year (see section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons, but the country continued to be a destination for some trafficked women in the sex industry.

Some women, primarily from the People's Republic of China, the Republic of Korea, and Southeast Asia, were brought into the country for the purpose of prostitution, sometimes entering with fraudulently obtained tourist or student visas. Many of these women traveled to the country voluntarily to work in both legal and illegal brothels, but some reportedly were deceived or coerced into debt bondage or sexual servitude. The Australian Crime Commission reported that deceptive practices in contract terms and conditions, which often masked debt bondage, appeared to be increasing among women in prostitution, while deceptive recruiting practices appeared to be decreasing. Authorities believed that sex trafficking networks were composed primarily of individual operators or small crime groups that often relied on larger organized crime groups to procure fraudulent documentation for the trafficked women.

The Commonwealth Criminal Code comprehensively criminalizes "people trafficking" offenses, including sexual servitude, slavery, and deceptive recruitment. These offenses carry penalties of up to 25 years' imprisonment for slavery, 15 years for sexual servitude, and seven years for deceptive recruitment. Under the Child Sex Tourism Act, it is an offense for citizens or residents to travel abroad to engage in sex with minors under age 16 (see section 5, Children).

In June 2005 the Government expanded existing antitrafficking laws to include new offenses for debt bondage, child trafficking, and domestic trafficking, with penalties of up to 25 years in prison, and in September 2005 ratified the UN Trafficking Protocol.

The AFP and the Department of Immigration and Multicultural Affairs have lead roles in combating trafficking in persons. The AFP's Transnational Sexual Exploitation and Trafficking Team, a 23-member mobile strike force, is responsible for investigating trafficking syndicates operating in the country and abroad. State police forces worked closely with the AFP to develop a comprehensive policing strategy to counter trafficking in persons. Since 2004 the AFP has opened 112 investigations and charged 22 persons for people trafficking offenses. During the year the courts convicted four persons of trafficking offenses and sentenced them to prison terms of up to 10 years.

An ambassador for people-smuggling issues is responsible for promoting a coherent and effective international approach to combating trafficking in persons (particularly in the Asia-Pacific region), assisting in the negotiation of international agreements for the return and resettlement of persons brought illegally into the country, and working for the prosecution of traffickers in persons. The ambassador coordinates the country's participation with Indonesia in the Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime. The Government has antitrafficking agreements with Cambodia, Burma, Laos, and Thailand designed to improve international cooperation and police investigations of trafficking syndicates. The Government also funded awareness campaigns in source countries and continued funding the Asia Regional Cooperation to Prevent People Trafficking project. Underway in four countries—Thailand, Laos, Burma, and Cambodia—the project focused on strengthening the criminal justice process to combat trafficking in persons.

Within the country the Government continued an awareness campaign targeting the sex industry and the community at large and widely publicized criminal cases against traffickers. Trafficking victims willing to cooperate with authorities in the investigation and prosecution of traffickers qualify for a temporary visa and a range

of social services. Counseling, temporary shelter, and other assistance were available to all trafficking victims.

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

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

HREOC's July 2005 to June 2006 annual report stated that 561 complaints of discrimination based on disability were filed during the reporting period. Of these, 58 percent were employment related and 17 percent involved the provision of goods and services. The HREOC resolved 512 complaints, 46 percent through conciliation.

*National/Racial/Ethnic Minorities.*—During the year leaders in the ethnic and immigrant communities continued to express concern about incidents of vilification and discrimination directed against immigrants and minorities.

In December 2005, 31 persons were injured in assaults and rioting between mostly white and ethnic Arab youths in the Sydney area. Two independent investigations released in October indicated that inadequate police resources, training, and communication were key factors in the incidents (see section 1.d.).

In December the leader of the neo-Nazi Australian Nationalist Movement, Jack Van Tongeren, was released under a plea agreement after he agreed to plead guilty to charges of criminal damage and conspiracy to cause arson in connection with incidents in 2004 in which several Asian businesses and a synagogue in Perth were firebombed or sprayed with racist graffiti. Under the plea agreement he also was required to leave Western Australia.

According to HREOC's July 2005 to June annual report, the number of racial discrimination complaints received rose to 259. Of the 259 reported cases, 48 percent involved employment, 18 percent involved provision of goods and services, and 17 percent alleged "racial hatred." Persons born outside the country filed 62 percent of the complaints, and Aboriginals and Torres Strait Islanders filed 23 percent.

*Indigenous People.*—In March 2005, after a Senate inquiry criticized the Government's handling of Aboriginal affairs, Parliament passed legislation abolishing the Aboriginal and Torres Strait Islander Commission (ATSIC) and its subordinate regional entities; the National Indigenous Council, a government-appointed advisory council established in 2004, was retained as ATSIC's successor. While some Aboriginal groups claimed that the Government's abolishment of ATSIC was an attempt to silence its indigenous critics, other Aboriginal groups welcomed the move as an attempt to refocus the domestic indigenous policy debate on improving health and social conditions and away from ATSIC's leadership team, which they viewed as impeding ATSIC's effectiveness.

The Government's approach toward Aboriginals emphasized a "practical reconciliation" aimed at raising the health, education, and living standards of indigenous people. A wide variety of government initiatives and programs sought to improve all aspects of Aboriginal and Torres Strait Islander life. In 2005–06 the Government expended \$2.4 billion (A\$3.1 billion) on services to indigenous people and in 2006–07 budgeted \$2.6 billion (A\$3.3 billion) for indigenous programs. The Government initiated 24 programs in six different program areas to improve the ability of indigenous people to access the same opportunities as other citizens. These initiatives included access to better food from special stores, better-quality education through boarding school programs, and access to telecommunication and Internet services.

The Government maintained a national network of "Link Up" offices to provide family tracing, reunion, and other support to indigenous families separated as a result of past government practices. However, indigenous citizens continued to experience significantly higher rates of imprisonment, inferior access to medical and educational institutions, greatly reduced life expectancy rates, higher levels of unemployment, and general discrimination. Poverty and below-average educational achievement levels contributed significantly to Aboriginal underrepresentation in national, territorial, and state political leadership (see section 3).

According to a government report entitled *Overcoming Indigenous Disadvantage* released in 2005, the life expectancy of an indigenous person remained 20 years less than that of a nonindigenous person, and the indigenous infant mortality rate was

2.5 times the rates found in nonindigenous populations. A joint study by the ABS and the Australian Institute of Health and Welfare, released in August 2005, reported that Aboriginals and Torres Strait Islanders were twice as likely to be hospitalized as other citizens. Much of the difference was found to be a result of potentially preventable chronic conditions. On the other hand, the report also noted that there were steady increases in indigenous primary and secondary school enrollments between 1996 and 2004. Over the same period the proportion of working-age indigenous people who were employed rose from 31 to 38 percent.

Although Aboriginal adults represented only 2.2 percent of the adult population, according to the ABS they accounted for approximately 21 percent of the total prison population and were imprisoned at 11 times the rate of nonindigenous persons as of June 2004, down from 15 times the nonindigenous rate in 2002. More than 45 percent of Aboriginal men between the ages of 20 and 30 years had been arrested at some time in their lives. In 2004 Aboriginal juveniles accounted for approximately 34 percent of those between the ages of 10 to 17 in juvenile correctional institutions. Human rights observers noted that socioeconomic conditions gave rise to the common precursors of indigenous crime, including unemployment, homelessness, and boredom.

Indigenous groups charged that police harassment of indigenous people, including juveniles, was pervasive and that racial discrimination by police and prison custodians persisted. Human rights groups and indigenous people alleged a pattern of mistreatment and arbitrary arrests occurring against a backdrop of unofficial yet systemic discrimination.

In September the Queensland State coroner found that in 2004 an indigenous man detained for public drunkenness on Queensland's Palm Island had been beaten by a police officer while in custody and had died as a result. The coroner reported that the police failed to investigate the death properly and that the man never should have been arrested. She referred the matter to the Queensland Department of Public Prosecutions (DPP) to decide whether the police officer should be charged in relation to the death. The DPP declined to prosecute the officer. In December, in response to an ensuing public outcry, the Queensland attorney general appointed a retired NSW chief judge to review the DPP's decision. The review was pending at year's end. In November 2004 hundreds of Palm Island residents rioted after government officials released the initial coroner's report in the case, which had cleared the police of responsibility in the man's death. The Crime and Misconduct Commission, requested by the Queensland State government to investigate the case, subsequently agreed to join the investigation by the Queensland State coroner.

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

On September 19, a federal court judge upheld a native title claim by the Nyoongar Aboriginal community over a large portion of the southwestern part of the state of Western Australia, including the Perth area. The ruling allows the Nyoongar people to conserve and use the area's natural resources but does not include land privately owned or leased and areas where native title had already been extinguished. The state of Western Australia and the federal government both appealed the decision; the appeal was pending at year's end.

The one-billion-dollar (A\$1.29 billion) indigenous land fund is a special account that provides an ongoing source of funds for indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

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

*Other Societal Abuses and Discrimination.*—In 2003 the NSW government released a study of violence against homosexuals, which found that more than half of the survey participants had experienced one or more forms of abuse, harassment, or violence in the previous 12 months. The report also found that two or more persons who were unknown to the victim perpetrated most incidents of harassment or violence and that homosexuals of Middle Eastern background suffered exclusion, assaults, and stalking from family or community members. Although no more recent studies were available on the subject, there were anecdotal media reports that such problems continued.

Federal and various state laws prohibit discrimination on the grounds of HIV positive status. In the 12 months ending June 30, there were 12 discrimination complaints lodged with the federal disability discrimination commissioner, which is part of HREOC, on the grounds of HIV/AIDS status. These complaints also were included in the total of 561 disability-related complaints to HREOC.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers, including public servants, the right of association domestically and internationally and protection against antiunion discrimination, and workers exercised these rights in practice. A 2005 ABS survey indicated that union membership had decreased slightly over the previous 12 months to 22.4 percent of the workforce.

Unions carried out their functions free from government or political control.

The 1996 Federal Workplace Relations Act (WRA), which contained curbs on union power, restrictions on strikes (see section 6.b.), and limits on redress and compensation claims by dismissed employees, was substantially changed in December 2005 by the Workplace Relations Amendment Act of 2005 (known as WorkChoices), which came into effect in March. WorkChoices encourages the individualization of employment relations at the expense of trade unions and industrial tribunals and reduces the scope and significance of the traditional arbitration system. The WRA and WorkChoices state that workers are free to join or decline to join industrial associations and they prohibit discrimination against individuals for membership or nonmembership in a union. The umbrella trade union organization, the Australian Council of Trade Unions (ACTU), objected to the 1996 law and WorkChoices, alleging that they violate the right to assembly provided for in several International Labor Organization (ILO) conventions that the Government has signed.

*b. The Right To Organize and Bargain Collectively.*—Federal, state, and territorial laws provide workers with the right to organize and bargain collectively, and workers exercised this right in practice.

Under the WRA, negotiation of contracts covering wages and working conditions shifted from the centralized awards system of the past to enterprise-level agreements certified by the Australian Industrial Relations Commission (AIRC). The WRA also provided for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers, which were subject to fewer government regulations than awards or enterprise bargaining agreements; however, AWAs had to improve the basic working conditions contained in a relevant same-sector award.

WorkChoices substantially changed the WRA. It replaced the country's state labor relations systems with a single set of federal labor relations rules. The law provides for five minimum standards of employment: a minimum wage, annual leave, sick leave, unpaid parental leave, and maximum working hours. All other workplace conditions are negotiable, preferably at the workplace or enterprise level. The law provides for collective workplace agreements as well as AWAs, although by providing that an employer may require new employees to sign AWAs as a condition of employment, the law favors this type of employment agreement. Once an AWA is in force it cannot be displaced by a collective agreement, but a collective agreement may be overridden by an AWA.

Unions criticized as adversely affecting collective bargaining rights WorkChoices' provisions on "prohibited content," which are matters that the law prohibits from inclusion in workplace agreements; such prohibitions include, for example, mandatory union involvement in dispute settlement and remedies for unfair dismissal. The law also provides for imposition of fines for violation of the "prohibited content" provisions. The Government took the position that the "prohibited content" provisions were justified on the ground that industrial agreements should relate only to the terms and conditions of the employment itself. Although mandatory union involvement in dispute settlement is "prohibited content," the law permits employees to appoint a bargaining agent, including a trade union representative, to assist them in reaching a work agreement with the employer, including an AWA.

The Office of the Employment Advocate approved 96,508 AWAs during the three-month period ending December 31, an increase of 24 percent compared with the pre-

vious three months. Of the 862,800 AWAs approved from March 1997 through March 2006, 16 percent were in the retail sector, 12 percent in manufacturing, 12 percent in property and business services, 11 percent in accommodations, cafes and restaurants, and the remainder in other sectors.

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

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

Unions, the ALP, and a number of international labor organizations have criticized both the 1996 WRA and WorkChoices as violating workers’ rights. Shortly after WorkChoices was enacted in December 2005, the state governments and several unions filed a legal challenge to it, arguing that the federal government’s constitutional authority to regulate corporations could not be used to establish a nationwide industrial relations policy superseding the states’ labor laws. (Previous federal labor legislation had been based on the federal government’s constitutional power of conciliation and arbitration.) On November 14, the High Court dismissed the challenge and upheld the federal government’s claim that its constitutional power to make laws with respect to corporations allows it to regulate workplace relations. On November 30, labor unions and their supporters held a number of rallies around the country to protest WorkChoices.

The Bureau of Statistics reported 352 industrial disputes for the 12 months ending June 30, a decrease of more than 38 percent from the previous year; during the same period, total workdays lost due to strikes fell by 23 percent to 187,100.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Legislation enacted in 2005 explicitly prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. Trafficking in women was a limited problem (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they were 15 or 16 years of age. Federal and state governments monitored and enforced a network of laws, which varied from state to state, governing the minimum school-leaving age (see section 5), the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations. The ACTU also monitored adherence to these laws. On December 19, the country ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—Although a formal minimum wage exists, it has not been directly relevant in wage agreements since the 1960s, since most workers received higher wages through enterprise agreements or individual contracts. Differing minimum wages for individual trades and professions covered approximately 80 percent of all workers; all rates provided a decent standard of living for a worker and family. WorkChoices created a new statutory agency, the Australian Fair Pay Commission (FPC), to determine future minimum wage increases. In October the FPC raised the federal minimum award wage to \$396.79 (A\$511.86) per week from \$375.50 (A\$484.40) per week. An ACTU spokesperson stated that they were pleased with the increase.

Over the past two decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. As of September 30, there were 2.9 million persons (28.5 percent of the workforce) employed as casual or tem-



porary workers. Such employees were not entitled to certain employment benefits such as sick leave or annual leave but were paid at a higher hourly wage rate.

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

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas require that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. However, there were reports that some employers violated these protections. For example, in February the Liquor, Hospitality and Miscellaneous Workers' Union filed three cases with HREOC involving migrant workers. The union alleged that some employers were exploiting their foreign migrant workers, underpaying them, and threatening to deport them if they complained. In October the immigration minister ordered an investigation into allegations by the Australian Manufacturing Workers Union that Filipino workers employed by a Queensland company were underpaid and charged excessive rent for their accommodations, and that three of the workers were dismissed after they joined the union and sought better working conditions.

There were no reports of worker rights abuses in the country's three inhabited dependent territories of Christmas Island, Cocos (Keeling) Island, and Norfolk Island.

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## BRUNEI

Brunei Darussalam is an Islamic country with a population of approximately 383,000. It has been ruled by the same family for more than 600 years. Sultan Haji Hassanal Bolkiah governed under emergency powers that place few limits on his power. The legislative council that was revived in 2004 met again during the year and expanded its activity to include a debate of the Government budget, but otherwise it had only a limited role in recommending and approving legislation. The sultan maintained control over the security forces.

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

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory for 42 criminal offenses, and it was included as part of the sentence in 80 percent of criminal convictions. Canings were carried out in the presence of a doctor, who had the authority to interrupt the punishment for medical reasons.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. Juveniles typically served their sentences in adult detention centers but segregated from adults. Several young offenders were housed at a juvenile rehabilitation center. Conditions in detention cells at police stations were Spartan.

There were no reports that human rights monitors requested prison visits, but foreign diplomats had consular access to detained nationals. Family members were permitted to visit prisoners and bring food.

*d. Arbitrary Arrest or Detention.*—The law provides for a prompt judicial determination regarding the validity of an arrest. However, in practice the provisions, like the constitution itself, were superseded through invocation of the emergency powers.

*Role of the Police and Security Apparatus.*—The police force and the Internal Security Department are under the direct control of the Prime Minister's Office. Both groups were considered free of major corrupt practices, although there were reports of petty corruption among traffic police. Police statistics reported 27 arrests involving police and military personnel for criminal acts; one police officer was prosecuted and convicted for corruption.

*Arrest and Detention.*—Normally a magistrate must endorse a warrant for arrest. On rare occasions, warrants were issued without this endorsement, such as when police were unable to obtain the endorsement in time to prevent the flight of a suspect. Police officers have broad powers to make arrests without warrants of persons caught in the physical act of committing a crime. In such arrests, police may detain a suspect for up to 48 hours before bringing the individual before a magistrate.

The Internal Security Act (ISA) permits the Government to detain suspects without trial for renewable two-year periods. ISA detainees also were denied the right to legal counsel and were not presumed to be innocent. The Government regularly convened an independent advisory board consisting of executive and judicial branch officials to review individual ISA detentions and recommend whether they should be renewed for an additional two years. Information on some detainees was made public only after their release.

The criminal procedure code allows for bail except in cases indicated as "discretionary" by law. Detainees generally had prompt access to lawyers and family visitations; however, police may deny access in exceptional cases, such as probable belief of tampering with a witness.

In July the Government released three persons—Haji Muslim bin Haji Awang Tengah, Noordin bin Haji Ahmed Noor, and Haji Abdul Radzak bin Haji Awang Damit—arrested in 2004 under the ISA for treason and "subversive actions."

At year's end seven of the persons detained in 2004 under the ISA for involvement in a counterfeit ring remained in custody. Their detentions were scheduled for review by the advisory board in 2007.

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

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

*Trial Procedures.*—The secular law, based on English common law, provides citizens with a fair and efficient judicial process. Procedural safeguards include the right to defense counsel, an interpreter, and a speedy trial, as well as the right to confront accusers. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. In noncapital cases, indigent defendants may act as their own lawyers in court.

The law lacks provisions to allow companies or individuals to sue the Government, which traditionally resolves disputes with generous, nonnegotiable settlements or in some cases simply refuses to settle.

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

On January 1, a bar association began operations to promote lawyers' public accountability.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees; however, information was very difficult to obtain.

*Civil Judicial Procedures and Remedies.*—There is no specific provision of law to bring civil suit for human rights violations. In customary practice, individuals may present written complaints about rights violations to the sultan directly for review. Such complaints are typically handled privately, and there were no reports of civil remedies handled in this manner during the year. Individual government servants who act outside their authority resulting in a civil wrong may be subject to legal process for compensation. Civil courts are generally unbiased. In the past an individual successfully sued a police officer; however, during the year there were no reports of civil suits against government officials.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law permits government intrusion into the privacy of individual persons, families, and homes. Shari'a permits enforcement of *khalwat*, an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse or close male relative. There continued to be numerous reports that religious enforcement officers entered homes, buildings, and vehicles to detain suspects. According

to religious authorities, 389 khalwat cases were reported between July 2005 and April.

The Government monitored the private e-mail and Internet chatroom exchanges of citizens that it believed to be subversive (see section 2.a.). The Government employed an informant system as part of its internal security apparatus to monitor suspected dissidents.

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

*a. Freedom of Speech and Press.*—Under the emergency powers, the Government significantly restricted freedom of speech and of the press. Constitutional amendments adopted in 2004 allow members of the legislative council to “speak their opinions freely,” but they are prohibited from using language or exhibiting behavior deemed “irresponsible, derogatory, scandalous, or injurious,” and they may be disqualified for “disloyalty” to the sultan among other offenses.

Under the Sedition Act, it is an offense to “directly or indirectly lower or adversely affect the rights, status position, discretion, powers, privileges, sovereignty, or prerogatives of the sultan, his spouse, successors, or other members of the royal family.” The act also makes it an offense to “directly or indirectly lower or adversely affect the standing or prominence of the national philosophy, the Malay Islamic Monarchy concept.” This ideology permeates the country’s life and government administration. It promotes Islam as the state religion and monarchical rule as the sole governing system, and it upholds the rights and privileges of the Brunei Malay race.

The act also provides for the prosecution of any publisher, proprietor, or editor of a newspaper that publishes matter having a seditious intention. Publication of the newspaper may be suspended for up to one year, and the publisher, printer, or editor can be prohibited from publishing, writing for, or editing any other newspaper. Printing equipment used in printing the newspaper can also be seized. Persons convicted under the act face fines of up to \$3,200 (B\$5,000) and jail terms of up to three years.

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

The country’s largest daily newspaper in circulation, the Borneo Bulletin, practiced self-censorship in its choice of topics to avoid angering the Government. However, letters to the editor often included comments critical of the Government’s handling of certain social, economic, and environmental issues. On occasion the Government responded to public opinion on topics concerning social or environmental problems and notably the delay of public services.

In July a second English-language daily paper, the Brunei Times, was launched.

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

Although the Government owned the country’s only television station, three Malaysian television channels were available, in addition to two satellite television services, both of which offered more than 75 channels each. Some content is subject to censorship based on theme, but such censorship was not consistent.

Since there was no organized opposition, the Government’s tolerance of political criticism was not tested. In the past the Government arrested those who attempted to propagate unwelcome political views. Local media published limited reports on the activities of three political parties (see section 3).

In June three persons—Isa bin Haji Jaya, William bin Rahman, and Tuah bin Sabang—pled guilty to charges under the Sedition Act for distributing a satirical, computer-generated video clip via mobile telephone depicting immediate members of the royal family. The individuals were sentenced to two years’ imprisonment and a fine of \$3,200 (B\$5,000).

*Internet Freedom.*—The Government monitored the private e-mail and Internet chatroom exchanges of citizens believed to be subversive. There was anecdotal information that fear of government surveillance reduced the number of visitors to the few existing Internet forums. Unlike in the past, there were no reports that the Government blocked access to forums hosted outside the country. The primary Internet service provider was state owned.

In April the Attorney General’s Chambers and Authority for Info-Communications Technology Industry advised Internet service and content providers to monitor for

content contrary to public interest, national harmony, and social morals. There were no reports of any government action to enforce this advisory.

*Academic Freedom and Cultural Events.*—The Government generally respected academic freedom; however, some researchers chose to publish from overseas and under a pseudonym when they perceived that subject matter pertaining to the country would not be well received.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Under the emergency powers, the Government significantly restricted the right to assemble. According to the Societies Act, public gatherings of 10 or more persons require a government permit. Freedom to assemble for political purposes was not tested during the year.

*Freedom of Association.*—Civil servants and security force personnel, who together composed 60 percent of all employed citizens, are not permitted to join political parties (see section 3). The Government continued to restrict the activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community. Religious regulations promulgated by the Ministry of Religious Affairs and the State Mufti's Office prohibited Muslims from joining these organizations.

There were no politically oriented student associations.

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

The Government used its internal security apparatus—including such measures as surveillance, investigation, and, in the past, detention—against persons whom it considered to be purveyors of radical Islam, non-Muslims who attempted to proselytize, and religious groups that did not belong to the official religion.

Registration is required by law for a group to worship communally. An organization that fails to register can face charges of unlawful assembly. All non-Shafi'i religious groups are required to register as associations. There continued to be credible reports that certain Christian groups were denied permission to register.

In the past the Government routinely restricted the practice of non-Muslim religions by prohibiting proselytizing, occasionally denying entry to foreign clergy, banning the importation of religious teaching materials or scriptures such as the Bible, and denying requests to expand or build new churches, temples, and shrines. In September 2005 the Government approved a request from the Anglican St. Andrew's Church to undertake a major refurbishment of its building, and the project was initiated during the year. However, at year's end work was halted after local authorities withdrew construction permits on the grounds that the construction work exceeded that approved in the original permit. An application for a revised permit was submitted, but by year's end authorities had not made a decision.

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

Muslims who wished to change or renounce their religion faced considerable difficulties. Born Muslims faced both official and societal pressure not to leave Islam. Permission from the Ministry of Religious Affairs must be obtained, and there were no reports of anyone requesting such permission. There were instances of persons, often foreign women, who converted to Islam as a prelude to marrying Muslims, as required by the country's Islamic law. Government statistics reported that 8 percent of the 312 conversions to Islam during the year were due to marriage. After the marriages took place, women who wished to return to their former religion faced intense official pressure not to do so or encountered extraordinary delays in obtaining permission. Unlike in the past, there were no cases reported of divorced Muslim converts who, because of official and societal pressure, remained officially Muslim if they did not wish to do so.

Religious authorities strongly encouraged Muslim women to wear the tudong, a traditional head covering, and the majority did so. Most government departments and the uniformed services required female Muslims to wear the tudong as part of their dress code. All government schools and other educational institutions required students to wear the tudong as part of their uniforms. At the national university, foreign, non-Muslim students were encouraged but not required to do so.

Authorities continued to arrest Muslim persons for offenses under Shari'a, such as khalwat and consumption of alcohol (see section 1.f.).

The Ministry of Education requires courses on Islam and the national ideology and prohibits the teaching of other religions and comparative religious studies. The ministry requires all students, including non-Muslims, to learn the Jawi, the Malay language in Arabic script. The International School of Brunei and the Jerudong International School were exempt from these requirements, but both offered voluntary, extracurricular Islamic instruction to Muslim students. Private Christian schools were not allowed to give Christian instruction but could offer voluntary, Islamic instruction to Muslim students. However, the Government did not prohibit or restrict parents from giving religious instruction to children at home.

The Government routinely censored magazine articles on other faiths by blacking out or removing photographs of crucifixes and other religious symbols. In addition, government officials prevented the public display, distribution, and sale of items featuring non-Islamic religious symbols.

The Government requires residents to carry an identity card that states the bearer's religion. Visitors to the country were asked to identify their religion on their landing cards.

Only Islamic groups belonging to the Shafi'i school were permitted to organize public religious processions; however, during the year the Government allowed a greater number of public lion dances to celebrate the Chinese Lunar New Year than in the past.

The Government sponsored the attendance of a multifaith delegation at the East Asian Religious Leaders Forum, held in Jakarta in February with officials from various religions, and also at the International Conference on Faith and Service, held in Manila in March.

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

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Generally the Government did not restrict the freedom of movement of citizens, visitors, and permanent residents. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad, which was granted routinely. The Government restricted the movements of former political prisoners during the first year following their release.

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

*Protection of Refugees.*—The country is not party to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and no legal provision exists for granting temporary refuge or refugee status to those seeking such refuge or asylum. Under the law persons arriving without valid entry documents and means of support are considered illegal immigrants and are refused entry. There were no reported cases of individuals seeking temporary refuge during the year.

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

Citizens did not have the right to change their government peacefully, and civil servants were not permitted to join political parties.

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

*Elections and Political Participation.*—In 2004 the sultan named an appointed legislative council, which he revived after a 20-year suspension; however, the council had no independent powers. Political authority and control rested entirely with the sultan, while the council provided a forum for public discussion of proposed government programs as well as administrative deficiencies. In September 2005 the sultan increased the membership of the legislative council to include several indirectly elected members, comprising district and village heads chosen by their peers. In March the legislative council held a five-day session. Government departments were instructed to submit new budget proposals to the council for its approval.

The country attempted, with limited success, to institutionalize a form of popular representation based on a traditional system of village chiefs elected by secret ballot by all adults. Candidates must be approved by the Government and must be Malay or of a recognized indigenous race. These leaders are expected to communicate constituents' wishes through a variety of channels, including periodic meetings, chaired by the minister of home affairs, with several officials appointed by the sultan. Meetings between senior government officials and mukim (a group of villages) representatives allow for airing of local grievances and concerns; however, there were no records of how often such meetings took place.

There were three registered parties in the country: the Brunei Solidarity National Party; the Brunei People's Awareness Party; and the largest, the Brunei National Development Party, founded in August 2005. All three parties pledged their support to the sultan and the system of government. Although they criticized administrative deficiencies, their few activities received limited publicity, and they were hindered by membership restrictions. However, several members and former members of political parties were consulted informally about the program of the legislative council.

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

The lack of a representative, democratic government seriously limited the role of both men and women in government and politics, although women were limited to a greater extent than men. There were no female ministers in the Government or the legislative council; however, the sultan's sister, Princess Masna, was the second-ranking official in the Ministry of Foreign Affairs, and there were female ambassadors, judges, and other senior officials.

*Government Corruption and Transparency.*—There were reliable reports of corruption in the Government. In accordance with its "zero tolerance" policy for corrupt practices, the Government successfully prosecuted a number of low-level officials. At year's end investigation continued in the case of a former government minister accused of corruption in awarding government projects.

During the year the legislative council approved and the Government published a summary of the fiscal year government budget. However, the Government continued to restrict and classify as confidential some information on the financial dealings of the Government and the royal family.

The government-owned Brunei Investment Agency (BIA) released information about Prince Jefri's noncompliance with the terms indicated in the out-of-court settlement over the recovery of assets taken by the prince. Prince Jefri—one of the sultan's younger brothers—had been charged by the Government with fraud, misuse, and theft of government property over his channeling funds through his failed Amadeo Development Corporation while he was BIA chairman. In May the high court ordered Prince Jefri to transfer all assets to BIA.

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

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

The 513 registered NGOs generally were professional, business, sports, or social associations. In the past the Consumers' Association of Brunei attempted to address human rights, but the Government impeded it from doing so. At year's end the association was still registered but no longer active on human rights issues.

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

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

*Women.*—During the year there were 74 cases reported of domestic violence against women. The criminal penalty for a minor domestic assault is one to two weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer jail sentence.

A special unit, staffed by female officers, existed within the police department to investigate domestic abuse and child abuse complaints. A hotline was available for persons to report domestic violence. The Ministry of Culture's Social Affairs Services (SAS) Unit provided counseling for women and their spouses. Based on individual case circumstances, some female and minor victims were placed in protective cus-

tody in the SAS-operated Taman Noor Hidayat shelter while waiting for their cases to be brought to court.

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

Female domestic servants, most of whom were foreign workers, also were subjected to abuse (see sections 6.c. and 6.e.) by their employers. While the level of violence generally was low, beating servants or refusing them the right to leave the house on days off was more prevalent. Since most foreign female domestics were highly dependent on their employers, those subject to abuse often were unwilling or unable to bring complaints, either to the authorities or to their governments' embassies. However, when such complaints were made, the Government generally was quick to investigate allegations of abuse and impose fines and punishment as warranted. Several workers settled assault cases out of court with their employers. Two foreign embassies maintained shelters for domestic workers involved in disputes with employers and were active in protecting their citizens' rights.

The law stipulates imprisonment of up to 30 years and caning with not fewer than 12 strokes for rape; for the rape of a minor the penalty is eight to 30 years' imprisonment and caning with not fewer than 12 strokes. The law does not criminalize spousal rape; it explicitly states that sexual intercourse by a man with his wife, as long as she is not under 13 years of age, is not legally considered rape. According to police statistics, there were 20 reported rape cases during the year, 10 of which were referred to the Attorney General's Chambers. Of the 10 cases, at year's end one was awaiting sentencing, one was pending trial, two had been dropped, and the remaining were under review.

Prostitution is illegal. Women who entered the country for purposes of prostitution generally were tried, sentenced, and deported swiftly (see section 5, *Trafficking*).

In accordance with certain local Islamic practices, women were denied equal status with men in a number of important areas such as divorce, inheritance, and custody of children. However, the law permits female citizens to pass their nationality to their children and to own property and other assets, including business properties.

Men were eligible for permanent positions in government service whether or not they had university degrees, but married women without university degrees were eligible to hold government positions only on a month-to-month basis. Women in month-to-month positions cannot apply for travel allowances for their husband and children; however, apart from this, they receive allowance privileges equal to their male and female counterparts in permanent positions. There were no men in month-to-month positions except for those who were reemployed by the Government after retirement.

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

Medical care for all citizens, including children, was heavily subsidized and widely available. With a few exceptions, involving small villages in extremely remote areas, nutritional standards were high and poverty was almost unknown.

*Trafficking in Persons.*—A statute outlaws trafficking and sexual exploitation of women and girls. In addition, a variety of other laws, primarily those related to prostitution and the protection of minors, could be applied against sex traffickers. Immigration, labor, and religious regulations that criminalize prostitution also served to deter trafficking. There were very few identifiable cases of trafficking; however, trafficking likely occurred in the labor context, since foreign workers recruited from Indonesia, the Philippines, Pakistan, India, and Bangladesh occasionally faced harsh, exploitative conditions in which their freedom of movement was restricted (see section 6.e.).

Under the Trafficking and Smuggling Persons Order, a person convicted of trafficking persons, harboring smuggled persons, or endangering the lives or safety of trafficked or smuggled persons can be fined up to \$606,060 (B\$ one million), imprisoned for up to 30 years, and caned. A person convicted of facilitating trafficking or

smuggling persons can be fined up to \$30,303 (B\$50,000) and imprisoned for up to 10 years. Immigration and other law enforcement officials received training to investigate and prosecute suspected offenders and to deal with trafficked victims under the terms of the 2004 law. Two police officers participated in overseas training dealing with human trafficking. There were no prosecutions for human trafficking for labor or sexual exploitation.

The country had limited capacity to protect foreign trafficking victims. There were no foreign NGOs to assist trafficking victims, and victims were subject to prosecution for violations of immigration and labor codes. There was no formal system of protection or benefits for foreign trafficking victims. In cases where the Government considers a victim to be a material witness in the prosecution of traffickers, police will provide temporary protection and shelter as necessary for prosecution. There were some protective measures for foreign workers, but they were not uniformly applied. Some foreign embassies provided protection services, including temporary shelter, for workers involved in labor disputes.

*Persons With Disabilities.*—The law does not mandate accessibility or other assistance for persons with disabilities. The Government provided educational services for children with disabilities; however, an independent review found that further coordination was needed at the national level to provide uniform levels of support throughout the country. In October the sultan announced an increase in support payments to persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were a sizeable number of “stateless” persons and permanent residents, mostly ethnic Chinese and including persons born and raised in the country, who were not automatically accorded citizenship and its attendant rights. Since they did not enjoy full privileges of citizenship, these individuals traveled abroad as stateless persons, did not have the right to own land, and were not entitled to subsidized medical care.

In May the sultan relaxed citizenship requirements, allowing the Government to grant citizenship to applicants born in the country who have resided there continuously for at least 10 years. Those born outside the country must have resided in the country for at least 15 years. Other conditions include the ability to read and write in Malay and understand local culture. The new law also allows expedited citizenship for foreigners who have contributed to the nation’s economy and development. In addition, the new regulation allows male foreign nationals who are married to female citizens to acquire citizenship. Official statistics recorded a total of 2,601 persons granted citizenship during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the Trade Unions Act, unions are legal and must be registered with the Government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions; however, in practice there was no union activity in the country. The Government did not encourage unions or facilitate their formation, and employers in the industrial sector did not encourage foreign workers to form unions. The three registered trade unions were in the oil sector, had a total membership of less than 5 percent of that industry’s work force, and were inactive. There were more than 75,000 foreign workers in the country, including approximately 7,395 garment industry workers, none of whom were members of any trade union.

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

*b. The Right To Organize and Bargain Collectively.*—There was no union activity in the country; therefore, employer discrimination against union members did not arise. There is no legal foundation for collective bargaining, and strikes are illegal. Wage and benefit packages were based on market conditions.

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

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that some foreign domestic workers worked under unacceptable conditions (see section 6.e.). Other workers, most notably in the garment industry, signed contracts with employment agents or other sponsors in their home countries that reduced their promised salaries through payments to the agencies or sponsors. The Government forbade wage deductions to agencies or sponsors and mandated that employees receive their full salaries; nevertheless, foreign workers continued to pay high fees to manpower agents to obtain work in the country.



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

*e. Acceptable Conditions of Work.*—Unemployment has grown in recent years, primarily among younger persons. However, most employed citizens commanded good salaries. There is no minimum wage. The standard work week is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two rest periods of 24 hours each week. Overtime is paid for work in excess of 48 hours per week, and double time is paid for work performed on legal holidays. Occupational health and safety standards are established by government regulations. The DOL inspected working conditions on a routine basis and also in response to complaints. The DOL generally enforced labor regulations effectively, but enforcement in the unskilled labor sector was lax, especially for foreign laborers at construction sites. The DOL may close a workplace where health, safety, or working conditions are unsatisfactory. The law permits a worker to leave a hazardous job site without jeopardizing his employment, but generally this did not occur.

According to International Monetary Fund data, approximately 75,000 foreign persons worked in the country. There were reports of foreign maids and other domestic workers whose liberty was severely restricted while working exceptionally long hours without being granted a day for rest. There also were isolated reports of employers who beat domestic employees or did not provide them with adequate food. The Government prosecuted some cases; employers found guilty of abuses typically were fined and asked to compensate the victim.

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

Since February 2005 the DOL has brought cases directly against employers who did not pay their workers. Formerly, such cases were brought by the Attorney General's Chambers and took much longer to prosecute.

During the year the DOL recorded 42 complaints by domestic helpers and 125 complaints by corporate/garment workers against employers who failed to pay the workers' salaries. Eighteen of the complaints by domestic helpers and 46 of the complaints by corporate/garment workers were resolved, largely through employers paying compensation. The remaining cases were pending administrative action at year's end.

In November 2005 members of the board of directors of a garment factory were charged with 126 counts relating to unpaid salaries of 19 workers, and during the year an additional 54 charges were brought. At year's end the case was awaiting trial pending resolution of legal issues caused by the firm going into liquidation.

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

Immigration laws allow for prison sentences and caning for overstaying workers and illegal immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. While the majority of prosecutions were for long-term overstayers, many workers maintained their illegal status owing to their former employers' negligence.

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## BURMA

Since 1962 Burma, with an estimated population of 54 million, has been ruled by a succession of highly authoritarian military regimes dominated by the majority Burman ethnic group. The State Peace and Development Council (SPDC), led by Senior General Than Shwe, was the country's de facto government, with subordinate peace and development councils ruling by decree at the division, state, city, township, ward, and village levels. Military officers wielded the ultimate authority at each level of government. In 1990 prodemocracy parties won more than 80 percent of the seats in a general parliamentary election, but the regime continued to

ignore the results. The military government totally controlled the country's armed forces, excluding a few active insurgent groups.

The Government's human rights record worsened during the year. The regime continued to abridge the right of citizens to change their government. The Government detained five leaders of the 88 Generation Students prodemocracy activists. The Government refused to allow the International Committee of the Red Cross (ICRC) to visit prisoners privately. The army increased attacks on ethnic minority villagers in Bago Division and Karen State designed to drive them from their traditional land. In addition, the Government continued to commit other serious abuses, including extrajudicial killings, custodial deaths, disappearances, rape, and torture. The Government abused prisoners and detainees, held persons in harsh and life-threatening conditions, routinely used incommunicado detention, and imprisoned citizens arbitrarily for political motives. National League for Democracy (NLD) General Secretary Aung San Suu Kyi and NLD Vice Chairman Tin Oo remained under house arrest. Governmental authorities routinely infringed on citizens' privacy and resorted more frequently to forced relocations. The Government restricted freedom of speech, press, assembly, association, religion, and movement. The Government did not allow domestic human rights nongovernmental organizations (NGOs) to function independently, and international NGOs encountered a hostile environment. Violence and societal discrimination against women continued, as did forced recruitment of child soldiers, discrimination against ethnic minorities, and trafficking in persons, particularly of women and girls. Workers rights remained restricted, and forced labor, including that of children, also persisted.

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

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year there were several cases of prisoners who died while in custody, some under suspicious circumstances. The Government did not punish officials responsible for the deaths.

On January 27, prison authorities at a labor camp in Ann, Rakhine State, beat a prisoner to death after he killed a prison official who had beat him for resting while constructing a road.

On March 17, members of the government-affiliated "fire brigade" and two police corporals, Tin Maung Oo and Myo Min Oo, reportedly beat and killed former political prisoner Thet Naing Oo in public.

On March 25, Mandalay police arrested Wai Phyo Naung, alleging that he was a drug trafficker. He died the next day in police custody following brutal interrogation. The police claimed he hanged himself in his cell, but the postmortem report revealed signs of torture and beating.

On June 18, Lieutenant Zaw Lwin of Myo Hla Police Station, Bago Division, arrested Ma Nyo Kyi with her eight-month-old baby without filing charges. The next day police gave the baby to Ma Nyo Kyi's husband and informed him that his wife had died of a heart attack. The postmortem report revealed severe injuries caused by beating.

On July 16, Saw Stin Pho of Ta Khun Seik Village, Einme Township, Ayeyarwady Division, was arrested with 17 others and taken to Patheingyi Military Headquarters on suspicion of being connected to an alleged sympathizer of the Karen National Union (KNU). He died on July 19 from torture during interrogation by Military Security Affairs (MSA), which reportedly gave \$309 (400,000 kyats) as compensation to his wife, Naw Htoo Bae Sae, and their six children. MSA released the other 16 persons, all of whom were severely traumatized by the harsh interrogation.

The Government took no action to punish those responsible for similar custodial deaths in 2005, including the following cases: NLD member Aung Hlaing Win, who died in May after being arrested for contacting an "illegal organization" in Thailand five years earlier; labor activist Moe Naung, who reportedly died in Kawthoung in May shortly after being arrested; NLD member Min Htoo Wai, who died in Mawlamyine Prison of severe head injuries suffered on May 29 during a beating received from prisoners who were encouraged by jailors Tun Tun and Tin Maung Ohn; Saw Stanford of Tawako Village, Ayeyarwady Division, who died in July at an interrogation center where he was brutally beaten by soldiers from Light Infantry Brigade 93 in Myaung Mya District; Htay Lwin of Aung Myay Thazan Township, Mandalay Division, who died in October in police custody after a severe beating; Aung

Myint Thein of Bago, who died in November in Insein Prison from undetermined causes (see sections 2.a. and 6.c.); and Ko Than Htaik, who died in December after a severe beating by local peace and development council (PDC) authorities (see section 6.c.). An NLD effort to prosecute officials responsible for the deaths of Aung Hlaing Win was rejected, and authorities did not reply to the NLD's petition lodged following the death of Min Htoo Wai.

There was no report that action was taken against a Light Infantry Battalion 514 commander who in 2004 beat a civilian to death at a military checkpoint in Mong Kung Township, Shan State. Likewise, there were no developments in the 2004 case of Maung Aye, who died after being beaten while in police custody.

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

There were unverified reports of deaths and injuries caused by security forces using civilians to clear landmines, particularly in Karen State, where the army launched widespread attacks against ethnic villages (see section 1.g.).

Small bombs detonated in Rangoon and other areas but caused little damage. As in similar events in 2005, the Government blamed exile-based groups but did not substantiate the claims.

Unlike in previous years, there were no reports that armed ethnic groups committed killings.

*b. Disappearance.*—Private citizens and political activists continued to “disappear” for periods ranging from several hours to several weeks or more, and many persons never reappeared. Such disappearances generally were attributed to authorities detaining individuals for questioning without informing family members and to the army's practice of seizing private citizens for portering or related duties, often without notifying family members (see section 6.c.). Little improvement was reported regarding requests for information directed to the military services. In many cases, individuals who were detained for questioning were released soon afterward and returned to their families.

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

In its May report “Eight Seconds of Silence: The Death of Democracy Activists Behind Bars,” the Assistance Association for Political Prisoners—Burma (AAPP) meticulously documented 127 death cases of political prisoners since 1988. Fifteen of these cases were persons who disappeared while in custody. AAPP estimated there were other death and disappearance cases about which it had no information.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There are laws that prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. They routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient.

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

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

During the year at least six political prisoners died while in custody (see sections 1.a. and 1.c.).

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

There were reports by NGOs and community leaders that the armed forces continued to commit abuses against ethnic minorities, including beatings, rape, forced mine clearing, and forced labor against villagers in Bago Division, Chin State, Karen State, Mon State, Shan State, and Tanintharyi Division.

Newly arrived refugees and internally displaced persons (IDPs) near the Thai border reported that government soldiers in Shan, Kayah, and Karen states continued to rape ethnic women and girls. On April 17, 20 soldiers reportedly gang-raped a woman of Kunhing Township, Shan State, and then killed her. A 17-year-old Shan girl from Kunhing Township reported that three soldiers of Battalion 527 raped her for two days on May 15–16. A 10-year-old Shan girl from Mong Mai reported that a soldier raped her in 2004 when she was eight years old. Many other women reported they were raped by soldiers during the year and in previous years.

*Prison and Detention Center Conditions.*—Prison and labor camp conditions generally remained harsh and life threatening. The Department of Prisons operated approximately 35 prisons and 70 labor camps (see section 6.c.). Food, clothing, and medical supplies reportedly were in very short supply in prisons. There were reports that authorities in some prisons forced prisoners to pay for their own food. Bedding consisted of a single mat on the floor. Prisoners were forced to rely on their families, who were allowed one or two visits per month, for basic necessities. Prisoners were held without being charged for weeks or months, and until a prisoner was officially charged with a crime, families could not visit or send critical supplementary food. HIV/AIDS infection rates in prisons reportedly were high due to communal use of syringes for injections and sexual abuse by other prisoners.

The Government continued to deny prisoners adequate medical care, although medical services in prisons partially reflected poor health care services available to the general population.

On January 24, five prisoners in Kalembo Prison, Sagaing Division, reportedly took the prison director hostage. Prison guards overpowered the prisoners, severely beat them, and placed them in solitary confinement. Two died of injuries in their cells; two days later prison authorities took the other three for medical treatment, but they also died. Twenty-seven other prisoners not directly involved in the hostage-taking also were beaten, many severely.

During the year the health of several political prisoners deteriorated, and several died while in prison. On January 10, Khin Maung Lwin, a member of the Democracy Party, died in Putao Prison, Kachin State, after eight years in various prisons. The officer in charge of the prison, Tun Myint Thein, rejected repeated appeals for medical treatment by Khin Maung Lwin's family, the ICRC, and the prison doctor. On March 23, Ko Oo, an NLD member from Thayet Township, died after six years as a political prisoner. He suffered from various ailments, but prison authorities would not refer him for treatment. On May 2, Shan political activist Myint Than died in Thandwe Prison, Rakhine State, while serving a 79-year sentence. He reportedly suffered a stroke and died after one month in a hospital. In mid-August Daw Nyunt Yin of Thingangyun Township, Rangoon Division, died in Insein Prison, where she had been held since 1988 on charges of involvement in prodemocracy activities. She reportedly vomited blood before she died and did not receive qualified medical treatment. On October 16, student leader Thet Win Aung died in Mandalay Prison, after being imprisoned since 1998. Despite his 2002 hunger strike to protest the lack of adequate medical treatment and the poor prison diet, prison authorities continued to deny him adequate health care. On October 26, political prisoner Maung San died in Mawlamyine Prison minutes after a paramedic treated him for gastric pain. He was denied treatment by a qualified doctor.

Prominent political prisoners who suffered from deteriorating health included NLD members of parliament-elect (MPs-elect) Than Nyein, May Win Myint, Naing Naing, and journalist Win Tin. The health of writer Than Win Hlaing, held in Thayarwady Prison in Bago Division, continued to deteriorate due to harsh prison conditions. He suffered from kidney disease and diabetes, but prison authorities rejected his family's appeals for medical treatment. Rohingya MP-elect Kyaw Min and family reportedly experienced health problems after they were imprisoned in 2005. The health of labor advocate Su Su Nway also deteriorated, and she required hospitalization during her eight-month imprisonment, which ended on June 6 (see section 6.c.).

The Government claimed that political detainees were separated from common criminals. However, reports by prisoners indicated that authorities frequently placed political prisoners in communal cells where they were subjected to beatings

and mistreatment by hard-core criminals. On January 2, criminal prisoners in Insein Prison severely beat three political prisoners—Aung San Myat, Thiha Tun, and Han Win Aung. Prison officer Win Maung and other prison guards reportedly allowed the attack and did not intervene.

In October two political prisoners in Mawlamyine Prison staged a hunger strike to protest being housed with the criminal population rather than held separately with political prisoners. The warden confronted the prisoners and beat them. After other political prisoners heard of the beatings, they staged their own protest, refusing to return to their cells. Thereafter, the warden used criminal prisoners to beat the political prisoners housed with them.

Women prisoners were held separately from men, and juvenile prisoners (16 years old and under) were held separately from adults. One jail existed specifically for juveniles in Meiktila, Mandalay Division. Juvenile courts rarely sentenced juveniles to prison, instead remanding them to reformatories located in Thayet, Magway Division, or Twante, Rangoon Division, which were jointly managed by the Prison Department and the Department of Social Welfare (DSW).

Beginning in November 2005, authorities insisted that representatives of government-sponsored mass mobilization organizations, including the Union Solidarity and Development Association (USDA), the Myanmar Women's Affairs Federation (MWAF), and the Myanmar Red Cross, accompany the ICRC on all prison visits. After failing to obtain government permission to maintain its international practice of unfettered access to prisoners, the ICRC did not visit prisons or labor camps during the year. The ICRC terminated some of its traditional services, such as providing medications and soap to detainees, because it could not verify that these supplies reached the prisoners. The ICRC could no longer follow the cases of more than 4,000 detainees, including security detainees, minors, foreigners, and prisoners who were especially vulnerable, such as the sick and aged. During the year gains achieved earlier by the ICRC on prison problems, including the right to talk in private with prisoners, make repeated visits as desired, and have full access to most prisoners, were suspended, as were its efforts to expand ICRC access to more detainees.

*d. Arbitrary Arrest or Detention.*—There is no provision in the law for judicial determination of the legality of detention, and the Government routinely used arbitrary arrest and incommunicado detention. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the Government regularly used this provision (see section 1.e.).

*Role of the Police and Security Apparatus.*—The police are auxiliary forces of the military and are under direct command of military officers. They primarily deal with common crimes and do not handle political crimes. The Myanmar Police Force falls administratively under the Ministry of Home Affairs. Corruption and impunity were serious problems due to a government-imposed system whereby police were required to collect funds for their operations. Police typically required victims to pay substantial sums for crime investigations and routinely extorted money from the civilian population.

MSA officers and SB police officers are responsible for detaining persons suspected of “political crimes” that are perceived to threaten the Government. Once a person is detained, MSA officers, or in some cases SB officers, take the prisoner to MSA regional interrogation centers, where MSA officers interrogate the individual for a period ranging from hours to months and can charge the person with a crime at any time during the interrogation. Police frequently placed a hood on those accused or suspected of political crimes upon arrest.

*Arrest and Detention.*—By law warrants for searches and arrests are required; however, MSA and the police have special authority to conduct searches and make arrests at will. The Government continued to arrest and detain citizens for extended periods without charging them, often under the Emergency Act of 1950, which allows for indefinite detention. Bail is commonly offered in criminal cases, but it is rarely, if ever, allowed for political prisoners. The Government regularly refused detainees the right to consult a lawyer, denied them or their families the right to select independent legal representation, or forced them to use government-appointed lawyers.

The Government continued to use incommunicado detention and often failed to inform detainees' relatives of the detentions until much later. Authorities used prolonged solitary confinement to punish prisoners.

Authorities continued to detain private citizens and political activists, some of whom disappeared, at times temporarily (see section 1.b.).

National Democratic Party for Human Rights MP-elect Kyaw Min, sentenced in 2005 to 47 years' imprisonment, and his wife, two daughters, and a son, all sen-

tenced to 17 years' imprisonment on charges of having improper house registration documents, remained in prison. Kyaw Min's sister-in-law, arrested in Kyaukphyu in 2005 for traveling without permission and for residing in her husband's household without authorized residential documents, was released after completing her sentence.

*Amnesty.*—Authorities released political prisoners Su Su Nway and Aye Myint (see sections 4 and 6.c.). Unlike in previous years, no MPs-elect were released from prison. Instead, early in the year authorities extended for another year the prison terms of NLD MPs-elect Than Nyein and May Win Myint of Mayangone Township, Rangoon Division.

*e. Denial of Fair Public Trial.*—The judiciary is not independent of the Government. The SPDC appoints justices to the Supreme Court who in turn appoint lower court judges with the approval of the SPDC. These courts adjudicate cases under decrees promulgated by the SPDC that effectively have the force of law. The court system includes courts at the township, district, state, and national levels.

*Trial Procedures.*—The Government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system remain formally in place, the court system and its operation were seriously flawed, particularly in the handling of political cases. The misuse of blanket laws—including the Emergency Provisions Act, the Unlawful Associations Act, the Habitual Offenders Act, and the Law on Safeguarding the State from the Danger of Subversive Elements—and the manipulation of the courts for political ends continued to deprive citizens of the right to a fair trial and stifle peaceful dissent. Pervasive corruption further served to undermine the impartiality of the justice system.

There is a fundamental difference between criminal and political trial procedures. Some basic due process rights, including the right to be represented by a defense attorney, were generally respected in criminal cases but not in political cases that the Government deemed especially sensitive. In criminal cases, defense attorneys generally are permitted 15 days to prepare for trial, may call and cross-examine witnesses, and can be granted a 15-day delay for case preparation. However, their primary function is not to disprove their client's guilt, which is usually a foregone conclusion, but rather to bargain with the judge to obtain the shortest possible sentence for their clients. Reliable reports indicated that senior government authorities dictated verdicts in political cases, regardless of the evidence or the law. Political trials are not open to the public.

None of the NLD members or the 153 prodemocracy supporters arrested in association with the 2003 Depeyin attack were given public trials.

NLD members generally appeared to be able to retain the counsel of lawyers without fear that the lawyers might be imprisoned; however, lawyers were not always told when trials would begin. Approximately 14 lawyers remained imprisoned at year's end. Most had been sentenced prior to 1998.

*Political Prisoners and Detainees.*—At year's end there were approximately 1,300 "security detainees," including political prisoners (approximately 1,150), arms merchants, violators of state security laws, and those accused of fostering religious disturbances. Because the Government usually charged political detainees for criminal offenses, it denied holding any political prisoners.

On February 7, a court sentenced NLD members Ko Ko Myint and Thein Zaw to seven-year prison terms for opium possession, allegedly planted by authorities. Ko Ko Myint had completed a five-year jail sentence three months earlier. Authorities in Rakhine State also prosecuted NLD members San Shwe Tun and Aung Ban Thar, arrested in July 2005 for foreign currency violations after authorities allegedly planted Bangladeshi currency in their homes. In March the Sittwe court sentenced them to three years for trading in illegal currencies, after the district and state courts rejected a June 2005 appeal.

On March 25, authorities arrested Aung Thein, a former NLD member from Thaketa Township, Rangoon Division, along with four others and charged them with contacting opposition figures outside the country by satellite telephone. Subsequently, Aung Thein was sentenced to 20 years, Thein Oo to 25 years, Aung Moe to 15 years, Khaing Mar Soe to 15 years, and Khin Maung Win to three years.

On July 31, authorities in Mandalay arrested Nyein Maung, a former member of Madayar Township NLD Organizing Committee who had resigned under pressure from the USA in June, and sentenced him to one year in prison on charges of swearing at the husband of township judge Khin Mar Yi.

On September 27, police arrested Min Ko Naing, Ko Ko Gyi, and Htay Kywe, former political prisoners and activists in the 88 Generation Students group. On September 30, police arrested two more 88 Generation Students activists, Min Zeya

and Phone Cho. Phone Cho's brother, Thet Win Aung, also a political prisoner, died in Mandalay Prison on October 16 (see section 1.c.). At year's end the five activists remained in detention without charge. The law permits a court to detain a prisoner without charge for up to two weeks, with the possibility of a second two-week extension, and authorities continued to extend their detention in different courts around Rangoon without producing them before a judge.

The 88 Generation Students group organized a nationwide campaign to collect signatures in support of the release of Aung San Suu Kyi and all political prisoners, gathering more than half a million signatures. On October 5, USA members (not police) arrested NLD volunteer Win Ko in Letpadan Township, Bago Division, after he had gathered signatures from an entire village in Monyo Township. The Letpadan Township Court sentenced him to three years in prison on unsubstantiated charges of participating in an unauthorized lottery and disrupting a civil servant in the line of duty. On November 12, a court sentenced Win Ko and colleague Phyo Zaw Latt to an additional 14 years for fraud and conspiracy to commit fraud. Neither was permitted legal representation during the secret trials. At year's end Win Ko remained in Paungde Prison, Bago Division.

Hkun Htun Oo and Sai Nyunt Lwin, chairman and secretary respectively of the Shan Nationalities League for Democracy (SNLD), and eight other Shan leaders arrested in February 2005 remained in remote prisons at the end of the year. Lawyers lodged appeals in late February, but the judge summarily dismissed the appeals without explanation. The Government conducted secret trials in Insein Prison of the SNLD leaders on charges of subversion and eight other counts of alleged political and economic misdeeds, including violating currency exchange regulations. Hkun Htun Oo received two life sentences plus 53 years in prison, General Hso Ten received three life sentences plus 46 years in prison, and Sai Nyunt Lwin received three life sentences plus 25 years in prison.

Kyaw Khin, NLD MP-elect from Taunggyi, arrested in February 2005 and sentenced to 14 years for providing a list of Aung San Suu Kyi's awards to a fellow university student, remained in prison at year's end.

Sao Oo Kya of Hsipaw, member of the Shan State Consultative Council sentenced in 2005 to 13 years in prison for defamation of the state and violating the Hotel and Tourism Act, remained in prison.

University student Ja Naw, arrested in August 2005 in Momauk Township, Kachin State, remained in prison at year's end. Fellow students Win Moe and Bran Awng San, apprehended with Ja Naw, were released after two weeks' detention. When arrested, the three had in their possession educational compact discs on human rights issued by Amnesty International, books opposing the Salween hydro-power project, and educational materials on antidrug matters.

Other political prisoners remaining in prison included 11 members of the Mandalay Division NLD sentenced in 2004 to between seven and 22 years in prison for "illegal association" with an exile group in Thailand; Than Than Htay and Tin Myint, NLD Township Executive members from Magway and Rangoon divisions, sentenced with another NLD member in 2004 to seven years despite the lack of credible evidence; Ye Ye Win, San Ya, and Ye Htet, members of NLD in Theinzayat Township in Mon State, sentenced in 2004 to seven years in prison for contacting exile groups in Thailand; five NLD members sentenced to life imprisonment in 2005 for possessing and distributing a leaflet titled "An Appeal to the Masses"; NLD member Kyaw Swe, sentenced in 2004 to five years' imprisonment on charges of possessing an unregistered motorcycle and obstructing authorities in the line of duty.

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

NLD General Secretary Aung San Suu Kyi remained under house arrest without charge and without trial. On May 27, the anniversary of the NLD's victory in the 1990 national elections, the SPCD extended her detention for another year. Except for two live-in companions, who were also forbidden to leave the compound, she remained incommunicado. NLD Vice-Chairman Tin Oo also remained under house arrest without trial. On February 14, authorities extended his house arrest for one year. By year's end the other 151 persons arrested during and immediately following the 2003 Depayin attack had been released.

*Civil Judicial Procedures and Remedies.*—Civil judicial procedures and remedies existed in principle, but in practice there was no assurance that a complainant would receive a fair hearing. In 2005 lawyers filed an appeal that challenged Aung

San Suu Kyi's detention order under a law that protects the state from persons who want to obstruct or destroy it. The law allows a government order to be appealed directly to the cabinet, but the cabinet ignored the appeal.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—Neither the abrogated 1974 constitution nor subsequent legal measures provided for rights to privacy, and authorities routinely infringed citizens' privacy. Through its intelligence network and administrative procedures, the Government systematically monitored the travel of all citizens and closely monitored the activities of many citizens, particularly those known to be active politically.

Forced entry without a court order is legal. The law requires that any person who spends the night at a place other than his registered domicile must inform the police in advance. Any household that hosts a person not domiciled there must maintain a guest list and submit it to the police. While the law was selectively enforced, authorities continued the increased level of enforcement implemented following the 2005 bombings in Mandalay and Rangoon. Ward-level officials stepped up unannounced nighttime checks of residences for unregistered visitors. During the year authorities in Rangoon Division began requiring households to have "family photographs" taken for government agents to use when conducting nighttime checks of residences. Households were required to pay for the cost of their photographs, usually at significantly higher than market rates, and permanently display in their homes the photographs of authorized residents.

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

The authorities generally continued to discourage citizens from subscribing directly to foreign publications (see section 2.a.).

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

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

Forced relocations in rural areas increased during the year. The forced relocations reportedly were accompanied by rapes, executions, and demands for forced labor to build infrastructure for military units (see sections 1.c., 1.g., and 2.d.). For decades successive military governments have applied a strategy of forced relocation against ethnic minority groups in an effort to deny support to armed ethnic groups.

Reports of forced relocation in urban areas continued to decrease; however, the Government reportedly continued to forcibly relocate households for "security" reasons. In Rangoon persons were forced to leave homes or dwellings located on property that could be used for commercial gain. In some cases those forced to move were poorly compensated. The Government in Bago forced residents to move off their land so that authorities could build an urban development project. The land was later deemed unsuitable, but the residents were not allowed to return. In November 2005 the Government ordered most civil servants to relocate without their families to its new administrative capital Nay Pyi Taw near Pyinmana, Mandalay Division, and would not allow them to resign their jobs in lieu of moving. At year's end many civil servants were forced to live separately from their families in Rangoon, due to lack of family housing and schools.

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

In these same areas, thousands of civilians were displaced from their traditional villages—which often were then burned to the ground—and moved into settlements tightly controlled by SPDC troops in strategic areas. In other cases, villagers who were driven from their homes fled into the forest, frequently in heavily mined areas, without adequate food, security, or basic medical care (see section 1.g.).

Forced relocations often generated large refugee flows to neighboring countries or to parts of the country not controlled by the Government. In some areas, the Government replaced the original occupants with ethnic Burmans. In Karen State,



army units forced or attempted to force ethnic Karen to relocate to areas controlled by the Democratic Karen Buddhist Army (DKBA).

There were several credible but unverified reports that the Government confiscated property without paying compensation, and there were several reports of government mistreatment and exploitation of farmers. In December authorities in Ponnagyun Township, Rakhine State, reportedly confiscated 5,000 acres of land from local farmers for the army to raise crops. Colonel Ne Win from the Western Region Command reportedly oversaw the land confiscation.

Military personnel also routinely confiscated livestock, fuel, food supplies, fishponds, alcoholic drinks, vehicles, and money. Such abuses were widespread. Regional commanders forced contributions of money, food, labor, and building materials from civilians throughout the country (see sections 1.c. and 6.c.).

Government and insurgent military units practiced forced conscription, including of children (see sections 1.g. and 6.c.).

Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. The Government used coercion and intimidation to induce persons, including nearly all public sector employees and students, to join the Government's mass mobilization organizations—the USA, MWAFA, and Myanmar Maternal and Child Welfare Association (MMCWA)—and attend meetings in support of the regime (see section 2.a.). The Government also used coercion to entice or force members of the NLD and other opposition parties to resign, and it publicized the coerced resignations in government media.

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

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—A few ethnic insurgent groups continued to battle the Government for autonomy or independence, including the Shan State Army-South (SSA-S), the Karenni National Progressive Party (KNPP), and the KNU, through its armed wing, the Karen National Liberation Army (KNLA). Despite a 2003 cease-fire between the KNU and the Government, during the year fighting that began in September 2005 in Bago Division spread to many other areas of northern Karen State.

Karen NGO sources reported that military operations increased from January through July, with a major influx of government forces near Nyaunglebin in Bago Division, Thandaung and Hpapun in northern Karen State, and around Mawchi in Kayah State. After a lull during the monsoon, the army resumed attacks on Karen civilian villages in the area. The military operations resulted in serious human rights abuses. An estimated 25,000 Karen villagers were forced to abandon their villages and hide in the jungle as IDPs. Approximately 3,000 found food and shelter in refugee camps in Thailand, while another 2,000 camped at an IDP settlement near the Salween River. Others reportedly sought shelter with relatives in government-controlled towns. The army denied some villagers near Thandaung and Mawchi access to markets, and they could not sell their farm produce or purchase rice. Credible sources reported that whole villages around Mawchi and Thandaung were desperately short of food. There were reports that government soldiers destroyed a Karen village of approximately 25 houses located beyond Thandaung at “Mile 20” and killed all of its inhabitants.

The Government claimed that the KNU attacked Karen villages and forced them to flee in order to blame the Government for the problem. However, Karen refugees who fled to Thailand reported that it was government soldiers, not Karen forces, who shelled their villages and regularly made them carry heavy loads—including artillery shells—forcing them to flee. The refugees added that after they fled, they learned that the soldiers burned their houses and granaries and confiscated their farm animals. The refugees and IDPs reported that after burning and pillaging the villages, the soldiers often planted landmines to prevent the villagers from returning. The soldiers sometimes shot and killed Karen villagers who attempted to return to their villages to retrieve personal property.

In November government forces attacked the Karen village of Htee Sar Pe in Mawchi Township, Kayah State, where they killed one person, seriously injured another, and burned seven houses. They also burned 25 houses in nearby He Daw Khaw village, sparing only the church. At year's end the villagers reportedly continued to hide in the surrounding forest.

In central and southern Shan State, security forces continued to engage the SSA-S. The military maintained a program of forced relocation of villagers in the region that reportedly was accompanied by killings, rapes, and other abuses of civilians.

Karen NGO sources indicated that human rights abuses increased in Karen State during the year, despite intermittent peace talks. There were reports of fighting be-

tween government soldiers and KNLA forces west of Taungoo Township and in Nyaunglebin Township, Bago Division. The highway east of Taungoo was closed past Mile 13 for several weeks in September. Numerous Karen villages were attacked and burned and hundreds of villagers fled into the jungle with limited supplies. At year's end the army continued to embargo food supplies moving beyond Mile 13.

During the year the army reportedly forced local villagers to patrol railway lines near their villages at night, after explosions of small improvised explosive devices reportedly occurred in Taungoo Town and beside railway lines in Bago Division.

There were no reports that the Government investigated or otherwise attempted to identify and punish those responsible for numerous acts of killing, injury, and destruction committed against Karen communities, including the July 2005 army massacre of 27 Karen villagers hiding on an island off the coast of Palaw Township, Tanintharyi Division; the December 2005 burning of 26 houses in Gee Gaw Pe Village near Mawchi, Kayah State, which forced the 610 residents into hiding; the 2004 army attacks on Karen villages in Shwegyin and Nyaunglebin townships, Bago Division, which permanently displaced more than 4,700 civilians; the 2004–05 army attacks on civilians in Taungoo District, Bago Division; and the 2004–05 forced labor imposed by the army on villagers in Mon Township, northern Nyaunglebin Township, Bago Division.

At year's end army troops reportedly continued to pursue Karen displaced persons who had fled to Taungoo District in Bago Division and Hpapun Township in northern Karen State.

There were no reports of government investigation into past incidents of rape in conflict areas and other ethnic minority areas, including the four cases of rape in 2005 by government soldiers reported by Mon community leaders; the 2005 rape of a 24-year-old woman of Ponnagyun Township, Rakhine State, by Commander Shwe Aye of Kyanung Taung police station; the 2005 alleged rape of a primary school teacher from Myebon Township, Rakhine State, by Sergeant Major Thein Shwe from Kyaun Thaya Naval Base; the 2004 gang-rape of a Shan woman and the rape of an eight-year-old girl by army soldiers near the border with Thailand; and the 2003–04 cases of rape by elements of the army in southern Mon State.

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

*a. Freedom of Speech and Press.*—The law permits the Government to restrict freedom of speech and freedom of the press, and the Government continued to restrict these freedoms severely and systematically. The Government continued to arrest, detain, convict, and imprison citizens for expressing political opinions critical of the Government and for distributing or possessing publications in which opposition opinions were expressed (see sections 1.d. and 1.e.). Security services also monitored and harassed persons believed to hold antigovernment opinions.

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

On March 29, authorities in Bago arrested four youths—Aung Than, Zeya Aung, Aung Aung Oo, and Sein Hlaing—for publishing a poem entitled “The Strength of the Fighting Peacock,” a symbol of the prodemocracy movement. On June 9, the four were sentenced to prison terms ranging from seven to 19 years for “high treason.”

The NLD continued to press for substantive dialogue on political reform and publicly voiced criticisms of the policies and actions of the Government, including the jailing of dissidents (see sections 1.a. and 1.d.). However, except for the 2005 case of a father and son sentenced to two years in prison for allegedly obstructing an official in the line of duty, the courts summarily dismissed all NLD legal appeals.

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

Private media existed, but the Government's Press Scrutiny Board tightly controlled all media and publications and took action against any attempt to provide independent interpretation or comment on news. The Ministry of Information issues licenses to private media publishers as long as the media printed government-approved material. An estimated one-third of private media licenses were held by government agents or supporters. The remaining foreign news agencies had no expatriates based in the country and relied on local stringers. Their bureau chiefs were rarely permitted to enter on journalist visas, except when the Government invited them to cover the National Convention.

On March 24, Thaung Sein and Moe Htun were sentenced to three years in prison for taking photographs of buildings in the new capital Nay Pyi Taw. No official prohibition exists against taking photographs there; however, they were charged with operating a video business without a license.

Many prominent writers and journalists remained in prison for expressing their political views. Reporters Without Borders reported that at least seven journalists remained in prison at the end of the year, including Myat Swe (Sunny Swe) and his father Thein Swe, co-owners of the English- and Burmese-language weekly newspaper Myanmar Times; Thaung Tun; Than Win Hlaing; Monywa Aung-Shin; and Ne Min. Journalist Win Tin, the former editor of the Hanthawady Daily newspaper, in prison since 1989, was believed to be the longest serving political prisoner (see section 1.c.). Government censorship boards prohibited publication or distribution of works authored by those in prison.

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

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

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

Imported publications remained subject to predistribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards remained a serious offense. Depending on the sensitivity of the material, government officials often accepted bribes in return for allowing the importation of certain books. The Government also restricted the legal importation of foreign news periodicals and discouraged subscriptions to foreign periodicals (see section 1.f.); however, foreign newspapers could be purchased in Rangoon. Some foreign newspapers and magazines were distributed uncensored, although the Government prohibited their importation between May and August, shortly after they printed articles critical of the Government.

The Government generally issued few visas to foreign journalists; however, it again issued visas to foreign journalists when the National Convention resumed on October 10. The Government held several press conferences to convey its views on political problems. Representatives of international media organizations and diplomats were invited to attend.

Due to widespread poverty, limited literacy, and poor infrastructure, radio remained a primary medium of mass communication. News periodicals rarely circulated outside urban areas. The Government continued to monopolize and control the content of the two domestic radio stations. Foreign radio broadcasts, such as those of Radio Free Asia, the Voice of America, the BBC, and the Democratic Voice of Burma (DVB), remained the principal sources of uncensored information.

At year's end NLD member Hla Myint Than and eight others, convicted in 2005 for contact with an "illegal organization," possession of a satellite telephone, and illegal travel to Thailand, remained in prison under sentences of eight to 25 years (see section 6.a.).

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

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

*Internet Freedom.*—No laws or regulations exist regarding monitoring Internet communications or establishing penalties for the exercise of freedom of expression via Internet. However, the Government monitored Internet communications, and individuals could not freely engage in such activities.

When Internet users spent a long time at one Web site, police blocked access if they discovered the site was related to national issues. E-mail messages sometimes took several days to arrive in the receiver's inbox, often with attachments deleted. Citizens believed this was due to the SB's censoring of incoming and outgoing e-mail.

The Government banned all Web sites critical of the regime and its activities. Authorities also periodically banned all access to free e-mail services such as Yahoo

and Hotmail. After Googletalk and Skype Web sites became popular means of long distance communication, resulting in lost income for government telephone services, in June the minister of communications, post, and telegraphs banned Internet telephone services offered by Gmail, Gtalk, and Skype.

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

There were no cases of arrest or punishment for the peaceful expression of political, religious, or dissenting views in electronic forums, including e-mail.

All Internet cafes displayed a notice that forbade users to access political and pornographic sites but did not state a specific punishment.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. The Ministry of Education routinely warned teachers against criticizing the Government. It also instructed them not to discuss politics at work, prohibited them from joining or supporting political parties or from engaging in political activity, and required them to obtain advance approval for meetings with foreigners. Like all state employees, professors and teachers were required to join the USA Teachers at all levels continued to be held responsible for the political activities of their students. Foreigners were not permitted to visit university campuses without prior approval or attend any meetings involving students, including graduation ceremonies.

In recent years the Government took a number of measures to limit the possibility of student unrest. Undergraduate campuses were moved to remote areas, teachers and students were warned that disturbances would be dealt with severely, and most on-campus dormitories were closed. The quality of education deteriorated to such an extent that many students opted to use self-study or private tutoring. The Government placed heavy security around other schools that were open, even during summer vacation.

The Government tightly controlled the limited number of private academic institutions in the country as well as their curricula. Similar controls extended to Buddhist monastery-based schools, Christian seminaries, and Muslim madrassas. During the year the Government cracked down on private tuition classes and tried to ban the practice. Aung Pe, a private teacher and NLD supporter, remained in prison, reportedly in poor health, serving a three-year sentence for alleged violation of the Private Tuition Act.

The Government strictly monitored and censored all cultural events. In May the Government banned the famous comedian Zargana, previously imprisoned for lampooning the regime, from giving public comedy performances or from promoting or screening his new film, which satirized Rangoon social life.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law limits freedom of assembly, and the Government restricted it in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although the ordinance was not enforced consistently. All NLD offices except its Rangoon headquarters remained closed by government order, and the NLD could not conduct party activities outside its headquarters building. The nine other legally registered political parties were required to request permission from the Government to hold meetings of their members. Informal meetings involving NLD members occurred outside the NLD office, such as regular Tuesday visits by a women's group to Rangoon's Shwedagon Pagoda; however, security officials closely monitored these activities, and the Government prohibited those participating from wearing political pins, badges, jackets, and shirts with political pictures or slogans.

The regime continued to bar the parliament elected in 1990 from convening. After recessing the National Convention (NC) on January 31, the regime reconvened it from October 10 to December 29, as part of its "democracy road map" that would nullify the results of the 1990 election and approve a new constitution. The regime selected all of the delegates and prohibited them from discussing the convention freely, threatening to enforce harsh laws against any who criticized the NC or the draft constitution. Due to the limitations on open debate, the NLD continued its 1995 decision to boycott the NC.

The Government at times interfered with the assembly of religious groups (see section 2.c.).

*Freedom of Association.*—The Government restricted freedom of association, particularly for NLD members, prodemocracy supporters, and those who contacted exile

groups. On June 9, Aung Than and Zeya Aung, two of four persons charged for composing a poem, "The Strength of the Fighting Peacock," (see section 2.a.) were also charged under the 1950 Emergency Provision Act for contact with an "illegal organization" and for illegally crossing the border (to Thailand). They received 19-year sentences and remained in Insein Prison at the end of the year.

Throughout the year the Government continued to coerce NLD members to resign from the party and highlighted such resignations in government-controlled media.

The Government compelled civil servants to join the USA and coerced secondary school and college-level students to join when registering for classes or just before examinations. The Government also coerced skilled trade workers and professional association members to join the USA. The MWAFF and the MMCWA continued to coerce women to attend their meetings and join their organizations. In November, on instructions of township authorities, residents of each village in Shwebandaw Village Tract, Aungmye Township, Magway Division, had to recruit five new members to the USA. Similarly, Aungmye Township authorities required Nga Pyin Village to recruit five new USA members and five new MWFA members.

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

*c. Freedom of Religion.*—Constitutional support for religious freedom does not exist. There is no official state religion; however, the Government continued to show preference for Theravada Buddhism, the majority religion. The Ministry of Religious Affairs has a separate department for the "Promotion and Propagation of Sasana" (Buddhist Religion), and the Government continued to fund two state-run Buddhist universities in Rangoon and Mandalay. Most registered religious adherents generally were free to worship as they chose; however, the Government imposed restrictions on certain religious activities and promoted Buddhism over other religions. The Government also restricted efforts by Buddhist clergy to promote human rights and political freedom.

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

There were no reported incidents of violence carried out by the Government or its agents against religious groups.

The Government continued its efforts to control the Buddhist clergy (Sangha). It tried members of the Sangha for "activities inconsistent with and detrimental to Buddhism" and imposed on the Sangha a code of conduct that was enforced by criminal penalties. The AAPP estimated that there were 85 monks and novices in prison at the end of the year. The Government did not hesitate to arrest and imprison Buddhist monks who opposed the Government. The Government also subjected the Sangha to special restrictions on freedom of expression and freedom of association. Members of the Sangha were not allowed to preach sermons pertaining to politics. Religious lectures may not contain any words, phrases, or stories reflecting political views. Sangha members must distance themselves from politics, political parties, or members of political parties. The Government prohibited any organization of the Sangha other than the nine state-recognized monastic orders under the authority of the State Clergy Coordination Committee (Sangha Maha Nayaka Committee). The Government prohibited all religious clergy from being members of a political party.

On August 13, authorities detained 11 HIV/AIDS activists at Maggin Monastery near Rangoon as they prepared for a ceremony to honor HIV/AIDS victims. Also in August local authorities pressured and intimidated Sayadaw Einthariya, a monk from Mahasi Yeiktha Monastery in Yenangyaung Township, Magway Division, to stop assisting HIV/AIDS victims (see section 5).

On August 13, authorities in Toungh Township, Rakhine State, arrested five Buddhist monks and 15 laymen at Bu Shwe Maw village monastery. When the villagers reported to higher authorities about excessive corruption by their village leaders, the leaders took revenge on the villagers by claiming that the monastery allowed NLD members to meet in its premises. At year's end the 20 remained in prison.

The Government continued to restrict the building of religious structures by minority religious groups and limited their educational and proselytizing activities, es-

pecially Christian and Muslim groups that actively proselytize among Buddhists. The Government also permitted the destruction of religious centers and schools.

In August Muslim sources in Rakhine State reported that NaSaKa, the Government's border security force, ordered Rohingya Muslim communities in Rathedaung Township to close religious buildings. The closure order included five mosques, four madrassas, 18 pre-madrassas, and three Koran reciting centers in eight villages, but at year's end authorities allowed two madrassas to reopen. During the year NaSaKa conducted arbitrary "inspections" of mosques in northern Rakhine State, demanding that mosque officials show permits to operate the mosques. When mosque officials could not produce the permits, NaSaKa officials ordered congregation members to destroy the mosques. Congregation members reportedly were forced to destroy a total of seven mosques in Buthidaung and two mosques in Maungdaw during the year.

During the year the Full Gospel Assembly Church in Rangoon resumed its activities after local ward officials briefed the leader of the group on its responsibilities. In September 2005 authorities had informed the congregation that they could no longer hold services because the church was located in a residential area, even though the mostly Chin congregation had been meeting there for more than 10 years without incident.

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

The Government's pervasive internal security apparatus infiltrated or monitored meetings and activities of virtually all organizations, including religious ones. Religious activities and organizations were subject to restrictions on freedom of expression and association.

The Government discriminated against non-Buddhists at the upper levels of the public sector. Promotions within the armed forces and the civil service were generally contingent on the candidates being followers of Buddhism. There were no non-Buddhist members in the SPDC, in the cabinet, or among active flag-rank officers of the armed forces. The Government actively discouraged Muslims from entering military service, and Christian or Muslim military officers who aspired to promotion beyond the rank of major were encouraged to convert to Buddhism. In some ethnic minority areas, such as Chin State, there were reports that the SPDC offered troops financial and career incentives to marry Christian Chin women, teach them Burmese, and convert them to Buddhism.

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

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

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

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

The Government allowed Muslims to go on the annual Hajj and Buddhists to go on pilgrimage to Bodhgaya, India, although it limited the number of pilgrims. An estimated 4,000 Muslims applied to go on the Hajj, but by the end of November only

3,000 had received visas, due to a more complicated process resulting from the relocation of government offices to Nay Pyi Taw. An estimated 2,000 to 2,500 Buddhists made pilgrimages to Bodhgaya.

*Societal Abuses and Discrimination.*—In February violent clashes broke out between Muslims and Buddhists in Magway Division. Responding to rumors that Muslim men had raped a Burman woman near Sinbyukyun Town, ethnic Burmans attacked and burned Muslim and ethnic Indian homes, shops, and mosques. Rioting and looting spread to surrounding towns in Chauk and Salin townships. Local security forces did not intervene at first but later imposed a strict curfew in several towns to prevent the violence from spreading further. Reliable sources said authorities arrested 17 persons in Sinbyukyun and another 55 persons in Chauk, mostly Muslims. Unofficial sources claimed that three persons died and another 10 were injured in the riots. Three mosques in Yenangyaung, Chauk, and Sagu were reportedly destroyed in the violence. Authorities sealed off the mosques and did not permit Muslims to rebuild them by the end of the period of this report. Authorities did not conduct any official inquiries into the attacks.

Unlike in previous years, there were no reports of clashes between Muslims and Buddhist monks in Rangoon and Arakan State.

There was one synagogue in Rangoon, which served a Jewish congregation of eight local families. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the Government restricted freedom of movement, most citizens were able to travel within the country. Exceptions included Muslims traveling to, from, and within Rakhine State and some opposition political party members. However, citizens' movements were closely monitored, and all were required to notify local officials of their whereabouts (see section 1.f.). Movement was restricted in areas of armed conflict. Citizens were subjected to arbitrary relocation. Authorities prohibited NLD members who traveled to Rangoon to attend party functions from lodging in the city overnight.

The Government continued to hold NLD leaders Aung San Suu Kyi and Tin Oo under house arrest and rigorously curtailed the freedom of movement of other opposition political leaders (see section 1.d.). The Government maintained close control over most ethnic leaders' movements, requiring them to seek permission from the Government before making any domestic trips.

Ethnic minority areas previously affected by conflict, such as the large Karen areas of Ayeyarwady Division, continued to experience tight controls on personal movement, including frequent military checkpoints and monitoring by MSA. Bribes were extracted at checkpoints in border areas. In Rakhine State many controls and checkpoints applied only to the Muslim population (see section 5).

The Government tightly controlled the movement of Muslim Rohingyas, who are not considered citizens, particularly in Buthidaung, Kyauktaw, Maungdaw, and Rathedaung townships along the border between Rakhine State and Bangladesh. The Government also required other noncitizens, primarily ethnic South Asians and Chinese, to obtain prior permission to travel internally. Nonetheless, the country's borders with China, Thailand, Bangladesh, and India remained very porous, with significant undocumented migration and commercial travel occurring.

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

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

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

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

Restrictions on nonresident foreigners' travel to some areas of the country were relaxed. The Government also inaugurated a "visa on arrival" system for tour groups, which still required predeparture application for a visa via the Internet. The country's embassies generally issued tourist visas, valid for one month, within 24 hours of application. However, certain categories of applicants, including human rights advocates, journalists, diplomats, and political figures, were denied entry visas regularly unless they were traveling under the aegis of a sponsor acceptable to the Government and for purposes approved by the Government.

The abrogated 1974 constitution did not provide for forced exile, and the Government generally did not use it. However, in June the Government revoked the passport of exile Chin dissident Salai Tun Than to prevent him from returning.

The Government has not established legal arrangements to accept Burmese citizens deported from other countries; however, in the past the Government has accepted the return of several thousand illegal migrants from Thailand and China.

Harassment, fear of repression, and deteriorating socioeconomic conditions continued to force many citizens to leave for neighboring countries and beyond. In border regions populated by minority ethnic and religious groups, the Government continued its practices of forced labor, confiscation of land, compulsory contributions of food and money, and forced relocations. During the year there were credible and widespread reports that security forces burned villages in Bago Division, Karen State, and Kayah State and prevented the villagers from returning (see section 1.g.).

These policies produced hundreds of thousands of refugees in neighboring countries, particularly Thailand, India, Malaysia, and Bangladesh, starting from 1984 and continuing to year's end.

Rohingya Muslims who returned to Rakhine State were not stigmatized for having left but were discriminated against because of their ethnicity. Returnees faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages. Muslim youth from Rakhine State accepted to universities and medical schools outside the state were unable to enroll due to travel restrictions imposed upon them.

*Internally Displaced Persons (IDPs).*—According to NGOs, there were more than 500,000 IDPs in the country at year's end.

Military forces continued to abuse thousands of villagers and drive them from their homes, particularly during campaigns in Bago Division and Karen, Kayah, and Shan states (see section 1.f.). Thai-based NGOs reported that approximately 25,000 ethnic Karen became IDPs during the year.

*Protection of Refugees.*—The country is not party to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. The law does not provide for the granting of asylum or refugee status and the Government has not established a system for providing protection to refugees. However, there were no reports that persons formally sought asylum in the country during the year, nor were there reports of forced repatriation.

The UN High Commissioner for Refugees (UNHCR) continued to negotiate throughout the year for permission to work with "communities that are affected by displacement." The Government allowed the UNHCR to continue to provide humanitarian assistance to Rohingyas in northern Rakhine State whom the Government does not recognize as citizens.

In April the UNHCR signed a Memorandum of Understanding with the Ministry of Border Affairs (NaTaLa) that permitted the UNHCR to work with implementing partners in the southeast region, including parts of Karen and Mon states and Tanintharyi Division, to which the UNHCR had previously been denied access. Under the memorandum, UNHCR foreign personnel also were permitted to monitor their project activities in the region (see section 4).

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

Citizens did not have the right to change their government. The 1947 constitution contained a clause that gave citizens the right to recall elected MPs. The 1974 constitution contained a similar clause, but there was no record that this clause was ever exercised. However, the SPDC continued to prevent the parliament elected in 1990 from convening. The regime continued its systematic use of coercion and intimidation to deny citizens the right to change their government.



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

*Elections and Political Participation.*—Following the NLD's victory in the 1990 elections, the regime refused to implement the election results and disqualified, detained, or imprisoned many successful candidates (see sections 1.d. and 1.e.). It was believed that one MP-elect fled the country during the year and another in 2005. In 2004 at least four NLD MPs-elect fled the country.

In 1998 the NLD leadership joined other prodemocracy parties to organize the Committee to Represent the People's Parliament on the basis of written delegations of authority from a majority of the surviving MPs-elect of the 1990 parliament. The committee considered itself as acting on behalf of parliament until the parliament is convened. In retaliation the Government launched a sustained and systematic campaign to destroy the NLD without formally banning it; authorities pressured many thousands of NLD members and local officials to resign and closed party offices throughout the country. At year's end 12 MPs-elect remained in prison for political reasons. Some had been in prison since the early 1990s under harsh conditions.

In the 1990 election, 392 NLD members won seats. Of that number, 128 remained elected members. Self-exiles (20), deaths (74), and forced resignations or barring (170) accounted for the balance. Those in the last category resigned for various reasons. For example, the USA staged rallies of "no confidence" against some of the elected members. The USA and government officials pressured the families as well as the members themselves.

On October 10, the regime reconvened the NC, first summoned in 1993 and in recess since January 31, as part of its seven-step "democracy road map" that would nullify the results of the 1990 election and adopt a new constitution. The regime convened the NC with more than 1,000 handpicked delegates, including representatives from 17 ethnic cease-fire groups. However, it prohibited free debate on the drafting of a new constitution and threatened to imprison persons for periods of five to 20 years for any criticism of the process. Due to the limitations on open debate, the NLD continued its 1995 decision not to participate. The NC recessed on December 29.

UN Under Secretary General for Political Affairs Ibrahim Gambari visited the country in May and November and met with Senior General Than Shwe as well as NLD General Secretary Aung San Suu Kyi and other NLD leaders. By year's end the Government had failed to carry out Gambari's request that authorities address human rights concerns and expand dialogue with opposition leaders.

UN Secretary General's Special Envoy Tan Sri Razali Ismail resigned in January, after Foreign Minister Nyan Win declined to meet with Razali during the ASEAN Regional Forum in Laos in July 2005.

Women were excluded from political leadership. There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court.

Members of certain minority groups also were denied full citizenship and a role in government and politics (see section 5).

*Government Corruption and Transparency.*—Corruption was systemic at all levels of the Government and society. Economists and businesspersons considered it to be one of the most serious barriers to investment and conducting business in the country.

A complex and capricious regulatory environment fostered corruption. Authorities rarely and inconsistently enforced the anticorruption statute and usually did so only when the regime's senior generals wanted to take action against officials whose egregious corruption had become an embarrassment. Beginning in July the Government arrested more than 100 customs officials, including Director General Colonel Khin Maung Linn, on charges of corruption. The head of the National Defense College and his deputy were also forced to retire amid charges of corruption.

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

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

The Government did not allow domestic human rights organizations to function independently, and it remained generally hostile to outside scrutiny of its human rights record.

In addition to the ICRC and several UN agencies, approximately 35 nonpolitical, international humanitarian NGOs operated in the country. A few others had a provisional presence while undertaking protracted negotiations necessary to establish permanent operations in the country. Many international humanitarian NGOs and UN agencies reported increasing government pressure to curtail their activities, and access by international personnel became more difficult.

In February the Government released guidelines for controlling the activities of humanitarian organizations; however, the Burmese-language version contained measures that were more restrictive than those in the English-language version. UN agencies and NGOs negotiated with the Government throughout the year to try to reach agreement on mutually acceptable guidelines. Organizations already present in the country reported few changes in their operations, and a multidonor consortium to address HIV/AIDS, malaria, and tuberculosis negotiated separate arrangements.

The Government maintained travel restrictions on foreign journalists (see section 2.a.), NGO staff, UN agency staff, and diplomats in some regions. Human rights advocates regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the Government and for purposes approved by the Government (see section 2.d.). The Government's monitoring of the movements of foreigners, its frequent interrogation of citizens concerning contacts with foreigners, its restrictions on the freedom of expression and association of citizens, and its practice of arresting citizens who passed information about government human rights abuses to foreigners impeded efforts to collect or investigate human rights abuses. Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed and seldom could be verified.

Some international NGOs and UN agencies were required to have a government representative accompany them on field visits, at the NGOs' expense, although this rule was not consistently enforced (see section 1.f.). Foreign staff experienced difficulty obtaining permission to travel to project sites.

The ICRC was forced to suspend its prison visits in late 2005 when the regime ended ICRC's access to prisons to conduct private interviews with prisoners (see section 1.c.). The ICRC also suspended its activities in ethnic minority areas, due to restrictions of access to conflict areas that prevented it from carrying out normal, independent humanitarian operations. In November the Government ordered ICRC field offices in Hpa-an, Kengtung, Mandalay, Mawlawmyine, and Taunggyi to close but later "clarified" that instead of closing, the offices had to cease all field activities, including protection, basic hygiene, and health care, until further notice. The Government allowed the ICRC to continue prosthetic services to mine victims in Hpa-an, Mandalay, Taunggyi, and government prosthetics centers.

Under a new agreement signed with NaTaLa in April, the UNHCR resumed projects in the southeast region with implementation partners, and UNHCR foreign personnel carried out monitoring visits. In April 2005 the Government had withdrawn permission to the UNHCR to visit these areas.

In July lawyer Aye Myint, who was arrested in October 2005 and sentenced to seven years for advising farmers to contact the International Labor Organization (ILO) when authorities confiscated their land, was released following ILO pressure on the Government (see section 6.c.). In 2003 he was arrested and sentenced to death for contact with the ILO but was released in January 2005.

Despite repeated requests, the Government persisted in its refusal to allow the UN special rapporteur for human rights to visit the country during the year.

The Government received ILO complaints of labor violations and stated that it was conducting investigations into the violations. Some officials were arrested and prosecuted in January 2005 for forced labor violations and spent several months in jail before being released (see section 6.c.). However, in April 2005 the ILO liaison officer stopped filing forced labor complaints with the Government because authorities threatened to arrest complainants (see section 6.c.).

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

The SPDC continued to rule by decree and was not bound by any constitutional provisions concerning discrimination.

*Women.*—Domestic violence against women, including spousal abuse, remained a problem; however, because the Government did not maintain statistics related to

spousal abuse or domestic violence, it was difficult to measure. There are no laws specifically against domestic violence or spousal abuse, although there are laws related to committing bodily harm against another person. The violations and related penalties range from one year to life, in addition to possible fines. The government-affiliated MWAF sometimes lobbied local authorities, including the police, to investigate domestic violence cases involving spousal abuse. As the MWAF is controlled by wives of regime leaders, police usually investigated domestic violence cases referred to them by the MWAF.

Rape is illegal; however, spousal rape is not a crime unless the wife is under 14 years of age. If the victim is under 14, it is considered rape with or without consent and carries a sentence of 10 years to life. In a case of spousal rape when the woman is between 12 and 14, the maximum sentence is two years; in a case of spousal rape when the woman is under 12, the sentence is 10 years to life. Married women often lived in households with extended families, where social pressure tended to protect the wife from abuse. The Government did not release statistics regarding rape; however, it stated that rape was not common in populous urban areas but occurred more often in remote areas. Nonetheless, it was generally considered unsafe for women to travel during hours of darkness without a male escort, and employers typically had to supply a bus or truck to return female workers to their homes at night. Use of taxis at night was considered particularly hazardous for women because of the risk of rape or robbery. Prostitutes traveling at night typically had to pay substantial additional fees to taxi operators or risk being raped, robbed, or turned over to the police. There were credible reports from NGOs and diplomatic sources that prostitutes taken into police custody were sometimes raped or robbed by the police. Incidents of rape in conflict areas and other ethnic minority areas continued, particularly by military personnel garrisoned in those regions (see section 1.g.).

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

There are no laws against sexual harassment.

Consistent with traditional culture, women kept their own names after marriage and often controlled family finances. However, women remained underrepresented in most traditional male occupations and were effectively barred from certain professions, including the military officer corps. Poverty affected women disproportionately. Women did not receive equal pay for equal work on a consistent basis. Women legally are entitled to receive up to 26 weeks of maternity benefits; however, in practice these benefits often were not accorded them.

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

*Children.*—Children under the age of 18 constituted approximately 40 percent of the population. Children were at high risk, as deteriorating economic conditions forced destitute parents to take them out of school to work in factories and teashops or to beg. Some were placed in orphanages. With few or no skills, increasing numbers of children worked in the informal economy or in the street, where they were exposed to drugs, petty crime, risk of arrest, sexual abuse and exploitation, and HIV/AIDS.

There was no adequate child protection or juvenile justice system. Efforts in this regard were severely constrained by lack of resources. The DSW provided limited social welfare services, but there were only a few officially appointed social workers.

The Government continued to allocate minimal resources to public education. According to official figures for fiscal year 2006–07 (April through March), official expenditure allocations for the Ministry of Education comprised 1.9 percent of the total national budget. Public schooling was ostensibly provided free through the 10th standard (approximately age 16). However, on average, public school teachers' pay was equal only to approximately four dollars (5,300 kyat) per month, far below subsistence wages, forcing many teachers either to leave the profession or demand

extra payments from their students. Thus, many families had to pay to send their children to school, even at the primary level. According to a Kachin women's group, families in Kachin State had to pay as much as \$230 (300,000 kyat) for their children to attend 10th standard, an amount above the national average annual income. In some areas where families were not able to afford unofficial payments, teachers ceased work. In response to official neglect, private institutions began to provide assistance in education, despite a legal ban on private schools.

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

The Government promoted education at Buddhist monastic schools in rural areas and subsidized Buddhist universities in Rangoon and Mandalay. In ethnic minority areas, the Government often banned teaching in local languages.

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

Children also suffered from the Government's severe neglect of health care. According to official government figures, the budget for the Ministry of Health in fiscal year 2006–07 amounted to 0.8 percent of the total national budget.

There were no reports that the Government discriminated between boys and girls in the provision of health care. Estimated mortality rates for children under five years of age ranged from 66 (Ministry of Health, 2003) to 109 (UN Development Program, 2004) deaths per 1,000 live births. Almost three-quarters of these deaths occurred within the first year of life, with infant mortality rates from the same sources ranging from 50 to 77 deaths per 1,000 live births, respectively. Many of the infant deaths occurred in the first month of life. All data sources estimated rural mortality to be at least 25 percent higher than urban mortality, with the highest mortality in mountainous areas and the central dry zone. According to UNICEF, up to 56 percent of child deaths from age six to 59 months could be attributed to the effects of malnutrition and infection. Countrywide, the prevalence of underweight and stunting among children was 32 percent and wasting was 8.6 percent. In 2005 the head of the World Food Program estimated that 33 percent of children were chronically malnourished in spite of its food-for-work programs in Shan State and the central dry zone.

The law prohibits child abuse, and the Government stated that child abuse was not a significant problem. In 2004 the UN Committee on the Rights of the Child concluded that it remained "seriously concerned at the lack of appropriate measures, mechanisms, and resources to prevent and combat domestic violence, including physical and sexual abuse and neglect of children; the limited number of services for abused children; as well as the lack of data on the aforementioned."

Child prostitution and trafficking in girls for the purpose of prostitution—especially Shan girls who were sent or lured to Thailand—persisted as a major problem (see section 5, Trafficking). In Rangoon and Mandalay, diplomatic representatives noted widespread employment of female prostitutes who appeared to be in their early teens and for whom there was reportedly a high demand. Additionally, some brothels offered young teenage "virgins" to their customers for a substantial additional fee.

The official age of enlistment in the army is 18 years. The Government stated that its official policy is to avoid conscripting child soldiers; however, recruiters frequently ignored the policy. In 2004 the Government established the Committee for Prevention Against Recruitment of Minors for Military Service, which purportedly issued rules and regulations to punish those who recruit child soldiers. On August 22, SPDC Secretary-1 Lieutenant General Thein Sein told the committee that minors themselves were to blame for the problem because they lied about their true age or did not inform their parents that they had enlisted in the armed forces. Thein Sein claimed that when parents came to military camps to take back their underage sons, the children often were returned after the cases were investigated. In a tacit admission that there remained underage soldiers in the armed forces, Thein Sein stated that soldiers with stunted growth were not sent to forward areas but were instead given light work duties at military bases, and that illiterate youth were sent to army schools to be educated.

According to Ministry of Defense sources, the army discharged 55 soldiers between February and May, including four who were underage. A separate Ministry of Foreign Affairs report in November stated that as of September the army had discharged 16 new recruits, four of whom were underage. On October 24, the Government gave the ICRC a list of 17 complaints of recruitment of underage soldiers and declared the cases were all resolved.

The army continued to use forced recruitment of child soldiers. On March 21, government soldiers detained 17-year-old Maung Han Zaw who lived in Tharkayta Township, Rangoon Division. A few days later his parents traveled to Military Training School Number 5 at Yai Ni near Pinyinmana to bring their son home. The commanding officer, Captain Aye Thit, allowed them to meet their son but would not permit him to return home.

In May a unit of Light Infantry Brigade 365, commanded by Sergeant Major Thein Tun, reportedly lured 11 ethnic Chin boys from an orphanage in Myoma Ward, Tiddim, Chin State. After forcing them to work at Kalembo airport, the soldiers transported the orphans to a military camp in Kalembo, Sagaing Division, to become soldiers. Two older boys who tried to escape were punished and transferred to Kalewa military camp. One of the older boys, Vung Ki Thang, was reported to be only 15 years old.

On August 3, police at Meiktila, Mandalay Division, reportedly arrested three 15-year-old children—Than Naing Aye, Lin Lin, and Yan Lin Maung—on charges of theft. On August 22, police officer Min Aung Thein reportedly sold the children to Taung Thone Lone army recruitment center in Mandalay for \$50 (65,000 kyat).

In the past army recruitment drives targeted children to meet quotas for the ostensibly all-volunteer army, but anecdotal evidence, at least in Rangoon, suggested this practice had become less common.

The Government invited UNICEF to visit military recruitment centers, but UNICEF declined because it deemed government-organized tours to be of little value. UNICEF offered to help reintegrate discharged underage soldiers into society and to conduct awareness workshops for trainers of military recruiters in international humanitarian law, the Convention on the Rights of the Child, the country's child laws, and HIV/AIDS. The Government did not formally respond to UNICEF's offer.

Ethnic minority cease-fire groups and insurgent armies, particularly the United Wa State Army, also forcibly conscripted child soldiers. Field observers reported seeing numerous Wa soldiers who clearly were underage. Inaccessibility to the areas where these groups operated made it difficult to obtain reliable data on the extent of the problem among ethnic armies.

In January the Government claimed that a group of soldiers who surrendered from the SSA-S included several teenagers, of whom the youngest, Private Sai Yi, was 13 years old. Colonel Yot Suk, head of SSA-S, denied that any of his soldiers were under the age of 18.

During the year representatives of the KNU and the KNPP, two ethnic resistance groups, met with UNICEF and UNHCR representatives in Thailand to request that they be removed from the list of groups who recruited child soldiers. Admitting that the KNU recruited child soldiers as recently as 2000, the KNU spokesperson claimed that the KNU had adopted a policy not to accept underage recruits. However, the spokesperson acknowledged the possibility that low-level officers in the field could have continued to recruit children. On July 31, the KNU wrote to the UN Special Representative of the Secretary General for Children and Armed Conflict to request that the UN remove it from the list of armed groups who use child soldiers. The KNU claimed it was against their policy to recruit underage soldiers and said it would take action against anyone who recruited underage children into their armed wing. The KNPP spokesperson said his group sent underage volunteers to school.

In August a spokesperson for the Coalition to Stop the Use of Child Soldiers noted that the Government remained very secretive about child recruitment problems, while the KNU and the KNPP held open discussions on the issue. The spokesperson estimated that there were fewer than 50 child soldiers in the two ethnic armies.

Several international NGOs and agencies promoted the rights of children in the country, including the ICRC, World Vision, Save the Children UK, CARE, UNICEF, the UN Development Program, and foreign governments.

*Trafficking in Persons.*—Although there are laws specifically prohibiting child prostitution and child pornography, they were not enforced effectively. Trafficking, including of children, continued, but there were no reliable statistics regarding its extent. Government data showed that Thailand was the primary destination for trafficking victims, with much smaller numbers going directly to China, Malaysia, Bangladesh, Korea, and Macau.

Trafficking of women and girls to Thailand, China, Bangladesh, Malaysia, Korea, Japan, and countries in the Middle East for sexual exploitation, factory labor, and as household servants remained a problem. Shan and other ethnic minority women and girls were trafficked across the border from the north; Karen and Mon women and girls were trafficked from the south. There was evidence that internal trafficking generally occurred from poor agricultural and urban centers to areas where prostitution flourished (trucking routes, mining areas, military bases, and industrial estates) as well as along the borders with Thailand and China. Men and boys also reportedly were trafficked to other countries for sexual exploitation and labor. While most observers believed that the number of these victims was at least several thousand per year, there were no reliable estimates.

In a report released in May 2005, the Kachin Women's Association of Thailand documented trafficking of Kachin girls and women to China ostensibly to work but instead forced into prostitution or to become brides to Chinese men who could not find local brides. Based on interviews with 85 Kachin women who escaped their captors, 10 percent were trafficked domestically and up to half became brides of Chinese men, some in distant northeastern provinces of China.

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

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

The Government made limited progress against trafficking in persons. The Government reported that in 2005 it convicted 68 human traffickers out of 203 cases. Most received sentences of less than five years, but during the year two traffickers received life sentences. Since the Government did not accurately distinguish between human traffickers and smugglers, the actual number of traffickers convicted was probably less.

As in the previous year, the Government's pervasive security controls, restrictions on access to information, and lack of transparency prevented a comprehensive assessment of trafficking in persons activities in the country. While experts agreed that human trafficking from the country was substantial, no organization, including the Government, was able or willing to estimate the number of victims.

Officials recognized the importance of preventing cross-border trafficking and prosecuting traffickers, but they did little to combat domestic trafficking and took no action on forced labor. The Government worked with the UN Inter-Agency Project on Human Trafficking to sponsor seminars for national, state/division, and lower level authorities and received training from the Asia Regional Trafficking in Persons Project. New government guidelines issued early in the year reduced the abilities of many international NGOs, including those working on trafficking issues, to implement and monitor programs; however, many activities were allowed to continue. In January the Government signed the ASEAN Mutual Assistance in Criminal Matters Agreement. Cooperation with Thailand and China on enforcement and repatriation continued to increase.

UN agencies and NGOs credited the Government for demonstrating political will to combat cross-border trafficking and for improving cooperation with the international community. The Government increased the size of the antitrafficking unit from 40 to 65 officers.

During the year the Government hosted national and state/division level seminars to inform officials from relevant ministries about the antitrafficking law enacted in September 2005. The Government established a working group that began to revise the national action plan to reflect the 2005 law.

The Ministry of Home Affairs maintained its position that there was no complicity of government officials in trafficking; however, corruption among local government officials was widespread. NGOs reported that government officials were complicit in trafficking, although it appeared limited to local and regional officials turning a blind eye to trafficking activities. NGOs also reported that individual police officials were likely involved in extorting money from economic migrants and others leaving the country.

The Government had four vocational training centers and one house to shelter female trafficking victims; male victims were temporarily sheltered in training schools. The Government insisted that repatriated victims stay for one month in

these centers, where they were confined against international norms of victim protection. During the year the Government took action against 274 offenders and returned 419 trafficking victims, according to police reports.

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

The Government made it difficult for single women to obtain passports or marry foreigners, ostensibly to reduce the outflow of women as victims of trafficking (see sections 1.f. and 2.d.). In addition, regulations forbid females under the age of 25 from crossing the border unless accompanied by a guardian, but most trafficked women crossed the border without passports.

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

Three international NGOs and some local NGOs offered poverty alleviation and education programs designed to counter trafficking. These programs were moderately successful.

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

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

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

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

*National/Racial/Ethnic Minorities.*—Wide-ranging governmental and societal discrimination against minorities persisted. Animosities between the country's many ethnic minorities and the Burman majority, which has dominated the Government and the armed forces since independence, continued to fuel active conflict that resulted in serious abuses during the year. The abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of Chin, Karen, Karenni, Rohingya, Shan, Mon, and other ethnic groups by SPDC soldiers. Some armed ethnic groups also may have committed abuses, but on a much smaller scale than the Government army (see sections 1.a., 1.c., 1.f., and 1.g.).

Only persons who were able to prove long familial links to the country were accorded full citizenship. Native-born but nonindigenous ethnic populations such as Chinese, Indians, and Bengalis were denied full citizenship and excluded from government positions. Members of the Rohingya Muslim minority in Rakhine State were not considered citizens and continued to experience severe legal, economic, and social discrimination. The Government denied citizenship to most Rohingyas on the grounds that their ancestors did not reside in the country for one year prior to the start of British colonial rule in 1824, as required by the country's highly restrictive citizenship law.

Rohingya Muslims did not have access to state-operated schools beyond primary education because the Government reserved secondary state schools for citizens. Those excluded were also ineligible for most civil service positions.

Persons without full citizenship faced restrictions in domestic travel (see section 2.d.). They also were barred from certain advanced university programs in medicine and technological fields.

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

The Government continued to resettle groups of ethnic Burmans to various ethnic minority areas through the establishment of “model villages” in Rakhine State and other regions of the country (see section 1.f.). Government jobs in ethnic minority regions, including as teachers, were increasingly reserved for ethnic Burmans, according to reports from Kachin and Kayah states.

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

*Other Societal Abuses and Discrimination.*—Many citizens viewed homosexuals with scorn. Penal code provisions against “sexually abnormal” behavior were applied to charge gays and lesbians who drew unfavorable attention to themselves. Nevertheless, homosexuals had a certain degree of protection through societal traditions. Transgender performers commonly provided entertainment at traditional observances. Some were spirit (nat) worshippers and, as such, had special standing in the society. They participated in a well-established week-long festival held near Mandalay every year. The event was considered a religious event, free of sexual overtones or activities, and was officially approved by the Government. No one, including the military or police, interfered with the festival.

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

In August local authorities pressured and intimidated Sayadaw Einthariya, a monk from Mahasi Yeiktha Monastery in Yenangyaung, Magway Division, to stop assisting HIV/AIDS victims, claiming it was unsuitable conduct for a monk. He was threatened with arrest by the township clergy coordination committee. The pressure appeared to be inspired by political rather than religious considerations, since the monk had cooperated with NLD activists supporting HIV/AIDS programs in the absence of any viable government program for HIV/AIDS patients.

On August 13, authorities detained 11 HIV/AIDS activists at Maggin Monastery near Rangoon as they prepared for a ceremony to honor HIV/AIDS victims. The authorities claimed the group, which had ties to the NLD and the 88 Generation Students, had not properly registered to stay overnight at the monastery. The authorities reportedly pressured the monastery to select a new senior abbot more supportive of the regime. On August 14, the authorities released the activists without charging them.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law permits workers to form trade unions with the prior consent of the Government; however, no free trade unions existed in the country.

Domestic and internationally affiliated unions are not allowed, nor is individual membership in unions. The Government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from having contact with the International Transport Workers’ Federation, and the Government often refused to document seafarers who were abroad. Without proper documentation, it was impossible for a seafarer to find regular employment abroad.

The Government criminalized contact with the Federation of Trade Unions—Burma, claiming it was a “terrorist group.” In November nine persons were given prison sentences ranging from eight to 25 years after their arrest in July 2005 for allegedly contacting the federation (see sections 1.a. and 2.a.). In November 2005 one such prisoner, Aung Myint Thein, died while in custody (see sections 1.a., 1.d., 2.a., 2.b, and 6.b.).

*b. The Right To Organize and Bargain Collectively.*—The Government does not allow workers to organize or bargain collectively. The Government’s central arbitration board, which once provided a means for settling major labor disputes, has been dormant since 1988, although the Ministry of Labor reportedly played an arbitration role in settling some disputes since then. Township-level labor supervisory committees existed to address minor labor concerns. During the year authorities intervened



as a mediator in informal labor strikes to ensure peaceful resolutions between workers and employers.

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

According to the law, labor strikes are prohibited, although employees at a number of large factories organized informal strikes during the year and in many cases won higher wages. Most strikes were resolved without government intervention, but in some cases authorities pressured workers and employers for resolution. Employers fired a number of the strike organizers.

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

*c. Prohibition of Forced or Compulsory Labor.*—The law provides for the punishment of persons who impose forced labor on others. However, government and military use of forced or compulsory labor remained a widespread and serious problem, particularly targeting members of ethnic minority groups. Throughout the country, international observers verified that the Government routinely forced citizens to work on roads, construction, and other maintenance projects. Citizens also were forced to work in the military-owned industrial zones.

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

The ILO corroborated reports of serious forced labor abuses in Rakhine State and continued to call upon the Government to stop the use of forced labor. Local authorities continued to use forced labor to complete major public works projects on time.

In May credible sources in Rakhine State reported that local residents from the villages of Kyaukpan Du, Thawin Chaung, Innidin, Mrin Lwet, Atwin Byin, Chut Byin, Owe Thima, Thein Daung, and Taungmaw from Buthidaung and Rathedaung townships were forced to construct an 18-mile-road over the Mayu mountain range between the model village of Tazin Myint in Rathedaung Township and Kyaukpandu Village in Maungdaw Township. Although the authorities promised each worker \$0.38 (500 kyat) per day, they failed to pay them. When the villagers refused to work any more, the authorities reportedly forced them to work at gunpoint.

In September 2005 the NGO Amnesty International reported that the requirement for porters decreased as armed resistance to the Government lessened and the army established itself in former hostile territory. However, the NGO claimed that the decreasing need for porters was replaced with an increase in other types of forced labor as the army built new barracks and other infrastructure. The report also noted that the KNLA and the DKBA were guilty of some of the same abuses committed by the army, including confiscation of food from already malnourished villagers, who were forced to provide rice, livestock, and other valuables to soldiers of both sides. During the year NGOs presented credible evidence of increased use of ethnic Karen villagers as porters by the army in its ongoing military attacks against Karen villages in Bago Division, Karen State, and Kayah State.

In recent years the ILO and other international agencies have seen changes in the Government's approach to conscripting forced labor. The ILO reported that military units no longer tended to issue written orders to village heads to provide forced labor but instead gave verbal instructions. The ILO also reported that in some cases the Government substituted demands for forced labor with demands for forced contributions of materials, provisions, or money. Throughout the year there were frequent and widespread reports of soldiers forcing contributions of rice and other commodities from ethnic minority villagers. The ILO reported that it appeared the Government occasionally paid workers for forced labor, but the payments were usually well below prevailing wage rates.

The ILO reported that since 2002 the Government increasingly substituted prisoners not sentenced to hard labor for civilians as forced laborers, possibly due to international pressure against the use of civilians. There reportedly were new labor

camp, but many were temporary, existing only until the completion of a specific work project. During the year the army reportedly transported convicts from prisons throughout the country to serve as porters in its ongoing military attacks against Karen villages in Bago Division, Karen State, and Kayah State. The convicts faced dangers from minefields and exposure to gunfire while working with inadequate food and no medical care.

Reports of forced labor for smaller projects in villages countrywide persisted. Authorities also continued to use forced labor countrywide to maintain existing civil infrastructure, including transportation and irrigation facilities. Authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations (see section 6.d.).

There were reports from nearly every division and state that authorities forced citizens to plant physic nut trees on public and private property as part of the SPDC's campaign to produce more biodiesel fuel. Those who tried to avoid planting physic nuts were frequently threatened with fines if they did not participate.

In May businessmen reported that Light Infantry Battalion 141 and Northern Commander Major General Ohn Myint forced ethnic Kachin in the villages of Yinna Pinlong, Min Thar, Man Khin, Shwe Nyaung Pin, Hu Kat, Ta Kat, and Nga Pyaw Daw in Kachin State to provide labor to upgrade the road between Shinbo and Myitkyina. Besides working without pay, the workers had to provide their own food and shelter. Those who could not work reportedly had to find a substitute or pay a fine of \$15.40 (20,000 kyat).

There were no developments in the November 2005 death of a man from Tharat Cho Village in Ponnagyun Township, Rakhine State, who returned home seriously ill after Battalion 550 officials forced him to help construct a military base.

In December 2005 local PDC authorities in Myothit Village, Ngathanggyaung Township, Ayeyarwady Division, arrested carpenter Ko Than Htaik, detained him at the village PDC office, and severely beat him. The authorities accused him of failing to provide involuntary labor to build a road and not providing funds for village militia training. His family admitted him to the local hospital, where he died soon after as a result of the beating. The Yaykyay police arrested local PDC officials who were involved in the beating, including Aung Myint Thein, chairman of the village PDC.

The Government refused to pay compensation for the death of Win Lwin, who died while performing forced labor in Magway Division in 2004.

From 2004, the first year that private citizens voluntarily approached the ILO to report alleged violations, until September 2005 the ILO office in Rangoon received 102 cases of forced labor to investigate. The ILO forwarded 59 of the cases to the Government's committee on forced labor. The committee responded to all of the cases, and a total of 10 persons were found guilty and sentenced. The committee did not implement adequate mechanisms for the reporting, investigation, and prosecution of incidents of forced labor.

Beginning in April 2005 the ILO stopped pursuing forced labor cases because the Government stated that it would prosecute any person who made what the Government deemed a "false" complaint. However, the ILO liaison officer continued to receive credible reports of forced labor throughout the year.

At its June conference, ILO members noted the Government's lack of progress on forced labor issues and debated additional actions to secure compliance. Members established deadlines for action on two items: a moratorium on prosecution of forced labor complainants, including existing prisoners and ongoing cases, by the end of July; and agreement on a mechanism to handle forced labor claims by the end of October. On June 6, the Government released Su Su Nway, a labor activist imprisoned in 2005 who had successfully prosecuted local officials from Kawhmu Township, Rangoon Division, on forced labor charges. The Government also released a second prominent labor activist during the year, and on September 20, it dropped a case against three villagers, but it did not address other ILO concerns.

At its November meeting, ILO members reviewed possible further actions, including referral to the International Court of Justice. On November 17, the ILO Governing Body voiced its "great frustration" at the Government's failure to agree on how to deal with complaints of forced labor and requested that it "conclude with the ILO such an agreement as a matter of utmost urgency."

Forced recruitment of soldiers, including children, continued (see section 5).

The law does not specifically prohibit forced and bonded labor by children, and forced labor by children continued to be a serious problem (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets a minimum age of 13 for the employment of children, but in practice the law was

not enforced. Child labor was prevalent and highly visible. Working children were noticeable in cities, employed primarily in small or family enterprises. In the countryside, children worked in family agricultural activities. Children working in the urban informal sector in Rangoon and Mandalay often began work at very young ages. In cities child workers were found mostly in the food processing, street vending, refuse collecting, and light manufacturing industries, and as restaurant and teashop attendants.

The law does not prohibit compulsory labor by children, and children were subjected to forced labor. Authorities reportedly rounded up teenage children in Rangoon and Mandalay and forced them into portage or military service (see section 5).

The DSW provided support and schooling for a small number of orphaned children or others who were in some other way estranged from their families. One of the aims of this assistance was to help the children become more capable of resisting exploitation in the future.

No specific government agency existed to enforce child labor laws. In December UNICEF completed a review of legal provisions for working children found in 10 separate labor laws enacted from 1923 to 1993 and subsequently made many recommendations for protecting children who work.

*e. Acceptable Conditions of Work.*—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. After a significant public service salary increase in April, the minimum monthly wage for salaried public employees was set at the market equivalent of \$11.50 (15,000 kyat) for what was in effect an eight-hour workday. The rate for day laborers was raised to \$0.38 (500 kyat) per day. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned by senior officials provided a worker and family with a decent standard of living. Low real wages in the public sector fostered widespread corruption and absenteeism. In the private sector, urban laborers earned approximately \$0.38 to \$0.75 (500 to 1,000 kyat) per day, while rural agricultural workers earned approximately half that rate. Some private sector workers earned substantially more: a skilled factory worker earned approximately \$19 (25,000 kyat) per month, according to private sector employers.

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

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

## CAMBODIA

Cambodia is a constitutional monarchy with an elected government and a population of approximately 13.8 million. Following elections in 2003, in 2004 the Cambodian People's Party (CPP), led by Prime Minister Hun Sen, and the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC), led by Prince Norodom Ranariddh, formed a coalition government. However, the CPP dominated the three branches of government and other national institutions, with most power concentrated in the hands of the Prime Minister. Although the civilian authorities nominally controlled the security forces, in practice security forces answered to the CPP leadership.

The Government's human rights record remained poor. Government agents committed extrajudicial killings, and security forces acted with impunity. There was little political will to address the failure by government authorities to adhere to the rule of law. Detainees were abused, often to extract confessions, and prison conditions were harsh. Human rights monitors reported arbitrary arrests and prolonged pretrial detention, underscoring a weak judiciary and denial of the right to a fair trial. Land disputes and forced evictions, often accompanied by violence, were a

growing problem. The Government restricted freedom of speech and press through the use of defamation and disinformation suits, controlled or influenced the content of television and radio broadcasts, and sometimes interfered with freedom of assembly. Corruption was endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. Domestic violence and child abuse occurred. Education of children was inadequate, and trafficking in women and children persisted. The Government offered little assistance to persons with disabilities. Antiunion activity by employers and weak enforcement of labor laws continued, and child labor remained a problem.

In a positive turn, in January the Government released five human rights activists jailed in 2005 on charges of defamation and incitement. Parliamentary immunity was restored to opposition leader Sam Rainsy, who returned to the country without incident in February, as well as to two other opposition parliamentarians. Opposition parliament member Cheam Channy was released from prison following a royal pardon. The Government also partially decriminalized defamation.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed politically motivated killings. However, human rights nongovernmental organizations (NGOs) reported that extrajudicial killings continued to occur.

During the year NGOs recorded at least 44 cases of extrajudicial killings. NGOs noted that in 26 cases the perpetrators evaded justice following the crimes; in the other cases the perpetrator was either arrested or paid restitution to the victim's family. Nine killings were committed by the military, four by police, two by bodyguards of government officials or wealthy persons, two by guards in prisons or rubber plantations, and one by a member of the forest authority. NGOs also recorded that in at least two cases the perpetrators were convicted, in five they were in detention awaiting trial, and in five others financial restitution was paid to the victim's family as a settlement; no further information was available in the remaining 32 cases.

On March 29, two suspects died while in police custody in Kandal Province. According to the Cambodian Human Rights Action Committee (CHRAC), Pao Rum and Khat Thoeun died in separate districts after police detained them for questioning about theft allegations. CHRAC said that both suspects suffered massive internal injuries, serious burns and bruises on their legs, and broken necks prior to their deaths. The three police officers in charge of Pao Rum's custody in Kandal Stoeung District were suspended pending an investigation into Pao Rum's death. At year's end neither the courts nor the Ministry of the Interior (MOI) had taken further action against the officers. CHRAC reported that Koh Thom District police denied responsibility for the death of Khat Thoeun, alleging that he had been beaten by a military official before being brought to them. NGOs reported that a district military official was detained, questioned for three days, and released; police officers overseeing Khat Thoeun's custody were not charged in the case. At year's end the investigation into Khat Thoeun's death continued.

On June 7, Nong Sam died in a Siem Reap hospital from head injuries received in a beating from Siem Riep provincial police officers. According to an NGO investigation, the police officer in charge, Chhith Bunchhay, arrested Nong Sam for beating his wife, who was also Chhith Bunchhay's sister. A provincial court prosecutor investigated the case but brought no formal charges against Chhith Bunchhay.

Guards of two prisons in Kampong Thom and Battambang killed 10 inmates during prison breaks. On April 9, a prison guard shot one of three inmates attempting to escape from a prison in Kampong Thom Province. The guard, who fled following the incident, was charged with intentional murder, but at year's end authorities had not located him.

On June 18, during an attempted prison break from Battambang provincial prison, nine inmates and one guard were killed inside the prison when inmates took a guard hostage. Prison authorities did not return the dead bodies to families as requested for a funeral but buried them inside the prison compound. Authorities prohibited local human rights staff from investigating the incident. Prison authorities did not provide access to NGOs to investigate.

There were no confirmed reports of politically motivated killings during the year. On April 21, Koeut Chhuon, the Sam Rainsy Party's (SRP) second deputy chief of Yeang Communal Council in Preah Vihear Province's Chamksan District, was killed. Based on preliminary reports, neither human rights NGOs nor the police believed the killing was politically motivated; however, at year's end the investigation was

ongoing. On October 16, SRP activist Thoeung Thear was shot and killed in Kampong Cham Province. A provincial court issued a warrant for the arrest of Long Sopheak, the brother of the deputy district chief, who was seen fleeing the scene, but he remained at large at year's end. On November 18, Man Meth was shot and killed in Prey Veng Province. On December 21, police arrested three persons for the killing. NGOs were unable to confirm if the killing of either Theoung Thear or Man Meth was politically motivated.

There were no developments in the 2005 killings of five SRP activists or in the March 2005 case of an attempted escape from Trapoeung Phlong Prison in which 19 prisoners and the prison director were killed. At year's end the Phnom Penh Appeals Court had taken no action regarding the March 2005 killing of five protesters by government security forces in the village of Kbal Spean.

On August 5, retired King Norodom Sihanouk stated to the families of the two persons convicted in 2005 for the killing of union activist Chea Vichea that he believed they were not the killers and asked the Government to reconsider their cases. Chea Vichea's family and civil society demanded that the Government free the two men, and an eyewitness to the killing recanted an earlier statement to police authorities and said neither man was responsible for the killing. On October 6, the appeals court scheduled a hearing, but it was postponed because one of the three judges was ill. At year's end no date had been set for a new hearing, and the convicted persons remained in prison.

No legal action was taken against a police officer for the 2004 killing of a prisoner awaiting trial in Takeo Province.

There were no developments in the cases of a FUNCINPEC deputy village chief or an SRP activist, who were killed in separate incidents in 2004 in Kompot Province.

On August 2, the Phnom Penh Municipal Court issued a warrant for the arrest of Heng Pov, former under secretary of state of the Ministry of Interior, who was charged with multiple counts of premeditated killings and involvement in illegal arrests and detentions. He was alleged to have been involved in the 2003 Sok Sethamony killing. Heng Pov denied the allegations and sought political asylum abroad. On September 18, the Phnom Penh Municipal Court convicted Heng Pov in absentia for crimes including the murder of Judge Sok Sethamony and sentenced him and five other police officials to 18 years in prison. On December 21, Malaysian authorities deported Heng Pov, and he was taken to Prey Sar Prison to begin serving his sentence. Authorities permitted Heng Pov to meet with his legal counsel, but family members and NGOs were not allowed to see him.

Casualties by mines and unexploded ordinances (UXO) remained high but decreased sharply compared with 2005. According to the Cambodia Mine/UXO Victim Information System, casualties from land mines and UXO totaled 440 cases during the year, a decrease from 875 in 2005. The casualties included 58 deaths, down from 168 deaths in 2005; 91 amputations, down from 173; and 58 other injuries, down from 534.

Vigilante justice as well as killings by mobs persisted. NGOs reported that at least six persons were killed by mobs during the year. Few perpetrators were arrested. In some instances authorities could not protect suspects from angry mobs. NGOs noted that a majority of mob killings were related to thefts, robberies, or suspected witchcraft. On February 5, a man was beaten and killed following accusations that he practiced witchcraft. No one was arrested in connection with the killing. On August 5, Sam Roeun, suspected of stealing a boat, was caught in Kratie Province's Prey Prosap District, placed in a sack weighted with stones, and thrown into a river. Police stated that villagers killed Sam Roeun because they did not trust the judicial system. A human rights NGO based in Kratie reported that six villagers were charged with Roeun's killing and detained at year's end awaiting trial.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, beatings and other forms of physical mistreatment of prisoners continued to be a serious problem.

There were credible reports that military and civilian police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. Human rights NGO LICADHO reported that in the first six months of the year, authorities tortured 96 detainees, of whom 78 were tortured in police custody and 18 in prisons. Based on interviews with thousands of detainees from 18 of the country's 24 prisons, LICADHO added that kicking, punching, and pistol-whipping were the most common methods of physical abuse, but techniques also included electric shocks, suffocation, caning, and whipping with wire. ADHOC, another NGO monitoring human rights across the country, recorded approximately

150 cases of physical assaults and torture committed by police and military agents. The constitution protects suspects from any form of torture; however, NGOs reported that it was not uncommon for police to torture detained suspects until they confessed to a crime. Based on LICADHO's report for the year, 191 suspects, including 14 women, were tortured while in police custody, and 22 others were tortured in prison. According to ADHOC's interviews during the year with 300 inmates in the country's 24 prisons, 55 inmates said they were tortured following their arrests and prior to their detention in a prison. ADHOC's interviews disclosed that half of the torture incidents occurred during police custody, while the other half occurred during either military police custody or at the offices of local authorities. Based on the responses of court officials, courts used forced confessions as legal evidence during trial. Additionally, government officials and those in their employment used violence to suppress the weak. The NGOs noted that during the year there were 167 cases of physical assaults by local authorities, government agents, or the bodyguards of the rich and powerful, compared to 154 cases in 2005 and 145 cases in 2004. The NGOs noted that the Government frequently expressed ignorance of civil society's demands for abusers to be brought to justice. The same report stated that authorities were disciplined in only 15 percent of all cases.

On January 28, six police officers, including the head of the Phnom Penh Municipal Police Minor Crime Unit, were arrested for torturing a woman to death and other killings. On July 21, the Phnom Penh Municipal Court convicted the officers and sentenced them to 12 years each in prison.

On February 14, two policemen from Border Protection Unit 701 suspended a 13-year-old boy upside down and beat him; the policemen accused the boy of assaulting the police. After NGO intervention, the police officers paid approximately \$500 (2.1 million riels) in compensation to the boy. No legal actions were taken against the officers.

On March 29, two suspects died in separate incidents due to police brutality in two districts of Kandal Province. CHRAC found that both died as a result of severe torture (see section 1.a.).

On April 18, following a dispute between Kong Salath and other villagers, police commissioner Team Sangkriem of Tbeng Meanchey District, Preah Vihear Province, and three other police agents detained Kong Salath without a warrant and beat him while he was handcuffed and his legs shackled. An NGO reported that the commissioner detained Salath illegally for one night before he let Salath's father take him for medical treatment. In June the commissioner was removed to another province. At year's end the provincial court reportedly was awaiting the results of a police investigation before deciding whether to take legal action against the commissioner.

On April 24, Battambang military police arrested a motorist without a warrant and accused him of robbery. The military police severely beat him at the scene and additionally abused him and covered his head with a sheet of plastic. Despite a complaint from a local human rights NGO to a court and to the commander of the military police unit, by year's end no disciplinary or legal actions had been taken against the abusive officers.

On June 7, Nong Sam died in a Siem Reap hospital from head injuries caused by a beating from a group of Siem Riep provincial police officers (see section 1.a.).

On December 29–30, Tous Sdoeung died due to injuries sustained in detention. Kompong Thom Provincial Police Chief Mao Pov confirmed that the man was tortured by two military police officers. On December 29, Sdoeung was reportedly arrested after burning down his own house and beating his wife while drunk. His badly beaten body was returned to his family the next day. Sdoeung's family initially agreed not to charge the officers if \$650 (approximately 2.73 million riels) in compensation was paid, but they later appealed for more financial assistance and filed a complaint seeking an additional \$1,250 (approximately 5.25 million riels). The case was taken up by the provincial court, but at year's end no action had been taken against the officers.

At year's end no legal action had been taken in the 2005 complaint filed against a prison guard who allegedly mistreated a female prisoner who refused his sexual advances, although according to NGO reports the guard was transferred in June to another province.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards and were life threatening. Prison conditions remained harsh, and government efforts to improve them continued to be hampered by a lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security. According to prison authority statistics, there were 10,250 inmates in prison as of October, compared with 8,943 inmates in 2005. Despite the relocation of three prisons to larger facilities—in Battambang,

Kandal, and Kompong Thom provinces—and renovations to other prisons during the year, most prisons remained overcrowded. According to LICADHO, which monitored 18 of the 24 prisons, the 18 prisons had a capacity of 6,410 inmates but held a total 8,835 inmates. Prison authority statistics recorded that from January to November, 90 inmates died, mainly of AIDS and tuberculosis. NGOs recorded that there were 12 prison escapes during the year, resulting in 12 inmates killed, 24 recaptured, and 17 still at large at year's end. NGOs reported that two inmates in Koh Kong prison died in August, a few days following a fierce fight inside their cell; however, prison authorities claimed both died of disease.

In 2005 an NGO noted that the average number of inmates placed in a 23-by-26-foot cell had increased from 45 to between 50 and 60. In some prisons, after escape attempts authorities used shackles and held prisoners in small, dark cells.

Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, exacerbating malnutrition and disease. Although during the year the Government increased ration allowances from \$0.23 (1,000 riels) to \$0.36 (1,500 riels) per day for each prisoner's food, NGOs noted that food rations for inmates were still inadequate. According to human rights organizations, a culture of corruption existed whereby prisoners whose families bribed prison authorities received better treatment than prisoners who could not afford to pay bribes. Regulations permitted families to provide prisoners with food and other necessities, and prisoners depended on such outside assistance; however, families often were compelled to bribe prison officials to be allowed to provide assistance or to gain access to visit inmates. In 2005 NGOs reported that 89 prisoners died for lack of food or medication or of disease contracted or aggravated while incarcerated.

On April 9, prison guards shot and killed one of three inmates who escaped prison in Kompong Thom Province (see section 1.a.).

On June 11, 12 pretrial detainees charged with murder escaped from Prey Sar Prison. A prison guard suspected of helping the inmates was arrested. NGOs blamed the escape on prison authorities' negligence and corruption.

On June 18, nine inmates and a guard of the prison in Battambang Province were killed inside the prison when inmates took the guard hostage and tried to escape (see section 1.a.).

There were reports that officials demanded bribes before releasing inmates who had served their full jail terms.

In most prisons there was no separation of adult and juvenile prisoners, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses.

The Government generally continued to allow international and domestic human rights groups to visit prisons and provide human rights training to prison guards. However, NGOs reported that at times cooperation from local authorities was limited. Prison monitoring NGOs complained that beginning in March the Government curtailed their right to monitor the country's 24 prisons. Battambang prison officials did not give access to human rights organizations to investigate the killing of nine inmates who were killed during their attempted June 18 escape. The MOI continued to require that lawyers, human rights monitors, and other visitors obtain permission prior to visiting prisoners. The MOI withheld such permission in some politically sensitive cases. NGOs were not allowed to interview prisoners in private.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government generally did not respect these prohibitions. ADHOC reported that 90 persons were illegally arrested and detained during the year. ADHOC believed that the actual number of arbitrary arrests and detentions was higher, because some victims in rural areas did not file complaints due to difficulty in traveling to the NGO's offices or out of fear for their family's security. According to ADHOC, police were at fault in more than half of the cases, and members of the armed forces and military police were responsible for almost 10 percent; the other cases were committed by civil servants, local government officials, or officials from the judiciary. ADHOC's report stated that most illegal detainees were subsequently freed following detainee complaints, interventions by human rights NGOs, or payment of bribes. Human rights NGOs noted that approximately half of the cases were resolved by release of the victim or payment of compensation to the victim as well as release. The other cases generally went to court, and the victims were held until the case was heard by a judge. The report concluded that neither legal nor disciplinary actions were taken against the persons responsible for the illegal actions.

*Role of the Police and Security Apparatus.*—The General Commissariat of the National Police, which is under the supervision of the MOI, manages all civilian police units. The police forces are divided into those who have the authority to make ar-

rests, those without such authority, and the judicial police. Military police are permitted to arrest civilians only when authorized by local governments.

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

Police, prosecutors, and judges are required by law to investigate all complaints, including those of police abuses; however, in practice judges and prosecutors rarely conducted an investigation prior to a public trial. The presiding judge passes down the verdict based on written reports from police and witness testimonies. In general police received little professional training. Police who failed to prevent or respond to societal violence were rarely disciplined.

*Arrest and Detention.*—The law requires police to obtain a warrant from a prosecutor prior to making an arrest, but police may arrest without a warrant anyone caught in the act of committing a crime. The law allows police to take a person into custody and conduct an investigation for 48 hours, excluding weekends and government holidays, before charges must be filed; however, authorities routinely held persons for extended periods before charging them. Many prisoners, particularly those without legal representation, had no opportunity to seek release on bail. Accused persons legally are entitled to a lawyer, but prisoners routinely were held for several days before gaining access to a lawyer or family members. According to the UN High Commissioner for Human Rights (UNHCHR), such prolonged detention largely was a result of the limited capacity of the court system.

Due to the limited ability to interview inmates during the year, prison monitoring NGOs could not ascertain how many inmates had been detained longer than the legal six-month pretrial detention period. LICADHO reported at least 286 inmates had been detained longer than the six-month limit. In addition, ADHOC reported that at least 40 convicts were not aware of length of their jail terms; prison authorities claimed that the judiciary did not tell them the verdicts.

On October 29, six persons from the provinces of Svay Rieng, Siem Riep, and Kandal were arrested and charged by the Phnom Penh Municipal Court with conspiracy to commit terrorism. Police alleged that the suspects were plotting to bomb the annual Water Festival celebrations in Phnom Penh, which attract an estimated million persons to the city. However, the lawyer of the accused stated that no warrants were shown to his clients when they were arrested, nor were they informed of the charge. The lawyer also stated that the evidence that led to the arrests had not been presented. Court officials replied that the investigation was ongoing and evidence would be presented once the investigation was complete.

CHRAC reported that in Phnom Penh on March 1, Phok Sambath, a Special Airborne Brigade 911 soldier, was detained on orders of General Chap Pheakday, the brigade commander, over a property dispute. On March 8, Sambath's family filed a complaint with human rights organizations. The brigade commander claimed that Sambath was detained for not reporting to duty. Following his release on April 13, Sambath told CHRAC investigators that he had quit the military nearly one year earlier but had not signed any paperwork to that effect; he added that he had not received a salary during that time. CHRAC concluded that the property dispute led to the detention, called the detention illegal, and stated that military officials did not have the authority to judge civil cases. At year's end the property dispute was in the Phnom Penh Civil Court awaiting a decision.

In June Team Sangkriem, police commissioner of Preah Vihear Province, and three police colleagues detained Kong Salath without a warrant and severely tortured him before releasing him after one day. The police commissioner was later transferred from his post following a criminal complaint that an NGO filed with the provincial court. At year's end the investigation was ongoing, and no legal action had been taken against the commissioner (see section 1.c.).

On January 4, Pa Nguon Teang, who worked with human rights activist Kem Sokha, was detained on defamation charges; the Government released him after two weeks.

On January 11, human rights advocate Yeng Virak, arrested in December 2005, was freed on bail. On January 17, Pa Nguon Teang and three prisoners detained in 2005—radio station owner Mam Sonando, detained in October 2005; labor activist Rong Chhun, also detained in October 2005; and Kem Sokha, detained on December 31, 2005—were released and their cases suspended. All had been detained on defamation charges.

*Amnesty.*—On February 5, King Norodom Sihamoni granted pardons to convicted opposition parliamentarians Sam Rainsy, Cheam Channy, and Chea Poch (see sections 1.e. and 3).



*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, but the Government did not respect judicial independence. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges, prosecutors, and court officials.

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

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

On July 3, 17 local and 10 international judges as well as coprosecutors for the Extraordinary Chambers in the Courts of Cambodia (ECCC) were sworn in. On July 21, Ung Choeun, alias Ta Mok, considered a potential defendant before the tribunal, died at a military hospital in Phnom Penh; his death was attributed to old age, tuberculosis, and a history of poor health. Ta Mok, under military detention since 1997, was a zone secretary, Central and Standing Committee member, and commander of the South East Regional Army of the Khmer Rouge.

At year's end the ECCC could not begin judicial performance due to failure to finalize its internal rules. The delay drew increased public concerns that senior leaders of the Khmer Rouge would die prior to the beginning of or during the ECCC's mandate.

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

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

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and the Government did not ensure due process. A report released in March by the Center for Social Development, which monitored nearly 1,000 court cases in one year, indicated that only 15 percent included witness testimony and 71 percent lasted less than 30 minutes. The center's report found that access to lawyers increased in felony cases from 85 percent in 2004 to 97 percent in 2005. Beginning in late 2005, the President of the Phnom Penh Municipal Court banned all reporters from staying inside the court compound following a trial; however, such a ban is not codified in law (see section 2.a.).

Born Samnang and Sok Sam Oeun remained in prison for the murder of Chea Vichea, following a trial marked by serious irregularities and condemned by international observers. On October 6, the appeals court postponed a hearing for the two men. At year's end no date had been set for the court to hear the appeal.

Judges and prosecutors often had little legal training. Early in the year, the Royal School for Judges and Prosecutors began preparing a second group of 55 trainees to become judges and prosecutors.

There remained a critical shortage of trained lawyers, particularly outside Phnom Penh. Persons without means to secure counsel often were effectively denied the right to a fair trial. According to the Bar Association, approximately 30 percent of the country's 300 lawyers were providing legal counsel to poor persons, although this was inadequate to cover the legal needs of all of the country's poor. On August 18, the Association of Lawyers Without Borders signed an agreement with the Bar Association to fund 24 voluntary lawyers to provide legal services to the poor in 21 provinces.

Sworn written statements from witnesses and the accused usually constituted the only evidence presented at trials. The accused person's statements sometimes were coerced through beatings or threats, and illiterate defendants often were not in-

formed of the content of written confessions that they were forced to sign. In cases involving military personnel, military officers often exerted pressure on judges of civilian courts to have the defendants released without trial.

Court delays or corrupt practices often allowed accused persons to escape prosecution. Government officials or members of their families who committed crimes often enjoyed impunity. At year's end authorities had taken no legal action in the case of the June 2005 killing of a man in a house belonging to the family of a provincial police chief.

Although the courts prosecuted some members of the security forces for human rights abuses, impunity for most of those who committed human rights abuses remained a problem. In many criminal cases, the rich or powerful usually paid money to victims and authorities to drop the criminal charges against them. The authorities were known to urge victims or their families to accept financial restitution in exchange for dropping criminal charges (see section 1.a.).

On April 13, a police officer from the Anti-Drug Department and a military policeman accidentally shot and severely injured Sovansocheata, a singer in a Phnom Penh karaoke parlor. The officers paid approximately \$3,000 (12.3 million riels) to the injured woman to settle the criminal case. At year's end neither the local court nor local police authorities had taken legal action against the two officers.

On April 26, Major Phat Sophal and Captain Sim Ry, both of Brigade 70, the military unit charged with defense of Phnom Penh in case of political instability, were arrested by military police in Phnom Penh's Tuol Kork District shortly after they shot and injured a woman. The two officers were released hours later when their commander, General Mao Sophan, intervened. The general subsequently said he punished the two officers by shaving their heads. At year's end no legal action had been taken against the two officers.

On July 1, Lim Srey, a worker in a garment factory, was shot and severely injured by Kuch Panha, a military officer, who was firing at someone throwing stones at his house. Local authorities arrested the officer, but he was subsequently freed after paying an undisclosed amount to the victim.

From November 11 to November 13, three police officers in Siem Riep Province allegedly raped a 12-year-old girl at a police post. NGOs helped the girl, who suffered from mental difficulties, file complaints with the provincial court. The district deputy governor, whose son is one of the accused, admitted to offering \$500 (approximately 2.1 million riels) to the victim's family. The Siem Riep provincial police applied for arrest warrants for the three suspects, but at year's end the court had not acted on the request.

On April 21, in the retrial of three judges, two deputy prosecutors, and two court clerks convicted in December 2005 of corruption and corruption-related conspiracy, the Battambang Provincial Court acquitted the seven officials. The prosecutor protested the new verdicts and filed an appeal. At year's end the appeal was pending at the appeals court. On June 4, the Supreme Council of Magistracy reappointed five of the seven officials to their judicial posts and dismissed one judge and one prosecutor.

At year's end the appeals court had taken no action in the March 2005 land eviction case in which more than 100 government security agents killed five persons and injured eight others in the village of Kbal Spean. According to NGOs, victims' families accepted the Government's offer that returned some of the disputed land with land titles to the families.

The Judicial Reform Council made no significant progress in fulfilling its mandate to develop and implement reform measures. In 2005 the Government, in cooperation with legal experts from donor countries, completed draft laws of the criminal and civil codes and began reviewing them. During the year further action was held up by government efforts to harmonize all the draft legislation.

Human rights groups continued to report that the Government demonstrated its control of the courts by ordering the rearrest of suspects released either by the courts or through extrajudicial processes. Judges cited examples of interference from high-ranking officials tasking them to make rulings in line with political priorities.

Lawyers also noted that some police and prison officials, in violation of the law and with apparent support from other government officials, denied them the right to meet prisoners in private or for adequate lengths of time.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

On February 5, opposition member of Parliament (MP) Cheam Channy, convicted in August 2005 of organizing a shadow army and fraud, was released from prison following a pardon by the King upon the Prime Minister's request. The National Assembly also reinstated his parliamentary immunity.

*Civil Judicial Procedures and Remedies.*—The country has a judiciary in civil matters, and citizens are entitled to bring lawsuits seeking damages for human rights violations. Generally, there are both administrative and judicial remedies. However, the judiciary was generally viewed as corrupt, politically biased, and weak, and persons seldom filed complaints because they did not trust the judicial system. The public was especially distrusting of the judiciary to act in a transparent manner when a case was in conflict with the Government. Enforcing a domestic court order was often problematic. Persons occasionally turned to violence because of their lack of trust in the courts.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law provides for the privacy of residence and correspondence and prohibits illegal searches; however, police routinely conducted searches and seizures without warrants.

Due to the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often was unclear, and most landowners lacked adequate formal documentation of ownership. Following the end of the Khmer Rouge insurgency, a rush to gain possession of lands near potentially lucrative cross-border trade routes exacerbated the ownership problem. Widespread land speculation fueled disputes and increased tensions between poor rural communities and wealthy speculators. The Cadastral Commission, established in 2002 to settle disputes over land that had not been registered or where an owner had not been given a land certificate, continued to perform its functions slowly. The courts under the Ministry of Justice remained responsible for resolving disputes in cases where land had been registered or disputants had been given land titles. On March 15, the National Authority for Resolving Land Disputes was established to adjudicate land cases, but it proved ineffective.

Problems of inhabitants being forced to relocate continued to occur when powerful officials or businessmen colluded with local authorities. Some persons also used the court system to intimidate the poor and vulnerable into exchanging their land for meager compensation. One NGO reported receiving 124 land-related cases in Phnom Penh and 12 other provinces affecting a total number of 15,274 persons during the year. Another NGO reported 460 cases of land disputes during the same period that pitted individuals against local authorities and private businesses. The poor often had no legal documents to support their land claims and lacked faith in the judicial system due to the corruption within the judiciary. Some of those expelled successfully contested these actions in court, but the majority lost their cases.

On January 5, a provincial court ordered the arrest and detention of two persons representing the Ekkareach commune in Ratanakiri Province in a case that involved 108 families and the ownership of more than 494 acres. Khet Sokhai, who claimed to own the 494 acres, initially obtained 148 acres from villagers in 1996 but did not develop the land for several years. In 2004 Sokhai started clearing the surrounding land, where villagers lived and cultivated crops. The villagers protested and filed a complaint with the Cadastral Commission, which took no action. In late 2005 Sokhai filed a complaint with a Ratanakiri court accusing two villagers of obstructing his land-clearing activities. The men were arrested but later released. In early January the Ratanakiri Court judge jailed two other villagers but later released them. Villagers went to Phnom Penh to seek intervention from the National Assembly and the Prime Minister's Office. The National Assembly ordered the local authorities to take action to resolve the problem in the villagers favor. The local authorities reportedly ignored this order, and the attempt to obtain the land continued. An NGO reported that ownership of the land was later transferred from Sokhai to another individual named Piset. Villagers gave in to the intimidation and threats and agreed to accept \$3,000 (approximately 12.6 million riels) in compensation. On July 5, the provincial court ruled that the land be handed to the new owner, which the villagers willingly accepted.

On February 11, approximately 200 villagers of Ratanakiri's Pateh Commune gathered in front of the Commune Office to protest the confiscation of their land by a private company allegedly owned by a sister of the minister of economics and finance. According to an NGO report, the sister came to the area in 2004 trying to buy land from the villagers. At first she used persuasion, but later she reportedly used threats and intimidation with the help of local authorities. Facing the choice of losing their land without compensation or receiving some small payment, the villagers agreed to sell approximately 124 acres. After a drinking party, villagers thumb-printed a document to sell 124 acres of their communal land; none of the villagers read the contract, which in reality stipulated 1,236 in lieu of the agreed 124 acres. The villagers filed complaints with an NGO's assistance, but the Ratanakiri Provincial Court took no action.

On May 30, Prime Minister Hun Sen promised to redistribute 494,210 acres of land to 50,000 disenfranchised farmers in Sihanoukville. He stated that the plan would involve taking the land from rich and powerful officials and transferring it to the poor and landless farmers as social land concessions. However, at year's end no land had been redistributed.

At year's end the appeals court had taken no action in a land dispute resulting in the March 2005 mass eviction in the village of Kbal Spean that resulted in the deaths of five villagers and injuries to several others (see section 1.e.).

At year's end the MOI had taken no action regarding a 2005 land dispute involving indigenous Phnong hill tribe members in Mondulakiri Province and a Chinese company. In August tribal representatives asked the MOI to demarcate the land in question and cede it to the indigenous community.

There were no developments in the 2004 land dispute involving villagers in Pursat and Kompong Chhnang provinces and the Pheapimex Company.

Land disputes were so prevalent that they no longer affected only the poor and minority groups. Son Chhay, an outspoken SRP lawmaker, was embroiled in a land dispute with the Apsara Authority, a government agency, over 7.8 acres of land that he purchased in the 1990s in Siem Riep. Earmarking the land for a planned Culture and Tourism City, the Apsara Authority filed a case with the Siem Riep Provincial Court demanding the lawmaker abide by a compulsory order to sell his land for approximately \$20,000 (84 million riels). The lawmaker demanded the much higher market price of the land and requested that the Apsara Authority prove that the land would be used for public good. On December 18, the Siem Riep Provincial Court ruled in favor of the Apsara Authority and ordered Son Chhay to sell his land at the price stipulated by the compulsory order. At year's end the parliamentarian said he planned to appeal the decision.

Forced evictions became an increasing occurrence in Phnom Penh, and land disputes and evictions became more violent. During the year a local NGO reported the arrest of, or charges against, 126 persons related to land confiscation or forced evictions. Out of these cases, 117 persons were released, and nine were in detention.

In June more than 1,200 families of the Tonle Basac's Sambok Chab community were moved to relocation sites more than 20 kilometers from Phnom Penh. Three persons, including a journalist, involved in a protest against the forceful eviction were arrested and charged with incitement and destruction of public property. Another group of approximately 200 families in the vicinity was also targeted for eviction.

During the June eviction of Sambok Chap residents, local authorities injured an 11-year-old girl and a pregnant woman while destroying their makeshift tent. Enraged villagers rioted and destroyed the buildings used as the village chief's office and attempted to kill the security officer who caused the injuries. Four individuals, including a journalist, were arrested and charged with incitement and destruction of public property. On November 30, the Phnom Penh Municipal Court sentenced the journalist and two other men to two years' imprisonment for destroying public property. The defense lawyers called the verdict unjust and said they would appeal.

In early June approximately 2,000 squatters confronted police officers who were forcing them to leave government-owned land in Kampot Province. The confrontation led to the destruction of wooden bridges connecting the disputed area with the only road providing access to the area. The squatters, who were villagers from other provinces, flocked to Kampot's Chhouk District to stake claims, hoping to sell the land later for profit. Six individuals were arrested for inciting persons to stake land in the area. Another person was arrested later for involvement in the case, and the court sought to arrest five others. On November 28, the Kampot Provincial Court convicted the twelve persons, including the five in absentia, and sentenced three of them to eight years and the remainder to six years in prison for deforestation and staking claims to state-owned land. NGOs representing the defendants appealed the case.

On July 5, MOI forces evicted more than 168 families living near the Preah Monivong Hospital in Phnom Penh. One woman was injured while clashing with police officers. Most of the residents, some of whom were government officials, had lived in the area since 1988. Families of police officers received \$1,300 (5.46 million riels) for relocation, while other families received \$500 (2.1 million riels). In addition to the monetary compensation, each relocated family received a small plot almost 22 miles from Phnom Penh. Infrastructure, including water and electricity, schools, hospitals, and markets, was lacking at the relocation site.

Early in the year, three of the five families remaining in Koh Pich, a small island in the Tonle Bassac River, agreed to move with compensation of \$12 (50,400 riels) per square meter. The last two families demanded the market value of \$25 (105,000 riels) per square meter for their land. In August the Phnom Penh Municipal Court

ordered the villagers to accept the municipality's offer. The families refused and planned to appeal the court's decision. At year's end the appeal court had taken no action in the case.

On August 7, more than 200 villagers from Kandal Province's Ang Snoul District clashed with police officers who blocked them from entering the city to protest a land dispute in their community. Approximately 30 persons were injured; some needed medical treatment for their injuries. Police reportedly used tear gas and electric batons and fired into the air to stop the villagers.

Two land disputes in Prey Veng Province's Peam Chor District resulted in one death and injuries to four others. The first dispute involved 119 acres of land affecting 53 families. On December 14, during a protest staged by villagers against the confiscation of their land, local officials shot and killed a 17-year-old boy. Police did not arrest those responsible for the killing; however, the provincial court charged eight villagers involved in the dispute with robbery. On December 5, local authorities injured two other villagers over the same dispute. On November 26, in a separate dispute, a police officer shot two villagers. The offender reportedly escaped.

Another high profile land dispute case in Koh Kong Province led to the suspicious death of one man and injuries to a woman. In August 400 families in Koh Kong's Sre Ambel District protested the Ministry of Agriculture's concessions of two adjacent 24,700-acre plots to two companies owned by businessman and CPP senator Ly Yong Phat. According to law, the maximum concession cannot exceed 24,700 acres. When the company started bulldozing the land for a sugarcane plantation, affecting the villagers' crops and orchards, the villagers protested, demanding that the company cease its operations and negotiate fair compensation. The company agreed to compensate only those villagers who could prove legal ownership and then forced some persons to accept meager compensation ranging from approximately \$35 to \$71 (150,000 to 300,000 riels). NGOs pointed out that although many villagers did not have land titles, they had lived there since the fall of the Khmer Rouge, which under the law made them the owners of the land. On December 15, a villager active in the confrontation was found dead from axe wounds. Police said the death was unrelated to the land dispute. In September security guards and police shot a woman in the foot during a protest by villagers.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, these rights were not always respected in practice. The Government used the weak and often politically biased judiciary to file defamation and disinformation suits to intimidate and silence antigovernment critics and outspoken civil society leaders. Most reporters and editors privately admitted to some self-censorship due to fear of government reprisal. The constitution implicitly limits free speech by requiring that it not adversely affect public security. The constitution also declares that the King is "inviolable."

On January 17, the Government provisionally released four political detainees being held on defamation charges: radio journalist and Beehive/FM 105 owner Mam Sonando, labor leader Rong Chhun, Cambodian Center for Human Rights (CCHR) President Kem Sokha, and CCHR employee Pa Nguon Teang (see section 1.d.). While defamation charges were not formally dropped against these individuals or against others who had fled the country to avoid arrest on defamation charges—including royalist politician Prince Sisowath Thomico and Cambodian Watchdog Council members Man Nath, Ear Channa, and Chea Mony—the Government did not pursue prosecution.

In August government authorities in Battambang Province confiscated digital video discs (DVDs) with images that appeared to contradict official police reports that nine prisoners killed themselves and a hostage with a hand grenade in a June prison standoff, but the DVDs remained readily available in Phnom Penh and other areas of the country (see section 1.a.). An MOI spokesperson stated that the ministry hoped to arrest the filmmaker and try him for compromising national security, but at year's end no arrest had been made.

At the end of August, the National Assembly passed legislation that many interpreted to limit the right of MPs to speak freely. The new law declares that MPs may not use their parliamentary immunity to abuse national security, social customs, or an individual's honor. In addition, the law allows an MP to be arrested, charged, and detained prior to the lifting of parliamentary immunity. At year's end no MP had been charged under the new law.

The 1995 press law provides journalists with a number of rights, including a prohibition on prepublication censorship and protection from imprisonment for expressing opinions. However, the Government continued to use the older UN Transitional Authority in Cambodia (UNTAC) law to prosecute journalists and others on criminal

defamation charges rather than the 1995 press law, which treats defamation as a civil matter. In May the National Assembly amended the UNTAC law to eliminate imprisonment as a penalty for defamation, but judges can still order large fines, which many citizens cannot afford to pay. Furthermore, UNTAC Article 62, which covers the crime of disinformation, continues to include prison sentences of up to three years.

The Government and influential individuals used defamation suits, both civil and criminal, as well as charges of disinformation in an effort to silence critics. In June Prime Minister Hun Sen's nephew, Hun To, filed a civil defamation lawsuit against You Saravuth, editor-in-chief of the opposition newspaper *Sralanh Khmer* (Khmer Love) for alleging that Hun To was involved in illegal land seizures. In July senior FUNCINPEC official Prince Norodom Chakrapong filed a civil defamation suit against the same newspaper for reporting on the prince's activities in the early 1990s. In September the editor of opposition newspaper *Moneakseka Khmer* (Khmer Conscience) was convicted in absentia for disinformation for accusing Deputy Prime Minister Sok An of corruption and was ordered to pay approximately \$2,000 (8.4 million riels) in fines and \$2,500 (10.5 million riels) in compensation to Sok An. Also in September Julio Jeldres, the official biographer for retired King Norodom Sihanouk, was convicted in absentia for defaming Prime Minister Hun Sen in a private e-mail that was published in the local press as a public statement. Jeldres was ordered to pay approximately \$2,000 (8.4 million riels) in fines and \$2,500 (10.5 million riels) in compensation to the Prime Minister.

Journalists were also subject to other forms of harassment and intimidation, including death threats. In the defamation case involving Hun To and You Saravuth, You filed a countersuit against Hun To for alleged death threats and subsequently fled to a third country, where the UN High Commissioner for Refugees (UNHCR) granted him asylum status. In September television journalist Soy Sopheap received an anonymous death threat after the Prime Minister criticized Soy's popular television "newspaper reading show," and station managers removed the show from the air. In June a journalist with the newspaper *Samrek Yutekthor* (Scream for Justice) was detained and charged with destruction of public and private property. In an August 14 letter to King Norodom Sihamoni, the Prime Minister refused to release the jailed journalist, claiming that the reporter had committed criminal acts by injuring policemen and inciting the burning of a local village office during the attempted eviction of residents from the Tonle Bassac area (see section 1.f.). There were also several instances in which government officials seized film and cameras from journalists or deleted digital photos, often linked to reporting on illegal logging or forced land evictions.

All major political parties had reasonable and regular access to the print media. Although the press law does not specifically permit newspapers to receive financial support from political parties, in general newspapers were aligned politically. Major newspapers that published in the Khmer language received support from various political parties. There were an estimated 20 Khmer-language newspapers published regularly; more than half were considered pro-CPP, and at least two newspapers were considered to support each of the other main political parties—FUNCINPEC, the SRP, and the Norodom Ranariddh Party. Although the three largest circulation newspapers were considered pro-CPP, most newspapers criticized the Government frequently, particularly with respect to corruption. Prime Minister Hun Sen and former FUNCINPEC President Prince Norodom Ranariddh frequently came under strong attack by opposition newspapers.

The Government, military forces, and ruling political party continued to dominate the broadcast media and influence the content of broadcasts. There were seven television stations, all controlled or strongly influenced by the CPP. According to a 2001 report by the UNHCHR, the procedures for licensing and allocation of radio and television frequencies to the media were not impartial. Since 2003 the Ministry of Information has refused to grant new broadcast licenses in Phnom Penh, claiming that the Phnom Penh media market was saturated. This policy affected principally the SRP and independent human rights advocacy groups aligned with the opposition seeking to open new radio and television stations. However, in September the Ministry of Information and the UN Educational, Scientific, and Cultural Organization signed an agreement to establish a Kroeng-language radio station in Ratanakiri Province, with the area's minority ethnic groups being the target audience.

Despite being unable to obtain a broadcast license, the CCHR-produced Voice of Democracy radio program, which included independent and often antigovernment views, remained extremely popular and continued broadcasting its program on the SRP-aligned radio station FM 93.5. Voice of America (VOA) and Radio Free Asia (RFA) Khmer-language programming was also regularly broadcast on Beehive/FM

105, and the Women's Media Center signed a contract in September to broadcast VOA and RFA programs on its FM 102 radio station.

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

The Government continued to restrict media access to government facilities. Although the constitution mandates media access to National Assembly sessions, the National Assembly continued to ban reporters from entering its grounds without authorization from the Assembly's secretary general, due to limited space in the meeting hall. Reporters have not been given free access to the courts since the October 2005 Penh Municipal Court order requiring reporters to obtain permission to interview court officials and written permission for journalists to bring recording devices into the courtroom. On July 7, the Council of Ministers issued a directive prohibiting government officials and employees from speaking to the media or the public about government corruption.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The Internet was widely available through Internet cafes and home subscriptions in urban areas.

*Academic Freedom and Cultural Events.*—In general there were no legal impediments to academic freedom. However, scholars tended to be careful when teaching politically related subjects for fear of offending politicians. In September the Secretariat of the Ministry of Religions and Cults ordered the removal of Tieng Narith as a professor at the Buddhist University of the Royal Academy of Preah Sihanouk Reach. The Government claimed that Tieng, without approval from his supervisors, developed a classroom text that contained inaccuracies about the country's history and inappropriately accused government officials of crimes such as corruption and political assassinations. The Phnom Penh Municipal Court subsequently charged the professor with disinformation and detained him. His family claimed that he was mentally ill; however, the results of a court-ordered psychiatric examination were not made available to the court or the public. At year's end Tieng remained in detention awaiting trial.

There were no government restrictions on cultural events.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution provides for freedom of peaceful assembly, but the Government did not respect this right in practice. The Government required that a permit be obtained in advance of a march or demonstration. The Government routinely did not issue permits to groups critical of the ruling party. The Government cited the 2003 anti-Thai riots, the need for stability, and public security as reasons for denying permits. Police forcibly dispersed groups that assembled without a permit, often resulting in minor injuries to some demonstrators.

ADHOC reported that during the year police and military police dispersed 46 protests, 11 of which were by labor protesters and 35 by land protesters. Twenty-one land protesters were convicted, and 27 workers were subject to investigations. ADHOC added that 12 workers resigned from their factory jobs due to their security concern. The report noted that authorities frequently used criminal charges as a tool to arrest protesters.

Civil society groups noted that authorities used violence and excessive force to disperse protesters. On August 7, on the outskirts of Phnom Penh, antiriot police used fired tear gas and electric batons while firing automatic rifles into the air to disperse 200 land protesters from Kandal Province who were attempting to march to the National Assembly to ask for the release of their representative, who had been arrested as part of the dispute.

The Phnom Penh Municipality denied permission to the Kampuchea Krom community to demonstrate against the March 6 visit of Vietnamese Prime Minister Phan Van Khai. The municipal authorities stated that they were concerned about public order, security, and national dignity. The community had planned to demand that the Government of Vietnam respect human rights and freedom for ethnic Khmers in southern Vietnam.

Phnom Penh Municipal authorities denied a permit to labor unions for a May 1 rally in a public area to observe International Labor Day. The unions proceeded to march without a permit (see section 6.b.). On August 1, armed police broke up a gathering of 50 protesters demanding the release of the two men convicted of murdering labor union leader Chea Vichea in 2004 (see section 1.a.).

On August 18, in a nationwide directive to Buddhist monks, the Supreme Patriarch banned all monks from joining a strike, protest, or insurrection of any form without a permit from the Supreme Patriarch himself.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice; however, the Government did not enforce effectively the freedom of association provisions of the labor law (see section 6.a.).

The Government did not coerce or forbid membership in political organizations. Political parties normally were able to conduct their activities freely and without government interference. On February 6, opposition MPs Sam Rainsy, Cheam Channy, and Chea Poch were pardoned and regained their parliamentary immunity.

Human rights organizations reported that some local authorities warned members of certain political parties that if they continued to support those parties, they would face a loss of residency rights, confiscation of property, and a ban on using local infrastructure. However, during the year there were no reports that such acts occurred.

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

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

The law requires all religious groups, including Buddhists, to submit applications to the Ministry of Cults and Religious Affairs to construct places of worship and conduct religious activities. However, there is no penalty for failing to register. In 2003 the Ministry of Cults and Religions issued an order prohibiting public proselytizing, but the order was enforced only during the two-hour lunch period.

*Societal Abuses and Discrimination.*—Minority religions experienced little or no societal discrimination. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

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

The Government placed no restrictions on foreign travel. The Government also did not restrict emigration or the return of citizens who had left the country.

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the country is a signatory of the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol; however, in practice the Government did not consistently respect the law and has not implemented legislation pertaining to the 1951 UN convention.

A human rights NGO based in Ratanakiri Province reported that in August six Montagnards seeking asylum in the province were arrested and deported to Vietnam without UNHCR review.

On May 27, Ratanakiri provincial authorities found the body of an eight-year-old Montagnard girl in the Sesan River and returned it to Vietnamese authorities. An NGO reported the body was that of one of five Montagnards missing since May 25 when Vietnam's border authority chased them and fired at them when they crossed a border stream to seek asylum. However, a UNHCR investigation indicated that the refugees were crossing in an overcrowded boat that overturned and the young girl could not swim.

On August 25, police in Mondulakiri Province arrested two teenagers of Phnong minority. The police, who were searching for Montagnards reportedly hiding in the jungle, accused the two teenagers of providing food to Montagnards. The police released the teenagers after one day.

On December 4, the Phnom Penh Municipal Court sentenced ethnic Khmer Krom Vietnamese citizen Lam Huyen to three months in prison; he was arrested on September 6 for guiding Montagnard asylum seekers to Cambodia. UNHCR and UNHCHR intervention prevented his deportation to Vietnam.

A human rights NGO claimed that local authorities at the border with Vietnam increased their search for Montagnards when Vietnamese authorities informed them about new arrivals of Montagnards. There were unconfirmed reports that Viet-



name authorities offered incentive awards to Cambodian border police who returned Vietnamese refugees to Vietnam and that Vietnamese secret police were active on the Cambodian side of the border.

A memorandum of understanding that the country signed in January 2005 with the UNHCR and the Government of Vietnam to resolve the situation of Montagnards under UNHCR protection in Phnom Penh remained the operating framework for the UNHCR in the country. However, a human rights NGO based in Ratanakiri Province reported that in August six Montagnards seeking asylum were arrested and deported to Vietnam without UNHCR review.

Asylum seekers who reached the UNHCR office in Phnom Penh were processed with government cooperation. During the year there were 277 new arrivals seeking asylum with the UNHCR. Of this number, 30 persons were later identified as Cambodians. According to the UNHCR, authorities deported 28 rejected Montagnard asylum seekers to Vietnam. On December 6, 43 Montagnard refugees departed for a third country. At year's end there were 235 Montagnards in refugee sites in Phnom Penh, which included 78 refugees who arrived in previous years.

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

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

During the year the National Assembly approved a constitutional amendment, later ratified by the Senate and the King, that changed the electoral majority needed to form a government from two-thirds of the National Assembly seats to a simple majority, which gave the CPP further control over the legislative process.

*Elections and Political Participation.*—On January 22, the first elections for the Senate were held to elect 57 of 61 total senators. Parties and individuals were free to be candidates without restrictions. By an indirect nongeneral system in which parliamentarians and elected members of communal councils were eligible to vote, the CPP won 45 seats, FUNCINPEC 10, and the SRP two. In addition, two senators were appointed by the King and two others by the National Assembly. The elections were conducted peacefully but drew criticism from civil society for the indirect selection process. Previously, political parties in the National Assembly and the King appointed all members of the Senate.

The National Election Committee (NEC) was scheduled to hold communal council elections on April 1, 2007. During the registration of eligible voters and candidates prior to year's end, election monitoring NGOs were concerned about increasing violence and intimidation committed against political party activists and citizens. The NGOs noted that a number of persons in Takeo Province were forced to take an oath to become CPP members. At year's end NGOs had recorded at least 12 cases of obstruction to SRP and NGO education activities. The NGOs and SRP found many irregularities during the distribution of voter information notes and registration of candidates for the communal elections. Most complaints centered on the NEC's delegation to the mostly CPP-affiliated village chiefs the crucial task of providing each voter with an updated information card containing the voter's personal registration information. Voters had only a short amount of time to update incorrect information or risk being turned away on election day. Some village chiefs reportedly did not provide the cards to the voters from the nonruling parties.

From May to July, the largely CPP-dominated commune councils selected village chiefs through an indirect election process criticized by civil society as unrepresentative and geared towards maintaining CPP-control at the grassroots level. The Government argued that direct elections would be too expensive and that the village chiefs have no political role: Their position centered on traditional roles as conflict mediators and authorizers of birth certificates and other public documents issued by the commune councils. Despite their purported apolitical role, the NEC announced in July that village chiefs would assume responsibility for the distribution of over six million voter information cards as well as informing unregistered voters regarding the registration process. One NGO found that approximately 1.7 million eligible voters did not receive voting information from their village chiefs.

In the most recent National Assembly elections, held in 2003, the CPP won 73 seats, FUNCINPEC 26, and the SRP 24. In 2004 the CPP and FUNCINPEC formed a nominal coalition government, but the CPP dominated the Government. All election observer groups noted improvements in the elections but concluded they fell short of international standards. Politically motivated violence was a problem, but it was less than during previous elections. The Government took action against only some alleged perpetrators and addressed other misconduct inconsistently. Technical

problems with the registration process and preparation of voter lists effectively disenfranchised many citizens in the elections. There also were incidents of voter intimidation by local officials. The NEC failed to establish a credible process to resolve election complaints. The appointment of NEC members by the MOI was not transparent and left the NEC open to charges of political influence by the ruling CPP.

During the 2003 elections there were improvements in media access for registered parties, and open political debate and multiparty debates were televised nationally for the first time; however, electronic media coverage heavily favored the ruling CPP.

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

In 2002 the Government held its first nationwide commune, local-level elections. During the election campaign period, NGOs reported 25 FUNCINPEC and SRP activists and candidates were killed under suspicious circumstances, including seven killings that human rights monitoring organizations agreed were politically motivated. The election results loosened the CPP's long hold on local governance. CPP commune chiefs remained in 99 percent of the 1,621 communes; however, as a result of the elections, power was shared with other parties in all but 148 communes. At year's end the MOI had not issued instructions for elected commune councils to implement the Commune Administration Law describing the power, duties, and functions of the councils.

Following a political compromise between the ruling party and the SRP, King Norodom Sihamoni granted pardons in February to Sam Rainsy and Cheam Channy; Chea Poch's charges were dropped. Subsequently, the National Assembly voted to restore their immunity and parliamentary status. Sam Rainsy returned from abroad on February 10.

On August 18, the Supreme Patriarch of Buddhism cancelled a 2002 ban that prohibited Buddhist monks from voting. However, in November he warned monks against participating in any mass political movement critical of the Government.

Traditional culture limited the role of women in government; however, women took an active part in the 2003 elections. The number of women in the National Assembly, Senate, and senior government positions increased. There were 22 women in the 123-seat National Assembly, nine women in the 61-seat Senate, and 24 women working as ministers, secretaries of state, undersecretaries of state, and NEC officials. Women also served as advisors, and there were 14 female judges at the municipal, provincial, and appeals court levels. After the 2002 local elections, women held 933 (8.3 percent) of the 11,261 commune council seats.

Minorities also took part in the Government. There were four members of minorities—two Cham and two tribal—in the National Assembly. There also were six members of minorities—two Cham, two tribal, and two Thai—in the Senate. At least eight officials in senior positions in the Government were from minority groups.

*Government Corruption and Transparency.*—Corruption was considered endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. Public perception of corruption was widespread. Meager salaries contributed to “survival corruption” among low-level public servants, while a culture of impunity enabled corruption to flourish among senior officials. In January 2005 the Prime Minister instructed the Ministry of National Assembly-Senate Relations and Inspection to prepare a draft anticorruption law. At year's end the draft was pending at the Council of Ministers. The Prime Minister claimed that the draft law needed to be harmonized with the criminal procedures code.

In June the World Bank announced that an audit revealed corruption in World Bank-funded projects worth \$68.4 million. The bank ordered a halt to the projects and demanded the repayment of \$7.6 million for misprocurement. The Ministry of National Assembly-Senate Relations and Inspection, the body responsible for probing corruption, started an investigation that led to the arrest of a director general of the Ministry of Rural Development. On December 1, the Phnom Penh Municipal Court released the arrested official on bail, citing lack of evidence.

The August 2005 National Archives Law allows unlimited access to informational documents in the public archive. However, the law grants access to other unspecified government documents only after 20 years, and documents affecting national security and preservation of personal lives would be released after 40 and 120 years, respectively. In practice the Government occasionally denied access to information, citing reasons of confidentiality or national security.

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

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

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

On March 15, upon request from NGOs, the Government ordered the release of 18 persons who had been arrested or detained for having connection with land disputes since late 2005.

While the central government generally was cooperative, human rights NGOs faced a variety of threats and harassment from local officials. These took the form of restrictions on gatherings sponsored by NGOs, verbal intimidation, threats of legal action, bureaucratic obstruction, and other acts of interference. During the year ADHOC reported seven instances in which their activists and investigators were detained or impeded in their work or intimidated by local authorities. In addition, the Government did not provide full cooperation with NGOs investigating the March killings of inmates in the Battambang prison.

On May 22, a forest patrol team from the Wild Aid Organization and the Ministry of Environment in Koh Kong Province's Mondul Seima District briefly detained an ADHOC activist and destroyed film in her camera after she had attempted to photograph a confrontation between villagers and the patrol team. She filed a complaint with a prosecutor of the provincial court a few days following the incident. The prosecutor opened an investigation of the case but at year's end had not issued a decision.

In May monitors from ADHOC, LICADHO, and CCHR were detained and threatened at gunpoint by military police in Kampot Province while investigating a land dispute. In another case, LICADHO reported that unidentified armed forces threatened human rights monitors from two local NGOs at gunpoint and kicked one in the stomach while they were monitoring a land dispute in Monduliri Province.

Unlike in 2005, there were no credible threats against local NGO staff providing shelter to trafficked victims and conducting antitrafficking advocacy and investigations.

During the year UNHCHR conducted activities related to human rights and the judiciary, and it maintained its headquarters in Phnom Penh and a regional office in Battambang. The UN special representative for human rights in Cambodia undertook his second mission in March following his appointment in November 2005. In a public statement on March 28, he emphasized the need for an independent and strong judiciary to help root out the problem of impunity for deeply rooted serious human rights abuses in the country. He also noted disappointment that the Government had not disclosed information on concessions of natural resources and noted that the information on land concessions fell short of expectations.

The Cambodian Human Rights Committee, which the Government established in 1998, remained largely inactive. The committee did not have regular meetings or a transparent operating process.

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

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

*Women.*—The law prohibits rape and assault; however, local and international NGOs reported that violence against women, including domestic violence and rape, was common. The domestic violence law, passed in 2005, criminalizes domestic violence but does not specifically set out penalties. However, article 41 of the UNTAC Law on Battery and Injury can be used to penalize domestic violence offenses, with penalties ranging from two months to five years' imprisonment. Rape is a criminal offense and punishable by a prison sentence of between five and 10 years, according to article 33 of the UNTAC law. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as "rape," "causing injury," or "indecent assault," but such charges were rare. According to an NGO that worked in three provinces, there were 827 cases of domestic violence, six of which resulted in death. During the year the MOI's antitrafficking department investigated 614 cases of violence against women and children, resulting in the arrest of 670 perpetrators and rescue of 784 victims. Of the 670 arrests, 477 were for rape and attempted rape. Fourteen cases of rape resulted in the death of the victims. During the year a legal advocacy NGO reported representing 417 cases of violence

against women and children, including trafficking, domestic violence, and rape. Of the 417 cases, 166 were tried during the year, of which 114 resulted in convictions. Defendants in the other cases were acquitted either for lack of evidence or because the victims withdrew their complaints. The number of cases likely underreported the scope of the problem, due to ineffective enforcement and the fact that women were afraid to make complaints against perpetrators. Despite the passage of the 2005 domestic violence law, NGOs reported that authorities continued to avoid involvement in domestic disputes and victims frequently were reluctant to pursue formal complaints.

Prostitution is prohibited constitutionally; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem, despite laws against procuring and kidnapping for purposes of sexual exploitation (see section 5, Trafficking). There were reports that police abused prostitutes. Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and related trafficking persisted. Estimates of the number of working prostitutes ranged from 14,725 to 18,250. Sex tourism was a problem, fueled by pervasive poverty and the perception of impunity.

The labor law has provisions against sexual harassment in the workplace, and the International Labor Organization reported that sexual harassment in the industrial sector was rare. However, a 2005 NGO study conducted on women working in the beer promotion industry reported widespread harassment.

A large number of NGOs provided training for poor and vulnerable women that addressed social problems such as spousal abuse, prostitution, and trafficking. A local media center produced and broadcast programming on women's issues. NGOs provided shelters for many women in crisis.

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

The Ministry of Women's Affairs, mandated to protect the rights of women and promote gender equality in society, continued its Neary Ratanak (Women as Precious Gems) program. The program aimed to improve the image of women through gender mainstreaming, enhanced participation of women in economic and political life, and protection of women's rights. Demographic trends and a history of conflict have resulted in increasing female participation in the labor force. In 2004 women made up an estimated 54 percent of agricultural workers, 51 percent of industrial work force, and 46 percent of service sector workers.

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

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

Children frequently suffered from malnutrition, and the health care system was inadequate. According to the Demographic and Health Survey 2005 Preliminary Report, infant mortality was estimated at 65 per 1,000. It was also estimated that the child mortality rate was 19 per 1,000.

Child abuse was believed to be common, although no statistics were available. A domestic NGO estimated that more than 1,200 street children in Phnom Penh had no relationship with their families and more than 10,000 children worked on the

streets but returned to their family homes in the evenings. An estimated 500 to 1,500 children lived with their families on the streets in provincial towns. A local NGO reported a monthly intake of approximately 60 street children into its shelter for vocational and literacy training. The NGO reported observing 80 to 100 new children on the streets every month. The Ministry of Social Affairs and Youth Rehabilitations (MOSAVY) provided lower statistics, reporting 3,084 street children nationwide in 2005.

Child rape remained a serious problem; a local NGO reported 206 cases of rape committed on persons under the age of 18, five of which resulted in death. During the year 21 cases of rape involving children below five years of age were reported; five of the victims were as young as three.

Sexual intercourse with a person under age 15 is illegal; however, child prostitution and trafficking in children occurred (see section 5, Trafficking). The first five-year program against child sexual exploitation, which ended in 2005, emphasized prevention through information dissemination and protection by law enforcement (see section 5, Trafficking). The MOI reported the arrests of 12 foreign pedophiles during the year.

The illegal purchase and sale of children for prostitution was a problem. During the year raids on brothels rescued underage girls who were trafficked for prostitution (see section 5, Trafficking).

Child labor was a problem in the informal sector of the economy (see section 6.d.).

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

Children were trafficked to Thailand and Vietnam for begging, soliciting, street vending, and flower selling. The children frequently were placed into debt bondage to beg or sell, or they formed part of organized begging rings even when there was no debt or economic hardship involved. A MOSAVY study found that 76 percent of trafficked persons returned from Thailand came from families who owned land, 93 percent owned their own house and had no debt on the land or house, and 47 percent stated that their mother was the facilitator. There was an increase in the trafficking of women to Malaysia to work in the sex industry.

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

Local traffickers covered specific small geographic areas and acted as middlemen for larger trafficking networks. Organized crime groups, employment agencies, and marriage brokers were believed to have some degree of involvement. Traffickers used a variety of methods to acquire victims. In many cases victims were lured by promises of legitimate employment. In other cases acquaintances, friends, and family members sold the victims or received payment for helping deceive them. Young children, the majority of them girls, were often “pledged” as collateral for loans by desperately poor parents; the children were responsible for repaying the loan and the accumulating interest.

The law establishes a prison sentence of 15 to 20 years for a person convicted of trafficking in persons under 15 years of age; the penalty is 10 to 15 years for trafficking persons age 15 or older. According to the MOI, during the year police investigated 614 cases of violence against women and children, including child sexual exploitation, rape, debauchery, and human trafficking; the investigations resulted in the arrest of 670 offenders, of whom 65 were arrested for cross border and domestic trafficking. A legal advocacy NGO brought 24 trafficking cases to court, of which nine went to trial. Convictions were obtained in six cases, with sentences ranging from three to 20 years’ imprisonment and civil compensation issued to victims ranging from approximately \$715 to \$950 (three million to four million riel).

While the Government increased arrests and prosecutions of traffickers and continued its support for prevention and protection programs through collaboration with foreign and domestic NGOs and international organizations, its antitrafficking efforts continued to be hampered by reports of corruption and a weak judicial system. It was widely believed that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons.

In August the Phnom Penh Municipal Court convicted three police officers for trafficking-related corruption committed in 2005, gave them sentences of five to seven years in prison, and ordered the return of \$9,000 (37.8 million riel) extorted

from brothel owners in Kampong Speu Province. One of the convicted officers began serving his sentence, but the MOI stated that the other two officers would have to be formally removed from their positions before they were arrested and made to serve jail terms.

In January Meng Say, chief of the Phnom Penh antitrafficking unit, was suspended for extorting money from South Korean nationals. In August he was detained on extortion charges and at year's end was awaiting trial.

The MOSAVY referred trafficking victims to NGOs, which provided most assistance to the victims. The Government participated as a partner in a number of these efforts; however, its contributions were severely hampered by limited resources. Some victims were encouraged by NGOs and the MOI to file complaints against perpetrators; however, in the general climate of impunity, victim protection was problematic, and victims were known to be intimidated into abandoning their cases. The MOSAVY and NGOs reported that during the year 366 trafficking victims, beggars, and porters, the majority (more than 70 percent) of whom were children, were reintegrated into their communities.

Several government ministries were active in combating trafficking. There was a Department of Anti-Human Trafficking and Juvenile Protection, and mechanisms existed for monitoring and reporting on child sexual exploitation. There also were specialized MOI antitrafficking divisions in all provinces and municipalities.

MOSAVY worked with the International Organization for Migration (IOM) to repatriate trafficked victims from Thailand and Vietnam to Cambodia, and from Cambodia to Vietnam. However, repatriation to Vietnam continued to be a long and arduous process. The MOSAVY also worked with the United Nations Children's Fund and local NGOs to manage community-based networks aimed at preventing trafficking.

During the year the MOSAVY repatriated from Thailand and Vietnam 1,273 children, victims, and those vulnerable to becoming victims and reintegrated them with their families. With financial and technical support from IOM, MOSAVY repatriated four trafficked Vietnamese girls to Vietnam.

In 2005 NGOs worked with the Ministry of Women's Affairs to repatriate 23 victims of sex trafficking from Malaysia, bringing to 40 the number of repatriated victims from Malaysia since 2003. The MOI, with help from the Ministry of Women's Affairs, was conducting an investigation into the trafficking of women and girls to Malaysia for prostitution. Although the Ministry of Women's Affairs had no statistics concerning victims of trafficking from Malaysia during the year, a local NGO reported that 33 trafficking victims from Malaysia returned; however, it was not known if they were victims of sex trafficking or labor trafficking.

The trafficking law contains no provisions to protect foreign victims from being charged under the country's immigration laws, but during the year there were no reported cases of trafficking victims being treated as illegal immigrants.

In each of the provinces and municipalities, there existed specialized antitrafficking and juvenile protection divisions, which raided a number of brothels and rescued numerous victims, including underage workers. The Government provided most rescued victims with protection and worked with NGOs either to reunite the victims with their families or place them in a shelter. Trafficking victims, especially those exploited sexually, faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.

During the year the owner and the managers of a notorious Phnom Penh hotel and their accomplices, arrested in September 2005 for trafficking, were convicted and sentenced to prison terms of four to five years.

The Government used posters, television, radio, and traditional local theater to raise public awareness of human trafficking. The Ministry of Women's Affairs, in conjunction with IOM, continued its major information campaign to raise awareness of trafficking in persons and safe migration until September, when the project with IOM ended.

On May 6, the Government and the other five member states of the Coordinated Mekong Ministerial Initiative Against Trafficking met in Phnom Penh and agreed to approve the plan of action developed in March 2005 in Hanoi.

*Persons With Disabilities.*—There is no law explicitly prohibiting discrimination against persons with disabilities. The Government does not require that buildings or government services be accessible to persons with disabilities. The Government prohibits persons with even minor disabilities from being teachers in public schools.

According to a 1999 survey, there were 170,000 persons with disabilities, including 24,000 persons missing at least one limb and 6,744 persons missing more than one limb. Disability due to landmines accounted for 11.5 percent of persons with disabilities, while disability due to congenital problems and disease accounted for 53 percent.

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

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

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

*Indigenous People.*—The Government often ignored efforts by indigenous communities to protect their ancestral lands and natural resources. In spite of the 2001 land law, which calls for the registration of communal lands of indigenous people, little was done to implement communal land titling. NGOs called for a moratorium on land sales and land concessions affecting indigenous communities.

International and local NGOs were active in educating the indigenous communities about their land rights and providing legal representation in disputes.

*Other Societal Abuses and Discrimination.*—Societal discrimination against those infected with HIV/AIDS remained a problem in rural areas; however, discrimination was moderated by HIV/AIDS awareness programs. There was no official discrimination against those infected with HIV/AIDS.

#### *Section 6. Worker Rights*

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

Most workers were subsistence rice farmers, and although there was an expanding service sector, most urban workers were engaged in small-scale commerce, self-employed skilled labor, or unskilled day labor. Only a small fraction (estimated at less than 1 percent) of the labor force was unionized, and the nascent trade union movement was weak but growing stronger. Unions suffered from a lack of resources, training, and experience. Unions were concentrated in the garment and footwear industries, where approximately 40 to 50 percent of the 333,144 workers were union members. The Cambodian Tourism and Service Workers Federation, formed in 2003, represented more than 3,757 hotel, casino, and airport workers.

Due to prohibitions against public sector employees forming unions, the Cambodia Independent Teachers Association (CITA) was registered as an “association” and represented 8,000 members in 18 provinces and municipalities. CITA experienced less interference from local provincial authorities than in previous years but still faced significant restrictions. For example, marches and other protests were often forbidden. Another public sector association, the Cambodian Independent Civil Servants’ Association (CICA), represented more than 250 members from ministries, provincial departments, and commune councils throughout the country. Many civil servants feared that they would be subject to harassment or demotion if they joined CICA, leading to a low number of official members.

The law requires unions and employer organizations to file a charter and list of officers with the Ministry of Labor and Vocational Training (MOLVT). The MOLVT had registered 1,026 factory unions, 26 national labor federations, and four national confederations (alliances of several like-minded federations) since the law went into effect in 1997, including 193 unions and two federations during the year. Some unions and federations complained of unnecessary delays and costs in the registra-

tion process. In June the MOLVT refused to register the Cambodian Labor Confederation, the first cross-sector union confederation, on the grounds that constituent associations representing civil servants and informal sector workers could not be registered as part of a union confederation. Although all unions collected dues from members, none was able to operate without outside sources of financial support.

Of the 30 national labor federations, 24 were allied with the Government, including 11 that were part of the progovernment Cambodian Confederation of Trade Unions (CCTU). The remaining five federations were independent of government ties; one of them had pro-opposition leanings or support. There was credible evidence of management involvement in some labor unions. In some factories, management appeared to have established their own unions, supported promanagement unions, or compromised union leaders. Independent union leaders complained that the CCTU frequently intervened in the affairs of other unions, extorted money from management in exchange for discouraging workers from conducting legal strikes and demonstrations, and threatened rival union leaders. There were also widespread complaints that the Khmer Youth Federation of Trade Unions habitually threatened strikes to extort money from management.

Enforcement of the right of association and freedom from antiunion discrimination was poor. The Government's enforcement efforts were further hampered by a lack of political will and by confused financial and political relationships with employers and union leaders. The Government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay staff adequate salaries. The MOLVT often decided in favor of employees but rarely used its legal authority to penalize employers who defied its orders.

During the year there were credible reports of antiunion harassment by employers, including the dismissal of union leaders, in garment factories and other enterprises. Employers sometimes relied on the courts to dismiss or punish union leaders. In three cases, union leaders were charged with inciting workers to strike and destroying private property. On several occasions, dismissed union leaders accepted cash settlements after unsuccessfully appealing to the Government to enforce laws requiring their reinstatement. At other times, the Government upheld labor rights. For example, during the year the MOLVT formally warned 902 companies of legal violations, fined 19 companies, and sued 17 companies on behalf of workers. During the same period the MOLVT sent 75 cases of unresolved labor disputes to the Arbitration Council for arbitration.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, but the Government's enforcement of these rights was inconsistent. Wages were set by market forces, except in the case of civil servants, whose wages were set by the Government.

Since passage of the 1997 labor law, there has been confusion about the overlapping roles of labor unions and elected shop stewards. In 2000 the MOLVT issued a regulation that gave trade union leaders roles comparable to those of shop stewards and extended protection from dismissal to certain union officers within an enterprise; however, these protections for union leaders were not always respected by employers.

During the year there were 13 collective bargaining agreements registered with the MOLVT; most were conciliation agreements that did not meet international collective bargaining standards. Only five genuine collective bargaining agreements existed within the garment industry. These agreements provided additional health and welfare provisions such as extra sick leave and maternity leave, factory clinic upgrades, and union-controlled welfare funds.

A 2001 regulation established procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The regulation also established requirements for employers and unions regarding collective bargaining and provided union leaders with additional protection from dismissal. The Bureau of Labor Relations facilitated the process of union registration and certification of "most representative status" for unions, which entitled a union representing an absolute majority of workers in a given enterprise to represent all of the workers in that establishment. The MOLVT granted most representative status to 11 unions during the year. Unions that applied for this status but had not received it complained of unnecessary bureaucratic delays.

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

There was a significant increase in labor unrest from February to June, leading to an unprecedented number of working days lost to strikes in the garment indus-



try. The MOLVT reported that 103 strikes occurred during the year, nearly all of which violated prestrike legal requirements. Union leaders, in contrast, maintained that twice as many strikes had actually taken place. However, several unions admitted their strikes were not in compliance with legal procedures. Other unions complained that a severe lack of MOLVT involvement led to an unprecedented increase in industrial strikes from February to June.

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

On January 22, approximately 300 union and nongovernment organization workers defied a municipal government ban and held a march commemorating the second anniversary of the assassination of union leader Chea Vichea. The march was peaceful, and there was no police interference.

On May 1, police detained Free Trade Union (FTU) President Chea Mony and two of his colleagues as they attempted to lead more than 1,000 workers in a Labor Day march. When word of their release came two hours later, fellow union leader Rong Chhun led the workers in a peaceful march. However, there were reports of police interference and violence in other parts of the city. Police reportedly blocked major roads into Phnom Penh early in the morning in an effort to prevent workers from entering the city. In addition, there were also many unconfirmed reports of isolated clashes between workers and police across the city, including allegations that police used electric batons and water cannons to subdue workers.

On June 20, approximately 200 riot police officers forcibly broke up a march involving more than 1,500 workers protesting the illegal suspension of a union leader and urging a garment factory to comply with an Arbitration Council award. Four protesters were seriously injured, and 15 more protesters sustained minor injuries.

On August 7, three factory-level union leaders affiliated with FTU were convicted of charges of illegal human confinement, marking the first time that union leaders were convicted of felony charges. The workers, who had been imprisoned since July 3, were sentenced to one month and four days in prison and a three-year suspended jail term with five years' probation. While the strike and subsequent worker blockade of the factory were both illegal, no evidence emerged to support allegations that managers were detained inside the factory.

At year's end the case of three Federation Union of Solidarity leaders arrested in May 2005 on charges of extorting money from a garment factory was pending.

On October 16, workers at Bright Sky garment factory in Phnom Penh staged an illegal strike stemming from a dispute over short-term work contracts. As the strike threatened to become violent, riot police moved in to suppress the unrest. One female worker from a neighboring garment factory was shot in the abdomen as she walked home after work, and several Bright Sky workers alleged that they were beaten by police. Police denied involvement in the shooting or beatings, claiming that they only fired their weapons into the air and did not assault any workers. Two workers were arrested but later released. A week after the incident, the factory ended night shift production and dismissed the entire night shift, arguing that night shift workers were behind the October 16 disturbance and had been provoking labor unrest.

In spite of legal provisions protecting strikers from reprisals, there were credible reports that workers were dismissed on spurious grounds after organizing or participating in strikes. In some cases strikers were pressured by employers to accept compensation and leave their employment. There are potential remedies for such dismissals, although none was particularly effective. The MOLVT can issue reinstatement orders, but these often provoked management efforts to pressure workers into resigning in exchange for a settlement. Collective disputes, such as when multiple employees are dismissed, can be brought before the Arbitration Council for a non-binding decision. Individual disputes can be brought before the court.

In September and October, 17 garment sector unions—representing essentially all of the country's unionized garment workers—overcame longstanding rivalries to negotiate collectively with the Garment Manufacturers Association of Cambodia. Negotiations, which centered on raising the minimum wage, progressed slowly with neither side willing or able to compromise significantly. On October 19, the day before the last scheduled negotiating session, the Government called a meeting of the Labor Advisory Committee (LAC), a tripartite group with probusiness and progovernment leanings. The LAC approved a government plan to increase the minimum wage by \$5 (21,000 riels) per month effective January 1, 2007. Independent labor observers were disappointed by the Government action, as they had hoped for a compromise independent of the LAC.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including forced labor by children, but the Government did not enforce its provisions adequately. Involuntary overtime remained widespread. Under the law, legal overtime work cannot exceed two hours daily and must be voluntary; however, in practice overtime was often extended beyond the legal limit, and employers used coercion to force employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

There also were reports of isolated cases of forced labor by domestic servants.

Forced child labor was a serious problem in the commercial sex industry (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government has adopted laws to protect children from exploitation in the workplace; however, enforcement was often weak. The law establishes 15 years as the minimum age for employment and 18 years as the minimum age for hazardous work. The law permits children between 12 and 15 to engage in “light work” that is not hazardous to their health and does not affect school attendance.

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

Of children between ages five and 17, 53 percent were employed; one-third of these children were older than 14. Approximately 71 percent of them worked in agricultural, farming, or forestry activities; 21 percent in sales or service; and 7 percent in production work.

The constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry (see section 5). Law enforcement agencies failed to combat child prostitution in a sustained, consistent manner. Widespread corruption, lack of transparency, inadequate resources, and staffing shortages remained the most challenging obstacles.

*e. Acceptable Conditions of Work.*—The law requires the MOLVT to establish minimum wages based on recommendations from the Labor Advisory Committee. The minimum wage was raised from \$45 to \$50 (189,000 to 210,000 riels) per month. This amount, which applied only to garment and footwear factories, was generally respected during the year. There was no minimum wage for any other industry.

Garment workers earned an average wage of \$70 to \$80 (294,000 to 336,000 riels) per month, including overtime and bonuses. Prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or collecting bribes.

The law provides for a standard legal workweek of 48 hours, not to exceed eight hours per day. The law stipulates time-and-a-half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday; however, the Government did not enforce these standards effectively. Workers in many garment factories reported that overtime was excessive or involuntary or that they were required to work seven days per week. Similarly, outside the garment industry, regulations on working hours were rarely enforced.

The law states that the workplace should have health and safety standards adequate to ensure workers’ well-being. The Government enforced existing standards selectively, in part because it lacked trained staff and equipment. Work-related injuries and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in some small-scale factories and cottage industries were poor and often did not meet international standards. Penalties are specified in the law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who removed themselves from unsafe working conditions risked loss of employment.

## CHINA

The People's Republic of China (PRC) is an authoritarian state in which, as specified in its constitution, the Chinese Communist Party (CCP) is the paramount source of power. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 24-member political bureau (Politburo) of the CCP and its nine-member standing committee. General Secretary Hu Jintao holds the three most powerful positions as CCP general secretary, President, and chairman of the Central Military Commission. The party's authority rested primarily on the Government's ability to maintain social stability; appeals to nationalism and patriotism; party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. Civilian authorities generally maintained effective control of the security forces.

Although the constitution asserts that "the state respects and preserves human rights," the Government's human rights record remained poor, and in certain areas deteriorated. There were an increased number of high-profile cases involving the monitoring, harassment, detention, arrest, and imprisonment of journalists, writers, activists, and defense lawyers, many of whom were seeking to exercise their rights under law. The Government tightened restrictions on freedom of speech and the press, including stricter control and censorship of the Internet. Nongovernmental organizations (NGOs), both local and international, continued to face increased scrutiny and restrictions. As in previous years, citizens did not have the right to change their government. Other serious human rights abuses included instances of extrajudicial killings; torture and coerced confessions of prisoners; and the use of forced labor, including prison labor. Legal reforms continued to stall, as the party and state exercised strict political control of courts and judges, and maintained closed trials and administrative detention. Executions often took place on the day of conviction or immediately after the denial of an appeal. A lack of due process and new restrictions on lawyers further limited progress toward rule of law. Individuals and groups, especially those considered politically sensitive, continued to face tight restrictions on their freedom to assemble; their freedom to practice religion, including strengthened enforcement of religious affairs regulations implemented in 2005; and their freedom to travel. The Government continued its coercive birth limitation policy, in some cases resulting in forced abortion and sterilization.

The Government failed to adequately protect refugees, and the forced repatriation of North Koreans continued to be a grave problem. Serious social conditions that affected human rights included endemic corruption, trafficking in persons, and discrimination against women, minorities, and persons with disabilities. The Government continued its severe cultural and religious repression of minorities in Tibetan areas and Xinjiang; in Xinjiang, trials and executions of Uighurs charged with separatism continued.

The Government continued to pursue some criminal and judicial reforms. China's highest court, the Supreme People's Court (SPC), began implementing new appellate procedures for hearing death penalty cases and took concrete steps towards reclaiming the death penalty review power from provincial courts. In July the Supreme People's Procuratorate (SPP) issued new regulations that detail criteria for prosecuting official abuses of power, and clarified that police are accountable when they use torture to coerce confessions.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year politically motivated and other arbitrary and unlawful killings occurred, although no official statistics on deaths in custody were available.

On September 30, People's Armed Police at the Nangpa La pass fired at a group of approximately 70 Tibetans attempting to cross into Nepal, killing 17-year-old nun Kelsang Namtso and wounding others (see Tibet Addendum).

In December 2005 police shot and killed at least three protesters in Dongzhou Village, Guangdong Province. Villagers claimed that as many as 20 villagers were shot and killed by paramilitary riot police, with approximately 40 others missing. The Government said the shooting occurred after protesters threw explosives at police and claimed that three protesters were killed. On May 24, 13 villagers from Dongzhou were sentenced to prison terms ranging from three to seven years for alleged crimes during the protest. Four government officials were given internal warn-

ings, but only the deputy director of the local Public Security Bureau (PSB) was removed from his position.

Trials involving capital offenses sometimes took place under circumstances involving severe lack of due process and with no meaningful appeal. Some executions took place on the day of conviction or failed appeal. In past years executions of Uighurs whom authorities accused of separatism, but which some observers claimed were politically motivated, were reported (see sections 1.e. and 5). The Government regarded the number of death sentences it carried out as a state secret. However, in March 2004 a National People's Congress (NPC) deputy asserted that nearly 10,000 cases per year "result in immediate execution," a figure SPC and Ministry of Justice officials stated was exaggerated. Foreign experts estimated that the country executed between 5,000 and 12,000 persons each year. Media reports stated that approximately 10 percent of executions were for economic crimes, especially corruption. The SPC began implementing new appellate procedures requiring it to review all death sentences, thus consolidating and reclaiming the death penalty review power from provincial courts. The SPC and SPP issued a joint interpretation to establish specific guidelines for how local courts and procuratorates should handle death penalty appeals. The SPC added three new tribunals to conduct reviews of death sentences and hired hundreds of personnel to staff the new tribunals, but at year's end it had not begun exercising its reclaimed review authority. The SPC has not issued a judicial interpretation to settle unresolved issues in the death penalty review process and to clarify its own procedures for final review (see section 1.e.).

*b. Disappearance.*—Tsewangnorbu, a Web master for a Web site run by the Snow Country Tibetans, was not heard from after Gansu Province security authorities shut down the Web site in March 2005, according to NGOs. His whereabouts remained unknown. In October Shi Xiaoyu was reportedly detained in Zhejiang Province after writing about labor disputes online. His status remained unknown. Shanghai petitioner Chen Xiaoming was detained by police in February, and his whereabouts remain unknown.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law forbids prison guards from extorting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. However, police and other elements of the security apparatus employed widespread torture and degrading treatment when dealing with some detainees and prisoners. UN Rapporteur on Torture Manfred Nowak's March report to the UN Commission on Human Rights blamed the prevalence of torture on institutional weakness and lack of judicial independence in a system that pressures police to solve cases and allows them wide discretion in matters of arrest and detention.

Former detainees credibly reported that officials used electric shocks, beatings, shackles, and other forms of abuse. In January four teenagers from Anhui Province were released from custody. Media reports said authorities were investigating three police officers on suspicion of using torture to coerce false confessions from the teenagers. Public security officials acknowledged that the teenagers' cases were mishandled. In June authorities charged Alim, Ablikim, and Qahar Abdurehim, three of Uighur businesswomen Rebiya Kadeer's sons, with state security and economic crimes. Authorities beat Alim and Ablikim, and Alim confessed to the charges against him after reportedly being tortured. In October 2005 Falun Gong adherents Liu Boyang and Wang Shuohui of Changchun, Jilin Province reportedly died in custody after being tortured by police. Beijing-based petitioner leader Ye Guozhu was reportedly tortured and abused in prison, including beatings with electric batons, suspension from the ceiling by his arms, and shackled and forced to sit in extreme positions for extended periods of time. Inner Mongolian cultural activist Hada was also reportedly tortured. Approximately half of all alleged acts of torture occurred in pretrial criminal detention centers or reeducation-through-labor centers.

In February the Ministry of Justice established punishments for prison and reeducation-through-labor police who beat, or induce others to beat, prisoners.

In March UN Special Rapporteur Nowak reaffirmed earlier findings that torture remained widespread. Nowak reported that beatings with fists, sticks, and electric batons continued to be the most common tortures. He also found that prisoners continued to suffer cigarette burns, prolonged periods of solitary confinement, and submersion in water or sewage, and that they were made to hold extreme positions for long periods, were denied medical treatment, and were forced to do hard labor. Death row inmates were shackled or handcuffed 24 hours per day and systematically abused to break their will and force confession. According to Nowak, officials

specifically targeted house church groups, Falun Gong adherents, Tibetans, and Uighur prisoners for abuse. Nowak found that procedural and substantive measures to prevent torture were inadequate.

Since the crackdown on Falun Gong began in 1999, estimates of the numbers of Falun Gong adherents who died in custody due to torture, abuse, and neglect ranged from several hundred to a few thousand (see section 2.c.). UN Special Rapporteur Nowak reported in March that Falun Gong practitioners accounted for 66 percent of victims of alleged torture while in government custody.

The Ministry of Public Security (MPS) began audio and video taping of police interrogations in homicide and organized crime cases in an attempt to prevent coerced confessions. In May the Government concluded a campaign to curb coerced confessions. The campaign exposed 3,700 cases of official abuse and resulted in 1,924 prosecutions and 1,450 convictions.

On November 29, the PSB punished 100 alleged prostitutes and their procurers in an act of public shaming in the southern city of Shenzhen. Officials paraded the women in front of jeering crowds, revealed their names and alleged crimes over a loudspeaker, and then sentenced them to administrative detention without trial. According to reports, the purpose of this campaign was to dissuade women from turning to prostitution and intimidate men who patronized brothels.

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

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

*Prison and Detention Center Conditions.*—The Ministry of Justice administered more than 700 prisons with a population of more than 1.8 million inmates, according to 2005 official statistics. In addition, 30 jails for juveniles held approximately 22,000 juvenile offenders. The country also operated hundreds of administrative detention centers, which were run by security ministries and administered separately from the formal court system (see section 2.d.).

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

During the year new reports from overseas medical and legal experts asserted that the Government harvested organs from executed prisoners without consent. At least one formal complaint was filed with the Government by a family alleging that their executed son's organs were harvested before the body was returned to the family for burial. In July 2005 Vice Minister of Health Huang Jiefu confirmed that the majority of organs used in transplants in the country come from executed prisoners. A Ministry of Health directive prohibits buying and selling human organs and tissues and requires that organ donations from deceased individuals be "handled according to society's ethical and moral principles." However, new regulations that went into effect in July focus on organ trade, which refers to persons voluntarily selling their organs, a practice rare in China, but leave intact old provisions that legalize organ harvesting if no one claims the body for burial. Critics also assert that the regulations apply to Ministry of Health hospitals but not military hospitals, where it is alleged that transplants for foreigners were conducted.

Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment. Labor activist Xiao Yunliang remained in prison in very poor health. Other prisoners with

health concerns included democracy activists Qin Yongmin, Hua Di, Wang Sen, and He Depu; Internet writers Yang Zili and Luo Yongzhang; labor activists Hu Shigen and Zhang Shanguang; Inner Mongolian activist Hada; foreign residents Yang Jianli and Wang Bingzhang; and religious prisoners Zhang Rongliang, Liu Fenggang, and Gong Shengliang.

Acknowledging guilt was a precondition for receiving certain prison privileges, including the ability to purchase outside food, make telephone calls, and receive family visits. Prison officials often denied privileges to those, including political prisoners, who refused to acknowledge guilt.

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

The law requires juveniles to be held separately from adults, unless facilities are insufficient. In practice, children sometimes were held with adult prisoners and required to work (see sections 1.d. and 6.c.). Political prisoners were segregated from each other and placed with common criminals, who sometimes beat political prisoners at the instigation of guards. Newly arrived prisoners or those who refused to acknowledge committing crimes were particularly vulnerable to beatings.

The Government generally did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to most international human rights organizations. In July 2005 the International Committee of the Red Cross (ICRC) opened a regional delegation in Beijing, although the Government did not grant the ICRC access to prisons.

*d. Arbitrary Arrest or Detention.*—Arbitrary arrest and detention remained serious problems. The law permits police and security authorities to detain persons without arresting or charging them. Because the Government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to arbitrary arrest or detention. According to 2005 official statistics, 500,000 persons were held in 310 reeducation-through-labor camps. In 2004, special administrative detention facilities held more than 350,000 offenders. The Government also confined some Falun Gong adherents, petitioners, labor activists, and others to psychiatric hospitals.

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

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

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

*Arrest and Detention.*—Public security organs do not require court-approved warrants to detain suspects under their administrative detention powers. After detention, the procuracy can approve formal arrest without court approval. The courts, the procuracy, and public security organs grant bail only in a small minority of cases. Access to lawyers is limited before formal charges are filed, and lawyers generally cannot discuss the substance of a detainee's case with the detainee before formal charges are filed.

Administrative detention was frequently used to intimidate political activists and prevent public demonstrations (see section 2.b.). The Government was reforming its administrative punishment system, but reforms seek to codify rather than abolish it. In March the new public order administrative punishment law went into effect.

The law provides for administrative review of detention decisions, bans administrative detention of minors, the elderly, pregnant women, and nursing mothers, places limits on interrogation, and limits the maximum period for public order detentions to 20 days. However, the law also establishes more severe punishments and creates 165 new offences subject to administrative punishment, including illegal demonstrations, disturbing social order in the name of religion, invasion of privacy, and publication that incites ethnic or national hostility or discrimination. Police continued to hold individuals without granting access to family members or lawyers, and some trials continued to be conducted in secret. Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for bail; however, in practice few suspects were released on bail pending trial.

Extended, unlawful detention remained a problem. In January the Government reported to UN Special Rapporteur Nowak that there were no serious cases of extended detention lasting more than three years and that cases of persons held beyond lawful time limits were at an all-time low. In May the SPP acknowledged that unlawful extended detentions remain a problem and that authorities misused legal provisions to hide this. Law enforcement officials continued to detain citizens for long periods without formal charge or trial. A number of politically sensitive individuals were held for periods longer than the time authorized by law, which varied depending on the stage a case is in. In some cases, investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer.

The Government used incommunicado detention. The law requires notification of family members within 24 hours of detention, but individuals were often held without notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception, officials were not required to provide notification if doing so would "hinder the investigation" of a case. In some cases police treated those with no immediate family more severely.

Citizens who were reportedly detained with no or severely delayed notice included HIV/AIDS activist Hu Jia, blind legal activist Chen Guangcheng, attorney Zhu Jihui, petitioner advocate Hou Wenzhuo, and writer Guo Feixiong (also known as Yang Maodong). On February 16, Hu Jia was detained and held incommunicado for 41 days, until March 28 (see sections 1.d. and 4). During Hu's detention, police questioned him about his contacts with rights lawyer Gao Zhisheng. On August 15, Gao was likewise detained and thereafter held incommunicado by government authorities.

The law permits nonjudicial panels, called labor reeducation panels, to sentence persons without trial to three years in reeducation-through-labor camps or other administrative detention programs. The labor reeducation committee is authorized to extend a sentence up to one year. Defendants could challenge reeducation-through-labor sentences under the administrative litigation law and appeal for a reduction in, or suspension of, their sentences (see section 1.e.). However, appeals rarely succeeded. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for prostitutes and those soliciting prostitutes) and "custody and training" (for minors who committed crimes). Administrative detention was frequently used to intimidate political activists and prevent public demonstrations (see section 2.b.). A special form of reeducation centers was used to detain Falun Gong practitioners who had completed terms in reeducation through labor but whom authorities decided to continue detaining.

Authorities arrested persons on charges of revealing state secrets, subversion, and common crimes to suppress political dissent and social advocacy. Citizens also were detained and prosecuted under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity. Information could retroactively be classified a state secret by the Government. Citizens writing on the Internet were detained, arrested, and sentenced on state secrets and subversion charges during the year (see section 2.a.).

Among those specially targeted for arbitrary detention or arrest during the year were current and former China Democracy Party (CDP) activists, Falun Gong practitioners, domestic and foreign journalists, unregistered religious figures, and former political prisoners and their family members. Gao Zhisheng was detained and questioned several times during the year. On August 15, authorities reportedly abducted Gao from his sister's home in Shandong Province and thereafter detained him. Gao's wife and children were under house arrest in Beijing. On November 24, Gao Zhisheng's wife, Geng He, was attacked by local officials while shopping in Beijing. In February activist Hu Jia disappeared after launching a hunger strike protesting government abuses. Officials held Hu for 41 days at an undisclosed location without any legal formalities or notice to his family (see section 1.b.).

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

Former senior leader Zhao Ziyang died in January 2005, after spending more than 15 years under house arrest in Beijing for his support of student demonstrations at Tiananmen in 1989. Zhao's former aide Bao Tong remained under similar surveillance in his home. In September 2005 blind legal advisor and family planning whistleblower Chen Guangcheng was placed under house arrest without charge or trial for nine months. Local authorities did not formally notify Chen of his criminal detention until June 10 (see section 1.e.). On June 5, activist lawyer Zheng Enchong was released from prison and placed under house arrest. Several underground Catholic priests and bishops were under house arrest for varying periods during the year. The longest serving among them may be Bishop Su Zhimin, who has reportedly been detained in a form of house arrest in Baoding, Hebei Province, since 1997. An unverified press report circulated in June stated that Bishop Su had died in custody. The Government did not respond to this report.

Police continued the practice of placing under surveillance, harassing, and detaining citizens around politically sensitive events, including before the first anniversary of Zhao Ziyang's death in January, the plenary sessions of the NPC and Chinese People's Political Consultative Conference (CPPCC) in March, and the anniversary of the founding of the PRC in October. Authorities in Xinjiang used house arrest and other forms of arbitrary detention against those accused of the "three evils" of extremism, splittism, and terrorism. Because authorities failed to distinguish carefully between peaceful activities supporting independence, "illegal" religious activities, and violent terrorism, it was difficult to determine whether raids, detentions, arrests, or judicial punishments were targeted at those peacefully seeking political goals, those seeking worship, or those engaged in violence (see section 5). Others held under house arrest for varying periods during the year included Tiananmen activist Qi Zhiyou, Internet writer Liu Di, underground Catholic bishops Jia Zhiguo and Wei Jingyi, members of the Tiananmen Mothers organization and of the Independent PEN Center for Freedom to Write. Family members of some detained political prisoners reported being under house arrest or other surveillance.

Officials deployed a wide range of tactics to obstruct the work of lawyers representing sensitive clients, including unlawful detentions, disbarment, intimidation, refusal to allow a case to be tried before a court and physical abuse. According to the law, defense attorneys can be held responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. According to the All-China Lawyers Association, since 1997 more than 500 defense attorneys have been detained. More than 80 percent were acquitted, but the prosecutions nevertheless had a chilling effect on attorneys' willingness to handle controversial defense cases. In 1990 Beijing attorneys handled an annual average of 2.64 criminal cases; by 2000 the figure had dropped to 0.78. Nationwide, attorneys handled an average of only 0.72 criminal cases in 2004.

On June 10, blind legal activist Chen Guangcheng, who publicized local officials' abuses in family planning policies, was formally arrested after nine months of informal house arrest. Local officials physically abused Chen several times after he tried to file lawsuits objecting to their abuses. Officials threatened attorneys and law professors who rallied to defend Chen. In June and July, local authorities obstructed attempts by lawyers to gather evidence in Chen Guangcheng's defense. The night before Chen's August 18 trial, local authorities detained Chen's lawyers on spurious charges, which were later dropped. The following day, court-appointed attorneys effectively conceded the case against Chen. On August 24, Chen was sentenced to four years' and three months' imprisonment on dubious charges of obstructing traffic and inciting others to destroy public property. Chen's case was later remanded for retrial, where he was represented by his own lawyers. However, courts affirmed Chen's original conviction and sentence on retrial and then again on appeal.

In February lawyer Tang Jingling was beaten by thugs after visiting Guo Feixiong, who was under house arrest after helping villagers attempt to recall the elected village head of Taishi, Guangdong Province. Police refused to investigate the incident. In April Tang, who had begun practicing law at a second firm, was stripped of his license to practice law and dismissed from that law firm.



According to the law, in routine criminal cases police can unilaterally detain persons for up to 37 days before releasing them or formally placing them under arrest. After a suspect is arrested, the law allows police and prosecutors to detain a person for up to seven months while public security organs further investigate the case. Another one and one-half months of detention are allowed where public security organs refer a case to the procuratorate to decide whether to file charges. If charges are filed, authorities can detain a suspect for an additional one and one-half month period between filing and trial. However, in practice the police detained persons beyond the time limits stipulated by law. In some cases, investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer. It was uncertain how many other prisoners were similarly detained. Beijing authorities held New York Times researcher Zhao Yan from September 17, 2004, until his trial on June 16. Authorities asserted that the pretrial extension was justified by special exceptions to the time limits, but Zhao and his lawyer claimed that the extended pretrial detention was unlawful.

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

Corruption often influenced judicial decision making, and safeguards against corruption were vague and poorly enforced (see section 3). In 2005 378 judges were investigated for taking bribes, and 66 were found criminally liable. Local governments appointed judges at the corresponding level of the judicial structure. Judges received their court finances and salaries from these government bodies and could be replaced by them. Local authorities often exerted undue influence over the judges they appointed and financed.

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

The CCP used a form of discipline known as *shuang gui* for violations of CPP discipline, but there were reports of its use against nonparty members. *Shuang gui* is similar to house arrest and can be authorized without judicial involvement or oversight. *Shuang gui* requires the CCP party member under investigation to submit to questioning at a designated place for a set period of time. According to regulations of the Central Discipline Inspection Commission (CDIC) governing *shuang gui*, corporal punishment is banned, the member's dignity must be respected, and he or she is regarded as a comrade unless violations are proved. Absent any legal oversight, it is unclear how these regulations were enforced in practice.

*Trial Procedures.*—Trials took place before a judge, who often was accompanied by "people's assessors," lay persons hired by the court to assist in decision making. According to statistics published during the year, there were 48,211 people's assessors. According to law, people's assessors had authority similar to judges, but in practice they deferred to judges and did not exercise an independent jury-like function.

The law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation, although police often circumvented defendants' right to seek counsel. Individuals who faced administrative detention do not have the right to seek legal counsel.

The Government expanded the scope of legal aid and required authorities to notify criminal defendants of their right to apply for legal aid. Both criminal and administrative cases remained eligible for legal aid, although 70 percent or more of criminal defendants still went to trial without a lawyer. According to the Ministry of Justice, during the first half of the year legal aid was granted in 124,800 cases. The number of government lawyers providing legal aid remained inadequate to meet demand. Nonattorney legal advisors and government employees provided the only legal aid options in many areas. According to government statistics, more than 10,000 em-

ployees provided legal aid at 3,155 legal aid centers. New regulations required law firms and private attorneys to provide some legal aid. During 2005 courts waived more than \$158 million (RMB 1.27 billion) in litigation costs.

Government-employed lawyers often refused to represent defendants in politically sensitive cases and defendants frequently found it difficult to find an attorney. When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented effective representation of counsel. From June to August, local authorities obstructed lawyers' efforts to prepare Chen Guangcheng's defense and detained Chen's lawyers the night before his trial. During the trial, court-appointed defense counsel conceded much of the case against Chen (see section 1.d.). After the initial trial, officials obstructed Chen's lawyers' efforts to investigate and develop their case. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to speak during trials. In practice criminal defendants often were not assigned an attorney until a case was brought to court. For example, officials detained prominent rights attorney Gao Zhisheng on August 15 on "suspicion of involvement in criminal activity" and subsequently deprived Gao of his right to counsel by obstructing efforts to formalize Gao's representation. Officials later claimed that Gao declined representation by counsel. Even in nonsensitive criminal trials, only one of seven defendants had legal representation, according to credible reports.

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

The criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. The conviction rate for first-instance criminal cases rose slightly and remained above 99 percent in 2005. In many politically sensitive trials, which rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. There was an appeals process, but appeals rarely resulted in reversed verdicts. Appeals processes failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. Nationwide, appeals resulted in changed verdicts in only 0.36 percent of all cases, including capital cases.

SPC regulations require all trials to be open to the public, with certain exceptions, such as cases involving state secrets, privacy, and minors. Authorities used the legal exception for cases involving state secrets to keep politically sensitive proceedings closed to the public and sometimes even to family members, and to improperly withhold access to defense counsel. Under the regulations, foreigners with valid identification are allowed the same access to trials as citizens, but in practice foreigners were permitted to attend court proceedings by invitation only. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secret" cases, fill all available seats with security officials, or otherwise close them to the public. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

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

Police and prosecutorial officials often ignored the due process provisions of the law. The lack of due process was particularly egregious in death penalty cases. There were at least 68 capital offenses, including nonviolent financial crimes such as counterfeiting currency, embezzlement, and corruption. Executions were often carried out on the date of conviction. In February the Guangdong High Court announced that the death penalty could be applied in bag-snatching cases. Previously, the maximum sentence was three years.

Following reports of wrongful murder convictions in 2005, the SPC made reform of the death penalty review process a top priority. During the year the SPC began

implementing new appellate procedures for hearing death penalty cases, in an effort to reclaim the death penalty review power from provincial courts. The SPC added three new tribunals to handle the death penalty review function and some provincial-level high courts began conducting hearings in death penalty cases. The Government also strengthened institutions, including legal aid centers, to assist citizens with legal claims.

The Government regarded the number of executions a state secret. Minors and pregnant women expressly were exempt from the death sentence, although in the past the Government executed a few criminals who were under age 18 at the time they committed an offense.

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

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

Western NGOs estimated that approximately 500 persons remained in prison for the repealed crime of “counterrevolution,” and thousands of others were serving sentences under the state security law, which authorities stated covers crimes similar to counterrevolution. Persons who continued to be detained for counterrevolutionary offenses included labor activist Hu Shigen; Inner Mongolian activist Hada; and dissidents Yu Dongyue, Zhang Jingsheng, and Sun Xiongying. Foreign governments urged the Government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for nonviolent offenses under provisions of the Criminal Law, which were eliminated when the law was revised. To date, no such review has occurred. The Government maintained that counterrevolutionary prisoners were eligible for parole and early release on an equal basis with other prisoners but provided no evidence to support this assertion.

Amnesty International has identified by name more than 80 persons who remained imprisoned or on medical parole for their participation in the 1989 Tiananmen demonstrations; other NGOs estimated that as many as 200 persons remained in prison for political activities connected to the demonstrations.

Many political prisoners remained in prison or under other forms of detention during the year, including journalists Zhao Yan, Shi Tao, and Jiang Weiping; Internet writers Yang Zili and Xu Wei; labor activist Yao Fuxin; China Democracy Party cofounder Qin Yongmin; political dissident Yang Jianli; family planning whistleblower Chen Guangcheng; Su Zhimin and other underground Catholic bishops; house Christian activists Zhang Rongliang, Cai Zhuohua, and Liu Fenggang; Uighurs Tohti Tunyaz and Dilke Tilivaldi; Tibetans Jigme Gyatso, Tenzin Deleg, and Gendun Choekyi Nyima; and Inner Mongolian cultural activist Hada. Political prisoners obtained parole and sentence reduction much less frequently than ordinary prisoners.

Criminal punishments included “deprivation of political rights” for a fixed period after release from prison, during which the individual is denied the already limited rights of free speech and association granted to other citizens. Former prisoners sometimes found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty in obtaining or keeping employment and housing (see section 1.f.).

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

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

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

Some citizens were under heavy surveillance and routinely had their telephone calls monitored or telephone service disrupted. The authorities frequently warned dissidents and activists, underground religious figures, former political prisoners, and others whom the Government considered to be troublemakers not to meet with foreigners. During the year police ordered many such citizens not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or party meetings, and during the visits of high-level foreign officials. Security personnel also harassed and detained the family members of political prisoners, including following them to meetings with foreign reporters and diplomats and urging them to remain silent about the cases of their relatives. In 2005 family members of prisoners were discouraged or prevented from meeting with the UN special rapporteur on torture.

Forced relocation because of urban development continued, and in some locations, increased during the year. Protests over relocation terms or compensation, some of which included thousands of participants, were common, and some protest leaders were prosecuted during the year (see sections 2.b. and 3). Many evictions in Beijing were linked to construction for the 2008 Olympics. In rural areas, relocation for major state projects, such as dams, and for commercial development resulted in the forced relocation of millions of persons.

The country's birth planning policies retained harshly coercive elements in law and practice. The laws restrict the rights of families to choose the number of children they have and the period of time between births. The penalties for violating the law are strict, leaving some women little choice but to abort pregnancies. In addition, implementation of the policy by local officials resulted in serious violations of human rights. Reports of forced sterilizations and abortions, in violation of the national law, continued to be documented in rural areas. During the year officials in Chongqing municipality and in Fujian Province reportedly forcibly sterilized women. In June Western media reported that a woman fell to her death while fleeing Anhui authorities who were trying to force her to abort twins.

The law standardizes the implementation of the Government's birth limitation policies; however, enforcement varied significantly from place to place. The law grants married couples the right to have one birth and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. Many provincial regulations require women to wait four years or more after their first birth before making such an application. According to the UN Population Fund (UNFPA), the spacing requirement was removed in eight and relaxed in 10 of 30 counties across 30 provinces participating in UNFPA's “Fifth Country Program.” The law requires couples that have an unapproved child to pay a “social compensation fee,” which sometimes reached 10 times a person's annual disposable income, and grants preferential treatment to couples who abide by the birth limits. Although the law states that officials should not violate citizens' rights, these rights, as well as penalties for violating them, are not clearly defined. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

Social compensation fees are set and assessed at the local level. The law requires family planning officials to obtain court approval before taking “forcible” action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. However, in practice this requirement was not always followed.

The one-child limit was more strictly applied in the cities, where only couples meeting certain conditions (e.g., both parents are only children) were permitted to have a second child. In most rural areas (including towns of under 200,000 persons), which included approximately 60 percent of the country's population, the policy was more relaxed, generally allowing couples to have a second child if the first was a

girl or had a disability. Central government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization, although reports of physical coercion to meet birth targets continued.

Provinces were responsible for implementation of the regulations. All provincial-level governments except the Tibet Autonomous Region (TAR) amended their regulations to conform to the new law. For example, Anhui Province passed a law permitting 13 categories of couples, including coal miners, some remarried divorcees, and some farm couples, to have a second child. Ethnic minorities like the Uighurs and the Tibetans are also allowed more than one child.

Seven provinces—Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, and Ningxia—require “termination of pregnancy” if the pregnancy violates provincial family planning regulations. An additional 10 provinces—Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan—require unspecified “remedial measures” to deal with out-of-plan pregnancies.

In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child. Social compensation fees were levied on unwed mothers.

The country’s population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressures were common. According to provincial regulations, the fees ranged from one-half to 10 times the average worker’s annual disposable income. Those who violated the child limit policy by having an unapproved child or helping another to do so faced disciplinary measures such as job loss or demotion, loss of promotion opportunity, expulsion from the party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of property. In the case of families that already had two children, one parent was often pressured to undergo sterilization. These penalties sometimes left women with little practical choice but to undergo abortion or sterilization. There were several rewards for couples who adhered to birth limitation laws and policies, including monthly stipends and preferential medical and educational benefits. The National Population and Family Planning Commission (NPFPC) expanded a number of programs to encourage smaller families. For example, new pension benefits were made available nationwide for those who adhered to birth limitation laws.

The law states that family planning bureaus will conduct pregnancy tests on married women and provide them with unspecified “follow-up” services. Some provinces fine women who do not undergo periodic pregnancy tests. For example, in Hebei fines range from \$25 to \$62.50 (RMB 200 to 500) and in Henan from \$6 to \$62.50 (RMB 50 to 500).

Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. Promotions for local officials still depended in part on meeting population targets. There continued to be sporadic reports of violations of citizens’ rights by local officials attempting to reduce the number of births in their region. The most egregious reports occurred in 2005 in Linyi, Shandong Province. International press reports alleged that local official detained some 130,000 persons and forced them to submit to abortions or sterilization procedures. At least 7,000 persons were forcibly sterilized. Local officials profited from this illegal system by charging detention fees. Local rights activists documented several cases of forced late-term abortions.

According to law, citizens may sue officials who exceed their authority in implementing birth-planning policy. However, local officials retaliated with impunity against whistleblower Chen Guangcheng for his work in exposing the Linyi family planning abuses. In August Chen was sentenced to four years’ and three months’ imprisonment on dubious charges of obstructing traffic and damaging public property (see section 1.e.).

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies (see section 5). The male-female birth ratio for first births was 118.58 to 100 (compared with norms of between 103 and 107 to 100), and in some parts of the country, the ratio was even more skewed. For second births, the national ratio was 152 to 100. While the NPFPC continued to deny a direct connection between family planning and skewed sex ratios at birth, it promoted expanded programs to raise awareness of the sex ratio imbalance and to improve protection of the rights of girls.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, although the Government generally did not respect these rights in practice. The Government interpreted the CCP's "leading role," as mandated in the constitution, as superseding and circumscribing these rights. The Government continued to threaten, arrest, and imprison many individuals for exercising rights to free expression. Internet essayists and journalists in particular were targeted. Hunan writer Shi Tao, New York Times employee Zhao Yan, and Hong Kong-based journalist for the Singapore's Straits Times Ching Cheong remained in prison. In November Ching Cheong, who was tried in a closed hearing in August, had his appeal denied by the Beijing High People's Court. On December 19, Lu Jianhua, a former media commentator and researcher at a top state-run academic institution, was sentenced in closed proceedings to 20 years' imprisonment. Lu, who was originally detained in December 2005, was found guilty of leaking state secrets in August. The Government continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. Such controls tightened during the year, and it was increasingly difficult to express views that differed from the official line on the Internet, through broadcast media, and in print. Media outlets received regular guidance from the Central Propaganda Department, which listed topics that should not be covered, including politically sensitive topics. All media employees were under explicit orders to follow CCP directives and guide public opinion. These measures greatly restricted the freedom of journalists and Internet writers to report the news and led to a high degree of self-censorship.

So long as the speaker did not publish views that challenged the Communist Party or disseminate such views to overseas audiences, the range of permissible topics for private speech continued to grow. Political topics could be discussed privately and in small groups without punishment, and minor criticisms of the Government were common topics of daily speech. However, public speeches, academic discussions, and speeches at meetings or in public forums covered by the media remained circumscribed. Those who aired views that disagreed with the Government's position on controversial topics risked punishment ranging from disciplinary action at government work units to police interrogation and detention. These restrictions and more formal restrictions on freedom of the press and academic freedom had a chilling effect on freedom of speech.

Some citizens continued to speak out and publish on controversial topics, despite the Government's restrictions. For example, in January Guangzhou Professor Yuan Weishi wrote an article in *Freezing Point*, a popular investigative segment in the China Youth Daily newspaper, calling for a reassessment of sensitive historical points, resulting in a six-week suspension of the publication.

Journalists who reported on topics that met with the Government's or local authorities' disapproval continued to suffer harassment, detention, and imprisonment.

Yang Xiaoqing, a reporter for the Beijing-based China Industrial Economy News, was detained in January, charged with blackmail and extortion in February and sentenced in June to one year in prison. Yang reported for the newspaper on alleged corruption among county officials in Hunan Province. Other journalists who remained in prison included Huang Jinxiu, Li Changqing, Yu Huafeng, Li Mingyong, Cheng Yizhong, Yang Xiaoqing, and Shi Tao. International NGOs reported that at year's end 32 journalists and 50 cyberdissidents remained in prison.

Detention of journalists and Chinese employees working for foreign media outlets increased concern that the Government was attempting to intimidate foreign correspondents and newspapers. In August the Beijing Intermediate Court sentenced Hong Kong-born journalist Cheng Xiang (more commonly known as Ching Cheong) of the Singapore Straits Times to five years in prison for espionage. NGOs reported he was detained while researching a story about former leader Zhao Ziyang, while the Government claimed he accepted money from overseas intelligence groups. New York Times employee Zhao Yan was sentenced in August to three years in prison for fraud after a Beijing court unexpectedly dismissed charges of divulging state secrets, which could have carried a 10-year sentence. Zhao maintained his innocence, and his lawyer criticized the courts for not allowing Zhao to testify, call on witnesses, or present evidence to the court.

In addition, to criminal prosecution of writers, some government officials used civil lawsuits and other punishments to intimidate authors and block controversial writings. On October 25, writer Li Jianping was sentenced to two years' imprisonment on the charges of "incitement to subvert state power." In April 2005 Li was detained in Zibo, Shandong Province, for posting articles critical of the CCP on foreign Web sites. No verdict has issued from the August 2004 libel trial of Anhui Province authors Chen Guidi and Wu Chuntao over their book *China Peasant Sur-*

vey (Nongmin Diaocha). The book, a best seller until it was banned, described abuse and extortion of farmers by local officials, one of whom sued the authors and their publishing house for libel.

The Government continued to close publications and punish journalists for printing material deemed too sensitive. In January the propaganda department suspended publication of *Freezing Point*. A January 11 *Freezing Point* essay by Zhongshan University professor Yuan Weishi questioning key historical events recounted in school textbooks drew the attention of the censors. In March, following the removal of *Freezing Point*'s editor-in-chief Li Datong and deputy editor Lu Yuegang, the publication reappeared with a lengthy refutation of Yuan's January essay. In February Chen Jieren, editor of the *Public Interest Times*, was reportedly fired for publishing articles revealing financial misconduct among local officials in Shaanxi Province. Also in February, Li Yuanlong, a reporter for the *Bijie Daily* in Guizhou Province, was charged with "inciting to subvert state power," and in July he was sentenced to two years' imprisonment. Li was reportedly arrested in September 2005 for posting articles on the Internet about harsh living conditions in rural Guizhou.

Newspapers could not report on corruption without government and party approval, although authorities approved reports regarding some high-profile cases. In September, when Shanghai party secretary Chen Liangyu was dismissed from office, the Propaganda Department issued strict guidelines forbidding unsanctioned commentary and ordering all publications only to print Xinhua News Service reports. Publishers printed original material at their own risk. During the year journalists and editors who exposed corruption scandals frequently faced problems with the authorities.

Propaganda authorities also restricted reporting about public protests (see section 2.c.). Authorities also continued to block reporting and prevented journalists from covering violent protests, including student protests in June in Henan Province, where graduates rioted after learning their university reneged on a pledge to list a more prestigious school on their diplomas.

Officials continued to censor and ban some reporting on labor, health, and environmental crises.

Transparency in the health sector improved compared with the Government's cover up of the initial Severe Acute Respiratory Syndrome (SARS) outbreak in 2003. Central government officials pledged to promptly report cases of avian influenza but acknowledged that local authorities did not do so in some cases. International observers acknowledged that transparency had improved with regard to avian influenza but expressed concern about delays in reporting some human and animal cases. Hong Kong media reported that the Guangzhou Bureau of Health told hospitals to submit detailed interview outlines and questions for approval two days before any media interview. Some academics were unable to publish results of independent research into contagious disease cases.

In 2005 the Government banned dozens of newspapers and confiscated almost one million "illegal" political publications. There were a few privately funded print publications but no privately owned television or radio stations or Internet portals. The censorship process for private and government media increasingly relied on self-censorship and, in a few cases, post-publication sanctions. Nonetheless, the Central Propaganda Department continued to list areas that were off limits to media, and the Government maintained authority to approve all programming.

By law, only government-approved publishing houses were permitted to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. No newspaper, periodical, book, audio, video, or electronic publication may be printed or distributed without the PPA and relevant provincial publishing authorities' approval of both the printer and distributor. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The CCP exerted control over the publishing industry by preemptively classifying certain topics as off limits; selectively rewarding with promotions and perks those publishers, editors, and writers who adhered to CCP guidelines; and punishing with administrative sanctions and blacklisting those who did not. Underground printing houses were targets of periodic campaigns to stop all illegal publications, including pornography and pirated computer software and audiovisual products.

Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. Overt intervention by the PPA and the Central Propaganda Department, which provides editorial guidelines for all media, usually occurred after publication.

In past years officials reportedly destroyed Uighur books on the grounds that Uighur groups used art and literature to distort historical fact and advocate ethnic

separatism. Uighur writers and editors, including the editor of the Kashgar Literature Journal Korash Huseyin, were jailed in 2005 for publishing stories that authorities maintained advocated separatism (see section 5). Authorities continued to ban books containing content they deemed controversial. Among the most notable was *Serve the People*, a sexually explicit novel that officials said debased Chairman Mao's image and *Notes on Party History*, which exposed historical incidents that were reportedly embellished or fabricated by the CCP.

The authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), Radio Free Asia (RFA) and the BBC. English-language broadcasts on VOA generally were not jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Internet distribution of "streaming radio" news from these sources often was blocked. Despite jamming overseas broadcasts, VOA, BBC, RFA, and Radio France International had a large audience, including rights advocates, ordinary citizens, and government officials.

Television broadcasts of foreign news, largely restricted to hotels and foreign residence compounds, were occasionally subject to censorship. Politically sensitive coverage in Chinese, and to a lesser extent in English, was censored more than coverage in other languages. "Public service announcements" frequently interrupted news items critical of the Government, particularly in the south, where television programming from Hong Kong was available.

The Government prohibited some foreign and domestic films from appearing in the country. In September the State Administration for Radio, Film and Television (SARFT) imposed a five-year filmmaking ban on director Lou Ye. SARFT banned Lou from showing his film *Summer Palace*, which is set during the 1989 Tiananmen protests, because he failed to obtain proper authorization. In February authorities detained filmmaker and foreign resident Wu Hao after Wu arranged an interview with rights attorney Gao Zhisheng. Wu, who was filming a documentary about unregistered churches, was released in July. Earlier in the year, SARFT banned distribution and screening of *Mission Impossible III*, on grounds that it depicted Shanghai in an unflattering light. Other foreign films banned during the year included *Brokeback Mountain*, based on its depiction of homosexuality and *Memoirs of a Geisha*, due to the controversy over ethnic Chinese actors playing Japanese characters.

Visas to enter the country were sometimes denied for political reasons. For example, some foreign academics and journalists critical of the country continued to be denied visas. Others who intended to discuss human rights or rule of law issues also were denied visas. Representatives of some international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them (see section 4).

*Internet Freedom.*—At year's end the China Internet Network Information Center reported that the number of Internet users jumped to 140 million, the majority of which had broadband access to the Internet. While the Government continued to encourage expanded use of the Internet, it also took steps to monitor its use, control content, restrict information, and punished those who violated regulations. New restrictions aimed at increasing government control over the Internet included stricter Web site registration requirements, enhanced official control of online content, and an expanded definition of illegal online content.

The country's Internet control system reportedly employed tens of thousands of persons. The Government consistently blocked access to sites it deemed controversial, such as sites discussing Taiwan and Tibetan independence, underground religious and spiritual organizations, democracy activists, and the 1989 Tiananmen massacre. The Government also at times blocked access to selected sites operated by major foreign news outlets, health organizations, and educational institutions.

The number of blocked sites appeared to increase around major political events and sensitive dates. The authorities reportedly began to employ more sophisticated technology enabling the selective blocking of specific content rather than entire Web sites. Such technology was also used to block e-mails containing sensitive content (see section 1.f.). The Government generally did not prosecute citizens who received dissident e-mail publications but detained individuals who forwarded such messages. Individuals using the Internet in public libraries were required to register using their national identity card. Internet usage reportedly was monitored at all terminals in public libraries.

The Ministry of Information Industry regulated access to the Internet while the Ministries of Public and State Security monitored its use. Regulations prohibit a broad range of activities that authorities interpret as subversive or slanderous to the state, including the dissemination of information that harms national unity or endangers national security. Promoting "evil cults" was banned, as was providing



information that “disturbs social order or undermines social stability.” Internet service providers (ISPs) were instructed to use only domestic media news postings, to record information useful for tracking users and their viewing habits, to install software capable of copying e-mails, and to end immediately transmission of so-called subversive material. Many ISPs practiced extensive self-censorship to avoid violating broadly worded regulations.

In January several individuals were detained or imprisoned for their Internet writing during the year. Former Fuzhou Daily journalist and Internet essayist Li Changqing was sentenced to three years in prison for “spreading alarmist information.” His Internet articles supported jailed corruption whistleblower Huang Jingao. On March 17, Ren Zhiyuan was sentenced to 10 years’ imprisonment for “subversion of state power” for an Internet article holding that persons may rightfully overthrow tyranny through violent means. Ren was also suspected of planning to organize an opposition group called the “Mainland Democratic Front.” On May 17, Internet essayist Yang Tongyan (more commonly known as Yang Tianshui) was sentenced to 12 years in prison for posting on overseas Web sites articles calling for the release of Chinese dissidents. Also in May, Internet author Guo Qizhen, who was preparing to join a hunger strike to support lawyer Gao Zhisheng and others, was detained for posting essays on a Web site supporting human rights. On October 9, Guo was sentenced to four years’ imprisonment and three years’ deprivation of political rights on the charge of “inciting subversion of state power.” On October 12, Internet writer Zhang Jianhong was arrested and charged with “inciting subversion of state power.” The police took Zhang into custody on September 6, removed disk drives and a telephone book from his house, and questioned his wife about articles he posted on Web sites. On August 12, Zan Aizong, chief correspondent of the Hangzhou Bureau of the Beijing-based China Ocean News, was detained for publishing an Internet piece criticizing the demolition of a nearby church. Zan was released on August 18, but was promptly fired. In August Deng Yongliang, another Internet essayist, was detained in Shandong Province, where he had traveled to cover the trial of legal activist Chen Guangcheng. Authorities released Deng in September but confiscated his computer hard drive and mobile telephone.

During the year the Government continued its efforts to get companies to sign a “Public Pledge on Self Discipline for China’s Internet Industry.” Several hundred companies signed the pledge, including popular Chinese Internet companies like Sina.com and Sohu.com and Yahoo’s local partner Alibaba.com. Those who signed the pledge agreed not to spread information that “breaks laws or spreads superstition or obscenity.” They also promised to refrain from “producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability.” According to court documents, Yahoo provided information to security authorities, including access to private e-mail accounts, used in the prosecution of journalist Shi Tao for leaking state secrets. The company said it was required to provide the information under national law and customs.

On April 9, 14 major Internet portals, including Sina.com, Sohu.com, Baidu.com and Yahoo’s Chinese Web site issued a joint proposal calling for the Internet industry to censor indecent and harmful information, spread the ideas of Hu Jintao, encourage “passionate love of the motherland,” and accept government supervision. Chinese search engines such as Baidu.com and the China-based search engines of Yahoo!, MSN and Google filtered search results, including those relating to the Voice of America, Radio Free Asia, and human rights.

Official statistics showed that as of July, authorities shut down approximately 700 online forums. In June authorities shut down Sina.com and Sohu.com for several days to allow the popular Internet portals to upgrade their filtering capabilities after censors found that the portals failed to filter certain key words deemed politically harmful. In July the Beijing Communications Administration shut down the Century China Web site, a popular online forum for discussing current affairs and historical issues, and several other sites. In August authorities shut down China Consultation Net after the site published results of a poll asking visitors whether the general secretary of the Communist Party should be elected from among candidates competing for the position.

Internet cafes must install software that allows government officials to monitor customers’ Internet usage. Internet users at cafes were often subject to surveillance. Many cafes sporadically enforced regulations requiring patrons to provide identification.

*Academic Freedom and Cultural Events.*—The Government did not respect academic freedom and increased controls on political and social discourse at colleges, universities, and research institutes. Scholars and researchers reported varying degrees of control regarding issues they could examine and conclusions they could draw. Law professors were warned not to propose abolition of the reeducation-

through-labor system. Scholar Xu Zerong received a nine-month sentence reduction in September, but he remained in prison. Scholars studying religion reported that the official Protestant church blocked some publications it found objectionable. Authorities canceled university conferences involving foreign and domestic academics on short notice when they deemed the topics at issue to be too sensitive.

The Government continued to use political attitudes as criteria for selecting persons for the few government-sponsored study abroad programs but did not impose such restrictions on privately sponsored students. In August Independent Chinese Pen Center (ICPC) member Wu Wei was reportedly stopped at the Hong Kong border while on his way to attend the ICPC's annual meeting (see section 2.d.).

Researchers residing abroad also were subject to sanctions from the authorities when their work did not meet with official approval.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of peaceful assembly; however, the Government severely restricted this right in practice. The law stipulates that such activities may not challenge “party leadership” or infringe upon the “interests of the state.” Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly suppressed demonstrations involving expression of dissenting political views.

*Freedom of Assembly.*—At times police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. Widespread market reforms and rapid growth have resulted in increased social unrest, with large-scale public disturbances on the rise for more than a decade. As in past years, the vast majority of demonstrations during the year concerned land disputes, housing issues, industrial, environmental, and labor matters, government corruption, taxation, and other economic and social concerns. During the first half of the year, public security authorities reported 39,000 “public order disturbances,” a 2.5 percent decrease from the same period in 2005, although these statistics were widely viewed as unreliable. While the scale of disturbances and incidents varied, some included thousands of participants. In April, for example, up to 3,000 riot police used tear gas and water cannons to disperse 4,000 villagers gathered to protest destruction of an unauthorized, farmer-initiated irrigation project in Bomei Village, Guangdong Province. Land protests involving hundreds or thousands of protesters also continued (see section 1.a.). In January one villager died and as many as 100 were injured when police disrupted 3,000 residents at a sit-in convened over a land dispute in Zhongshan City, Guangdong Province. In April more than 50 villagers were injured when 1,000 riot police confronted 2,000 villagers peacefully protesting a land dispute near Guangdong Province's Foshan City.

Authorities detained potential protesters before the June 4 anniversary of the Tiananmen massacre, the first anniversary of Zhao Ziyang's death in January, and the March plenary sessions of the NPC and CPPCC. Dissidents were detained around the time of other sensitive events to head off public demonstrations (see section 1.d.). Labor protests over restructuring of state-owned enterprises and resulting unemployment continued, as did protests over environmental degradation and major infrastructure projects, such as dams. All concerts, sports events, exercise classes, or other meetings of more than 200 persons required approval from public security authorities. In practice much smaller gatherings also ran the risk of being disrupted by authorities. Unlike previous years, there were no sizable incidents of anti-Japanese protests.

The Government continued to wage a severe campaign against the Falun Gong movement. Falun Gong practitioners were subject to close scrutiny by local security personnel, and their personal mobility was tightly restricted, particularly at times when the Government believed public protests were likely.

Persons petitioning the Government continued to face restrictions on their rights to assemble and raise grievances. Official news media reported that citizens presented 12.7 million petitions to “letters and visits” offices in 2005, but only 0.2 percent of petitions filed received a response. Most petitions mentioned grievances about land, housing, entitlements, the environment, or corruption. Petitioners largely sought to present their complaints at national and provincial “letters and visits” offices but also targeted foreign embassies and media to bring attention to their complaints.

Petitioners continued to face harassment, detention, and incarceration. Petitioners in Liaoning and other provinces reported being accosted by plainclothes police and brought back to their homes before they could register their petitions in the capital. In June Fu Xiancai, who petitioned the Government for compensation on behalf of 1.3 million persons forcibly relocated from their land due to the Three Gorges Dam project, was paralyzed from the neck down as a result of a beating he received at the hands of unidentified assailants.

Although regulations implemented in 2005 banned retaliation against petitioners, reports of retaliation continued. This was partly due to incentives provided to local officials by the central government to prevent petitioners in their regions from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces. Such detentions occurred both before and after the enactment of the new regulations and often went unrecorded.

*Freedom of Association.*—The law provides for freedom of association, but the Government restricted this right in practice. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the Government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that might challenge government authority. Implementation of these regulations tightened during the year (see section 2.a.).

Authorities established a task force in 2005 to increase scrutiny over NGOs, especially those with links overseas. Published reports said the task force was part of a campaign initiated in response to the “color revolutions” in former Soviet republics and aimed to block NGOs from fomenting political change. Security ministries participated in this task force and questioned representatives of domestic and international NGOs about their activities. International foundations, NGOs involved in social and charitable activities, and groups dedicated to combating discrimination against women, persons with disabilities, and minorities were targets of the campaign, along with organizations that focused on human rights issues.

Since 2004 according to official statistics, the number of registered NGOs increased from 288,936 to 317,000. NGOs were required to register with the Government. To register, an NGO must find a government agency to serve as the NGO’s organizational sponsor, have a registered office, and hold a minimum amount of funds. Organizations with social or educational purposes that had previously been registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year (see section 4). Experts estimated that, including both registered and unregistered groups, there were perhaps as many as eight million quasi-governmental organizations and NGOs.

Authorities supported the growth of some civil society organizations that address social problems such as poverty and HIV/AIDS. Over the past two years, officials increased measures aimed at supervising and controlling civil society organizations; however, various NGOs were still able to develop their own agendas, although the registered organizations all came under some degree of government control. Prominent activist Hu Jia resigned from an organization he helped establish to assist HIV/AIDS orphans, citing pressure on the organization’s international donors. On November 24, HIV/AIDS activist Wan Yanhai was detained for three days in Beijing. Wan was forced to cancel an HIV/AIDS rights related workshop planned for November 26. Officials reportedly were concerned because workshop attendees included human rights lawyers (see section 5). A number of NGOs had support from foreign secular and religious NGOs, and several were able to undertake limited advocacy roles in public interest areas like women’s issues, the environment, health, and consumer rights. According to government guidelines, NGOs must not advocate nonparty rule, damage national unity, or upset ethnic harmony. Groups that disregarded guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges.

No laws or regulations specifically govern the formation of political parties. But the CDP remained banned, and the Government continued to monitor, detain, and imprison current and former CDP members (see section 3). As in past years, individuals were charged with and convicted of “disclosing state secrets” after passing information to human rights NGOs based abroad (see section 4).

*c. Freedom of Religion.*—The constitution and laws provide for freedom of religious belief and the freedom not to believe. However, the Government sought to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. The Government recognized five main religions: Buddhism, Taoism, Islam, Protestantism, and Catholicism. A government-affiliated association monitored and supervised the activities of each of these faiths. Membership in these faiths as well as unregistered religious groups grew rapidly. The Government tried to control and regulate religious groups, especially groups that were unregistered.

The extent of religious freedom continued to vary widely within the country. Freedom to participate in officially sanctioned religious activity continued to increase in

most areas. Religious activity grew not only among the five main religions, but also among the Eastern Orthodox Church and folk religions. Bibles and other religious texts were available in most parts of the country. At the same time, some unregistered groups continued to experience varying degrees of official interference and harassment. Crackdowns against unregistered Protestants and Catholics, Muslims, and Tibetan Buddhists (see Tibet Addendum) continued. The Government continued its repression of groups that it determined to be “cults” and of the Falun Gong spiritual movement in particular.

All religious venues were required to register with the State Administration for Religious Affairs (SARA) or its provincial or local offices (known as Religious Affairs Bureaus (RABs)). SARA and the RABs were responsible for monitoring and judging whether religious activity was “normal” and therefore lawful. SARA and the CCP’s united front work department provided policy guidance and supervision over implementation of government regulations on religious activity.

New regulations governing religious affairs, which came into effect in March 2005, delineated regulatory activities governing religious affairs and consolidated official pronouncements within a legal framework. However, the regulations provide general protection only for freedom of “religious belief,” and not for expressions of belief. The regulations protect only those religious beliefs categorized vaguely as “normal.” In practice, party doctrine guides resolution of religious issues and implementation of the regulations. The regulations protect the rights of registered religious groups, under certain conditions, to possess property, publish literature, train and approve clergy, and collect donations. However, the regulations have not created additional room for lawful religious activity by groups not affiliated with the five main religions. In this regard, the regulations merely codify past practices and give authorities broad discretion to define which religious activities are permissible.

The law requires religious groups to register places of worship. Spiritual activities in places of worship that have not registered may be considered illegal and participants can be punished. Government officials stated that private homes where family and friends meet to study the Bible would not be required to register, but venues for formal worship services should be registered, even if such formal worship takes place in a private home. Clergy need not be approved by the Government but must be reported to the Government after being selected pursuant to the rules of the relevant government-affiliated religious association. Pressure on religious groups to register or to come under the supervision of official “patriotic” religious organizations continued during the year. Some groups registered voluntarily, while a number registered under pressure; several groups avoided officials in an attempt to avoid registration, and authorities refused to register others. Various unofficial groups reported that authorities refused them registration without explanation. The Government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Some religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members.

Local authorities’ handling of unregistered religious groups, especially Protestant “house churches,” varied widely. In certain regions government supervision of religious activity was minimal, and registered and unregistered Protestant and Catholic churches existed openly side-by-side and were treated similarly by the authorities. In such areas many congregants worshipped in both types of churches; congregants in unregistered churches were also able to procure Bibles at official churches. In some parts of the country, unregistered house churches with hundreds of members met openly, with the full knowledge of local authorities, who characterized the meetings as informal gatherings. In other areas house church meetings of more than a handful of family members and friends were strictly proscribed. House churches often encountered difficulties when their membership grew, when they arranged for the regular use of facilities for the purpose of conducting religious activities, or when they forged links with other unregistered groups.

Leaders of unauthorized groups were sometimes the target of harassment, interrogation, detention, and physical abuse. Authorities frequently disrupted house church meetings and retreats, detained and questioned leaders and church members, and confiscated the personal property of house church leaders and members. During the year thousands of house church members were detained; a large number of these detentions occurred in Henan Province.

Henan Province house Christian pastor Zhang Rongliang was convicted in June of obtaining a passport through fraud and of illegal border crossing. He was sentenced to seven-and-a-half years in prison. Beijing-based house church Christian Liu Fenggang, who was convicted in August 2004 with Xu Yonghai and Zhang Shenqi on charges of disclosing state secrets, remained in prison. Liu provided an overseas

Chinese magazine information about abuse of Christians in the country. In February Lou Yuanqi was reportedly detained for holding unauthorized church services in Xinjiang. In April Li Huimin was reportedly sentenced to reeducation in Henan Province for holding house church meetings at his home. In May several house church activists were detained in Henan Province's Fugou County, while several others remained under detention. Persons associated with Protestant Christian worship outside government-approved venues also were subject to detention or abuse.

In July and August, according to the China Aid Association, authorities in several provinces detained Protestant house church members. On July 19, Henan Province authorities reportedly raided a house church in Zhumadian, questioning more than 60 church members. On July 21, Hubei Province officials reportedly raided a house church meeting, questioning 20 church members. Officials later placed 10 church members under administrative detention lasting from 10 to 15 days. On July 24, Yunnan Province authorities reportedly detained four house church members. On July 27, Anhui Province officials reportedly raided a house church Sunday school, questioning approximately 40 individuals. Officials also placed pastors Cai Yili and Li Lizhong in administrative detention for 16 days. On August 19, officials from the Inner Mongolia Autonomous Region reportedly raided a house church, confiscating church property and warning church members that they could only meet at registered churches.

As in previous years, there were reports that a number of Catholic priests, lay leaders, and laypersons were beaten or otherwise abused. In some localities, authorities reportedly pressured unregistered clergy and laypersons to renounce ordinations approved by the Holy See, join the official church, or face a variety of punishments including fines, job loss, and detentions. On September 11, Bishop Wu Qijiang, who was ordained in October 2005 with approval from the Holy See but without government permission, was detained for five days and forced to sign a document stating that his ordination was illegal.

Harassment of unregistered Catholic bishops, priests, and laypersons, including government surveillance and detentions, continued. On July 2, authorities detained unregistered Bishop Jia Zhiguo for the tenth time since 2004; he was released on September 27. Bishop Yao Liang, who is 82 years old, was arrested on July 30 and remained under detention at year's end. There was no new information about unregistered Bishop Su Zhimin, who has been unaccounted for since his reported detention in 1997. In June an unverified press report circulated that Bishop Su had died in custody. The Government did not respond to requests for information in the case. Bishop An Shuxin, Bishop Su's auxiliary bishop, was released on August 24, after 10 years in prison. Officials permitted Bishop An's release when he accepted recognition by the Government and did not force him to register with the Catholic Patriotic Association (CPA). In late September unregistered Catholic priests Shao Zhoumin and Jiang Sunian were detained in Shenzhen upon their return from Europe. Sources also reported that Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Qianjun remained detained in Hebei Province. According to the foreign-based Cardinal Kung Foundation, the whereabouts of Bishop Zhao Zhendong, who was detained in December 2004, remained unknown. In Hebei Province, officials detained a total of seven Catholic clerics and 90 laypersons.

The Government and the Holy See have not established diplomatic relations and there was no Vatican representative on the Mainland. The role of the pope in selecting bishops, the status of underground Catholic clerics, and Vatican recognition of Taiwan remained obstacles to improved relations.

Although the Government insisted that it retains power to impose conditions on the appointment of Catholic bishops, registered Catholics increasingly acknowledged the spiritual authority of the Holy See, and the Vatican has approved most registered bishops appointed by the Government prior to consecration. In April and May, CPA officials consecrated two Catholic bishops without Vatican approval, reportedly forcing registered Catholic clerics to participate in the consecrations. The CPA also installed a bishop in Fujian Province, even though he was consecrated in 2000 without Holy See approval.

In July officials demolished a large house church that was under constructed in Zhejiang Province and reportedly beat hundreds of house church members who arrived to protest the demolition. Officials repeatedly denied requests for permission to build a church. Traditional folk religions, such as Fujian Province's "Mazu cult," were still practiced in some locations. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, the Government has labeled folk religions "feudal superstition" and sometimes repressed them. SARA established a new administrative division responsible for the activities of folk religions and religions outside the main five, including the Eastern Orthodox Church and the Church of Jesus Christ of Latter-day Saints.

Buddhists made up the largest body of organized religious believers. The traditional practice of Buddhism continued to expand among citizens in many parts of the country. Tibetan Buddhists in some areas had growing freedom to practice their faith. However, government restrictions remained, particularly in cases in which the Government interpreted Buddhist belief as supporting separatism, such as in some Tibetan areas and parts of the Inner Mongolian Autonomous Region. In February emissaries of the Dalai Lama met with government officials, in the fifth round of dialogue between the two sides since 2002 (see Tibet Addendum).

Regulations restricting Muslims' religious activity, teaching, and places of worship continued to be implemented forcefully in Xinjiang. During the year authorities added women to the groups of persons prohibited from entering mosques. Other groups formally prohibited from entering mosques included children, CCP members, and government workers. However, in practice women and children were not uniformly barred from entering mosques. The Government continued to use counterterrorism to justify religious repression of Uighur Muslims (see section 5). Xinjiang authorities continued to detain and arrest persons engaged in unauthorized religious activities and charged them with a range of offences including state security crimes. Xinjiang authorities often charged religious believers with committing the "three evils" of terrorism, separatism, and extremism. While targeted primarily at Muslims, the tight control of religion in Xinjiang affected followers of other religions as well.

The Government strictly controlled the practice of Islam, while the state-controlled Islamic Association of China aligned Islamic practice to CCP goals. However, in contrast to the heavy-handed approach to Muslims in Xinjiang Province, officials in Ningxia, Gansu, and Qinghai provinces approached religious affairs cautiously and were reluctant to interfere overtly in Muslims' activities. Authorities reserved the right to censor imams' sermons, and imams were urged to emphasize the damage caused to Islam by terrorist acts in the name of the religion. Certain Muslim leaders received particularly harsh treatment. Authorities conducted monthly political study sessions for religious personnel and the program continued through the year. In May the IAC announced it would establish an office to manage pilgrimages to Mecca. In the same month the China Islamic Conference passed a measure requiring religious personnel to study "new collected sermons" compiled by an IAC committee, including messages on patriotism and unity aimed at building a "socialist harmonious society."

According to one overseas organization, 179 practitioners of the Sala order, a local Sufi branch of Islam, were arrested in August 2005 following a government ban on the movement. Although officials denied the ban, they considered the movement dangerous. In August 2004 eight Uighur Muslims in Hotan were reportedly charged with endangering state security and scores were detained on charges of engaging in "illegal religious activities." In addition to the restrictions on practicing religion placed on party members and government officials throughout the country, teachers, professors, and university students in Xinjiang were not allowed to practice religion openly.

Muslims were permitted to make pilgrimages abroad, but the Government reportedly penalized those who arranged unauthorized pilgrimages. Official reports noted that more than 9,700 Chinese Muslims traveled to Mecca for the Hajj pilgrimage, which began on November 29. This figure likely did not include participants who were not organized by the Government, which numbered thousands in previous years. Between July and September, thousands of Uighur Muslims, who traveled to Pakistan to circumvent government-imposed controls on Hajj participants, were stuck in Islamabad because they were denied visas by the Saudi Arabian Embassy. Following demonstrations by the visa applicants outside the Saudi Embassy, visas were granted to approximately 1,000 applicants, although many more were forced to return to Xinjiang.

The authorities permitted officially sanctioned religious organizations to maintain international contacts that do not involve "foreign control." However, what constitutes "control" is not defined. Regulations on religious practice by foreigners include a ban on proselytizing. Authorities generally allowed foreign nationals to preach to other foreigners, bring in religious materials for personal use, and preach to citizens at the invitation of registered religious organizations. Despite a ban on missionary activities, many foreign Christians teaching on college campuses openly professed their faith with minimum interference from authorities provided their religious activity remains discreet. Authorities permitted citizens who joined the Church of Jesus Christ of Latter-day Saints while they were outside of China to hold services after they returned.

The authorities continued a general crackdown on groups considered to be "cults." These "cults" included not only Falun Gong and various traditional Chinese medita-

tion and exercise groups (known collectively as qigong groups), but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine. Groups that the Government labeled cults included Eastern Lightning, the Servants of Three Classes, the Shouters, the South China Church, the Association of Disciples, the Full Scope Church, the Spirit Sect, the New Testament Church, the Way of the Goddess of Mercy, the Lord God Sect, the Established King Church, the Unification Church, and the Family of Love. Authorities accused some in these groups of lacking proper theological training, preaching the imminent coming of the apocalypse or holy war, or exploiting the reemergence of religion for personal gain. The Government accused the Eastern Lightning group and some other unregistered Christian groups of involvement in violence.

Actions against such groups continued during the year. Police also continued their efforts to close down the underground evangelical group Shouters, an offshoot of a pre-1949 indigenous Protestant group. Action against the South China Church (SCC) continued. In August 2005 approximately 40 SCC members were detained in Hubei Province after meeting with foreigners. According to an anonymous petition submitted to the United Nations Working Group on Arbitrary Detention, SCC founder Gong Shengliang and other imprisoned SCC members suffered serious abuses in prison. Gong is serving a life sentence for rape, arson, and assault, even though the women who testified against him in his original trial in 2001 reported that police had tortured them into signing statements accusing Gong of raping them. During the year Gong's daughters reported that Gong was in poor health and had been beaten by another inmate.

Public Falun Gong activity in the country remained negligible, and practitioners based abroad reported that the Government's crackdown against the group continued. Since the Government banned the Falun Gong in 1999, the mere belief in the discipline (even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of practitioners detained have been released, many were detained again after release (see section 1.e.). Falun Gong sources estimated that at least 6,000 Falun Gong practitioners had been sentenced to prison, more than 100,000 practitioners sentenced to reeducation through labor, and almost 3,000 had died from torture while in custody. Some foreign observers estimated that Falun Gong adherents constituted at least half of the 250,000 officially recorded inmates in reeducation-through-labor camps, while Falun Gong sources overseas placed the number even higher. In March UN Special Rapporteur Nowak reported that Falun Gong practitioners accounted for 66 percent of victims of alleged torture while in government custody.

Falun Gong members identified by the Government as "core leaders" have been singled out for particularly harsh treatment. More than a dozen Falun Gong members have been sentenced to prison for the crime of "endangering state security," but the great majority of Falun Gong members convicted by the courts since 1999 have been sentenced to prison for "organizing or using a sect to undermine the implementation of the law," a less serious offense. Most practitioners, however, were punished administratively. Some practitioners were sentenced to reeducation through labor. Among them, Yuan Yuju and Liang Jinhui, relatives of a Hong Kong journalist working for a television station supportive of Falun Gong, were sentenced to reeducation through labor for distributing Falun Gong materials. Apart from reeducation through labor, some Falun Gong members were sent to "legal education" centers specifically established to "rehabilitate" practitioners who refused to recant their belief voluntarily after release from reeducation-through-labor camps. Government officials denied the existence of such "legal education" centers. In addition, hundreds of Falun Gong practitioners have been confined to mental hospitals, according to overseas groups (see section 1.d.).

Allegations of abuse of Falun Gong practitioners by the police and other security personnel continued during the year (see section 1.c.). In addition, multiple allegations of government-sanctioned organ harvesting from Falun Gong prisoners surfaced. In April overseas Falun Gong groups claimed that a hospital in Sujiatun, Shenyang, had been the site of a "concentration camp" and of mass organ harvesting, including from live prisoners (see section 1.c.). The Government opened the facility to diplomatic observers and foreign journalists, who found nothing inconsistent with the operation of a hospital.

Police continued to detain current and former Falun Gong practitioners and place them in reeducation camps. Police reportedly had quotas for Falun Gong arrests and targeted former practitioners, even if they were no longer practicing. The Government continued its use of high-pressure tactics and mandatory anti-Falun Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were

forced to attend anti-Falun Gong classes or were sent directly to reeducation-through-labor camps. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

The Government supported atheism in schools. In March 2005 a Foreign Ministry spokesman said the country had no national regulations preventing children from receiving religious instruction, but said religion should not interfere with public education. In practice local authorities in many regions barred school-age children from attending religious services at mosques, temples, or churches and prevented them from receiving religious education outside the home.

The law does not prohibit religious believers from holding public office; however, party membership is required for almost all high-level positions in government, state-owned businesses, and many official organizations. Communist Party officials have stated that party membership and religious belief were incompatible. Government and CCP officials reiterated that religious believers should resign their party membership. The Routine Service Regulations of the People's Liberation Army state explicitly that service members "may not take part in religious or superstitious activities." CCP and PLA personnel have been expelled for adhering to Falun Gong beliefs.

Despite regulations encouraging officials to be atheists, some party officials engaged in religious activity, most commonly Buddhism or a folk religion. The NPC included several religious representatives. NPC Standing Committee vice chairmen included Fu Tieshan, a bishop and vice-chairman of the Chinese Catholic Patriotic Association. Religious groups also were represented in the CPPCC, an advisory forum for "multiparty" cooperation and consultation led by the CCP, and in local and provincial governments. CPPCC Standing Committee vice chairmen included Pagbalha Geleg Namgyal, a Tibetan reincarnate lama.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate "political reliability," and all graduates must pass an examination on their political as well as theological knowledge to qualify for the clergy. The Government permitted registered religions to train clergy and allowed an increasing number of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies, but some religion students had difficulty getting passports or obtaining approval to study abroad. In most cases foreign organizations provided funding for such training programs.

Authorities continued to prohibit the teaching of Islam to elementary and middle school-age children in some areas, although children studied Arabic and the Koran without restriction in many others. Local officials stated that school-age children may not study religion or enter mosques in Xinjiang. In August 2005 a teacher, Aminan Momixi, and more than 30 students were reportedly detained for holding Koran study sessions during school vacation. Authorities confiscated their Korans and Muslim textbooks and the Government declined to clarify Momixi's status. According to media reports, Xinjiang authorities confiscated religious publications on many other occasions, sometimes detaining those who possessed unapproved religious texts.

Religious organizations of all faiths, including those composed of foreigners, were encouraged to engage in charitable activities and social services. Religious organizations engaged in social services faced obstacles registering with local authorities. These difficulties were similar to those faced by nonreligious NGOs (section 2.b.).

The 2005 religious regulations permit authorized religious organizations and venues to compile and print materials for internal and public distribution, but require publications to be prepared in accordance with national regulations. These regulations, in turn, impose strict prior restraints on religious literature, even beyond the restrictions on other types of publications. The regulations also provide for government oversight of the appointment of religious personnel.

The Government strictly punished the private publication of religious works. In April pastor Liu Yuhua from Shandong was detained in Linchu County on charges of operating an illegal business after he was found distributing religious texts. In May house church pastor Wang Zaiqing from Anhui was formally arrested. Foreign-based NGOs said the arrest was in connection with his work publishing Bibles and religious materials. In July 2005 Protestant Pastor Cai Zhuohua and two other relatives were sentenced to three years, two years, and 18 months in prison for operating an illegal business, stemming from their large-scale publishing of Bibles and Christian literature without government approval. According to reliable reports, the CCP officials described the prosecution of Cai as one of the most important cases in the campaign to prevent foreign infiltration under the cover of religion.



Media reports stated that authorities confiscated illegal religious publications in Xinjiang. In February Xinjiang authorities reportedly raided a minority-language printing market and seized “illegally printed” religious posters. Also in February authorities announced that in 2005 they had seized 9,860 illegal publications involving religion, Falun Gong, or “feudal superstitions.” The Xinjiang People’s Publication House was the only publisher allowed to print Muslim literature.

The supply of Bibles was adequate in most parts of the country, but some members of underground churches complained that the supply and distribution of Bibles, especially in rural locations, was inadequate. Individuals could not order Bibles directly from publishing houses. Customs officials continued to monitor for the “smuggling” of religious materials into the country. There have been credible reports that the authorities sometimes confiscated Bibles, Korans, and other religious material.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses of religious practitioners or anti-Semitic acts during the year. The Government does not recognize Judaism as an ethnicity or religion.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation.*—The law provides for some of these rights; however, the Government generally did not respect them in practice. Although the Government maintained restrictions on the freedom to change one’s workplace or residence, the national household registration system continued to erode, and the ability of most citizens to move within the country to work and live continued to expand. However, the Government retained the ability to restrict freedom of movement through other mechanisms. Authorities heightened restrictions periodically, particularly curtailing the movement of individuals deemed politically sensitive before key anniversaries, visits of foreign dignitaries, and to forestall demonstrations.

The system of national household registration (*hukou*) underwent further change during the year, as the country accumulated a more mobile labor force. Rural residents continued to migrate to the cities, where the per capita disposable income was more than quadruple the rural per capita cash income. Nonetheless, many could not officially change their residence or workplace within the country. Government and work unit permission were often required before moving to a new city. Most cities had annual quotas for the number of new temporary residence permits that would be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for peasants from rural areas to obtain household registration in economically more developed urban areas.

The household registration system added to the difficulties rural residents faced in changing to urban residency, even when they have already relocated to urban areas and found employment. There remained a floating population of between 100 and 150 million economic migrants who lacked official residence status in cities. Without official residence status, it was difficult or impossible to gain full access to social services, including education. Furthermore, law and society generally limited migrant workers to types of work considered least desirable by local residents, and such workers had little recourse when subjected to abuse by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported that it is difficult to qualify for these benefits in practice. Many cities and provinces continued experiments aimed at abolishing the distinction between urban and rural residents in household registration documents.

House arrest continued to be used as a nonjudicial punishment and control measure against dissidents, family members of political prisoners, petitioners, and others whom the Government or party deemed politically sensitive or “troublemakers” (see section 1.d.).

Under the “staying at prison employment” system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home but were not permitted freedom of movement.

The Government permitted legal emigration and foreign travel for most citizens. Most citizens could obtain passports, although those whom the Government deemed threats, including religious leaders, political dissidents, and some ethnic minority members continued to have difficulty obtaining passports (see Tibet Addendum). There were reports that some academics faced travel restrictions around the year’s sensitive anniversaries, particularly the June 4 anniversary of the Tiananmen Square massacre. There were instances in which the authorities refused to issue passports or visas on apparent political grounds. Members of underground churches, Falun Gong members, and other politically sensitive individuals sometimes were re-

fused passports and other necessary travel documents. In March an individual in Guangxi Province was reportedly barred from traveling outside the country because he authored Internet articles critical of the CCP. In August ICPC member Wu Wei was reportedly stopped at the Hong Kong border while on his way to attend the ICPC's annual meeting. In September passport control authorities without warning confiscated the passport of a prominent labor rights lawyer as he was boarding a train to Hong Kong.

The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The Government continued to refuse reentry to numerous citizens who were considered dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad have been allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists residing abroad have been imprisoned upon their return to the country.

While UNHCR reported that more than 2,000 Tibetans each year crossed into Nepal, the Government continued to try to prevent many Tibetans from leaving (see Tibet Addendum).

*Protection of Refugees.*—Although a signatory of the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, the law does not provide for the granting of refugee or asylum status. The Government largely cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. During the year the Government and UNHCR continued ongoing discussions concerning the granting of citizenship to these residents. Since the late 1980s, the Government has adopted a de facto policy of tolerance toward the small number of persons, fewer than 100 annually, from other nations who registered with the Beijing office of the UNHCR as asylum seekers. The Government permitted these persons to remain in the country while the UNHCR made determinations as to their status and, if the UNHCR determined that they were bona fide refugees, while they awaited resettlement in third countries. However, the Government continued to deny the UNHCR permission to operate along its northeastern border with North Korea, arguing that North Koreans who crossed the border were illegal economic migrants, not refugees.

During the year several thousand North Koreans were reportedly detained and forcibly returned to North Korea. Many faced persecution, and some may have been executed upon their return. Several hundred North Koreans were permitted to travel to third countries after they had entered diplomatic compounds or international schools in the country. There were numerous credible reports of harassment and detention of North Koreans in the country. The Government also arrested and detained foreign journalists, missionaries, and activists, as well as some citizens, for providing food, shelter, transportation, and other assistance to North Koreans. The Government continued to detain several foreigners in the Northeast, some on charges of alien smuggling, but most for helping North Koreans enter the country. Jilin Province's public security Web site reported that it had deported an estimated 2,000 "foreigners" in 2004, most of who were believed to be North Korean. According to NGOs, during the year North Korean agents operated within the country to forcibly repatriate North Korean citizens.

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

The law does not provide citizens with the right to change their government peacefully, and citizens cannot freely choose or change the laws and officials that govern them. The CCP continued to control appointments to positions of political power.

*Elections and Political Participation.*—According to the law, the NPC is the highest organ of state power. Formally, it elects the President and vice President, selects the premier and vice premiers, and elects the chairman of the State Central Military Commission. In practice the NPC Standing Committee, which is composed of 153 members, oversaw these elections and determined the agenda and procedure for the NPC. The NPC Standing Committee remained under the direct authority of the CCP's nine-member Politburo Standing Committee. The NPC does not have the power to set policy or remove government or party leaders.

In 2003 the NPC confirmed CCP General Secretary Hu Jintao as President, and in 2004 Hu consolidated his power when he was also appointed chairman of the Central Military Commission.

All of the country's approximately one million villages were expected to hold competitive, direct elections for village committee officials. Most provinces already have held four or five rounds of village committee elections, according to the Ministry of Civil Affairs. Foreign observers who monitored local village committee elections

judged those they observed to have been generally fair. However, the Government estimated that one-third of all elections had serious procedural flaws. Corruption, vote buying, and interference by township-level and party officials continued to be problems. The law permitted each voter to cast proxy votes for up to three other voters. Many rural voters cast the maximum number of proxy votes, especially in areas with significant out-migration.

Although the law includes a provision for recalling village committee members, local implementing regulations have proven sufficiently vague or cumbersome so as to prevent most attempted recalls. In cases of alleged corruption, a handful of local legislative deputies, but not village heads, have been recalled. In 2005 villagers in Guangdong Province's Taishi Village were subjected to severe abuse when they tried to recall village chief Chen Jinsheng, whom they accused of embezzling village funds. Authorities resorted to violence, intimidation, and other tactics to quash the recall attempt.

The election law governs elections of legislative bodies at all levels. Under this law, citizens have the opportunity to vote for local people's congress representatives at the county level and below, although in most cases the nomination of candidates in those elections was strictly controlled. Legislators selected people's congress delegates above the county level. For example, provincial-level people's congresses selected delegates to the NPC. Local CCP secretaries generally served concurrently as the head of the local people's congress, thus strengthening party control over legislatures.

During the year independent candidates not selected by local authorities ran or attempted to run in people's congress elections held at the local level across the country. While a small number of independents were elected, in Hubei and Guangdong Provinces local officials reportedly manipulated and pressured some candidates, who mounted aggressive campaigns to prevent independents from being nominated, and if nominated, from winning. Local police detained and monitored independent candidates, seized campaign materials, and intimidated supporters, family members, and friends. Some activists also alleged that vote counts were rigged to ensure defeat. During the year Taishi villagers failed in their attempt to nominate an independent candidate for local people's congress representative, allegedly because of ballot tampering and an illegal refusal to allow proxy votes.

Although the party controlled appointments of officials to government and party positions at all levels, some township, county, and provincial elections featured experiments with increased competition, including self-nomination of candidates, campaign speeches by candidates, public vetting of nominees, and a two-tiered indirect election system.

The CCP retained a monopoly on political power and forbade the creation of new political parties. The Government recognized nine parties founded prior to 1949, but not the CDP, an opposition party founded in 1998 and subsequently declared illegal. Dozens of CDP leaders, activists, and members have been arrested, detained, or confined. One of the CDP's founders, Qin Yongmin, remained in prison at year's end, as did others connected with a 2002 open letter calling for political reform and re-appraisal of the 1989 Tiananmen massacre. On September 14, authorities released CDP leader Zhu Yufu after he completed a seven-year sentence for participating in prodemocracy activities. On the same day, authorities detained CDP leader Chen Shuqing on suspicion of inciting "to subvert state power." More than 30 current or former CDP members reportedly remained imprisoned or held in reeducation-through-labor camps, including Zhang Lin, Zhao Changqing, Sang Jiancheng, He Depu, Yang Tianshui, Wang Rongqing, and Jiang Lijun.

The Government placed no special restrictions on the participation of women or minority groups in the political process. However, women held few positions of significant influence in the CCP or government structure. There was one female vice premier on the 24-member Politburo. There was also one woman among the five state councilors. The head of a key CCP organization, the United Front Work Department, was a woman. During the year women headed one of the country's 28 ministries, and 25 women served at the level of vice minister or higher.

The Government encouraged women to exercise their right to vote in village committee elections and to stand for those elections, although only a small fraction of elected members were women. In many locations, a seat on the village committee was reserved for a woman, who was usually given responsibility for family planning. At the end of 2005, there were 13.6 million female party members, making up 19.2 percent of the 70.8 million members of the Communist Party. Women constituted 20.2 percent of the NPC and 14.2 percent of the NPC Standing Committee. In 2002 the 16th Party Congress elected 27 women to serve as members or alternates on the 198-person Central Committee, a slight increase over the total of the previous committee.

Minorities constituted 13.9 percent of the NPC, although they made up approximately 8.4 percent of the population. All of the country's 55 officially recognized minority groups were represented in the NPC membership. The 16th Party Congress elected 35 members of ethnic minority groups as members or alternates on the Central Committee. The only ministerial-level post, held by an ethnic minority was the Ethnic Affairs post and there was one ethnic minority, Vice Premier Hui Liangyu, on the Politburo. Minorities held few senior party or government positions of significant influence (see section 5).

*Government Corruption and Transparency.*—Corruption remained an endemic problem. The National Audit Office found that 48 ministerial level departments misused or embezzled approximately \$685 million (RMB 5.51 billion) from the central government's 2005 budget, a 70 percent increase over the amount reported in 2004. Corruption plagued courts, law enforcement agencies, and other government agencies. In March 2000 foreign citizen Jude Shao was sentenced to 16 years' imprisonment for tax evasion after allegedly refusing to pay bribes to local tax auditors. He remained in prison at year's end, despite receiving a one-year reduction in his sentence in September.

The courts and party agencies took disciplinary action against many public and party officials during the year. According to the SPP's March 11 report to the NPC, prosecutors filed and investigated 24,277 cases of embezzlement, bribery, or dereliction of duty; prosecuted 30,205 officials while investigating a total of 41,477 officials in 2005; and transferred 7,279 cases to judicial organs for prosecution. The CCP's CDIC reported that 110,000 officials were disciplined for breaking laws and party discipline in 2005. Inspection committees stripped 11,071 persons of CCP membership, more than twice the number in 2004. In some cases, sanctions administered by the CDIC reportedly substituted for sanctions by courts and other legal agencies.

The country had no national freedom of information law, but many local jurisdictions continued to enact freedom of information regulations aimed at improving the public's communication with and supervision over local government initiatives. Approximately 95 percent of government ministries, provincial governments and prefecture-level cities had Web sites, providing some, albeit restricted, public information. However, citizens, local media, and foreign journalists found it difficult to get information about government decision making, especially before decisions were formally announced.

The Government experimented with various forms of public oversight of government, including telephone hot lines and complaint centers, administrative hearings, increased opportunity for citizen observation of government proceedings, and other forms of citizen input in the local legislative process, such as hearings to discuss draft legislation. Citizens continued to file administrative lawsuits to seek legal redress against government malfeasance. According to official statistics, 95,707 administrative lawsuits were filed against the Government in 2005, slightly more than in the previous year. Petitioning officials directly and outside the court system was also a common avenue used by citizens to redress grievances. Official media reported that 12.7 million petitions were filed at the county level and above in 2005, down from 13.7 million in 2004 (see section 2.b.).

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

The Government sought to maintain control over civil society groups, halt the emergence of independent NGOs, and prevent what they have called the "westernization" of China. The Government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; existing domestic NGOs were harassed. The Government tended to be suspicious of independent organizations and increased scrutiny of NGOs with links overseas. Most large NGOs were quasi-governmental in nature, and all NGOs had to be sponsored by government agencies (see section 2.b.).

During the year the Government continued its intensified efforts to monitor and control NGOs and used strict regulations to limit the growth of independent civil society, which were first implemented in 2005.

An informal network of activists around the country continued to serve as a credible source of information about many human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democratic Movement in China and the New York-based Human Rights in China.

When permitted by authorities, the press reported about officials who exceeded their authority and infringed on citizens' rights. However, the Government remained reluctant to accept criticism of its human rights record by other nations or international organizations. It criticized reports by international human rights mon-

itoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. Representatives of some international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them (see section 2.d.). The government-established China Society for Human Rights is an NGO whose mandate was to defend the Government's human rights record. The Government maintained that each country's economic, social, cultural and historical conditions influence its approach to human rights.

The Government permitted the ICRC to open an office in Beijing, although it did not authorize the ICRC to visit prisons. The Government submitted to the UN its first compliance report on the International Covenant on Economic, Cultural and Social Rights. The Government continued unofficial discussions on human rights and prisoner issues with a San Francisco-based human rights group, although the Government's cooperation with the group was not as extensive as in previous years.

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

There were laws designed to protect women, children, persons with disabilities, and minorities. However, in practice, some discrimination based on ethnicity, gender, and disability persisted.

*Women.*—Violence against women remained a significant problem. There was no national law criminalizing domestic violence, but the Marriage Law provides for mediation and administrative penalties in cases of domestic violence. In August 2005 the NPC amended the Law on the Protection of Women's Rights specifically to prohibit domestic violence, although critics complained that the provision fails to define domestic violence. More than 30 provinces, cities, or local jurisdictions passed legislation aimed at addressing domestic violence. According to a 2004 survey by the All-China Women's Federation (ACWF), 30 percent of families had experienced domestic violence, and 16 percent of husbands had beaten their wives. The ACWF reported that it received some 300,000 letters per year complaining about family problems, mostly domestic violence. The actual incidence was believed to be higher because spousal abuse went largely unreported. According to experts, domestic abuse was more common in rural areas than in urban centers. In response to increased awareness of the problem of domestic violence, there were a growing number of shelters for victims. Most shelters were government run, although some included NGO participation.

Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape.

The law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations resulted in instances of local birth-planning officials using physical coercion to meet government goals (see section 1.f.). In addition, women faced a disproportionate burden due to the Government's enforcement of its birth limitation laws and practices. Such laws and practices required the use of birth control methods (particularly IUDs and female sterilization, which according to government statistics, accounted for more than 80 percent of birth control methods employed) and the abortion of certain pregnancies.

Although prostitution is illegal, experts estimate that there were 1.7 to five million commercial sex workers in the country. The commercialization of sex and related trafficking in women trapped tens of thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse (see section 5, Trafficking). According to state-run media, one out of every five massage parlors in the country was involved in prostitution, with the percentage higher in cities. A 2004 Guangdong Province survey found that 74.2 percent of massage parlor workers were involved in prostitution. Unsafe working conditions were rampant among the saunas, massage parlors, clubs, and hostess bars in cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis.

Although the Government made some efforts to crack down on the sex trade, credible media reports claimed that some local officials were complicit in prostitution, owned prostitution venues, or received proceeds from such businesses. Prostitution involved organized crime groups and businesspersons as well as the police and the military. Actions to curtail prostitution had limited results. In 2004 according to state-run media, an investigation of prostitution at entertainment facilities in Guangdong Province led to the permanent closure of 15 percent and temporary closure of another 40 percent of the facilities investigated. Courts have prosecuted persons involved in organizing and procuring prostitutes.

The amended Law on the Protection of Women's Rights included a ban on sexual harassment, stating "the injured woman has the right to complain to the work unit and the relevant department" and may "bring a civil action in court for damages."

Legal scholars and activists praised the amendment but emphasized the law should also specifically define what constitutes abusive behavior. Experts continued to suggest that many victims did not report sexual harassment out of fear of losing their jobs.

The Government has made gender equality a policy objective since 1949. The constitution states “women enjoy equal rights with men in all spheres of life.” The Law on the Protection of Women’s Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. Policies that once allotted work-unit housing only to the husband have become gender-neutral, and an April 2005 Supreme Court interpretation emphasized that housing rights are shared equally, even in cases of divorce. The State Council’s National Working Committee on Children and Women coordinated women’s policy. The ACWF was the leading implementer of women’s policy for the Government. Nonetheless, many activists and observers were concerned that the progress made by women over the past 50 years was eroding. They asserted that the Government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability.

The Law on the Protection of Women’s Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Social organizations and the Government made efforts to educate women about their legal rights. In a high-profile case in September a Chinese actress made sexual harassment allegations against a China Central Television (CCTV) director on her blog. Although the director threatened to sue the actress for “libel,” the case has not gone to court. Hundreds of thousands of Internet users expressed support for the actress.

Women’s networks, involving lawyers, activists, and the press, were active in Beijing, Shanghai, and other cities, highlighting problems and calling for solutions to gender-based discrimination.

Nevertheless, women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was difficult to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result very few cases were brought to court. Some observers noted the agencies tasked with protecting women’s rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment. Women’s rights advocates indicated that in rural areas, women often forfeited land and property rights to their husbands in divorce proceedings.

The ACWF reported that 47 percent of laid-off workers were women, a percentage significantly higher than their representation in the labor force. Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some lowered the effective retirement age for female workers to 40 years of age (the official retirement age for men was 60 years and for women 55 years). In addition, work units were allowed to impose an earlier mandatory retirement age for women than for men, which limits women’s lifetime earning power and career span. Lower retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements sometimes specified height and age requirements for women.

Women have less earning power than men, despite government policies that mandate nondiscrimination in employment and occupation. According to the UN’s 2005 Human Development Report, nationwide women’s salaries overall were only 66 percent of men’s salaries, while women in rural areas earned only 60 percent of the income earned by males. Average incomes of female executives and senior professionals were respectively only 58 percent and 68 percent of their male colleagues’ salaries. Most women employed in industry worked in lower-skilled and lower-paid jobs and in sectors, such as textiles, which were particularly vulnerable to restructuring of state-owned enterprises and layoffs. Women accounted for 60 percent of those below the poverty line.

UNESCO reported that less than 2 percent of women between the ages of 15 and 24 were illiterate. According to 2005 official government statistics, women comprised 73.6 percent of all illiterate persons. In some underdeveloped regions, the female literacy rate lagged behind the male literacy rate by 15 percent or more.

A high female suicide rate continued to be a serious problem. According to the World Bank and the World Health Organization, there were approximately 500 female suicides per day. The suicide rate for females was 25 percent higher than for males. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, the country’s birth limitation policies, and other societal factors contributed to the espe-

cially high female suicide rate. Women in rural areas, where the suicide rate for women is three to four times higher than for men, were especially vulnerable.

While the gap in the education levels of men and women narrowed, differences in educational attainment remained a problem. According to a Chinese Academy of Social Sciences report, 61 percent of boys and 43 percent of girls in rural areas completed education higher than lower middle school. Men continued to be overrepresented among the relatively small number of persons who received a university-level education. According to official statistics, in 2005 women accounted for 47.1 percent of undergraduate and college students, 43.4 percent of postgraduate students, and 32.6 percent of doctoral students. Women with advanced degrees reported discrimination in the hiring process as the job distribution system became more competitive and market driven.

*Children.*—The law prohibits maltreatment of children and provides for compulsory education. The State Council's National Working Committee on Children and Women was tasked with carrying out policy toward children.

The law provides for nine years of compulsory education for children. However, in economically disadvantaged rural areas many children did not attend school for the required period and some never attended. Public schools were not allowed to charge tuition, but after the central government largely stopped subsidizing primary education, many public schools began to charge mandatory school-related fees to meet revenue shortfalls. Such fees made it difficult for poorer families and some migrant workers to send their children to school.

According to government statistics, 98.6 percent of children nationwide were enrolled in elementary school. In 2005 the Government reported that 51.4 percent of primary school students, 45.7 percent of junior secondary school students, and 44.0 percent of senior secondary school students were female. It was widely believed that the proportion of girls attending school in rural and minority areas was smaller than in cities.

In 2003 the UN special rapporteur on the right to education visited and found that the Government failed to provide education to many children of migrant workers and prohibited children from receiving religious education. The special rapporteur expressed serious concern about privatization of the costs of public education and reported that the Government compelled parents to pay nearly half the costs of public education, making education inaccessible to many children. The special rapporteur also recommended the Government immediately ban the practice of children performing manual labor at their schools to raise funds.

According to the UN Children's Fund (UNICEF) 2004 statistics, the infant mortality rate was 26 per 1,000 and the mortality rate for children under five years of age was 31 per 1,000 live births. The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family Planning Commission, a handful of doctors have been charged with infanticide under this law. The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

More than half of all boys and almost a third of all girls have been physically abused, according to survey results released at a May 2005 conference in Beijing. The survey reported that 10 percent of boys and 15 percent of girls have been sexually abused. These statistics were among those publicized at a National Consultation on Violence against Children, which the Government and UNICEF sponsored. However, journalists were sanctioned for reporting on the rape of female students as young as 10 in Shanxi and Guangdong provinces. A media ban was also issued after a Nanjing newspaper publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province.

Despite government efforts to prevent kidnapping and the buying and selling of children, these problems persisted in some rural areas, and children were trafficked for labor purposes (see section 5, Trafficking).

According to official statistics, during the year juvenile crime fell after increasing sharply in 2005. In 2005 courts heard cases involving 82,692 juvenile offenders, up 18 percent from 2004 when courts heard cases involving 70,086 juvenile offenders. During the first eight months of the year, 11.4 percent fewer juveniles were convicted of crimes than during the same period in 2005. From 2000 to 2005, the annual increase in juvenile crime was approximately 11 percent. Abolition of the system of custody and repatriation in 2003 reduced the number of children detained administratively. Nonetheless, more than 150,000 "street children" lived in cities, according to state-run media. This number was even higher if the children of migrant workers, who spend the day on the streets were included. Juveniles were required by law to be held separately from adults, except when facilities were insuffi-

cient. In practice children sometimes were detained without their parents, held with adults, and required to participate in forced labor (see sections 1.c. and 6.c.).

Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the birth limitation policy (see section 1.f.). Many families, particularly in rural areas, used ultrasound to identify female fetuses and terminate pregnancies, even though this practice remained illegal. An official study in Hainan Province found that 68 percent of abortions were of female fetuses. According to a 2002 survey, 35 percent of women in one rural township admitted to having an abortion because of a preference for a male child. Female babies also suffered from a higher mortality rate than male babies, contrary to the worldwide norm. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest in areas where women had a lower social status and economic and medical conditions were poor.

The law forbids the mistreatment or abandonment of children. The vast majority of children in orphanages were female; males in orphanages were usually disabled or in poor health. Medical professionals sometimes advised parents of children with disabilities to put the children into orphanages.

The Government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those with serious medical problems. Adopted children were counted under the birth limitation regulations in most locations. As a result, couples that adopted abandoned baby girls were sometimes barred from having additional children.

*Trafficking in Persons.*—Although the law prohibits human trafficking, trafficking in persons remained a serious problem. The country was both a source and destination country for trafficking in persons. Most trafficking was internal for the purposes of forced labor and forced marriage. Some cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that certain victims, especially children, were sold into forced labor. In many cases, women and children were lured abroad with false promises of employment and then trafficked into prostitution or forced labor.

Domestic and cross-border trafficking continued to be significant problems, although the exact numbers of persons involved could only be estimated due to a huge itinerant population of approximately 150 million. The MPS opened 2,884 trafficking cases involving female children in 2005. During this same period, the MPS resolved 2,471 cases and rescued 3,977 women and children. During the year Vietnamese authorities reported that 167 women and children were rescued from traffickers in China, an increase of 64 percent from the same period in 2005.

Some experts and NGOs suggested that a shortage of marriageable women fueled the demand for abducted women, especially in rural areas. They argued that the serious imbalance in the male-female sex ratio at birth, the tendency for many village women to leave rural areas to seek employment, and the cost of traditional betrothal gifts all made purchasing a wife attractive to some poor rural men. Some men recruited women from poorer regions, while others sought help from criminal gangs. Criminal gangs either kidnapped women and girls or tricked them with promises of jobs and higher living standards, only to be transported far from their homes for delivery to buyers. Once in their new “family,” these women were “married” and sometimes raped. Some accepted their fate and joined the new community; others struggled and were punished; a few escaped. Some former trafficking victims became traffickers themselves, lured by the prospect of financial gain.

According to UN reports, most women and girls trafficked from abroad came from North Korea and Vietnam. Others came from Burma, Laos, Russia, and Ukraine. They were trafficked into the country for sexual exploitation, forced marriage, and indentured servitude in domestic service or businesses. Past reports noted that trafficking of North Korean women and girls into the country to work in the sex industry was widespread in the northeastern part of the country, but reliable sources suggested that the practice has decreased. North Korean women reportedly were sold for approximately \$380 to \$1,260 (RMB 3,040 to 10,080). Women reportedly were also trafficked from Vietnam for the purpose of forced marriage. The UN reported that Chinese citizens were most often trafficked to Malaysia, Thailand, the United Kingdom, and the United States. Second-tier destinations included Australia, European countries, Canada, Japan, Italy, Burma, Singapore, South Africa, and Taiwan.

Trafficked persons became entangled with alien smuggling rings, which often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. There were credible reports that some



promised to pay from \$30,000 to \$50,000 (RMB 240,000 to RMB 400,000) each for their passage. Upon arrival, many reportedly were forced to repay traffickers for the smuggling charges and their living expenses by working in specified jobs for a set period of time. Living and working conditions for trafficked persons were generally poor. Traffickers restricted their movements and confiscated their travel documents. Threats to report trafficking victims to the authorities or to retaliate against their families if they protested made trafficked persons even more vulnerable. When arrested and brought to court, human smugglers received five- to ten-year jail sentences and fines up to \$6,000 (RMB 48,000). In very serious cases, courts imposed life imprisonment or the death penalty.

MPS officials stated that repatriated victims of trafficking no longer faced fines or other punishment upon their return. However, authorities acknowledged that errors sometimes occurred because of corruption among police, provisions allowing for the imposition of fines on persons traveling without proper documentation, and the difficulty in identifying victims. Trafficking victims often lacked proper identification, which made it difficult to distinguish them from person who illegally crossed borders.

Kidnapping and the buying and selling of children for adoption continued, particularly in poor rural areas. There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children, particularly sons. In the past, most infants rescued were male, but increased demand for children has reportedly driven traffickers to focus on females as well.

Children were also trafficked from poorer interior areas to relatively more prosperous areas for work. Traffickers reportedly often enticed parents to relinquish their children with promises of large remittances their children would be able to send home. Some children worked in factories but many ended up under the control of local gangs and were induced to commit petty crimes such as purse snatching.

The purchase of women was criminalized in 1991 when the NPC Standing Committee enacted its "Decision Relating to the Severe Punishment of Criminal Elements Who Abduct and Kidnap Women and Children." This decision made abduction and sale separate offenses.

Between 2001 and 2005, police opened more than 28,000 trafficking cases, arrested more than 25,000 suspected traffickers, and rescued more than 35,000 victims. In July, 28 members of a trafficking ring in Guangdong Province received sentences ranging from two years imprisonment to the death penalty. The ring had forced 10 women into prostitution. In 2005 10 members of a Guangzhou baby smuggling ring were convicted of smuggling 37 male infants. According to several media reports the average price was U.S. 1,250 (RMB 10,000) per child, although other media reports quoted a range of prices from several thousand to a few hundred dollars per child.

Despite government efforts to eliminate trafficking in women and children, the problem persisted. There were reports of local officials' complicity in both alien smuggling and in prostitution, which sometimes involved trafficked women. In some cases, village leaders sought to prevent police from rescuing women who had been sold to villagers.

The two principal organs responsible for combating trafficking were the MPS and the State Council's Work Committee for Women and Children. In addition, the SPC, the SPP, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council played roles in this area. It was central government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices provided counseling on legal rights, including the options for legal action against traffickers, to some victims. The ACWF assisted victims in obtaining medical and psychological treatment.

*Persons With Disabilities.*—The law protects the rights of persons with disabilities and prohibits discrimination; however, conditions for such persons lagged far behind legal dictates, failing to provide persons with disabilities with access to programs designed to assist them. According to the official press, all local governments have drafted specific measures to implement the law.

The Ministry of Civil Affairs and the China Disabled Persons Federation, a government-organized civil association, were the main entities responsible for persons with disabilities. According to the China Disabled Persons' Federation, there were 60 million persons with disabilities. According to government statistics, 3,335 educational and vocational centers provided training and job-placement services for persons with disabilities. During the year 572,000 persons with disabilities received education or training. However, some 1.2 million urban and 3.4 million rural persons with disabilities were unemployed. Nationwide, 275,000 school-age children

with disabilities did not attend school. Nearly 100,000 organizations exist, mostly in urban areas, to serve those with disabilities and protect their legal rights. The Government, at times in conjunction with NGOs, sponsored programs to integrate persons with disabilities into society. However, misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems.

According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, where care was often inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty finding adequate medical care, day care, and education for their children. Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty. Unemployment among adults with disabilities remained a serious problem. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; compliance with the law was lax. Students with disabilities were discriminated against in access to education. The law permits universities legally to exclude otherwise qualified candidates from higher education.

The law forbids the marriage of persons with certain acute mental illnesses, such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births. Media reports publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province.

*National/Racial/Ethnic Minorities.*—According to the 2000 census, the population of the country's 55 officially recognized ethnic minorities totaled 106.4 million, or 8.4 percent of the total population. Additionally some citizens identified themselves as members of unrecognized ethnic minorities. Most minority groups resided in areas they traditionally inhabited. Government policy provides members of recognized minorities with preferential treatment in birth planning, university admission, access to loans, and employment. In May 2005 new regulations designed to enhance minority preferences in education became effective. Nonetheless, in practice the majority Han culture often discriminated against minorities. Most minorities in border regions were less educated, and job discrimination in favor of Han migrants remained a serious problem even in state-owned enterprises. In June the Xinjiang Production and Construction Corps announced that it would recruit 840 employees from the Xinjiang Uighur Autonomous Region, designating nearly all of the job openings for Han Chinese. Racial discrimination was the source of deep resentment in some areas, such as Xinjiang, Inner Mongolia, and Tibet. As part of the Government's emphasis on building a "harmonious society," the Government downplayed racism against minorities and tension among different ethnic groups. But even in the Yanbian Korean Autonomous Prefecture of Jilin Province, which the Government recognized as the most "harmonious" ethnic area, there is a perceived ceiling in career advancement for ethnic Koreans.

Incomes in minority areas remained well below those in other parts of the country, particularly for minorities. Han Chinese benefited disproportionately from government programs and economic growth. Many development programs disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons (see section 2.d.).

The Government's policy to encourage Han migration into minority areas resulted in significant increases in the population of Han Chinese in Xinjiang. According to 2005 statistics published by Xinjiang officials, nine million of Xinjiang's 19.6 million official residents were Uighur. Approximately 7.8 million Xinjiang residents were Han (40 percent of the total population), up from 300,000 Han in 1949 (6 percent of the total population). Significant numbers of Kazakhs, Hui, Kyrgyz, and other minorities also lived in Xinjiang. Official statistics underestimated the Han population because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." The migration of ethnic Han into Xinjiang in recent decades caused the Han-Uighur ratio in the capital of Urumqi to shift from 20 to 80 to 80 to 20 and was a source of Uighur resentment. According to 2005 figures, non-Tibetan residents of the TAR comprised 5.9 percent of the population, but that figure did not include a large number of long-term Han Chinese "temporary" residents. Their presence also caused resentment among some Tibetans (see Tibet Addendum).

Minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. According to a 1999 government report, 2.7 million minority officials served in the Government. A Xinhua report claimed that more than 25 percent of Inner Mongolia's cadres were ethnic minorities, even though ethnic minorities constituted only 21 percent out of the region's population of 23.79 million.

A government report stated that ethnic minority representation in the NPC was 62.7 percent in Xinjiang, 68.2 percent in Tibet, 58.8 percent in Guangxi, 59.8 percent in Ningxia, and 40.7 percent in Inner Mongolia.

Nonetheless, Han officials held the most powerful party and government positions in minority autonomous regions, particularly Xinjiang. In April 2005 the Government announced that 500 of 700 new government jobs in Southern Xinjiang would be reserved for Han Chinese. In September 2005 the Xinjiang Daily announced that 947 Han cadres were being sent to areas where ethnic unrest had occurred. Han Chinese also held a majority of positions in security services, including special border brigades and new counterterrorism brigades that had some police powers.

The Government continued moving away from the two-track school systems that used either standard Chinese or the local minority language and toward a new system that required schools to teach both standard Chinese and local minority languages or to teach standard Chinese only. Prior to adopting the new policy, the vast majority of Uighur children in Xinjiang attended Uighur-language schools and generally received an hour's Chinese-language instruction per day. Graduates of minority language schools typically needed intensive Chinese study before they could handle Chinese-language course work at a university. The dominant position of standard Chinese in government, commerce, and academia put graduates of minority-language schools who lacked standard Chinese proficiency at a disadvantage. Koranic education was tightly controlled and use of Arabic in public schools is forbidden (see section 2.c.). During the year the Government allocated an additional \$15 million (RMB 120 million) to build new schools and support technical training for minority students who drop out before high school.

A campaign in Xinjiang targeting the "three evils" of religious extremism, splittism, and terrorism continued. Authorities in Xinjiang regularly grouped together individuals or organizations involved in the three evils, making it difficult to determine whether particular raids, detentions, or judicial punishments were targeted at those peacefully seeking to express their political and religious views or those who engaged in violence (see section 2.c.). The Government's war on terror continued to be used as a pretext for cracking down harshly on Uighurs expressing peaceful political dissent and on independent Muslim religious leaders. In December 2003 the Government published an "East Turkestan Terrorist List," which labeled organizations such as the World Uighur Youth Congress and the East Turkestan Information Center as terrorist entities. These groups openly advocated East Turkestan independence, but only one group, the East Turkestan Islamic Movement was designated by the UN as a terrorist organization.

Uighurs were sentenced to long prison terms and many were executed on charges of separatism. During a previous "strike hard" campaign, which officially concluded in 2003, authorities stated they prosecuted more than 3,000 cases in Xinjiang and held mass sentencing rallies attended by more than 300,000 persons. By its own account, from January to August 2004 the Government broke up 22 groups engaged in what it claimed were separatist and terrorist activities and meted out 50 death sentences to those charged with separatist acts. In February 2005 Uighur writer Nurmuhemmet Yasin was sentenced to 10 years in prison after publishing a short story which authorities claimed advocated separatism. In April 2005 writer Abdulla Jamal was detained in Xinjiang, reportedly for writings that promoted Uighur independence. In August 2005 10 individuals reportedly were arrested for possession of pamphlets and audiotapes that called for an independent state. Later in the year, editor of the Kashgar Literature Journal Korash Huseyin was sentenced to three years in prison. In October 2005 Ismail Semed, an ethnic Uighur from Xinjiang, was reportedly convicted and sentenced to death on charges of "attempting to split the motherland" and other counts related to possession of firearms and explosives. In 2003 Uighur Shaheer Ali was executed after being convicted of terrorism.

In June authorities charged Alim, Ablikim, and Qahar Abdurehim, three of Uighur activist and businesswoman Rebiya Kadeer's sons, with state security and economic crimes. Authorities reportedly beat and tortured Alim and Ablikim, and Alim reportedly confessed to the charges. On July 10, officials indicted Alim and Qahar and placed other family members under house arrest and surveillance.

In 2004 Uighur Dilkex Tilivaldi was detained after meeting a foreign journalist. The Government refused to clarify his whereabouts (see section 1.e.).

Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted. According to reports, possession of such materials resulted in lengthy prison sentences.

Officials in the region defended the campaign against separatism as necessary to maintain public order and continued to use the threat of violence as justification for extreme security measures directed at the local population and visiting foreigners.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies brought economic improvements to Xinjiang, Han residents received a disproportionate share of the benefits.

Inner Mongolian cultural activist Hada continued to serve a 15-year sentence during the year (see sections 1.c. and 1.e.).

*Other Societal Abuses and Discrimination.*—The household registration system continued to result in widespread discrimination against Chinese from rural areas. Because they could not change their household registrations, many migrants living and working in urban areas were denied access to public services such as education and health care, as well as pension benefits, unemployment, and other social insurance programs. Where public services were available to migrant families, they rarely reached a standard equal to those of registered urban residents.

No laws criminalize private homosexual activity between consenting adults. Societal discrimination and strong pressure to conform to family expectations deterred most gay individuals from publicly discussing their sexual orientation. Published reports stated that more than 80 percent of gay men married because of social pressure. In what officials said was a campaign against pornography, authorities blocked the overseas Web site *gaychinese.net* for three months. Other Internet sites on gay issues that were not sexually explicit were also blocked during the year.

Under the new contagious disease law and adopted regulations, employment discrimination against persons with HIV/AIDS and hepatitis B is forbidden, and provisions allow such persons to work as civil servants. However, discrimination against the estimated 650,000 persons with HIV/AIDS and approximately 10 million hepatitis B carriers remained widespread in many areas. Hospitals and physicians sometimes refused to treat HIV-positive patients. During the year a number of hepatitis B carriers sued local government institutions to enforce their rights to work and study. While they won judgments in some cases, widespread discrimination remains. In October the Ministry of Health criticized local officials in Urumqi, Xinjiang for expelling 19 hepatitis B carriers from public schools. The criticism was carried in the national press, but no remedies were reported. Persons with HIV/AIDS likewise suffered discrimination and local governments sometimes tried to suppress their activities. In April Jilin Province authorities blocked a group of HIV-positive persons from accepting free travel to visit the Great Wall. At the same time, international involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in some localities. Some hospitals that previously refused to treat HIV/AIDS patients now have active care and treatment programs, because domestic and international training programs improved the understanding of local healthcare workers and their managers. In Beijing, dozens of local community centers encourage and facilitate HIV/AIDS support groups.

Some NGOs working with HIV/AIDS patients and their family members continued to report difficulties with local government, particularly in Henan Province where thousands were infected in government-run blood selling stations during the 1990s. Henan authorities were successful in providing free treatment to persons with HIV/AIDS. However, foreign and local observers noted that local governments were reluctant or even hostile towards coordinating efforts with NGOs and preferred to work independently.

Scholarly studies by Chinese indicated that discrimination in employment based on height and physical appearance was both legal and common.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Although the law provides for the freedom of association, in practice workers were not free to organize or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which was controlled by the CCP and chaired by a member of the Politburo, was the sole legal workers' organization. The trade union law gives the ACFTU control over all union organizations and activities, including enterprise-level unions, and requires the ACFTU to "uphold the leadership of the Communist Party." Independent unions are illegal. In some cases the ACFTU and its constituent unions influenced and implemented government policies on behalf of workers; however, the CCP used the ACFTU to communicate with and control workers.

Already established in the state-owned sector, where union representatives frequently held senior management positions, the ACFTU worked throughout the year to establish its unions in the nonstate-owned sector. Union membership is low in both domestic and foreign-invested private companies. During the year the ACFTU began a campaign to establish unions in foreign-invested enterprises. By year's end, the ACFTU claimed to have established unions in 60 percent of foreign-invested enterprises and 31 percent of all nonpublic enterprises. In 2005 the ACFTU reported

that its membership had reached 150.3 million or 69 percent of the 217 million urban workers, an increase of 9.7 percent over the previous year.

Since 2004 ACFTU has made efforts to expand control over nonunionized workers. A large rural labor force, consisting of approximately 540 million persons, including 300 million agricultural workers, was unorganized; farmers had no union or similar organization. Few of the 130 million rural residents working in township and village enterprises were unionized. Of the 100 to 150 million rural migrants who worked in the cities, the ACFTU claimed that a total of 14 million had joined the union. The Ministry of Construction reported that 11 million of the 40 million migrant workers in the construction industry were union members. However, most migrants working in low-value-added jobs in the manufacturing and service sectors were not represented and were easily exploited. Although migrant workers were first permitted to join the union in 2003, by year's end only 13.8 percent of the migrant workforce was "unionized," and it was not clear what benefits they derived from union membership.

Although the law states that trade union officers at each level should be elected, most were appointed by higher levels of the ACFTU, often in coordination with employers. In areas where an experimental program allowed direct election of union officers, regional ACFTU offices and local party authorities retained control over the selection and approval of candidates.

Some workers acted outside the ACFTU structure to demand back wages, pension or health insurance contributions, or other benefits owed by employers. The Government took action against some of these workers, especially when they engaged in organized campaigns. Some workers who complained to local labor and social security bureau offices about working conditions reported that they faced harassment from their employers and police, and sometimes from labor bureau officials. During the year labor rights activists complained throughout the year of police surveillance, including interviews with police and police background investigations of their family members. In November Shenzhen officials investigated the activities of five labor NGOs for their involvement in an organized petition drive to reduce labor arbitration fees. Shenzhen authorities confiscated several computers and shut down two of the NGOs.

The trade union law provides specific legal remedies against antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Collective contract regulations provide similar protections for employee representatives during collective consultations. The degree to which these provisions were enforced was unknown.

Labor activist Xiao Yunliang was released on February 23, three weeks before the end of his four year prison sentence. According to human rights NGOs, Xiao and his family continued to suffer harassment after his release. Other labor activists, detained in previous years, were reportedly still in detention at year's end. These included Yao Fuxin, Shao Liangchen, Hu Shigen, Wang Sen, Zhang Shanguang, He Chaohui, Yue Tianxiang, Miao Jinhong, Ni Xiafei, Huang Xiangwei, Li Xintao, Kong Jun and Du Hongqi, Gao Hongming, Hu Mingjun, Li Wangyang, Liu Zhihua, Luo Mingzhong, Luo Huiquan, Ning Xianhua, She Wanbao, Wang Miaogen, Yang Jianli, and Zhao Changqing.

Civil rights lawyer Gao Zhisheng, who had defended the rights of Chinese workers, labor activists and other rights activists for many years, was detained in August and later arrested on September 21 on "suspicion of inciting subversion of state power." His office was suspended by the Beijing Bureau of Justice for one year in November 2005 shortly after he sent a letter to the President and premier, calling for an end to widespread detention of activists and after he had refused to withdraw from politically sensitive legal cases as demanded by Beijing officials.

*b. The Right To Organize and Bargain Collectively.*—The labor law permits collective bargaining for workers in all types of enterprises; however, in practice, collective bargaining fell far short of international standards. Under the law, collective contracts are to be developed through collaboration between the labor union and management and should specify such matters as working conditions, wage scales, and hours of work.

The trade union law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. Regulations required the union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval, but it was not clear to what extent these provisions were carried out in practice. Moreover, without the right to strike, workers had only a limited capacity to influence the negotiation process. In the private sector, where official unions were few and alternative union organizations were unavailable, workers faced substantial obstacles to bargain collectively with management. The revised company law, which was passed in October 2005, recognizes

the role of the labor union in representing employees in signing a collective agreement with a company. It also provides for employee congresses to enable employees to play a role in the democratic management of the company.

At the end of 2005 the ACFTU reported that collective contracts covered 103.8 million workers. Many of these contracts only covered wages. Officials estimated that 80 percent of collective contracts are prefabricated contracts adopted with no negotiation. Collective contracts generally served as minimum standards for individual contracts between employers and employees and generally mirrored the law and local minimum labor standards.

The law provides for labor dispute resolution through a three stage process: in-house mediation, labor arbitration, and litigation. The ACFTU reported that in all of 2005 there were 294,000 disputes, a 17 percent increase over 2004. Two-thirds of these concerned wage or social welfare insurance benefits. According to academics, collective disputes made up 6 percent of the total but accounted for 55 percent of the workers involved in the disputes. A smaller percentage of disputes settled through mediation in the workplace than in previous years, a fact some academics attributed to the conflict between the ACFTU's dual roles as convener of the mediation body and as worker representative.

The law does not provide for the right to strike. The trade union law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers interpreted this provision to offer a theoretical legal basis for the right to strike. However, the Government continued to treat worker protests as illegal demonstrations, indicating that there was still no officially accepted right to strike.

Worker protests occurred throughout the year (see sections 2.b. and 3). Most involved actual or feared job loss, wage or benefit arrears, allegations of owner/management corruption, dissatisfaction with new contracts offered in enterprise restructuring, failure to honor contract terms, or discontent over substandard conditions of employment. In November the Hong Kong press reported that 1,000 laid-off former employees of a bankrupt automobile factory in Gansu Province surrounded the company headquarters, alleging that the company did not pay agreed severance compensation. In August bus drivers in Huaibei, Anhui Province started a spontaneous strike to protest changes in their wages and benefits. While some protests were tolerated, the Government took swift action to halt protests that became large or that officials deemed embarrassing.

On February 10, more than 1,000 workers at a textile factory in Shandong staged a strike against low pay and pay disparity in favor of the managers. On March 13, 3,000 to 4,000 workers at a textile factory in Kunming staged a four-day strike against the plant's restructuring and compensation plans. On April 3, thousands of workers at a Hong Kong-owned furniture factory in Shenzhen staged a protest against long working hours and exploitative and abusive treatment. In July more than 1,000 workers at a plastic toy factory in Dongguan, Guangdong Province, rioted over allegations of inadequate pay and working conditions, particularly excessive overtime, and protesters clashed with police and company security. Dozens of workers were detained after the two-day protest. In August bus drivers in Huaibei, Anhui Province started a spontaneous strike to protest changes in their wages and benefits. On November 13, more than 1,000 workers of a state-owned, transportation enterprise in Gansu province staged a protest against the company's restructuring plan, which forced 1,448 workers to sign a "laid-off" agreement. In some cases protesting workers were offered payments that met at least a portion of their demands. On November 9, the Shenzhen Migrant Workers Association was forcibly closed down for organizing a mass petition to lower the Government's labor dispute arbitration fee (see section 6.a.). Police sometimes detained protest leaders and dispersed demonstrations. In December 50 laid-off middle managers from a state-owned bank were detained when they tried to take a demonstration to the Beijing district where most senior government leaders lived.

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

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, forced labor was a serious problem in penal institutions. Detainees in reeducation-through-labor facilities were required to work, often with little or no remuneration. In some cases prisoners worked in facilities directly connected with penal institutions; in other cases they were contracted to nonprison enterprises. Former prison inmates reported that workers who refused to work in some prisons were beaten. Facilities and their management profited from inmate labor.

The Government cooperated throughout the year to resolve a number of cases that alleged products produced with prison labor were exported to a foreign country. Al-

though the Government prohibits forced and compulsory labor by children, some child trafficking victims were reportedly sold into forced labor (see section 5).

It remained common for employers to withhold several months' wages, or to require unskilled workers to deposit several months' wages, as security against the workers departing early from their labor contracts. Although this practice was illegal, the Government did not emphasize controlling it.

On March 27, 31 migrant workers, including child workers, were freed from a Shanxi Province brickworks where they were forced to work between 14 to 18 hours a day with no pay under close 24 hour scrutiny by a work gang leader and six guards.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 16, but the Government had not adopted a comprehensive policy to combat child labor. The labor law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children's subsistence. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including labor in mines.

A decree prohibiting the use of child labor provides that businesses illegally hiring minors or in whose employ a child dies will be punished via administrative review, fines, or revocation of their business license. The decree further provides that underage children found working should be returned to their parents or other custodians in their original place of residence.

According to a study by a Hong Kong-based labor rights NGO, the use of child labor is on the rise along the country's eastern coast in recent years. While poverty remains the main reason, inadequacy of the mandatory education system, rising market demand due to labor shortage and potential child labor supply outside the formal labor market also contribute to this long-term problem.

Reliable statistics on the prevalence of child labor are not available. The Government acknowledged the problem of child labor, and noted that it was relatively prevalent in certain industries. The Government also maintained that the country did not have a widespread child labor problem and that the majority of children who worked did so to supplement family income, particularly in impoverished rural areas. Although nine years of education (through age 16) is compulsory, the high cost of basic education caused some children to drop out of school to seek work; other children worked while in school. In March Premier Wen Jiabao pledged that the Government would eliminate tuition fees for rural students receiving compulsory education by the end of the year, beginning with the poorest regions. Tuition fees have since been eliminated in many areas but other miscellaneous costs (food, textbooks, etc.) are a major burden, especially for rural residents.

State-run media reported on provincial bureau investigations into child labor cases, as well as punishment of factory owners who employed children. In one well-publicized case in August, authorities in Ningbo rescued more than 70 middle-school students used as laborers at a grape cannery under the guise of a summer work-study program. In general there was little follow-up on whether children involved in such cases continued to work outside the home.

*e. Acceptable Conditions of Work.*—There was no national minimum wage. The labor law requires local governments to set their own minimum wage according to standards promulgated by the Ministry of Labor and Social Security. These standards include the minimum cost of living for workers and their families, levels of economic development and employment in the area, as well as the level of social insurance and other benefits contributions paid by the employees themselves. The regulation states that labor and social security bureaus at or above the county level are responsible for enforcement of the law. It provides that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the department of labor and social security deal with the case, although it was not clear how that provision was implemented in practice.

In March the NPC issued a report on the implementation of the labor law, based on an intensive 2005 survey of labor conditions. The report stated that the minimum wage system was not fully implemented, that there was no regular mechanism for increasing wages in many places, and that wage arrears continued to occur. However in many locations a shortage of unskilled labor continued to push wages up, causing several major cities in Guangdong province to increase the minimum wage by 17 to 42 percent during the year.

Wage arrearages to employees of state-owned and private enterprises remained common, especially among migrant workers. According to a government report published in April, 35 percent of rural migrant workers reported having difficulty ob-

taining wages on time, while nearly 16 percent had trouble obtaining wages. Some migrant workers received wages once a year, when settling with employers prior to returning to their home districts for the lunar New Year. The Government continued its campaign to recover payment of missing wages and insurance contributions, and some localities took action to remedy wage arrears, with varying degrees of success. Some provinces promulgated regulations requiring companies to establish wage guaranty funds, in which employers are required to deposit a percentage of project costs into government-controlled accounts for use to pay back wage claims to workers. In February the Shenzhen city Labor and Social Security Bureau sanctioned 1,300 companies and imposed \$5.8 million (47 million RMB) in fines for not paying wages. In June Guangdong authorities blacklisted 30 construction companies for failure to pay wages, making them ineligible for city-funded projects. In August the SPC issued a judicial interpretation allowing unpaid workers holding vouchers from their employers to take their cases directly to court, without first going through the lengthy process of labor mediation and arbitration. Legal aid lawyers reported that this judicial decision has been very effective in reducing the time it takes to resolve wage arrears cases.

Other widespread, illegal practices effectively reduced workers' wages. These included arbitrary fines and wage deductions levied by employers for such breaches of company rules as talking to fellow employees, talking back to supervisors, or standing or sitting improperly on the job. Many employers used an "extended shift" system, in which the employer sets an unrealistic production target that workers cannot achieve within designated work hours. Workers must then work overtime without additional compensation to meet the target, sometimes resulting in actual hourly wages that are below the legal minimum wage.

The NPC report also found that excessive overtime was common. The labor law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, these standards were regularly violated, particularly in the private sector and in enterprises that use low-skilled migrant or seasonal labor. A survey conducted by a human resources firm found that 80 percent of respondents worked overtime often, while only 30 percent were paid premium wages for overtime. Many areas of the country experienced shortages of migrant and skilled workers during the year, in part due to worker dissatisfaction with low wages and poor working conditions. Social auditors found that factories routinely falsified overtime and payroll records. In August a Shenzhen court accepted a libel complaint from an employer against two journalists who had reported on illegal overtime conditions in a factory, although the employer subsequently dropped the case.

The NPC report found that working conditions in locations it surveyed were substandard. The State Administration for Work Safety (SAWS) also acknowledged that occupational health and safety concerns remained serious. SAWS, which was elevated to ministry status in 2005, continued to develop the national framework for work safety. The Ministry of Health was responsible for the prevention and treatment of occupational illness, while SAWS was responsible for workplace health supervision. In June the law was amended to provide for criminal sanctions against individuals responsible for industrial accidents. In August SAWS announced a five-year, \$58 billion (467.4 billion RMB) plan to invest in safety projects, including coal mine accident prevention, in an effort to reduce the industrial accident rate.

While inadequate and poorly enforced occupational health and safety laws and regulations continued to put workers' health and lives at risk, there was a decline in reported accidents and fatalities compare to the previous year. During the year official statistics reported that industrial accidents killed 14,382 workers, a decrease of 9.4 percent from the previous year. There were 95 incidents involving more than 10 fatalities (a total of 1,570 fatalities), 49 percent fewer incidents than in 2005.

The coal industry continued to suffer the largest number of accidents and fatalities as soaring demand and increasing prices drove companies to increase production of coal. During the year the number of deaths in coal mine accidents fell to 4,746, a decline of 20 percent from 2005. The Government took other steps throughout the year to improve mine safety. However, allegations of local government complicity in the cover-up of mining disasters continued.

The central government announced plans to close 2,652 unsafe small coal mines during the year, but extended the deadline to the first half of 2007 following resistance from local governments. Throughout the year, central and provincial authorities punished a number of mine managers and local government officials for their involvement in coal mine accidents.

Many factories that used harmful materials or processes not only failed to protect their workers against the ill effects of such materials or processes but failed to in-



form them about the hazards, neglected to provide them with health inspections as required by law, and when they fell ill, denied their claims for compensation. The Ministry of Health said that pneumoconiosis, a chronic respiratory disease caused by inhaling metallic or mineral particles, remained the single most prevalent occupational disease in China. The official number of pneumoconiosis cases was 440,000, although some observers reported that it may have affected as many as five million workers, including coal miners and jewelry workers. In February SAWS ordered the closing of 35,842 companies due to safety concerns.

The Government reported that 102 million workers participated in the country's work-injury insurance system, an increase of 17 percent over the previous year. However, NGOs reported that local labor and social security bureaus frequently rejected claims for compensation by workers because employers failed to provide them with documentation as required by law. Workers showed a willingness to use lawsuits to pursue injury and illness claims against employers, but there were few sources of legal aid available.

The work safety law states that employees have the right, after spotting an emergency situation that threatens their personal safety, to evacuate the workplace. Employers are forbidden to cancel the labor contracts or reduce the wages or benefits of any employee who takes such action. In practice such protective provisions were difficult to enforce. There were reports of serious accidents in which miners were killed when mine managers forced them to continue work under unsafe conditions.

The NPC report stated that infringement of workers' rights was widespread in 2005, and this situation continued during the year. In addition to citing poor labor law enforcement, the NPC noted that labor contracts are seldom executed, and when they were, that contract terms were too short and not in compliance with the law. NPC inspection results in 2005 showed that only 20 percent of employees signed labor contracts in small- and medium-sized nonpublic enterprises. This situation continued during the year. The lack of written labor contracts made it much more difficult for workers whose rights had been violated to seek redress through administrative processes or through the courts. The widespread use of labor contracting agencies to supply manpower also created legal gray areas that made labor law enforcement more difficult.

## TIBET

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China. The Tibetan population within the TAR was 2.4 million, while in autonomous prefectures and counties outside the TAR the Tibetan population was 2.9 million. The Government strictly controlled information about, and access to, Tibetan areas, making it difficult to determine accurately the scope of human rights abuses.

The Government's human rights record in Tibetan areas of China remained poor, and the level of repression of religious freedom remained high. The Government continued to strongly criticize the Dalai Lama and to associate Tibetan Buddhist religious activity with separatist sympathies. The preservation and development of the unique religious, cultural, and linguistic heritage of Tibetan areas and the protection of Tibetan people's fundamental human rights continued to be of concern. Authorities continued to commit serious human rights abuses, including torture, arbitrary arrest and detention, house arrest and surveillance of dissidents, and arbitrary restrictions on free movement.

Positive developments in Tibetan areas included a fifth round of dialogue between the Government and envoys of the Dalai Lama. In March authorities permitted released political prisoner Phuntsog Nyidrol to travel overseas to receive medical treatment.

*Deprivation of Life.*—On September 30, People's Armed Police at the Nangpa La pass shot at a group of approximately 70 Tibetans, attempting to cross into Nepal, killing 17-year-old nun Kelsang Namtso and wounding others. Although officials claimed the police officers shot in self-defense, eyewitness accounts, including footage shot by a European film crew, showed that soldiers were unprovoked and fired at the Tibetans from a distance (see Torture and Freedom of Movement sections).

In April monastery and Religious Affairs Bureau (RAB) officials claimed Ngawang Jangchub's death in October 2005 was due to medical problems he had suffered from since childhood. According to other reports, he committed suicide. His death followed a heated dispute with the monastery's "work team" over the intensification of the patriotic education campaign at the monastery, the expulsion of five monks, and his refusal to denounce the Dalai Lama.

*Torture.*—The security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. Tibetans repatriated from Nepal reportedly continued to suffer torture and other abuse in detention centers, including electric shocks, exposure to cold, and severe beatings, and were forced to perform heavy physical labor. Many were required to pay fines upon release.

According to news reports, more than 30 of the 70 Tibetans fired upon by soldiers at Nangpa La were captured, incarcerated, and tortured in a labor camp. A 15-year-old member of the group who later reached India reported to international media that three dozen of the Tibetans captured by soldiers were tortured with cattle prods and forced to do hard labor (see Deprivation of Life and Freedom of Movement sections).

According to a new report from the International Campaign for Tibet (ICT), a group of 50 refugees was previously fired upon by Chinese troops in October 2005 at the same pass. After the shooting began the group scattered, and 23 Tibetans were reportedly arrested, detained, tortured, and interrogated at an army camp in Dingri County. The whereabouts of the remaining 27 refugees were unknown (see Freedom of Movement section).

On August 15, Nun Phuntsog Nyidrol, who was released in 2005 after serving 15 years in prison for participating in peaceful protests, testified before the UN Human Rights Council that government authorities severely beat and tortured her while in prison.

Prison authorities reportedly subjected Jigme Gyatso to beatings and solitary confinement following a December 2005 meeting with UN Special Rapporteur on Torture Manfred Nowak in Drapchi Prison.

*Prison Conditions.*—Prisoners in Tibetan areas were generally subject to the same prison conditions as in other areas of the country. Forced labor was used in some prisons, detention centers, reeducation-through-labor facilities, and prison work sites. The law states that prisoners may be required to work up to 12 hours per day, with one rest day every two weeks, but these regulations often were not enforced. Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons.

Political prisoner Rinzin Wangyal (also known as Rinwang) reportedly died in prison in late 2004 of unknown causes. There was no official confirmation of Rinzin Wangyal's death, nor was his body handed over to his family.

*Arbitrary Arrest or Detention.*—Arbitrary arrest and detention remained serious problems in Tibetan areas. The law permits police and security authorities to detain persons without arresting or charging them.

In August the ICT reported the March 2005 arrest of Lhasa history teacher Dolma Kyab. He was reportedly serving a 10-year sentence in Qushui Prison on charges of "endangering state security." In August Bureau of Justice authorities in Lhasa denied he was detained.

Authorities reportedly detained six Tibetans from Sichuan Province for allegedly handing out leaflets advocating Tibetan independence. In early June Yiga, a former nun, and two lay women, Sonam Choetso and Jampa Yangtso, all from Ganzi Prefecture in Sichuan, were detained in Lhasa. On June 1 and 2, respectively, Kayi Doega, a layman, and Sonam Lhamo, a nun from Geci Nunnery, were detained in Ganzi Prefecture on the suspicion they had organized the protest.

In late August authorities arrested Yiwang, a 16-year-old Tibetan girl from Ganzi Prefecture in Sichuan, for her involvement in the campaign. No information on her trial or sentence was available.

According to a report by Radio Free Asia (RFA), on August 23 security officials arrested Khenpo Jinpa, the abbot of Choktsang Taklung Monastery in Ganzi Prefecture, Sichuan Province. Khenpo Jinpa was reportedly arrested on suspicion of involvement in displaying proindependence posters at the monastery.

According to the Tibetan Centre for Human Rights and Democracy (TCHRD), on November 23 authorities reportedly arrested five monks who refused to take part in the "patriotic education campaign" that began in October 2005 at the Drepung Monastery in Lhasa. The monks, who were identified as Ngawang Namdrol, Ngawang Nyingpo, Ngawang Thupten, Ngawang Phelgey, and Phuntsok Thupwang, reportedly refused to denounce the Dalai Lama and recognize Tibet as part of China. In April monastery officials denied the five had been arrested and said they were expelled from the monastery and had returned to their homes (see Freedom of Religion section).

On February 24, eight Tibetans were detained in Sichuan Province during a burning campaign. They were released in March without being charged (see Freedom of Religion section).

In August 2005 four Tibetans who were detained after the burning of a slaughterhouse in Sichuan Province reportedly remained in detention in Derge County. Sherab Yonten, Sonam Gyelpo, and two others whose names are unknown continued to be held without charges and without access to relatives or defense counsel. Soepa, originally detained with the others, was released after going blind in custody due to alleged beatings and lack of access to medical care. Dawa, also originally detained with the others, was sentenced to five years' imprisonment (see Political Prisoners section).

In July 2005 monk Tsering Dhondup reportedly was detained after he allegedly wrote a "request for prayer" mentioning the Dalai Lama. According to RFA, the monastery disciplinarian who read the request for prayer, Changchup Gyaltsen, reportedly was also expelled from the monastery.

On May 23, 19-year-old monk Thubten Samten reportedly disappeared from his room in the Sera Monastery. According to the TCHRD, sources believe police arrested him for displaying pictures in his room of the Dalai Lama, the Panchen Lama, and the Tibetan national flag. His whereabouts remained unknown.

In June border police near Tingri reportedly arrested 13 Tibetans who were planning to cross the border to Nepal. The detainees were male and in their twenties and early thirties. There were no reports on the whereabouts of those arrested.

Jigme Gyatso continued to serve a sentence for counterrevolution despite a November 2000 UN Working Group on Arbitrary Detention statement that he was merely "exercising the right to freedom of peaceful assembly."

Chadrel Rinpoche remained under house arrest for leaking information about the selection of the Panchen Lama. Officials denied requests by diplomatic observers to visit with him.

On February 26, former nun and schoolteacher Nyima Choedron, who was detained in 1999 and sentenced to 10 years' imprisonment, had the remainder of her sentence commuted and was released from the TAR Prison.

On March 9, the ICT reported that Nyima Choedron's partner, Bangri Chogtrul Rinpoche, a schoolteacher and founder of the Gyatso children's home and school who was also detained in 1999, remained in prison on charges of "splittism."

*Political Prisoners.*—Due to the lack of independent access to prisoners and prisons, it was difficult to ascertain the number of Tibetan political prisoners. According to the Congressional-Executive Commission on China's Political Prisoner Database (CECC PPD), in December there were 105 known cases of political prisoners, although the exact figure may be higher. Based on information available for 70 political prisoners, the average sentence was 10 years and 11 months, and 69 percent were monks or nuns. Approximately 52 political prisoners remained in prison in Lhasa, most serving sentences on the charge of "counterrevolution," which was dropped from the criminal law in 1997. Authorities have stated that acts previously prosecuted as counterrevolutionary crimes continue to be considered crimes under antisubversion laws. The CECC PPD showed that 57 Tibetan political prisoners were imprisoned in the TAR, 29 in Sichuan Province, 12 in Qinghai Province, four in Gansu Province, and three in Beijing. The overall number of reported political prisoners in Tibetan areas dropped to 105 from 117 in 2005.

An unknown number of Tibetans were serving sentences in reeducation-through-labor camps and other forms of administrative detention not subject to judicial review.

In October the TCHRD reported that Dawa (also called Gyaltsen Namdak) was sentenced to five years' imprisonment for allegedly distributing pamphlets containing political material. Dawa was arrested in May. He reportedly remained in Chushul Prison at year's end.

On September 6, authorities reportedly charged monk Lobsang Palden from Ganzi Monastery for initiating separatist activities. On August 15, he reportedly was arrested in Sichuan Province after police searched his room and found photographs of the Dalai Lama.

In May the Dui Hua Foundation released new information on the sentencing of monk Choeying Khedrub from Nagchu Prefecture. He was one of six men detained in 2000 for "endangering state security" and "supporting splittist activities." Choeying Khedrub reportedly was sentenced to life in prison in 2001. He was one of only two Tibetans known to be serving life sentences for political offenses. The other was Tenzin Delek Rinpoche, a senior monk. He initially was sentenced to death for allegedly causing explosions and inciting the separation of the state; in January 2005 his sentence was commuted to life imprisonment.

In November the TCHRD reported that Sonam Gyalpo, a Lhasa tailor arrested in 2005, was sentenced in the middle of the year to 12 years' imprisonment on charges of splittism and destroying national unity.

Monk Namkha Gyaltsen, a chant master from Ganzi Monastery in Sichuan Province, was serving an eight-year sentence in Ganzi Prison for allegedly posting, displaying, and circulating Tibetan independence pamphlets in Ganzi in 2005. Authorities denied access to visitors, and his condition remained unknown.

In January a court in Gannan Prefecture, Gansu Province, reportedly sentenced five Tibetan monks and nuns to up to three years' imprisonment for displaying and distributing posters in 2005 that were critical of the Government. According to the Free Tibet Campaign, nuns Choekyi Drolma and Tamdrin Tsomo and monk Dargyal Gyatso were sentenced to three years' imprisonment and nun Yonten Tsomo and monk Yamyang Samdrub to 18 months' imprisonment. Nun Yonten Tsomo was released at the end of the year. The charges against the monks and other nuns were unknown.

In January Gendun, a monk and teacher of traditional monastic dance from Amdo, was sentenced to four years in prison after he spoke about Tibetan culture and history at a teacher training college in February 2005. Twenty monks, students, and teachers detained in connection with his case reportedly were released soon after they were detained.

Other political prisoners in detention at year's end included: monk Sonam Phuntsog; Tashi Gyaltsen, Tsultrim Phelgyal, Tsesum Samten, Jhamphel Gyatso, and Lobsang Thargyal from Dakar Treltzong Monastery in Qinghai Province; Jigme Dasang, a monk from Kumbum Monastery in Qinghai Province; Ngawang Phulchung, a monk from Drepung Monastery; Tibetan Buddhist monk Jigme Gyatso; and Lobsang Khedrub and Gyalpo.

The status of the following persons arrested in 2004 remained unconfirmed at year's end: Nyima Dorjee and Lobsang Dorjee, who were arrested for hanging proindependence posters on government buildings; Choeden Rinzen, who was arrested for possessing pictures of the Dalai Lama and the Tibetan National flag; Dejour, Tsering Dawa, and Datsok, who were detained after clashing with Chinese workers over a mining project; and Nyima Tenzin and Sonam Nyidup, who protested their detention by shouting proindependence slogans in a bar.

*Denial of Fair Public Trial.*—Legal safeguards for Tibetans detained or imprisoned were inadequate in both design and implementation. Most judges had little or no legal training. According to an official of the TAR Bureau of Justice, all seven cities and prefectures had established legal assistance centers, which offered services in the Tibetan language. Justice Bureau officials confirmed that there is a new prisoner appointment application by which prisoners may request a meeting with a government-appointed attorney. Nevertheless, many defendants still did not have access to legal representation. Moreover, their trials were cursory and closed if issues of state security were involved. Under the law, maximum prison sentences for crimes such as “endangering state security” and “splitting the country” were 15 years for each count, not to exceed 20 years in total. Such cases mainly concerned actions alleged to be in support of Tibetan independence, and activities did not have to be violent to be illegal or to draw a heavy sentence.

*Freedom of Speech and Press, Including Internet Freedom.*—The Tibetan-language services of Voice of America and RFA, as well as of the Oslo-based Voice of Tibet, suffered from the same jamming of their frequencies by authorities as Chinese-language services. However, Tibetans were able to listen to the broadcasts at least some of the time.

During the year the Tibet Culture Web site, a domestic site devoted to contemporary Tibetan culture, was shut down intermittently. In July authorities closed Internet blogs of well-known Tibetan author Oser. In press reports the writer speculated the closure was due to her posting of a picture of the Dalai Lama and expression of birthday wishes for him.

*Freedom of Religion.*—The level of repression in Tibetan areas remained high, and the Government's record of respect for religious freedom remained poor during the year. The law provides for freedom of religious belief, and the Government's 2004 white paper on Regional Ethnic Autonomy in Tibet states, “Tibetans fully enjoy the freedom of religious belief.” However, the Government maintained tight controls on religious practices and places of worship in Tibetan areas. Although authorities permitted many traditional practices and public manifestations of belief, they promptly and forcibly suppressed activities they viewed as vehicles for political dissent or advocacy of Tibetan independence, such as religious activities venerating the Dalai Lama (which the Government described as “splittism”).

On August 8, the newly appointed party secretary in the TAR, Zhang Qingli, sharply criticized the Dalai Lama, describing him in an interview with a foreign magazine as a “false religious leader” and dismissing his “middle way” approach as “splittism.” In a May 16 address to Party officials in Lhasa, Zhang said the Com-

unist Party was engaged in a “fight to the death struggle” against the Dalai Lama and his supporters. According to the Xinhua News Agency, in a July press conference TAR Chairman Champa Phuntsok described the Dalai Lama as a “politician in Buddhist robes and Italian shoes.”

Approximately 615 Tibetan Buddhist religious figures held positions in local people’s congresses and local Chinese people’s political consultative conferences in the TAR. However, the Government continued to insist that CCP members and senior employees adhere to the CCP’s code of atheism, and routine political training for cadres continued to promote atheism. TAR officials confirmed that some RAB officers were members of the CCP and that religious belief was incompatible with CCP membership. However, some lower-level RAB officials practiced Buddhism.

The atmosphere for religious freedom varied from region to region. Conditions were more relaxed in some Tibetan areas outside the TAR.

Monks outside the TAR who want to study in the TAR are required to get official permission from the RAB, although such permission was not readily granted. Sources said that ethnic Han Chinese monks generally were not allowed to undertake religious study in the TAR. Although Tibetan monks were not allowed to conduct large-scale religious teachings outside Tibetan areas, many monks continued to give private teachings to audiences in non-Tibetan regions of China.

Monasteries in the TAR were not allowed to establish any relationship with other monasteries or hold joint religious activities. Monasteries are required to report to the local government and request permission to hold any large or important religious events or to build new temples.

In February and March Tibetan Buddhists in Qinghai and Sichuan Provinces and the TAR carried out animal pelt-burning campaigns to destroy wild animal pelts traditionally worn in Tibetan clothing. The activities were a response to a call from the Dalai Lama during January Kolachakara celebrations in India to increase awareness of wildlife protection. Authorities banned the public burnings, which they saw as demonstrations of loyalty to the Dalai Lama, and detained some participants in Ganzi, Sichuan Province (see Arbitrary Arrest and Detention section).

In June an overseas Web site reported that the Government began a political education campaign for school children in Ganzi Prefecture, Sichuan Province, to prevent involvement in the animal pelt-burning campaign.

In February envoys of the Dalai Lama came to China for the fifth round of talks since 2002. In his public remarks, the Dalai Lama continued to call for a “middle way” approach, which included “meaningful autonomy” for Tibet but not independence.

Security was intensified during the Dalai Lama’s birthday, sensitive anniversaries, and festival days in the TAR and in some other Tibetan areas as well. The prohibition on celebrating the Dalai Lama’s birthday on July 6 continued. Government officials reportedly ordered Tibetans working for the Government to refrain from going to temples during the Saga Dawa festival in May or risk losing their jobs.

In early September authorities permitted Buddhists in Gansu Province’s Kanlho Tibetan Autonomous Prefecture to celebrate the festival of Kalachakara, which was originally scheduled for July 6, the birthday of the Dalai Lama, but then postponed by authorities.

In December Tibetan government workers, retired staff and cadres, students, and party members were banned from participating or observing celebrations of the Gaden Ngachoe Festival, which commemorates the death of a 14th-century Buddhist teacher and founder of the Gelugpa school of Tibetan Buddhism.

Government officials maintained that possessing or displaying pictures of the Dalai Lama was legal. However, authorities appeared to view possession of such photos as evidence of separatist sentiment when detaining individuals on political charges. Pictures of the Dalai Lama were not openly displayed in most major monasteries and could not be purchased openly in the TAR.

During the year international observers saw pictures of a number of religious figures, including the Dalai Lama, displayed more widely in some Tibetan areas outside the TAR. The Government continued to ban pictures of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. Photos of the “official” Panchen Lama, Gyaltzen Norbu, were not widely displayed, most likely because most Tibetans do not recognize him as the Panchen Lama.

TAR Ethnic and Religious Affairs Bureau officials confirmed that the TAR had approximately 46,000 Tibetan Buddhist monks and nuns and more than 1,700 venues for Tibetan Buddhist activities. Officials cited almost identical figures since 1996, although the number of monks and nuns has dropped at many sites due to the patriotic education campaign and the expulsion of many monks and nuns who refused to denounce the Dalai Lama or who were found to be “politically unqualified.” These

numbers represented only the TAR, where the number of monks and nuns was strictly controlled. According to statistics collected by the China Center for Tibetan Studies, a government research institution, there were 1,535 monasteries in Tibetan areas outside the TAR.

Government officials closely associated Buddhist monasteries with proindependence activism in Tibetan areas of China. Spiritual leaders encountered difficulty reestablishing historical monasteries due to lack of funds, general limitations on monastic education, and lack of authorization to build and operate religious institutions; officials in some areas contended such religious institutions were a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

The Government stated there were no limits on the number of monks in major monasteries and that each monastery's democratic management committee (DMC) decided independently how many monks the monastery could support. However, the Government exercised strict control over most monasteries through the DMCs and imposed strict limits on the number of monks in major monasteries, particularly within the TAR. The Government had the right to disapprove any individual's application to take up religious orders, although there were no known reports of the Government exercising this right during the year. Authorities limited the traditional practice of sending young boys to monasteries for religious training by means of regulations that forbade monasteries from accepting individuals under the age of 18. Nevertheless, many monasteries continued to admit younger boys, often delaying their formal registration until age 18.

The Government continued to oversee the daily operations of major monasteries. The Government, which did not contribute to the monasteries' operating funds, retained management control of monasteries through the DMCs and local RABs. Regulations restricted leadership of many DMCs to "patriotic and devoted" monks and nuns and specified that the Government must approve all members of the committees. At some monasteries government officials also sat on the committees.

The quality and availability of high-level religious teachers in the TAR and other Tibetan areas remained inadequate; many teachers were in exile, older teachers were not being replaced, and those remaining in Tibetan areas outside the TAR had difficulty securing permission to teach in the TAR. DMCs at several large TAR monasteries used funds generated by the sales of entrance tickets or donated by pilgrims for purposes other than the support of monks engaged in full-time religious study. As a result, some "scholar monks" who had formerly been fully supported had to engage in income-generating activities. Some experts were concerned that, as a result, fewer monks will be qualified to serve as teachers.

Government officials claimed that the patriotic education campaign, which often consisted of intensive, weeks-long sessions conducted by outside work teams, ended in 2000. However, monks and nuns continued to undergo political education on a regular basis. Numerous credible sources reported that political education sessions intensified in Lhasa beginning in April 2005. In July 2005 18 monks were expelled from Sera Monastery, and eight others were detained before they were to be tested on the contents of political education materials. In October 2005 RFA reported that 40 of the approximately 50 nuns residing at the Gyarak Nunnery near Lhasa were expelled for refusing to participate in political education.

In August officials from the Bureau of Ethnic and Religious Affairs told diplomatic observers that political education was carried out for all citizens, not just monks and nuns. Because the primary responsibility for conducting political education shifted from government officials to monastery leaders, the form, content, and frequency of training at each monastery appeared to vary widely. However, conducting such training remained a requirement and has become a routine part of monastic management.

In April religious authorities in the TAR stated that five Drepung Monastery monks had been expelled from the monastery in October 2005 for failing to satisfactorily participate in political education classes. Reports from international media sources indicated that the monks had been detained (see Arbitrary Arrest and Detention section).

During the year the official Ganzi Prefecture government Web site reported that in 2005 the permanent work team at Serthar Buddhist Institute destroyed 74 illegal houses in the monastery during its "management of religious work." The same Web site reported that 853 houses were destroyed and 1,100 monks and nuns were evicted from the Yachen Monastery.

Diplomatic observers repeatedly have been denied access to Nenang Monastery to verify the well-being of Pawo Rinpoche, who was recognized by the Karmapa Lama in 1994 and has lived under strict government supervision since that time.

The Government routinely asserted control over the process of finding and educating reincarnate lamas. The Panchen Lama is Tibetan Buddhism's second most prominent figure, after the Dalai Lama. The Government continued to insist that Gyaltzen Norbu is the Panchen Lama's 11th reincarnation. The Government continued to deny access to Gendun Choekyi Nyima, who was recognized by the Dalai Lama as the 11th Panchen Lama, and his whereabouts were unknown. Government officials claimed he was under government supervision at an undisclosed location for his own protection and attended classes as a "normal schoolboy." While the overwhelming majority of Tibetan Buddhists recognized Gendun Choeki Nyima as the Panchen Lama, Tibetan monks claimed that they have been forced to sign statements pledging allegiance to Gyaltzen Norbu, who the Government selected. The CCP also urged its members to support the "official" Panchen Lama.

In 2005 diplomatic officials met the seven-year-old child approved by the Government as the seventh reincarnation of Reting Rinpoche. His appointment was reportedly disputed by many of the monks at Reting Monastery in 2000 because the Dalai Lama did not recognize the selection. The Reting Rinpoche's religious training was closely supervised by the Government through the selection of his religious and lay tutors.

In August Gyaltzen Norbu traveled to his home town in Nagchu Prefecture for the first time since 1995. According to press reports, he presided over a blessing ritual for 4,000 local persons.

The Government claimed that since 1949 it has contributed approximately \$36 million (RMB 300 million) to renovate and open more than 1,400 monasteries and to repair cultural relics, many of which were destroyed before and during the Cultural Revolution.

Despite the Government's efforts, many monasteries destroyed during the Cultural Revolution were never rebuilt or repaired, and others remained only partially repaired. Government funding of restoration efforts ostensibly supported the practice of religion but also promoted the development of tourism in Tibetan areas. Most recent restoration efforts were funded privately, although a few religious sites also received government support for reconstruction projects during the year.

*Freedom of Movement.*—The law provides for the freedom to travel; however, in practice the Government strictly regulated travel and freedom of movement of Tibetans, especially within the TAR. Many Tibetans, particularly those from rural areas, continued to report difficulties obtaining passports.

The Government also regulated foreign travel to the TAR. In accordance with a 1989 regulation, foreign visitors (excluding individuals from Hong Kong, Macau, and Taiwan) were required to obtain an official confirmation letter issued by the Government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies. While none of the TAR's 70 counties were officially closed to foreigners, access for foreigners to many areas of the TAR remained problematic.

Official visits to the TAR were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the authorities. Foreigners could travel freely in most Tibetan areas outside the TAR.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious and other purposes. The Government placed restrictions on the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were reports that in January individuals returning to Tibet from the Kolachakara celebrations in India were required to register with authorities in the TAR. There were reports of arbitrary detention of persons, particularly monks, returning from Nepal. Detentions generally lasted for several months, although in most cases no formal charges were brought. In June border police near Tingri reportedly arrested 13 Tibetans who were planning to cross the border into Nepal (see Arbitrary Arrest and Detention section).

On September 30, Chinese border forces at the Nangpa La pass shot at a group of approximately 70 Tibetans who were attempting to cross into Nepal, killing 17-year-old nun Kelsang Namtso and injuring others. The group included monks, nuns, and children. Eyewitness accounts reported that soldiers fired at the group from a distance. These accounts appeared to contradict claims made shortly after the incident by state-controlled media, which claimed the group had attacked the border troops. Forty-three members of the group arrived in Katmandu. Other members of the group were caught by soldiers, and photographs of the incident showed soldiers standing watch over a group of children. A 15-year-old member of the group who later reached India reported to international media that three dozen of the Tibetans captured by soldiers were tortured with cattle prods and forced to do hard labor. The whereabouts of the remaining members of the group were unknown (see Deprivation of Life and Torture sections).

According to a report from the ICT, a group of 50 refugees was previously fired upon by Chinese troops in October 2005 at the same pass (see Torture section).

The Office of the UN High Commissioner for Refugees reported that during the year 2,405 Tibetans arrived at the Tibet Reception Center (TRC) in Nepal, compared with 3,395 in 2005. During the year departures were higher than arrivals, with 2,946 Tibetans departing the TRC for India. This was due to a backlog at the TRC at the end of 2005.

Nevertheless, thousands of Tibetans, including monks and nuns, visited India via third countries and returned to China after temporary stays. The majority of Tibetans who transited via Nepal to India were young, with ages ranging from six to 30, and the main reason they migrated was the lack of Tibetan-language educational facilities and opportunities for religious education.

The Karmapa Lama, leader of Tibetan Buddhism's Karma Kagyu sect and one of the most influential religious figures in Tibetan Buddhism, remained in exile following his 1999 flight to India. The Karmapa Lama stated that he fled because of the Government's controls on his movements and its refusal either to allow him to go to India to be trained by his spiritual mentors or to allow his teachers to come to him.

*National Minorities.*—Tibetans made up 94 percent of the population of the TAR. Government-sponsored development and new economic opportunities attracted migrant workers from China's large transient population to Tibetan areas. The result was a net increase in the non-Tibetan share of the TAR population from approximately 4 percent in 1990 to 6 percent in 2000. However, TAR census figures did not include a large number of long-term Han residents, such as cadres, skilled workers, unskilled laborers, military and paramilitary troops, and their dependents.

Migrants to the TAR were overwhelmingly concentrated in cities and towns, while Tibetans continued to make up nearly 98 percent of the rural population. One official estimate put the number of Han residents in Lhasa at 100,000 out of a total population of approximately 409,500, although many observers estimated that more than half of Lhasa's population was Han Chinese. Small businesses, mostly restaurants and retail shops, run by Han and Hui migrants predominated in cities throughout the Tibetan areas.

In Tibetan areas outside the TAR, Tibetans increased their majority share as natural population growth outpaced net migration by non-Tibetans.

Family planning policies permitted Tibetans and members of other minority groups to have more children than Han. Urban Tibetans, including Communist Party members, and some ethnic Han Chinese living in Tibetan areas were generally permitted to have two children. Rural Tibetans were encouraged, but not required, to limit births to three children.

The TAR is one of China's poorest regions, and Tibetans are one of the poorest groups; malnutrition among Tibetan children continued to be widespread in many areas of the TAR.

In 2005 the Government launched a campaign known as Ramdrang Rangdrik (Do It Yourself program). Ostensibly aimed at relocating Tibetans and improving their housing conditions, the campaign required villagers to build houses according to strict official specifications within two to three years, often forcing them to go into debt to cover construction costs. According to Human Rights Watch, Tibetans were told that modern houses were necessary to make a good impression on visitors and tourists. However, many of the houses did not have water or electricity and were often smaller than traditional Tibetan homes.

In 2005 state media reported that Tibetans and other minority ethnic groups made up 75 percent of all government employees in the TAR. However, Han Chinese continued to hold key positions, including party secretary of the TAR. Tibetans holding government positions were prohibited from worshipping at monasteries or practicing their religion.

Some Tibetans reported that they experienced discrimination in employment and claimed Han Chinese were hired preferentially for many jobs and received greater pay for the same work. In recent years some Tibetans reported that it was more difficult for Tibetans than Han to get permits and loans to open businesses. The use of the Chinese language was widespread in urban areas, and many businesses limited employment opportunities for Tibetans who did not speak Chinese.

The TAR tourism bureau continued its policy of refusing to hire Tibetan tour guides educated in India or Nepal. Government officials have stated that all tour guides working in the TAR were required to seek employment with the Tourism Bureau and pass a licensing exam on tourism and political ideology. The Government's stated intent was to ensure that all tour guides provide visitors with the Government's position opposing Tibetan independence and the activities of the Dalai Lama.



*Women and Children.*—There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. However, women were underrepresented at the provincial and prefectural levels of government. According to an official Web site, female cadres in the TAR accounted for more than 30 percent of the TAR's total cadres.

Prostitution was a growing problem in Tibetan areas, and hundreds of brothels operated semi-openly in Lhasa. International development workers in the TAR reported there were no reliable data on the number of commercial sex workers employed in Lhasa and Shigatse, the TAR's two largest cities, although some estimates placed the number of sex workers as high as 10,000. Some of the prostitution occurred at sites owned by the CCP, the Government, and the military. Most prostitutes in the TAR were Han women, mainly from Sichuan. However, some Tibetans, mainly young girls from rural or nomadic areas, also worked as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibetan areas was unknown, but lack of knowledge about HIV transmission and economic pressures on prostitutes to engage in unprotected sex made them particularly vulnerable.

Both Tibetan and Chinese are official languages in the TAR, and both languages were used on public and commercial signs. However, the Chinese language was spoken widely and was used for most commercial and official communications. The use of both languages was also impacted by the rate of illiteracy among Tibetans, which the CECC Annual Report reported was more than five times higher (47.55 percent) than the national average (9.08 percent), according to the 2000 census data. The TAR rate of illiteracy (47.25 percent) was the highest in the country and was nearly twice as high as in the second-ranked Qinghai Province (25.22 percent). Primary school was the only level of educational attainment for which data showed Tibetans nearly on par with the national average. In practice many pupils in rural and nomadic areas received only one to three years of schooling. The illiteracy rate of youth and adults in the prime of life fell from 95 percent before 1959 to 22 percent at the end of 2004. However, the illiteracy rate for this group was much higher than 22 percent in some areas.

The Government established a comprehensive national Tibetan-language curriculum, and many elementary schools in Tibetan areas used Tibetan as the primary language of instruction. Tibetan students were also required to study Chinese, and Chinese was generally used to teach certain subjects, such as arithmetic and science. In middle and high schools—even some officially designated as Tibetan schools—teachers often used Tibetan only to teach classes in Tibetan language, literature, and culture and taught all other classes in Chinese. As a practical matter proficiency in Chinese was essential to receive a higher education. China's most prestigious universities provided instruction only in Chinese, while the lower-ranked universities established to serve ethnic minorities allowed study of only some subjects in Tibetan. Opportunities to study at Tibetan-language schools were greater in the TAR, while opportunities to study at privately funded Tibetan-language schools and to receive a traditional Tibetan-language religious education were greater in Tibetan areas outside the TAR.

Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions and limited course studies and materials in an effort to prevent separatist political and religious activities on campus. Students at Tibet University were prohibited from engaging in religious practice. The Government controlled curricula, texts, and other course materials.

*Protection of Cultural Heritage.*—Rapid economic growth, the expanding tourism industry, and the introduction of more modern cultural influences have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. Residents lacked the right to play a role in protecting their cultural heritage.

The Dalai Lama, Tibetan experts, and other observers expressed concern that development projects and other central government policies would continue to promote a considerable influx of Han Chinese, Hui, and other ethnic groups into the TAR and benefit these groups disproportionately. There was widespread concern that the opening of the Qinghai-TAR railroad in April would increase this migration and threaten traditional culture and the demographic dominance of Tibetans.

On July 1, General Secretary Hu Jintao traveled to Lhasa to inaugurate the Qinghai-TAR railroad. In September official press reports stated that the line had carried 272,700 passengers and 37,400 tons of freight since entering service. Approximately 40 percent of the passengers were tourists, 30 percent business persons, and the remainder students, transient workers, traders, and persons visiting relatives in Tibet.

Although the Government made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political

controls continued to limit the fundamental freedoms of Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

## HONG KONG

Hong Kong, with a population of approximately seven million, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's constitution, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereafter referred to as the Basic Law), specify that Hong Kong will enjoy a high degree of autonomy except in matters of defense and foreign affairs. In June 2005 following the resignation of former Chief Executive Tung Chee-hwa, Donald Tsang, the acting chief executive, was elected unopposed as chief executive. Legislative Council (Legco) members were elected in 2004 to four-year terms. Although the elections were generally considered free and fair, in the months leading up to the elections there were allegations of intimidation of voters and political commentators. The civilian authorities generally maintained effective control of the security forces. The Government generally respected the human rights of its citizens, although core issues remain.

Residents were limited in their ability to change their government, and the legislature was limited in its power to affect government policies. Self-censorship remained a problem, as did violence and discrimination against women. Workers were also restricted from organizing and bargaining collectively.

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Basic Law and Hong Kong Bill of Rights prohibits torture and other abuse by the police, and the Government generally observed the prohibition in practice. From January to June, there were 303 allegations of assault by police officers on persons in or not in custody; however, none alleged torture or were substantiated by the Complaints Against Police Office (CAPO) (see section 1.d.). In August an asylum seeker from Sri Lanka lodged a complaint with CAPO that he was assaulted by police when being pushed into a police car after being apprehended for overstaying in Hong Kong. As of year's end, the complaint was still being investigated.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and although the Government permitted visits by independent human rights observers, there were no requests during the year. Media visit requests were permitted, and local justices of the peace regularly conducted unannounced prison inspections. Prison overcrowding continued to be a problem, although the construction of a new immigration detention center in Tuen Mun in 2005 eliminated the need to put immigration offenders in prison with convicted criminals. For the first six months of the year, the average prison occupancy rate for the 24 prisons was 104 percent. Overcrowding was most serious in maximum-security prisons, which operated at an average occupancy rate of 119 percent.

*d. Arbitrary Arrest or Detention.*—Common law, legal precedent, and the Basic Law provide substantial and effective legal protection against arbitrary arrest or detention, and the Government generally observed these provisions in practice.

*Role of the Police and Security Apparatus.*—The police force is led by a uniformed police commissioner who reports to the secretary for security—a member of the chief executive's cabinet. The force had approximately 28,700 officers and was divided into five departments with both headquarters and regional formations. Corruption and impunity were not significant problems within the force. Police officers are subject to disciplinary review by CAPO and the civilian Independent Police Complaints Council (IPCC) in cases of alleged misconduct.

Disciplinary action can range from warnings to dismissal. Criminal proceedings may be undertaken independently of the disciplinary process under Section 3 of the Crimes (Torture) Ordinance, punishable by life imprisonment. CAPO investigates allegations of excessive use of force, and IPCC monitors and reviews their work.

*Arrest and Detention.*—Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Suspects must also be charged within 48 hours or released, and the Government respected this right in

practice. There is a functioning bail system, and detainees are allowed prompt access to a lawyer and family members. Incommunicado detention was not a problem. The law provides accused persons with the right to a prompt judicial determination. During the year the average length of preconviction incarceration was 63 days.

*e. Denial of Fair Public Trial.*—The Basic Law provides for an independent judiciary, and the Government generally respected judicial independence in practice. The judiciary, underpinned by the Basic Law's provision that the common law tradition be maintained, provided citizens with a fair and efficient judicial process. Under the Basic Law, the courts may interpret those provisions of the Basic Law that address matters within the limits of the SAR's autonomy. The courts also interpret provisions of the Basic Law that touch on PRC central government responsibilities or on the relationship between the central authorities and the SAR. However, before making final judgments on these matters, which are not subject to appeal, the courts must seek an interpretation of the relevant provisions from the standing committee of the National People's Congress (NPC).

The Basic Law requires the courts to follow the standing committee's interpretation of Basic Law provisions, although judgments previously rendered are not affected. As the final interpreter of the Basic Law, the standing committee of the NPC also has the power to self-initiate interpretations of the Basic Law, as it did in April 2004 when it ruled out universal suffrage in Hong Kong's 2007 and 2008 elections (see section 3). The NPC's mechanism for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The chief executive, the President of the Legco, and the chief justice nominate the Hong Kong members. Human rights and lawyers' organizations have expressed concern that this process, which circumvents the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the courts' authority. In 2005 critics argued that the Basic Law and the resulting interpretation from the NPC standing committee on the question of Chief Executive Tung Chee-hwa's successor's term of office was an attempt to circumvent the judicial process. In response to the request, the NPC standing committee ruled in April that Tung's successor should serve out only the remaining two years of Tung's term rather than a full five-year term. Critics argued that the request, and the resulting NPC interpretation, sought to circumvent the judicial process. The Government argued that the need to resolve the issue quickly left insufficient time for a lengthy judicial review.

The Court of Final Appeal is the SAR's supreme judicial body. An independent commission nominates judges. The chief executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. The Basic Law provides that, with the exception of both the chief justice and the chief judge of the high court, who are prohibited from residing outside Hong Kong, foreigners may serve on the courts. During the year approximately 18 percent of all judges and judicial officers were expatriates, with 15 of 16 Court of Final Appeal judges being expatriates. Judges have security of tenure until retirement.

Under the Court of Final Appeal is the high court, composed of the court of appeal and the court of first instance. Lower judicial bodies include the district courts, which have limited jurisdiction in civil and criminal matters; the magistrates' courts, which exercise jurisdiction over a wide range of criminal offenses; the coroner's court; the juvenile court; the lands tribunal; the labor tribunal; the small claims tribunal; and the obscene articles tribunal.

*Trial Procedures.*—The Basic Law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials are by jury except at the magistrate court level. The judiciary provides citizens with a fair and efficient judicial process. An attorney is provided at the public's expense if defendants cannot afford counsel. Defendants can confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

Defendants generally enjoy a presumption of innocence. However, under prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that commensurate with his official income, or controls monies or property disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this ordinance in practice.

According to the Basic Law, English may be used as an official language by the executive, legislative, and judicial branches. For historical reasons and because of the courts' reliance on common law precedents, almost all civil cases and most criminal cases were heard in English. In recent years the Government has developed a bilingual legal system. It has increased the number of officers in the legal aid department proficient in spoken Cantonese and written Chinese, and extended the use of bilingual prosecution documents and indictments. All laws are bilingual, with English and Chinese texts being equally authentic. All courts and tribunals may operate in either Cantonese or English. Judges, witnesses, the parties themselves, and legal representatives may each decide which language to use at any point in the proceedings.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters, and there were no problems enforcing domestic court orders (see section 2.b.).

*Property Restitution.*—The Government enforced court orders with respect to restitution or compensation for taking private property under domestic law.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Basic Law prohibits arbitrary interference with privacy, family, home, and correspondence, and the Government generally respected these prohibitions in practice.

In February the high court ruled that a 2005 executive order authorizing covert surveillance activities by law enforcement agencies had no legal effect and a decades-old wiretapping law violated the Basic Law. This decision followed a series of court rulings in 2005 where government evidence collected through covert surveillance was barred from criminal trials because the courts said it was collected without legal authorization. In August Legco passed a new law regulating the use of covert surveillance and the interception of telecommunications and postal communications. The law establishes a two-tiered system for granting approval for surveillance activities, under which surveillance of a more intrusive nature requires the approval of a judge and surveillance of a less intrusive nature requires only the approval of a senior law enforcement official. Authorization to conduct covert surveillance can only be granted to prevent or detect "serious crime" or protect "public security." Applications to intercept telecommunications must involve crimes with a penalty of at least seven years imprisonment, while applications for covert surveillance must involve crimes with a penalty of at least three years imprisonment or a fine of at least \$128,000 (HK\$1 million). Some lawmakers and civil rights activists criticized the legislation for granting too much power to the police. The chief executive dismissed the criticism, saying the law was fairer and more protective of privacy than similar laws in the world's most open democracies. The Government did not reveal the number of authorizations granted to conduct such activities. After taking office in August, Justice Woo Kwok-hing, the commissioner on interception of communications and surveillance, received multiple complaints citing unlawful surveillance activities. Justice Woo publicly vowed to investigate each complaint.

The Office of the Privacy Commissioner for Personal Data, established under the Personal Data (Privacy) Ordinance (PDPO), works to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner. PDPO is not applicable to PRC government organs in Hong Kong. As of year's end, the Government was considering whether it should be made applicable to PRC bodies. Under certain exemptions for purposes related to safeguarding the security, defense, or international relations of Hong Kong, and for the prevention, detection, or prosecution of a crime, Hong Kong authorities may be allowed to transfer personal data to a PRC body.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Accusations of media self-censorship continued during the year. Most media outlets were owned by businesses with interests on the mainland, making them vulnerable to self-censorship. The Hong Kong Journalist Association's 2005 annual report noted that there "is a continued perception that some sections of the media are engaged in self-censorship." In 2005 the University of Hong Kong conducted a public opinion poll that said that 50 percent of respondents believed the media practiced self-censorship.

In February four men broke into the offices of the Falun Gong-owned daily newspaper Epoch Times and destroyed a piece of machinery in the paper's print shop. Epoch Times had just opened the print shop a few weeks prior to the break-in after

experiencing difficulties in hiring a local printing company. In 2005 the printing company that Epoch Times had been using refused to renew their contract, and the Falun Gong alleged the contract was canceled because the company feared business reprisals from its mainland clients. In addition to printing its daily paper, Epoch Times used the new shop to print large volumes of their Nine Commentaries on the Communist Party, a series of editorials offering a critical history of the Chinese Communist Party. At year's end police investigators had collected evidence at the crime scene but had made no arrests in connection with the break-in. After brief initial reports in local papers, the incident received no follow-up media coverage, which some observers said was an obvious case of media self-censorship.

The publishing or importation of print or other media in Hong Kong are subject to regulation by a few provisions to safeguard the interest of readers. For example, the Control of Obscene and Indecent Articles Ordinance guards against the inclusion of obscene materials in print and other media not regulated by the Broadcasting Ordinance. In August peephole-style photos of popular Hong Kong singer Gillian Chung, taken backstage at a concert in Malaysia and published in the Hong Kong weekly *Easy Finder*, sparked debate among government, local media, and women's rights activists on the proper balance between press freedom and the right to privacy. Gillian Chung filed a writ with Hong Kong's High Court (Obscene Articles Tribunal) on August 28, seeking an injunction against further publication and an order for *Easy Finder* to surrender all existing copies of the photos. At year's end the case had not been decided, but government officials, including the chief executive and Legco members, called for fresh discussions on the controversial legal nexus between privacy, press freedom, and covert surveillance.

In August legislator Albert Ho was attacked and beaten with clubs by three assailants in what appeared to be a premeditated attack. While the exact motivation for the assault remained a mystery, local observers said it was likely connected to his legal work rather than his government activities. The chief executive vowed that the assailants would be brought to justice. As of year's end, five arrests had been made in connection with the attack, but the investigation continued. In 2005 two employees of the local daily newspaper *Ming Pao* were slightly injured by a small package bomb that was addressed to the paper's editor. An accompanying letter denounced the paper's executives for publishing an unspecified article. As of November, the perpetrator's identity and exact motivation remained a mystery.

In 2005 a radio talk show host resigned from his position, saying that he was denied a primetime slot because of his outspoken views regarding greater democracy in Hong Kong. The same talk show host had previously resigned in 2004 for unexplained reasons but later returned to his job and was given a Saturday evening time slot. This followed the resignation in 2004 of two other popular radio talk show hosts, who were known for their antigovernment and antimainland rhetoric, due to alleged intimidation. The police investigated the allegations but determined there was not enough evidence to file charges.

Questions continued during the year over whether the Government was infringing on the editorial independence of the government-owned Radio Television Hong Kong (RTHK). In February the Government unveiled plans to set up an audit team to monitor RTHK following allegations of poor financial controls, management problems, and a failure to comply with government rules and procedures. Critics believed the Government's August decision to replace the retiring RTHK deputy director with a civil servant lacking in journalism experience could further erode RTHK's editorial independence. In September the Committee on Review of Public Service Broadcasting proposed RTHK's governing board comprise up to 15 members, with up to four of them directly appointed by the chief executive and nine appointed based on nominations from professional sectors. These 13 board members would appoint the broadcaster's chief executive officer, who would serve on the board along with a staff representative. The proposal, according to the review committee's chairman, aimed to minimize political intervention in the broadcaster, but media pundits were mixed over the level of press freedom offered by the proposal.

International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards for Hong Kong.

*Internet Freedom.*—There were no government restrictions on access to the Internet.

*Academic Freedom and Cultural Events.*—There were generally no restrictions on academic freedom and cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly and the Government generally respected this right in practice. The Government routinely issued the required permits for public meetings and demonstrations.

Under the Public Order Ordinance, demonstration organizers must notify the police of their intention to demonstrate one week in advance, unless an exception is granted. The police accept shorter notice if groups can satisfy the commissioner of police that earlier notice could not have been given for a march involving more than 30 persons and for an assembly of more than 50 persons. The police must explicitly object within 48 hours, and if there is no reply, it is assumed there is no objection. The ordinance also empowers police to object to demonstrations on national security grounds, although that portion of the law has never been invoked. If the police object, demonstration organizers may appeal to a statutory appeals board comprising members from different sectors of society. Both the board's proceedings and the police's exercise of power are subject to judicial review.

Falun Gong practitioners regularly conducted public protests against the crack-down on fellow practitioners in the PRC. In 2005 the Court of Final Appeal overturned the convictions of eight Falun Gong practitioners who had been charged with obstructing and assaulting police officers during a sit-in protest in 2002. The ruling was viewed as an important affirmation of Hong Kong's fundamental freedom of assembly, demonstration, and expression under the Basic Law. In August, 15 of the protesters arrested during the sit-in filed a \$192,000 (HK\$1.5 million) civil claim against the police for unlawful arrest and false imprisonment. At year's end the case was pending.

*Freedom of Association.*—The Basic Law provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Basic Law provides for freedom of religion, and the Government generally respected these provisions in practice.

*Societal Abuses and Discrimination.*—While Falun Gong practitioners freely and openly practiced their beliefs, they have been routinely subjected to more subtle forms of discrimination. In February the offices of the Falun Gong-owned daily newspaper Epoch Times were attacked and vandalized (see section 2.a.). In 2005 an international hotel chain canceled a conference room reservation that Epoch Times had made for a forum on the future of China. A Falun Gong spokesperson said that once it became widely known that the Falun Gong had sponsored the conference, a replacement facility could not be found.

Hong Kong's small Jewish community had excellent relations with the rest of society, and there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Basic Law provides residents freedom of movement, freedom of emigration, and freedom to enter and leave the territory, and the Government generally respected these rights in practice, with some prominent exceptions. Most residents easily obtained travel documents from the SAR government. There were limits on travel to the mainland imposed by the PRC government.

The Government does not recognize the Taiwan passport as valid for visa endorsement purposes.

The law does not provide for, and the Government did not use, forced exile.

Unlike in previous years, there were no reports that the Government denied entry to persons it considered politically controversial. In 2005 Taipei Mayor Ma Ying-jeou was unexpectedly denied a visa to attend a University of Hong Kong seminar on culture and city management. The Government refused to give a reason for the denial.

In 2004 a New Zealand citizen and Falun Gong practitioner was denied entry to Hong Kong for unspecified reasons. Also in 2004 the Government barred 41 Falun Gong practitioners from entering the SAR for "security reasons." Most of the practitioners were attempting to attend Falun Gong's annual conference, which attracted approximately 700 persons. Four of those denied entry filed a judicial review. As of October the Court of Final Appeal had not issued a ruling in the case. Also in 2004 the Government denied a request to allow two 1989 Tiananmen Square student leaders to enter the SAR to participate in a conference focused on the Tiananmen Square massacre. Earlier that year other Tiananmen Square student leaders had been allowed to enter to engage in uncontroversial activities.

PRC authorities do not permit some Hong Kong human rights activists and pro-democracy legislators to visit the mainland; however, this policy has been relaxed in recent years.

*Protection of Refugees.*—The 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol do not extend to Hong Kong, and the SAR eliminated its temporary protection policy. The director of immigration has discretion to grant refugee status or asylum on an ad hoc basis, but only in cases of exceptional human-

itarian or compassionate need. The Immigration Ordinance does not provide foreigners any right to have asylum claims recognized. The Government practice was to refer refugee and asylum claimants to a lawyer or to the Office of the UN High Commissioner for Refugees (UNHCR). Those granted refugee status, as well as those awaiting UNHCR assessment of their status, received a UNHCR subsistence allowance but were not allowed to seek employment or enroll their children in local schools. In May the UNHCR stopped providing financial support to those individuals awaiting status assessment due to budget cuts. In response, the Government began offering limited allowances to adult claimants through its social welfare department. The UNHCR worked with potential host country representatives to resettle those few persons designated as refugees. Government policy is to repatriate all illegal immigrants, including those who arrive from the mainland, as promptly as possible. During the first half of the year, 1,486 illegal PRC immigrants were repatriated to the mainland.

In August six asylum seekers staged a hunger strike at an immigration detention center in protest of their detention while awaiting adjudication of their status. The detention center held approximately 120 asylum seekers, and about one-quarter of those had been held for more than six months while their claims for asylum under the UN Convention Against Torture were considered by the Government. Legislators responded by passing a motion urging the Government to cooperate with the UNHCR to speed up processing of asylum seekers.

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

The right of residents to peacefully change their government is limited by the Basic Law, which provides for the selection of the chief executive by an 800-person election committee (composed of individuals who are directly elected, indirectly elected, and appointed). The Basic Law provides for the direct election of only 30 of the 60 Legco members, and the inclusion of appointed members to the elected district councils. The approval of the chief executive, two-thirds of the legislature, and two-thirds of Hong Kong's NPC delegates is required to place an amendment of the Basic Law on the agenda of the NPC, which, under the Basic Law, has the sole power to amend the Basic Law.

The Basic Law states that "the ultimate aim is the selection of the chief executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with "democratic procedures." Similarly, the Basic Law states that the "ultimate aim is the election of all the members of Legco by universal suffrage." However, in 2004 the NPC standing committee rejected universal suffrage in Hong Kong in the 2007 and 2008 elections.

The Committee on Governance and Political Development held its last meeting in late November. In early November, despite the chief executive's silence on a timetable for universal suffrage at the Policy Address, the chief secretary said that greater democracy and political reforms require "more on trust, and less on fundamentalism and posturing." In October the secretary for constitutional affairs proposed that a 1,600-strong Nominating Committee could be set up to vet future chief executive candidates to ensure they were acceptable to Beijing.

The Government is authorized to exercise a high degree of autonomy and to enjoy executive, legislative, and independent judicial power. It contains an executive branch staffed by a professional and independent civil service and a two-tiered legislative branch consisting of the Legco and 18 district councils.

*Elections and Political Participation.*—In March 2005 Chief Executive Tung Chee-hwa unexpectedly resigned citing health concerns. Tung's resignation sparked a debate over the appropriate length of term for his replacement under the Basic Law. In 2004 the Hong Kong government took the explicit position that the "the term of the chief executive of the Hong Kong SAR shall be five years." The Government abruptly changed that position following Tung's resignation, holding that the legislative intent of the Basic Law was that a chief executive returned through a by-election should only serve out the remaining term of the outgoing chief executive. After legislators raised the prospect of filing for judicial review by the Hong Kong courts, the Government requested an interpretation by the NPC Standing Committee to clarify the issue. In April the Standing Committee of the NPC issued an interpretation of the Basic Law stating that Tung's replacement should only serve the remaining two years of Tung's term. The interpretation, which was regarded by many as inconsistent with the Basic Law, raised questions about the central government's commitment to the rule of law in Hong Kong and respect for Hong Kong's high degree of autonomy.

In June 2005, after a 10-day campaign, former chief secretary Donald Tsang secured 710 of the 800 election committee nominating votes. This was enough to en-

sure that his two declared challengers, Democratic Party Chairman Lee Wing-tat and Independent legislator Chim Pui-cheng, could not obtain the 100 nominations required to contest the election. Tsang was sworn in on June 24 in Beijing.

In April 2004 the NPC standing committee issued a self-initiated interpretation of the Basic Law, cutting short local debate and rejecting universal suffrage for Hong Kong in the 2007 and 2008 elections. The NPC also determined that the current 50–50 ratio for directly elected geographic seats and indirectly elected functional constituency seats in Legco must remain indefinitely in place. In addition, the NPC narrowed the circumstances in which Legco members would be permitted to initiate legislation. The NPC decision left room for amendments to the election processes, albeit strictly within the limits dictated by the NPC standing committee.

In December 2005 a government plan to make modest changes to the electoral procedures for selecting the chief executive and Legco members failed to gain the required two-thirds majority in Legco. The plan called for increasing the size of the chief executive election committee and adding five seats each to both the geographic and functional constituencies. All “no” votes came from prodemocracy members, who decried the legislation’s lack of a roadmap and timeline for the introduction of universal suffrage.

Legco members were elected in 2004 to four-year terms, and despite some minor problems, including an insufficient supply of ballot boxes and intimidation of voters and political commentators, the elections were considered free and fair. Prodemocracy candidates won 18 of the 30 directly elected geographic seats and 25 seats overall. There were 199,539 persons eligible to vote in the functional constituencies.

The Basic Law substantially limits the ability of the legislature to influence policy by requiring separate majorities among members elected from geographical and functional constituencies to pass a bill introduced by an individual member. Another Basic Law provision prohibits Legco from putting forward bills that affect public expenditure, political structure, or government policy. Bills that affect government policy cannot be introduced without the chief executive’s written consent. The Government has adopted a very broad definition of “government policy” in order to block private member bills, and the President of Legco has upheld the Government’s position.

In August, legislator Leung Kwok-hung launched a judicial review challenging Legco President Rita Fan’s refusal to table many private member amendments during debate over the Interception of Communications and Surveillance bill. Fan rejected the amendments on the grounds that they violated Article 74 of the Basic Law, which prohibits individual members from introducing legislation that affects government expenditure or existing government policy. However, because Article 74 places no explicit restrictions on the amendment process, Leung and his attorney argued that Fan’s decision violated the Basic Law. Hearings on the case began in mid-November and were ongoing at year’s end.

District councils are responsible for advising the Government on matters affecting the well-being of district residents, the provision and use of public facilities, and the use of public funds allocated for local public works and community activities. The District Council Ordinance gives the chief executive authority to appoint 102 out of 529 of the district councilors, and he exercises this power in practice.

Hong Kong sends 36 delegates to the PRC’s National People’s Congress. In 2002 Hong Kong’s NPC delegates were elected to a five-year term by an NPC-appointed committee of 955 residents. Politicians and human rights activists criticized the election process as undemocratic and lacking transparency. In 2004 two local NPC delegates won directly elected seats in the Legco. One NPC delegate lost his bid for a directly elected Legco seat.

Women held 11 of the 60 Legco seats and made up between 17 and 23 percent of membership in the major political parties. The President of the Legco was a woman, as were the heads of several government departments. More than one-third of civil servants were women, and two of the 15 most senior government officials were women.

There were no ethnic minorities in the Legco, but there were a number of ethnic minorities in senior civil service positions.

*Government Corruption and Transparency.*—There were only isolated reports of government corruption during the year, and the Government sought to combat official corruption through the Prevention of Bribery Ordinance and the ICAC. The law provides for access to government information, and in practice such information was provided to both citizens and noncitizens, with exceptions that are narrowly defined and could be appealed.



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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Prominent human rights activists critical of the PRC also operated freely and maintained permanent resident status in Hong Kong, but some overseas dissidents have in recent years had difficulty gaining entry to the SAR.

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

The law provides that all residents are equal, and the Government enforced these rights in practice.

*Women.*—The Government continued to be criticized for failing to adequately address the growing problem of domestic violence. Local public health officials, politicians and women's groups remained concerned about violence against women, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows victims to seek a three-month injunction, extendable to six months, against an abuser. The ordinance does not criminalize domestic violence directly, although abusers may be liable for criminal charges under other ordinances, including the Crime Ordinance and the Offences Against the Person Ordinance. The Government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders. Between January and March, there were 968 cases of domestic violence reported to the Social Welfare Department, which receives reports from the police, social workers, the health department, and volunteer organizations.

In November a man allegedly killed his wife and two children, despite four calls to police by the family following disputes in the two years preceding the killings. All four calls to police were referred by police to the Social Welfare Department, since none involved violence; however, press reports criticized both police and the department for a lack of sensitivity in handling domestic violence cases. Similarly, in 2004 a mother and her two daughters were killed in an act of domestic violence hours after unsuccessfully seeking help at a police station. The mother had previously sought help from government social workers. A 2005 coroner's inquest into the murder recommended sweeping changes to existing guidelines to combat domestic violence. The police department implemented some of the recommendations, and the Social Welfare Department announced a "zero tolerance policy" toward domestic violence. In 2005 the executive director of Harmony House, an NGO that provides services to victims of domestic violence, said that between April 2004 and April 2005, 263 women were admitted to shelters to escape domestic violence—the highest figure in five years. A 2005 University of Hong Kong survey found that one in five families had experienced some form of domestic violence.

In January the government-sponsored Women's Commission released a report providing a strategy for addressing domestic violence, including plans on empowering victims, preventing violence, timely and effective intervention, and community education and support.

In March the Government introduced two pilot projects under the Batterer Intervention Program and a new 24-hour service for victims of sexual violence.

In August Permanent Secretary for Health and Welfare Sandra Lee told the UN Convention on the Elimination of All Forms of Discrimination against Women Committee that the Government would seek to strengthen the Domestic Violence Ordinance in the following three areas: extend the scope of coverage to include spouses and ex-cohabiters; extend the criteria for attachment of a power of arrest to an injunction order to psychological harm; and increase the duration of the injunction order. NGOs said there was an urgent need to amend the law to make domestic violence a crime directly under the Domestic Violence Ordinance. The legislator representing the social welfare sector accused the Government of doing too little to fight domestic violence.

These initiatives were in addition to other government programs that assisted women, such as family life education counseling, a hot line service, temporary housing, legal aid, and child protective services. The Government also sponsored public education and media programs through the women's commission to promote public awareness of domestic violence and encouraged women to seek early professional assistance.

There were 38 cases of rape reported to the police during the first half of the year. The Statute Law (Miscellaneous Provisions) Bill criminalizes marital rape and the Crimes Ordinance expressly states that "unlawful sexual intercourse" could be applied both outside and inside the bounds of marriage. During the first half of the year, 554 indecent assault cases were reported to the police.

Prostitution is legal, but there are laws against activities such as causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment. Hong Kong is a transit and destination point for persons trafficked for the purposes of sexual exploitation (see section 5, Trafficking.).

The Sex Discrimination Ordinance prohibits sexual harassment of women seeking employment or already working in an organization. The Equal Opportunities Commission (EOC) reported 48 sexual harassment complaints.

Women faced discrimination in employment, salary, welfare, inheritance, and promotion. A survey released in 2004 found that nearly 80 percent of women workers believed they were victims of discrimination.

The percentage of women employed in professional fields, including sciences and engineering, law, teaching, accounting, social sciences, health, and medicine, increased slightly during the year. As of June, 37 percent of professionals employed in these fields were women, versus 33.5 percent in June 2005. Approximately 21 percent of judicial officers and judges were women. In the Legco, women held 11 of the 60 seats. According to a survey released in 2004, approximately three-quarters of private companies had women in senior management positions, and women occupied more than a quarter of senior management posts. Women were still disproportionately represented in the lower echelons of the work force.

The law treats men and women equally in terms of property rights in divorce settlements and in inheritance matters, although women still faced discrimination based on traditional practices, such as in the inheritance of homes in rural areas of the New Territories.

*Children.*—The Government supported children's rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department provided schooling for children between six and 15 years of age and placement services for non-Chinese speaking children. Education is free and compulsory through grade nine. Nearly 100 percent of school-age children attended school, and boys and girls attended in equal proportions. The Government supported programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

The Domestic Violence Ordinance mandates substantial legal penalties for acts of child abuse such as battery, assault, neglect, abandonment, sexual exploitation, and child sex tourism, and the Government enforced the law.

During the first half of the year, there were 616 child abuse cases reported to the police: A total of 264 involved physical abuses (referring to victims less than 14 years of age), and 352 involved sexual abuses (referring to victims less than 17 years of age). In 2005 a University of Hong Kong survey found that almost one in three children had been abused.

The Government provided parent education programs in all 50 of the Department of Health's maternal and child health centers, which included instruction on child abuse prevention. It also provided public education programs to raise awareness of child abuse and alert children about how to protect themselves. The Social Welfare Department provided child psychologists for its clinical psychology units and social workers for its family and child protective services units. The department also commissioned research on domestic violence, including child abuse. The police maintained a child abuse investigation unit and a child witness support program. A child care center law helps prevent unsuitable persons from providing childcare services and facilitates the formation of mutual help childcare groups.

The Prevention of Child Pornography Ordinance criminalizes the making, production, distribution, publication, advertising, and possession of child pornography. It also prohibits the procurement of children for making pornography, extends the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibits any arrangement or advertising relating to commission of those acts. The law carries a penalty of up to five years' imprisonment and a fine of up to \$128,500 (HK\$1 million) for possession of child pornography.

In September 2005 the UN Committee on the Rights of the Child (UNCRC) recommended that the Government create a single unified law or policy pertaining to children, establish a body representing children's views, ban corporal punishment, establish a poverty line, abolish life sentences for minors, and increase funding for child welfare programs. However, the Government did not implement the UNCRC recommendations during the year.

The Government provided subsidized, quality medical care for all children who were residents.

The age of criminal responsibility for children is 10 years of age. During the first half of the year, there were 59 youths under the age of 16 who were incarcerated: nine in prison; seven in training centers; 12 in detention centers; and 31 in rehabilitation centers.

*Trafficking in Persons.*—There is no law prohibiting trafficking in persons. There are various laws and ordinances that allow law enforcement authorities to take action against traffickers. Despite robust efforts by the SAR government to stop such activities, Hong Kong was a point of transit and destination for a small number of persons trafficked for sexual exploitation from China and Southeast Asia. It was difficult for the Government to identify trafficking victims from among the larger group of illegal immigrants.

Nearly all foreign prostitutes came to Hong Kong willingly to engage in prostitution. Most came from rural areas of the mainland, Thailand, or the Philippines on 14-day tourist visas, although a very small number entered using forged documents. The overwhelming majority were women, although an increasing number of young men were coming to Hong Kong to work as homosexual prostitutes. While many came on their own, some were lured to the SAR by criminal syndicates and promises of financial rewards. Prostitutes were typically required to repay the syndicates the cost of their airfare, lodging, and food. Some were forced to stay longer than they anticipated, or work more than they expected, to repay their debts. Prostitutes were sometimes required to give their passports to the syndicates until the debt was paid. When their visas expired, many would travel to Macau or Shenzhen for a day, and then reenter Hong Kong. Immigration officials were well aware of this practice and would deny reentry if they suspected such abuse. Despite the involvement of syndicates in bringing prostitutes to Hong Kong, very few women were forced, or coerced, to work as prostitutes.

During the year the Government reported one suspected case of trafficking. Two Philippine women reported they were recruited by another Philippine woman to come to Hong Kong to work as bar waitresses. The alleged victims claimed they were forced to work as prostitutes upon arrival and they had successfully escaped after one week. The alleged victims filed affidavits to the Philippine Consulate General and left Hong Kong. The case was reported to the police. One suspect was arrested but denied the allegation, and the investigation was underway.

In recent years traffickers have used forged or illegally obtained travel documents to attempt to smuggle persons through the Hong Kong airport, but it was not a serious problem throughout the year. In 2004 the Immigration Department established the Anti-Illegal Migration Agency to target human smugglers and other travelers using fraudulent documents. The agency had 60 officers stationed at the Hong Kong International Airport. The number of fraudulent documents seized at the airport declined sharply during the first half of the year due to the presence of these officers. Authorities apprehended 834 persons with forged travel documents in the first half of the year, versus 1,288 during the same period in 2004. During the year there were no known reports of persons being trafficked into the SAR to work as domestic workers.

Provisions in the Immigration Ordinance, the Crimes Ordinance, and other relevant laws enabled law enforcement authorities to take action against trafficking in persons. The courts can impose heavy fines and prison sentences up to 14 years for activities such as arranging passage of unauthorized entrants; assisting unauthorized entrants to remain; using or possessing a forged, false, or unlawfully obtained travel document; and aiding and abetting any person to use such a document. The security bureau is responsible for combating migrant trafficking and overseeing the police, customs, and immigration departments, which are responsible for enforcing antitrafficking laws. Law enforcement officials received special training on handling and protecting victims and vulnerable witnesses, including victims of trafficking.

The Government provided legal aid to those taking legal action against an employer, and immunity from prosecution for those who assist in the investigation and prosecution of traffickers. The Social Welfare Department and local NGOs also provided an array of social services to victims of trafficking. The Government did not provide funding to foreign or domestic NGOs for services to victims. The Government also tried to prevent trafficking by distributing pamphlets in a wide range of languages to workers about their rights.

*Persons With Disabilities.*—Discrimination against persons with physical and mental disabilities persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance calls for improved building access and sanctions against those who discriminate. Despite inspections and the occasional closure of noncompliant businesses under the Buildings Ordinance, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities.

The Government offered an integrated work program in sheltered workshops and provided vocational assessment and training. No comprehensive statistics were available on the number of persons with disabilities in the work force, but the last

government survey conducted in 2000 estimated that there were approximately 269,500 persons with one or more disabilities, including 225,600 persons with physical disabilities and 52,700 with mental disabilities. According to the survey, of the 269,500 persons with disabilities, 52,500 were employed and 59,700 were considered “economically active,” including small business owners and street vendors. However, a consortium of organizations representing persons with disabilities reported in 2002 that approximately 700,000 residents were disabled, approximately half of whom were able to work. As of March there were 3,256 persons with disabilities employed as civil servants out of a total civil service work force of 156,436. During the first half of the year, the Labor Department’s Selective Placement Division found jobs for 1,637 of 2,670 disabled job seekers. As of September 2005, 1.32 percent of 795,000 students were disabled; approximately 37 percent of these students studied at mainstream schools.

The EOC sponsored a variety of activities to address discrimination against persons with disabilities, including youth education programs, distributing guidelines and resources for employers, carrying out media campaigns, and cosponsoring seminars and research.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must register under the Trade Unions Ordinance. The basic precondition for registration is a minimum membership of seven persons.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the right to organize; however, it does not guarantee the right to collective bargaining. The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance removes the legal stipulation of trade unions’ right to engage employers in collective bargaining. The ordinance bans the use of union funds for political purposes, requires the chief executive’s approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees. In a few trades, such as tailoring and carpentry, wage rates were determined collectively in accordance with established trade practices and customs rather than a statutory mechanism, but collective bargaining was not practiced widely. Unions were not powerful enough to force management to engage in collective bargaining. The Government did not engage in collective bargaining with civil servants’ unions.

The workplace consultation promotion unit in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of the nine sectors of the economy included representatives from some trade unions, employers, and the Labor Department.

Work stoppages and strikes are legal. There are some restrictions on this right for civil servants. Although there is no legislative prohibition of strikes, in practice most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal. In addition, there is no legal entitlement to reinstatement in the case of unfair dismissal.

There was one minor labor stoppage during the year. In June more than 200 bus drivers staged a one-day sit-in over wages, but a larger strike was averted when a last-minute agreement was reached. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor. Although the law does not specifically prohibit forced or compulsory labor by children, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Employment of Children Regulations prohibits employment of children under the age of 15 in any industrial establishment. Children ages 13 and 14 may work in certain non-industrial establishments, subject to conditions aimed at ensuring a minimum nine years of education and protection of their safety, health, and welfare. The Labor Department conducted regular workplace inspections to enforce compliance with the regulations. During the first half of the year, the Labor Department conducted 79,968 inspections and discovered three suspected violations of the Employment of Children Regulations. Two cases involved the employment of children ages 13 and 14 without valid school attendance certificates and written parental consent, whereas the other case involved the employment of a child entertainer age 14 working beyond the stipulated hours of work. As of year’s end, the Government was assessing the evidence for prosecution. The regulations limit work hours in the manufacturing sector for persons 15 to 17 years of age to eight hours per day and 48 hours per week between 7 a.m. and 7 p.m. They also prohibit, for persons less than 18

years of age, overtime in industrial establishments with employment in dangerous trades.

*e. Acceptable Conditions of Work.*—There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure exists, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage provided a decent standard of living for a worker and family. Two-income households were the norm. There are no regulations concerning working hours, paid weekly rest, rest breaks, or compulsory overtime. In October the chief executive for the first time acknowledged the need to study the issue of a minimum wage and limits on working hours.

In 2001 the SAR government was criticized by the UN Committee on Economic, Social, and Cultural Rights for failure to establish regulations on a statutory minimum wage, maximum working hours, paid weekly rest, rest breaks, compulsory overtime, and protection against unfair dismissal. In 2004 the Government referred the issue of a minimum wage and maximum working hours to the labor advisory board. As of October the board was still considering the issue. In early October as many as 50 trade unions and associations protested the Government's slow progress towards a minimum wage and accused it of exploiting the underprivileged and colluding with big business. Moreover, there was no broad consensus in the community on these issues, which were debated by legislators, academics, and the public. Nevertheless, the Labor Department actively sought to improve working conditions by encouraging consultations, meetings, and seminars with industry-based committees comprising representatives of government, employers' associations, and trade unions. Such committees included the tripartite committee for the cargo transport industry and the committee for the property management industry.

The minimum wage for foreign domestic workers was approximately \$435 per month (HK\$3,400, as of June 2006). The standard workweek was 48 hours, but many domestic workers worked much longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provide a decent standard of living. Foreign domestic workers can be deported if dismissed. During the first seven months of the year, four employers were convicted for labor law maltreatment violations under the Employment Ordinance relating to the employment of foreign domestic workers. During the first seven months of the year 124 foreign domestic workers filed criminal suits for other types of maltreatment, including rape, indecent assault, and wounding and serious assault, 75 of which were prosecuted.

The Occupational Safety and Health Branch of the Labor Department are responsible for safety and health promotion, enforcement of safety management legislation, as well as policy formulation and implementation.

The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department conducted 63,156 workplace inspections and issued 959 summonses, resulting in a total of \$965,295 (HK\$7,529,300) in fines. Worker safety and health has improved over the years, but serious problems remained, particularly in the construction industry. During the first half of the year, there were 10,048 occupational injuries, of which 3,667 were classified as industrial accidents. There were five fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

#### MACAU

Macau, with a population of approximately 500,000, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1987 Sino-Portuguese Joint Declaration on the Question of Macau and the SAR's 1993 constitution, the Basic Law of the Macau SAR (hereafter referred to as the Basic Law), specify that Macau will enjoy a high degree of autonomy, except in defense and foreign affairs. The Government is led by a chief executive, chosen by a 300-member election committee, which in turn is chosen by a preparatory committee composed of 60 SAR and 40 mainland representatives appointed by the National People's Congress

(NPC). In 2004 Chief Executive Edmund Ho was reelected to a second five-year term. The Basic Law significantly circumscribes the power of the Legislative Assembly. In September 2005 voters elected 12 of the legislature's 29 members in direct elections based on geographical constituencies. Interest groups in functional constituencies elected 10 others, and the chief executive appointed the remaining seven members. The Basic Law does not posit the election of all members of the legislature by universal suffrage as an ultimate aim. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, some problems remained, most notably limits on citizens' ability to change their government.

#### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Basic Law, as well as the Criminal Code, prohibits such practices, and the Government generally respected this law in practice. Between January and July, there were 11 reports of police brutality, compared with 18 reports for the same period in 2005, and none involved acts of rape, sexual abuse, medical abuse, or hazing. There were no reports of deaths in police custody.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and although the Government permitted visits by independent human rights observers, there were no requests during the year.

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

*Role of the Police and Security Apparatus.*—Civilian authorities, specifically the secretary for security, supervised and controlled the police. The Public Security Police were well disciplined and corruption and impunity were not problems. The Commission Against Corruption (CAC) acted to preclude problems with corruption.

*Arrest and Detention.*—Police must present persons remanded in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. The accused person's counsel may examine the evidence. The law provides that cases must come to trial within six months of an indictment. Data on the average length of pretrial incarceration was not available because courts do not keep detailed records on detention; however, the criminal procedure code mandates that pretrial detention is limited to between six months to three years, depending on the criminal charges and progress of the judicial system. Judges often refused bail in cases where sentences could exceed three years.

*e. Denial of Fair Public Trial.*—The Basic Law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

There are four courts: the primary court, with general jurisdiction of first instance; the administrative court, with jurisdiction of first instance in administrative disputes; the court of second instance; and the court of final appeal. The courts have the power of final adjudication in all cases that are within the authority of the SAR. The courts also may rule on matters that are "the responsibility of the Central People's government or concern the relationship between the central authorities and the [Special Administrative] Region." However, before making their final judgment, one which is not subject to appeal, the courts must seek an interpretation of the relevant provisions from the NPC's Standing Committee. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee." The Standing Committee must consult the NPC's Committee for the Basic Law of the SAR before giving an interpretation of the law. This committee is composed of 10 members, five from the SAR and five from the mainland. The chief executive, the President of the SAR Legislative Assembly, and the President of the court of final appeal nominate the SAR members.

The Basic Law provides for the use of Portuguese, in addition to Chinese, as an official language used by executive authorities, the legislature, and the judiciary. The need to translate laws and judgments from Portuguese and a severe shortage of local bilingual lawyers and magistrates hampered development of the legal sys-

tem. At year's end there were 124 lawyers in private practice in the SAR: 66 spoke Cantonese, 19 could read and write Cantonese and Mandarin, and 117 could read and write Portuguese. The Government sponsored a postgraduate training program for magistrates who had received legal training outside of the SAR. The judiciary was relatively inexperienced and lacked locally trained lawyers. There were 29 practicing judges, six of whom were Portuguese.

According to the Basic Law, the chief executive appoints judges at all levels, acting on the recommendation of an independent commission, which he appoints. The commission is composed of local judges, lawyers, and "eminent persons." The Basic Law stipulates that judges must be chosen on the basis of their professional qualifications. Judges may be removed only for criminal acts or an inability to discharge their functions. With the exception of the chief justice, who must be a Chinese citizen with no right of abode elsewhere, foreigners are permitted to serve as judges under the Basic Law.

*Trial Procedures.*—The Basic Law provides for the right to a fair trial, and an independent judiciary generally enforced this right. By law trials are open to the public, except when publicity could cause great harm to the dignity of the persons, to public morals, or to the normal development of the trial. The Basic Law provides for an accused person's right to be present during proceedings and to choose an attorney or request that one be provided at government expense. The Organized Crime Ordinance provides that "certain procedural acts may be held without publicity and witness statements read in court are admissible as evidence." There also are additional restrictions on granting bail and suspended sentences in organized crime cases. Defendants enjoy a presumption of innocence, have access to government-held evidence relevant to their cases, and have a right of appeal.

The judiciary provides citizens with a fair and efficient judicial process; however, due to an overloaded court system, a period of up to a year sometimes passed between filing a civil case and its scheduled hearing.

A public prosecutor general heads the Public Prosecutions Office, which enjoys substantial autonomy from both the executive and the judiciary. The Basic Law stipulates that the Public Prosecutions Office's functions be carried out without government interference, and the Government respected the law in practice.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures.*—There is an independent and impartial judiciary for civil matters, and there were no problems enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Basic Law prohibits such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The Basic Law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press and an effective judiciary contributed to freedom of speech and the press.

The dominant newspapers, mainly Chinese-language, supported PRC government positions in their editorial line. The Union for Democracy Development Macau (UDDM), a nongovernmental organization (NGO) headed by prodemocracy legislators, charged that newspapers did not give equal attention to liberal and prodemocracy voices. In February 2005 the chief editor of Open Magazine—which is openly critical of the mainland Chinese government—was refused entry to the SAR "based on Macau Special Administrative Region internal security guidelines," according to a letter from the Government. The editor had been barred from the mainland for a number of years, although this was the first time he was barred from the SAR. At year's end the case was under investigation by the chief executive's office.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom and cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The Basic Law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of anti-Semitic acts during the year, and the size of the SAR's Jewish population remained extremely small.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Basic Law provides for these rights, and the Government generally respected them in practice.

In 2005 government immigration officials refused entry to a Hong Kong resident who was a spokesperson for the Falun Gong. The spokesperson had been granted entry to the SAR many times without incident. During the year the same practitioner was denied entry at least four times, although the specific reasons for denial were not made clear by the Government. Some members of the media who were openly critical of the mainland government were also refused entry (see section 2.a.).

The Basic Law prohibits forced exile by guaranteeing the right of permanent residents to leave and enter the SAR, and the Government generally respected the law in practice.

*Protection of Refugees.*—The Basic Law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government granted refugee status or asylum and provided protection against refoulement, the return of persons to a country where they feared persecution. The migration department cooperated with the UN High Commissioner for Refugees in handling refugees. There were no applications for refugee status during the year.

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

The Basic Law restricts citizens' ability to change their government. The Government was led by a chief executive, chosen by a 300-member election committee, which in turn was chosen by a 100-member preparatory committee, composed of 60 SAR and 40 mainland representatives appointed by the NPC.

*Elections and Political Participation.*—In 2004 Chief Executive Edmund Ho was reelected to a second five-year term.

In September 2005, in accordance with the Basic Law, the SAR's democratic development was enhanced when a record 58 percent of registered voters participated in the SAR's third legislative elections, and voters directly elected 12 of the 29 members of the Legislative Assembly from geographic constituencies. Local community interests, such as business, labor, professional, welfare, cultural, educational, and sports associations, indirectly elected 10 members, and the chief executive appointed seven members.

There are limits on the types of legislation that legislators may introduce. The Basic Law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the Government. Proposed legislation relating to government policies must receive the chief executive's written approval before they are submitted.

A 10-member executive council functions as an unofficial cabinet, approving all draft legislation before it is presented in the Legislative Assembly.

There were six women in the 29-member assembly, including the President of the assembly. Women also held a number of senior positions throughout the Government. There were three ethnic minorities in the 29-member assembly. One member of the executive council was also an ethnic minority, as was the police commissioner.

*Government Corruption and Transparency.*—The CAC investigates public sector corruption and has the power to arrest and detain suspects. Between January and August, the CAC received 309 complaints against public officials in a variety of agencies. The CAC pursued 28 of these complaints, 25 of which were criminal cases and three were administrative cases. The CAC transferred eight cases to the Public Prosecutions Office. A monitoring body established to review complaints of maladministration or abuse by the CAC did not receive any complaints during the same period.

The law does not provide for public access to government information. However, the executive branch published online, in both Chinese and Portuguese, an extensive amount of information including laws, regulations, ordinances, government policies and procedures, and biographies of government officials. The Government also issued a daily press release on topics of public concern. The information provided by the legislature was less extensive. For example, it did not publish a legislative agenda or a list of pending bills.



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

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

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

The Basic Law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion, ideological belief, educational level, economic status, or social condition, and the Government effectively enforced the law. In addition, many local laws carry specific prohibitions against discrimination, although there is no specific law for combating discrimination. For example, under the law that established the general framework for the educational system, access to education was stipulated for all residents regardless of race, religious, political, or ideological beliefs.

*Women.*—The Government effectively enforced criminal statutes prohibiting domestic violence against women and prosecuted violators; however, various NGOs and government officials consider domestic violence against women to be a growing problem. In the first half of the year, 170 cases of spousal abuse were reported to the police; however, because there is no independent category of spousal abuse in the SAR's court case classification system, there was no data on convictions.

Domestic violence is punishable by one to 15 years in prison. In the case of spousal abuse and violence against minors, the penalty is two to eight years' imprisonment, and five to 15 years if the abuse leads to the death of the victim. There was no data on reported cases of spousal abuse and violence against minors.

The Government provided hospital treatment for victims of abuse, and medical social workers counseled victims and informed them about social welfare services. The Government may provide victims of domestic violence with public housing until their complaints are resolved, but it did not reserve facilities expressly for this purpose.

Private and religious groups sponsored programs for victims of domestic violence, and the Government supported and helped to fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute, helped female victims of domestic violence by providing a safe place for them and their children and furnishing advice regarding legal actions against the perpetrators. A family counseling service was available to persons who requested such services at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

The law criminalizes rape, including spousal rape, and the Government effectively enforced the law. In the first half of the year, there were five reported rapes.

Prostitution is legal, but procuring is not. Trafficking in persons also is illegal; however, there were 10 suspected cases of trafficking in women involving 17 victims for the purposes of prostitution (see section 5, Trafficking).

There is no law specifically addressing sexual harassment, although there is a law prohibiting harassment in general. Sexual harassment was not considered to be a major problem.

Equal opportunity legislation applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. The law allows for civil suits, but few women took their cases to the Labor Affairs Bureau or other entities. There were no reported cases alleging sexual discrimination during the first half of the year.

Women also have become more active and visible in business; however, wage discrimination occurred in certain sectors of the job market, notably construction.

*Children.*—The Government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citizens. The law specifically provides for criminal punishment for sexual abuse of children and students, statutory rape, and procurement involving minors.

School attendance is compulsory for all children between ages five and 15. Basic education was provided in government-run schools and subsidized private schools, and it covered the preprimary year, primary education, and general secondary education. The Education Department provided assistance to families that could not pay school fees. The children of illegal immigrants were excluded from the educational system. Experts believed this exclusion affected only a few children. Boys and girls attended school in equal proportions, and the Government provided free medical care for all children.

Child abuse and exploitation were not widespread problems. In the first half of the year, nine cases of child abuse were reported to the Health Department and 80 cases of offenses against the physical integrity of minors were reported to the police. During the same period, the police received two reports of rape of minors and eight reports of sexual abuse of minors.

*Trafficking in Persons.*—The Basic Law makes trafficking in persons a crime punishable by two to 15 years in prison; however, there was no law that specifically addressed trafficking persons into the SAR. The law increases penalties by one-third (within minimum and maximum limits) if the victim is under 18 years of age. If the victim is under 14 years of age, the penalty is increased by five to 15 years. If the trafficker rapes the victim, the two offenses are treated as different crimes. The Government has other statutes that it can use to prosecute such traffickers. For example, although prostitution is not illegal, a “procurement” law makes it a crime to instigate, favor, or facilitate the practice of prostitution by another person for the purposes of profit or as a way of life.

The country is a transit and destination point for women trafficked for the purposes of prostitution. While the overwhelming majority of foreign prostitutes entered the country voluntarily, there was evidence that some had been deceived or coerced into participating in the country’s commercial sex trade. During the year press reports and NGOs stated that some prostitutes lived in poor conditions under threats of violence and coercion.

No information was available on government investigations into cases of procurement. While most known cases involved women who were believed to be willing participants in the sex industry, 17 women claimed to have been brought to the SAR under false pretenses, and four complained of abuse. SAR authorities believed that Chinese, Russian, and Thai criminal syndicates were involved in bringing women to the SAR for the purposes of prostitution. Prostitutes were primarily from mainland China, Mongolia, Russia, Eastern Europe, Vietnam, and Thailand.

There were no government assistance programs for victims of trafficking, and no NGOs focused specifically on trafficking-related problems; however, there were charitable organizations that provided assistance and shelter to women and children who were the victims of abuse.

*Persons With Disabilities.*—The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. There were no reports of discrimination against persons with disabilities in employment, education, or provision of state services.

*National/Racial/Ethnic Minorities.*—Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the Government generally respected the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise approximately 2 percent of the population). Although Portuguese officials no longer dominated the civil service, the Government bureaucracy and the legal system placed a premium on knowledge of the Portuguese language, which was spoken by approximately 2 percent of the population. During the year the Government conducted its first census since 2001, but updates on the racial and ethnic composition of the population had not been released as of year’s end. The Chinese language has official status, and the use of Chinese in the civil service has grown in recent years.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers to form and join unions of their choice without previous authorization or excessive requirement, and the Government generally respected this right in practice. The Basic Law stipulates that international labor conventions that applied before the handover remain in force. The UDDM expressed concern that the local law contains no explicit provisions that bar discrimination against unions. The law also specifically excludes public servants and migrant workers from labor law protections.

Nearly all private sector unions were part of the pro-PRC Federation of Trade Unions (FTU), or the Macau Chamber of Commerce (both of which are listed as associations, commonly the case for unions), and they tended to stress the importance of stability and minimum disruption of the work force. The UDDM and some local journalists claimed that the FTU was more interested in providing social and recreational services than in addressing trade union problems such as wages, benefits, and working conditions. At the beginning of the year, there were 567 registered unions. All classes of workers have the right to join a union. There was no data on the percentage of unionized workers.

*b. The Right To Organize and Bargain Collectively.*—The law provides that agreements concluded between employers and workers shall be valid, but there is no spe-

cific statutory protection that provides for the right to collective bargaining; however, the Government did not impede or discourage collective bargaining. Market forces determined wages. Unions tended to resemble local traditional neighborhood associations, promoting social and cultural activities rather than workplace problems. Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant labor from the mainland and the Philippines. Pro-PRC unions traditionally have not attempted to engage in collective bargaining.

There is no specific protection in local law from retribution if workers exercise their right to strike. The Government argued that striking employees are protected from retaliation by labor law provisions, which require an employer to have "justified cause" to dismiss an employee; the Government generally enforced these provisions. Strikes, rallies, and demonstrations were not permitted in the vicinity of the chief executive's office, the Legislative Assembly, and other key government buildings.

In May approximately 3,000 workers from eight independent labor unions representing unskilled laborers and construction workers held a demonstration against the chief executive. The demonstration turned violent when protesters confronted riot police as they attempted to march on government headquarters. The theme of the demonstration was to "drive out illegal workers and cut imported labor." Twenty-five police officers were reportedly injured and four protesters arrested during the demonstration. Prodemocracy legislator Antonio Ng voiced his support for the demonstration and called on the Government to formulate labor importation policies in a transparent way with prior public consultation.

In December approximately 600 workers and citizens protested labor issues and corruption in Macau. In contrast to the labor demonstrations in May, the protests were nonviolent. Workers who believed that they were dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the high commissioner against corruption and administrative illegality, who also functions as an ombudsman.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly worked in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions were applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. In July 2005 the Labor Department Inspectorate conducted a special inspection specifically aimed at enforcing child labor laws. During this inspection 476 companies were visited, and 17 were found to have violated child labor laws by employing 29 minors ages 14 to 16. A similar inspection was conducted during the year, but data from it was not available at year's end.

*e. Acceptable Conditions of Work.*—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there was no mandatory minimum wage. Average wages provided a decent standard of living for a worker and family. In his policy address in November, Chief Executive Ho stated that government cleaning and security contractors would enjoy a minimum wage starting next year but did not say what the wage would be.

Labor legislation provides for a 48-hour workweek, an eight-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every seven days of work, workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers on request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. In 2005 the Labor Department inspectorate conducted 4,508 inspections and uncovered 3,195 violations carrying fines totaling approximately \$194,000 (1.5 million patacas). Data on Labor Department inspections throughout the year was not available. From January to September, there were five work-related deaths. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protected employees' right to continued employment if they refused to work under dangerous conditions.

Migrant workers, mainly from the PRC and Southeast Asia, made up approximately 10.3 percent of the work force. In May several thousand workers and union members marched in demand of more effective measures to prevent the hiring of illegal workers and to limit the number of imported workers (see section 6.b.). They often received less than local residents for performing the same job, lived in controlled dormitories, worked 10 to 12 hours per day, and owed large sums of money to labor-importing companies for purchasing their jobs. They had no collective bargaining rights and no legal recourse in the case of unfair dismissal.

## CHINA (TAIWAN ONLY)

Taiwan's population of 23 million is governed by a President and parliament chosen in multiparty elections. In 2004 President Chen Shui-bian of the Democratic Progressive Party (DPP) was reelected in a close election. The opposition coalition made up of the Kuomintang (KMT) and the People First Party (PFP) won 114 of the 225 Legislative Yuan (LY) seats. The elections were generally regarded as free and fair. The civilian authorities generally maintained effective control of the security forces.

The authorities generally respected the human rights of citizens; however, there continued to be problems reported in the following areas: corruption by officials, violence and discrimination against women, trafficking in persons, and abuses of foreign workers.

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution stipulates that no violence, threat, inducement, fraud, or other improper means should be used against accused persons. Several human rights nongovernmental organizations (NGOs) stated they had not received any reports of physical abuse of persons held in police custody. One NGO received several police abuse complaints, but was unable to substantiate the reports. Unlike in previous years, lawyers and legal scholars did not complain of police abuse occurring when interrogations were not recorded or when attorneys were not present.

The primary responsibility for investigating torture and mistreatment lies with prosecutors. The Control Yuan (CY), the highest government oversight agency, also investigates such cases.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (see section 1.d.). The Ministry of Justice (MOJ) stated that each interrogation was audiotaped or videotaped and that any allegation of mistreatment was investigated. Police were subject to severe punishment for abusing their authority in arresting or detaining suspects or using threats of violence to extract evidence.

The criminal code provides that criminal charges must be based on legally obtained evidence. A confession by a defendant or accomplice, without other evidentiary support, is not sufficient to convict a defendant. Police must investigate allegations that a confession was illegally obtained before proceeding to other evidence.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Prison overcrowding was a growing problem. As of December prisons operated at 119 percent of design capacity.

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

*Role of the Police and Security Apparatus.*—The National Police Administration (NPA) of the Ministry of Interior (MOI) has administrative jurisdiction over all police units. City mayors and county magistrates appoint city and county police commissioners from candidates recommended by the NPA. Mayors and magistrates are responsible for maintaining order and assessing the performance of police commissioners within their jurisdiction.

Police corruption continued to be a problem. In July four police officers and their police chief were indicted on suspicion of taking bribes to conceal a gambling ring. In November three officers were detained for accepting bribes from illegal casinos, and another officer was indicted for leaking investigation information to a criminal group suspected of kidnapping.

Following a spate of police corruption scandals the MOI announced in November that it would increase inspection of the police and require police chiefs to cooperate closely with prosecutors' investigations. Prosecutors and the CY are responsible for investigating allegations of police malfeasance. The NPA also has an inspector general and an internal affairs division that conduct internal police investigations. Police officers and senior officials suspected of corruption are prosecuted and punished upon conviction.

*Arrest and Detention.*—Police may legally detain without a warrant anyone they suspect of committing a crime when the punishment would be imprisonment of five years or more if there is ample reason to believe the person may flee. When circumstances are too urgent to apply for a summons prior to questioning, police may question a person without first obtaining the required summons from a public prosecutor. However after detaining a suspect, the authorities must immediately apply to a prosecutor for a warrant in order to detain the arrestee for up to 24 hours and must give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. If the prosecutor rejects the application for a warrant, the police must release the detainee immediately. Indicted persons may be released on bail at judicial discretion. By law, prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to two months and, with court approval, a single extension of an additional two months. Limits also apply to detention during trial. If a crime is punishable by less than 10 years' imprisonment, then no more than three extensions of two months each may be granted during the trial and appellate proceedings. During a second appeal, only one extension may be granted. The authorities generally observed these procedures, and trials usually took place within three months of indictment.

During an interrogation the law requires that the police inform a suspect of; the specific charges in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are subsequently amended, the police must inform the suspect. The authorities generally respected a detainee's request to have a lawyer present during the investigation phase. When a detainee requests legal counsel, police must wait at least four hours for a lawyer before proceeding with an interrogation. Although the law requires that indigent persons be provided legal counsel during trials, it does not provide for legal counsel during interrogations.

Confessions from interrogations conducted in the evenings generally are not to be used as evidence; allegations that a confession was obtained illegally are to be investigated before it can be used in a trial. With the exception of urgent circumstances, when such equipment is unavailable, interrogations must be audiotaped or videotaped, and when written reports of interrogations are in conflict with evidence in audiotapes and videotapes, the contradictory interrogation may not be used as evidence.

Some human rights advocates claimed that the rules did not provide adequate protection since suspects often did not have legal representation during interrogation. Informed observers continued to report that public defense counsels did not appear until the final argument of a trial and that they seldom spent adequate time discussing the case with their clients. In response to this complaint, courts continued allowing appointment of private attorneys or public defense counsel for detainees. In a first trial, courts require that counsel interview the detainee at least once before each hearing and, in an appeal, whenever the detainee requests an interview.

On January 11, the Judicial Yuan (JY) approved a pilot legal aid program to provide indigent suspects with counsel during initial police questioning. The program, started in November, recruited volunteer attorneys and worked with the NPA to establish clear procedural guidelines. A NGO, the Legal Aid Foundation of Taiwan, also provided professional legal services to the indigent.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice. Although the Government made efforts to eliminate corruption and to diminish political influence in recent years, residual problems remained (see section 3).

The JY, headed by a President and vice President, is one of the five coequal branches of the political system and includes the 15-member Council of Grand Justices (CGJ), which interprets the constitution as well as laws and ordinances. Subor-

dinate JY organs include the Supreme Court, high courts, district courts, the administrative court, and the Committee on the Discipline of Public Functionaries. An administrative court provides judicial review of administrative decisions.

Active-duty military personnel are subject to the military justice system. Except in exigent circumstances, a military court-issued warrant is required to arrest a suspect or to search a person or place. A search incident to arrest does not require a separate warrant. Suspects are entitled to counsel during interrogation. Suspects can be detained up to 60 days, which can be extended upon a showing of good cause. Trial must take place no later than 90 days after arrest. Defendants are entitled to counsel during trial and are entitled to collect and present evidence in their defense. Defendants are presumed innocent until proven guilty. Cases are tried before one or more military judges. Established guidelines limit judges' sentencing discretion. Defendants can appeal convictions to higher military courts and then to the civilian court system. Critics contend that since military prosecutors and judges are usually officers in the same unit and under the same command, there is insufficient separation between them to properly safeguard a defendant's interests.

*Trial Procedures.*—The constitution establishes the right to a fair trial, and an independent judiciary generally enforced this right. Judges, rather than juries, decide cases; all judges are appointed by, and are responsible to, the JY. In a typical court case, a single judge rather than a defense attorney or prosecutor interrogates parties and witnesses. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission. A defendant's access to government-held evidence is determined by the presiding judge on a case-by-case basis. All defendants are presumed to be innocent until proven guilty and criminal procedure rights are extended to all persons without limitation.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is three or more years' imprisonment or if the defendant is indigent, the judge may assign an attorney. Attorneys assigned to defendants generally assisted once an indictment was filed and at trial but usually were not present during police interrogations. Although the Government took measures to strengthen the effectiveness of defense representation, some human rights lawyers argued that more improvements were necessary. The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of three years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences. It is unconstitutional to allow the confessions of accomplices to be used as the only evidence to convict a defendant.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—District courts are the courts of first instance for the trial of civil monetary and non-monetary claims, including those seeking redress for human rights violations. High courts hear appeals from the district courts. The Supreme Court is the final court of appeal and will review judgments of the high courts, but only on questions of law, not fact. A separate two-tier administrative court system resolves disputes arising from administrative laws. Courts are empowered to attach assets and issue provisional and permanent injunctions. There were no reports of problems enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution protects the right to privacy and this was generally respected in practice. The law requires prosecutors to obtain judicial approval of search warrants, except when incidental to arrest or when there are concerns that evidence may be destroyed. Unlike in previous years, there were no reports of police misusing the search-incidental-to-arrest provision. The police must report any incidental search to a prosecutor or the court within 24 hours. The court must decide whether the incidental search violated the law. A police officer convicted of conducting an illegal search may be given a sentence of up to one year in prison.

The law imposes severe penalties for unauthorized wiretapping. The law provides that judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime. The MOJ and the police used wiretapping as an investigative tool. According to the MOJ prosecution department, the annual number of approved wiretappings has steadily increased from 19,845 in 2004 to 24,117 in 2005, and to 25,556 through November.

Homosexual rights advocacy groups claim that government law enforcement agencies monitored Internet chat room and bulletin-board exchanges between adults (see section 2.a.).

*Section 2. Respect for Civil Liberties, Including*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Government and political party officials are forbidden from holding positions in broadcast media companies. Government entities and political parties were required to divest themselves of all radio and broadcast companies by December 2005. On April 21, the Government donated its 70 percent share of China Television System (CTS) to the Public Television Service (PTS). The two companies merged into the Taiwan Broadcasting System (TBS), which was privatized on July 1. By year's end the Government had not sold its 47 percent stake in Taiwan Television Enterprise (TTV). Critics argued that more needed to be done to insulate broadcast news media from political influence.

On February 22, the National Communications Commission (NCC) convened for the first time. On July 21, the CGJ determined that the system for appointing commissioners was unconstitutional, but allowed the sitting commissioners to remain in office until new commissioners could be appointed.

In April the NCC reinstated the license of cable news channel Eastern TV. The Government Information Office (GIO) had revoked the license in 2005, provoking charges that it had infringed on press freedom and hurt the livelihoods of broadcast journalists. On July 12, Eastern TV resumed operations.

In May the Executive Yuan Administrative Appeals Review Committee reversed another controversial GIO decision. In November 2005 GIO levied a \$30,000 (NT\$1 million) fine on TVBS, a Hong Kong-invested satellite broadcast station. GIO alleged TVBS had exceeded the 50 percent cap on foreign ownership. GIO was ordered to return the fine. TVBS, which had been a vocal critic of government corruption, had accused the GIO of a "political witch hunt."

Also in May the NCC decided to halt a GIO plan to restructure publicly owned radio networks and to reorganize the distribution of frequencies. Instead the NCC proposed to open new FM frequencies for commercial use. The NCC plan was expected to create a mechanism for the commercial sale and transfer of radio frequencies and formal procedures for their recovery and reassignment by the Government.

There was a vigorous and active free press. Critics alleged that dependency upon government advertising revenue and loans from government-controlled banks deterred media outlets from criticizing the Government. The Government denied using loans or advertising revenue to manipulate the media. On April 30, the Executive Yuan terminated its media purchasing program.

On September 16, supporters of President Chen Shui-bian attacked four television journalists covering a pro-Chen demonstration. Police arrested some of the attackers, who claimed the journalists were biased against the President.

For three consecutive days in April a Taipei court ordered a United Daily News reporter named Kao to pay a fine of \$1,000 (NT\$30,000) per day until he revealed the source for a report that caused the stock of a company to lose two-thirds of its value. Kao was convicted of aiding criminal activities and disrupting the financial market. Kao refused to disclose his source, decried his conviction as a "serious violation of press freedom," and filed an appeal. The public reacted negatively to the conviction and the fine was suspended.

By law the police may seize violent or pornographic material. The police must request search warrants from prosecutors to conduct such seizures (see section 1.f.).

On October 26, the Constitutional Court (CC) held that freedom of publication is not an absolute right, stipulating that certain sexually explicit materials are protected only as long as they are properly packaged and labeled. Based on the CC interpretation, the owner of a gay bookstore appealed his 2005 conviction for violating the criminal code, which bans the sale, circulation, and public display of obscene publications. The owner argued the magazines were legally imported from Hong Kong and had been properly packaged in opaque wrappers as required by adult publications ordinances.

The GIO, which requires that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication, has the authority to ban importation of publications that advocate communism or the establishment of united front organizations, endanger public order or good morals, or violate laws. Nevertheless, a wide variety of mainland China-origin material

was accessible through the Internet as well as in retail stores. Cable television systems were required to send imported material to the GIO for screening and to convert subtitles from the simplified characters used in mainland China to traditional characters before broadcasting.

The media occasionally infringed on individuals' right to privacy. The media often taped and aired police interrogations and entered hospital rooms when the patient was unable to prevent such entry. The electronic media also frequently ignored individuals' requests to respect their privacy. In August a prominent sports figure announced that he would no longer accept interviews by the media because reporters had harassed his parents. He reversed his decision eight days later, after the media agreed to respect his and his parents' privacy.

*Internet Freedom.*—There were generally no government restrictions on access to the Internet, with the following exceptions:

In September the Ministry of National Defense investigated a military pilot who took a picture of the Presidential plane while flying escort. The pilot's girlfriend posted the photograph on her Web site, with commentary critical of the President. Military authorities argued that the posting of the photograph was a breach of national security.

In October 2005 the GIO promulgated regulations that restricted access to certain Internet sites based on an Internet content rating to persons 18 years of age or older. Rules required restricted material to be clearly marked.

Homosexual rights advocacy groups claim that government law enforcement agencies monitored Internet chat room and bulletin-board exchanges between adults. Several NGOs reported that law enforcement officials prosecuted and punished adults for posting sexually suggestive messages. According to one NGO, police used Internet network addresses to identify individual perpetrators, who were then charged. Critics noted the law has no age limitation and asserted that police enforcement against adults violated free speech rights.

*Academic Freedom and Cultural Events.*—The law prohibits teachings, writings, or research that advocate communism or communist united front organizations, which endanger the public order or good morals, or violate regulations or laws. The Government did not otherwise restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and authorities generally respected these rights in practice. Although the National Security Law gives the Government the authority to prevent demonstrations advocating communism or the division of the national territory, pro-independence and pro-reunification demonstrations took place without government interference.

Under the Civic Organizations Law, the Constitutional Court, which is made up of the CGJ, has the power to dissolve political parties. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the "Republic of China." The Constitutional Court heard no cases under this law during the year.

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

*Societal Abuses and Discrimination.*—The generally amicable relationship among religions in society contributed to religious freedom.

The Jewish community consisted of approximately 150 members. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides these rights, and the Government generally respected them in practice.

All travelers from the People's Republic of China (PRC) are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council (MAC). PRC tourists must travel in groups, stay at designated hotels, and return to their hotel rooms by 10 p.m. PRC tour groups must be chaperoned by a Taiwan travel agency, which is required to post a \$29,000 (NT\$1 million) bond for each group. The bond is forfeited if any tour group member is involved in legal problems or is reported missing. The Tourism Bureau must be notified in advance of any change to a tour group itinerary. PRC visitors who come to the country for family and business purposes are required to regularly report their location to the police. They are also prohibited from seeking employment in the country.

Regulations require that PRC spouses of Taiwanese citizens who apply for a national identification card pass a security clearance.



PRC journalists were granted a maximum stay of 30 days. PRC national news outlets China Central Television (CCTV), China National Radio, and China News Service regularly assign up to two journalists in the country at a time. At year's end there were six journalists from these news agencies on one-month assignments in Taiwan.

In March 2005 after the PRC adopted the Anti secession Law, Xinhua News Agency and People's Daily were temporarily barred from posting journalists to Taiwan. Subsequently, journalists from these two news organizations were permitted to visit the country but were not granted the maximum one-month stay.

The law does not provide for forced exile, and it was not practiced.

According to the Cross-Strait Relations Act, Taiwan citizens residing in the PRC will lose Taiwan citizenship if they do not return within four years. They may apply to recover citizenship through relatives or a legal representative. Applications to recover citizenship were regularly granted, and there were no reports of rejected applications.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status. All PRC citizens unlawfully present are required by law to be returned to the PRC, including trafficking in-persons victims (see section 5). Although the authorities were reluctant to return to the mainland those who might suffer political persecution, they regularly deported mainlanders who illegally entered the island for what were presumed to be economic reasons.

During the year authorities regularly renewed two PRC democracy activists' three-month temporary visas and continued to provide them financial support. However their requests for long-term visas were denied and the two continued to seek asylum in a third country. They first entered Taiwan illegally in 2004 by fishing boat, and requested asylum. After brief confinement in a detention center, they were released and allowed freedom of movement.

Throughout the year the Government repatriated illegal immigrants to their countries of origin. According to MOI, the total number of illegal PRC immigrants deported to the mainland declined, from 2,352 in 2005 to 1,596 during the year. At year's end, 480 illegal PRC immigrants were in detention centers awaiting repatriation.

PRC illegal immigrants continued to wait long periods in detention. During the year their average wait time before repatriation was 377 days. By comparison, non-PRC illegal aliens averaged just 37 days in detention before repatriation. MOI claimed that some PRC detainees gave false name and age information, making it difficult for PRC authorities to properly identify them. Some were charged with criminal acts and must await trial and sentencing before repatriation. MOI also faulted PRC authorities for causing procedural delays.

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

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

*Elections and Political Participation.*—According to the law, candidates are free to run for any office in an election as long as they meet all requirements. Both the DPP and the KMT utilized a combination of public opinion polls and primary elections to select candidates. Independent candidates were common. The law specifies and regulates the maximum budget each candidate can spend in an election. In general, individuals and parties were given full freedom within the confines of the law to participate in elections.

On December 9, the KMT candidate was elected mayor of Taipei by a sizeable margin, and the DPP candidate was elected mayor of Kaohsiung by less than 1,200 votes (0.12 percent). The Kaohsiung mayoral candidates traded accusations of vote-buying, but at year's end the courts declined to order a recount, citing insufficient evidence. By early December prosecutors had received 463 complaints of vote-buying related to the mayoral and city council races in Taipei and Kaohsiung.

In December 2005 the KMT defeated the DPP in island-wide city, county and local government elections. Despite allegations of vote-buying and isolated cases of unethical campaign practices, the elections were viewed as free and fair.

In the 2004 Presidential election, President Chen Shui-bian was re-elected and in the 2004 legislative elections, the opposition KMT-PFP coalition won a narrow majority in the LY. Both elections were hotly contested in an intense partisan atmosphere but generally were regarded as free and fair. An apparent assassination attempt against President Chen and Vice President Lu on the eve of the vote and the extremely close election result continued to be matters of controversy. In August 2005 the Supreme Court prosecutor's office concluded that the assassination at-

tempt was made by a retired construction worker, Chen Yi-hsiung, who committed suicide after the incident. The KMT-PFP opposition rejected the report and in May established a second investigation committee. The report from the second committee alleged the assailant had not committed suicide but was murdered. The results of both investigations were delivered to the Tainan district prosecutor's office.

On January 19, Tsai Ing-wen became Taiwan's second female vice premier. Vice President Annette Lu was re-elected to a second term in 2004. Six of the 48 cabinet members were women. Three of the 21 members of the Examination Yuan were women. Three of the 13 grand justices were women. Three of the 15 members of the DPP central standing committee and 12 of the 30 members of the DPP central executive committee were women. Ten of the 31 members of the KMT central standing committee were women. There were 46 women in the 221-member LY. According to constitutional amendments passed in June 2005, at least half of the nominees for at-large overseas legislators must be women.

Aborigine representatives participated in most levels of the political system. They held eight reserved seats in the LY, half of which were elected by plains Aborigines and half by mountain Aborigines. Aborigines accounted for about 2 percent of the population; their allocation of legislative seats was almost twice their proportional representation. An Aborigine served as Chairman of the Council of Aboriginal Affairs.

*Government Corruption and Transparency.*—There were allegations of government corruption during the year. However, the Government continued to take action to combat corruption in the executive and judicial branches of government. Allegations of vote buying continued, although all political parties committed publicly to ending the practice.

In February regulations went into effect that required political appointees to the cabinet (Executive Yuan) and its subordinate agencies to place all financial assets into a trust within three months of assuming office and, for those already in office, within three months of the effective date of the regulations.

President Chen's son-in-law was indicted for insider trading and embezzlement in May. First lady Wu Shu-chen was also accused of questionable financial dealings. On June 27, the legislature rejected a motion to recall President Chen. In late July prosecutors began an investigation of alleged misuse of Presidential office accounts by the President, his wife, and several officials from the Presidential office. Two weeks of mass demonstrations took place in September calling for the President's resignation. On October 13, a second legislative motion to recall President Chen failed. The first lady was indicted for corruption, on November 3, as were several officials of the Presidential office for offenses related to the alleged improper use of Presidential office funds. Although not indicted because of Presidential immunity, the President was named as an involved party. A third motion to recall President Chen failed on November 24.

During the year a number of senior government officials were also investigated for corruption, including former Presidential office deputy secretary-general Chen Che-nan, former head of the cabinet-level Financial Supervisory Commission (FSC) Kong Jaw-sheng and former director general of the FSC's Examination Bureau, Lee Chin-chen, who was sentenced to 10 years in prison for facilitating insider trading. Several senior Kaohsiung officials were named as suspects in the Kaohsiung Rapid Transit Corporation labor scandal. Keelung City mayor Hsu Tsai-li was sentenced to seven years in prison for corruption. Several former vice ministers and deputy ministers were also under investigation for alleged corruption.

By November prosecutors had indicted 1,487 persons on various corruption charges and had convicted 1,252 persons. Of those accused, 77 were high-ranking government officials, 244 were mid-level, 394 were low-level, and 58 were elected officials.

In November 2005 the Public Officials Election and Recall Act was revised to stiffen penalties for those convicted of vote-buying. As a result, those convicted face a mandatory jail sentence of three to 10 years.

In December 2005 the LY passed the Access to government Information Law. Under the law, all government information must be made available to the public upon request, except national secrets, professional secrets, personal information, and intellectual property rights. All citizens, including those living overseas, and all companies and groups registered in the country, as well as foreign citizens whose countries do not prohibit Taiwan citizens from applying for access to their government information, can submit information requests and can administratively appeal if such requests are denied.

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

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

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

The constitution provides for equality of citizens before the law “irrespective of sex, religion, race, class, or party affiliation.” It also provides for the rights of persons with disabilities.

*Women.*—Violence against women, including domestic violence and rape, remained a serious problem. The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. As of November, 2,038 persons had been prosecuted for domestic violence, and 1,527 persons had been convicted. Typically persons convicted in domestic violence cases were sentenced to less than six months in prison. Strong social pressure not to disgrace their families discouraged abused women from reporting incidents to the police.

By November, 61,508 cases of domestic violence were reported, representing a projected 9 percent increase of reported cases over 2005. MOI cited this as evidence that women were more willing to report domestic violence.

Rape, including spousal rape, is a crime and remained a serious problem; its victims were socially stigmatized. Experts estimated that the total number of rapes was 10 times the number reported to the police. The law provides protection for rape victims. Mentally handicapped victims and those under 16 years of age are allowed to testify via a two-way television system. Rape trials may not be open to the public unless the victim consents. By regulation, doctors, social workers, police, and prosecutors jointly question victims of sexual abuse to reduce the number of times a victim is questioned. The law permits a charge of rape without requiring the victim to press charges.

The law establishes the punishment for rape as not less than five years’ imprisonment, and those convicted usually were given prison sentences of five to 10 years. According to the MOI, 6,601 reports of rape or sexual assault were filed during the year. Prosecutors tried 1,825 of those cases and convicted 1,535 persons. Women’s rights activists criticized law enforcement for bringing only a small percentage of perpetrators to justice.

The law requires all city and county governments to establish violence prevention and control centers to address domestic and sexual violence, child abuse, and elderly abuse. These government-funded centers provided victims with protection, medical treatment, emergency assistance, shelter, legal counseling, and education and training on a 24-hour basis. As of November the centers obtained 26,143 protection orders from the courts.

Prostitution was illegal. Prostitution, including child prostitution, was a problem. Trafficking in women remained a problem (see section 5, Trafficking). Authorities reported that the number of prostitutes from Southeast Asian countries, mainly Vietnam, Indonesia, and Cambodia, increased.

During the year authorities arrested 380 Southeast Asian women for prostitution, a 73 percent increase over 2005. Those arrested included 186 women from Vietnam, 105 from Indonesia, and 55 from Thailand. At the same time, prostitution arrests of women from the PRC, Hong Kong, and Macau declined sharply. During the year 664 PRC women who had entered Taiwan legally were arrested for prostitution, a decrease of 48 percent from 2005. Seventeen illegal PRC entrants were also arrested for prostitution, a 66 percent drop from 2005. There were reports of a growing trend of teenagers and young women being lured into prostitution by Internet advertisements promising employment, large salaries, and adventure.

The law prohibits sex discrimination. The law also stipulates that measures be taken to eliminate sexual harassment in the workplace. The Gender Equality in Employment Act (GEEA) provides for equal treatment with regard to salaries, promotions, and assignments. The GEEA entitles women to request up to two-years of unpaid maternity leave and forbids termination because of pregnancy or marriage. Despite the law, women continued to be denied maternity leave or were forced to quit jobs due to marriage, age, or pregnancy. Women’s advocates noted that women continued to be promoted less frequently, occupied fewer management positions, and worked for lower pay than their male counterparts. Women make up 42 percent of the total workforce, and 50 percent of the service industry workforce. According to the Council on Labor Affairs (CLA), salaries for women averaged 85 percent of those for men performing comparable jobs.

During the year a poll reported that most women were unaware of or did not understand their employment rights. Women's rights activists urged the Government to more actively promote workplace gender equality. Most city and county administrations formed committees to deal with complaints of sexual discrimination in the workplace.

In February the Sexual Harassment Prevention Act went into effect. Sexual harassment is a crime. Violators face fines of \$3,000 to \$30,000 (NT\$100,000 to NT\$1,000,000) and imprisonment for up to two years. All levels of government and larger private employers were required to enact preventive measures and establish complaint procedures to deter sexual harassment. Hot lines were established in several major cities, but reporting levels were well below expectations. Women's groups criticized the Government's implementation of the law as ineffective, and attributed low reporting rates to inadequate publicity.

Since 1987 the country has registered more than 370,000 marriages to foreigners, mostly women from China, Vietnam, Indonesia, and Thailand. During the year 20 to 30 percent of all marriages were to foreign-born spouses and 13 percent of all births were to foreign-born mothers. Government regulations do not adequately protect the rights of foreign spouses, especially those with children from the marriage.

Foreign spouses are initially issued a visitor's visa, which usually must be renewed outside the country. Foreign spouses cannot apply for citizenship until they have resided in the country for three consecutive years. They are required to relinquish their home country citizenship in order to apply. Citizenship is typically granted after the fourth consecutive year of residence; thus, for one year foreign spouses are technically stateless. Without citizenship, foreign spouses can be deported if their visas expire. In one high-profile case, a married Taiwanese man named Chan used another man's identity to marry a Cambodian woman, who bore him twins. When the woman's visa expired, she was unable to renew it because her registered husband, named Yao, had died. The Cambodian woman was deported, and Chan arranged with the authorities to adopt the twins. The mother of the twins appealed to a legislator for help. At year's end the MOI had not decided whether the twin's mother was entitled to custody, or if she would be permitted to return to the country.

Foreign spouses were targets of discrimination both inside and outside the home. Most cross-border marriages were arranged by brokers, whose advertisements in Taiwan were frequently degrading to women. For fees ranging from \$7,000 to \$12,000 (NT\$250,000 to \$400,000), brokers typically flew clients to other Southeast Asian cities, where they could choose from a group of eligible women recruited by the broker. The marriage and necessary paperwork were usually completed within a week. Several reports suggested that this commercialized process likened foreign spouses to property and contributed to their mistreatment. A MOI report concluded that social and economic marginalization contributed to an abnormally high rate of domestic violence in cross-border marriages. Traffickers abused the spousal visa program to bring foreign women into the country for prostitution. Politicians publicly disparaged foreign spouses, which contributed to negative stereotypes.

To assist the growing number of foreign born spouses authorities took steps to help integrate them into society, including offering free Mandarin language and child-raising classes and counseling services at community outreach centers. The government-funded Legal Aid Foundation expanded its services to include an outreach to foreign spouses that included a hot line established to receive complaints. The MOI continued to operate its hot line service with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese. As of November the service had received 651 calls from non-Chinese speakers. On October 1, Chunghwa Telecom, in collaboration with a local NGO, activated a similar free nationwide telephone hot line which provided assistance to foreign born spouses.

*Children.*—The Government was committed to the rights and welfare of children, and the law included provisions to protect them. Education for children between six and 15 years of age was free, universal, compulsory, and enforced. According to government statistics, 99 percent of school-age children attended primary and junior high school. Children were provided health care under the national health insurance plan.

Child abuse continued to be a widespread and growing problem. According to 2005 MOI statistics, reports of child abuse rose by 26 percent over 2004. During the year this trend continued. Through September, 9,984 cases had been reported, including cases of physical, mental, or sexual abuse or harm due to guardian neglect, marking a projected increase of 24 percent over 2005. Approximately 90 percent of abusers were parents, relatives, or caregivers. Hospitals, schools, social welfare organizations, or the police reported 60 percent of all cases, with 40 percent of reports coming from family members or the public. Fifty percent of all cases were reported

through the child abuse hot line. The central government, local governments, and private organizations continued efforts to identify and assist high-risk children and families, and to increase public awareness of child abuse and domestic violence.

In July the central and local governments began a \$100 (NT\$3,000) per month per child subsidy program to reduce financial stress on lower-income families deemed to be at high risk for child abuse. The central government paid 70 percent of the \$6.4 million (NT\$198 million) program, with local governments contributing the rest. The program was expected to help as many as 15,000 underprivileged children. The Government also allocated \$1 million (NT\$31.5 million) to hire an additional 140 social workers to serve as child welfare case managers. MOI tripled funding for social welfare groups to \$3 million (NT\$135 million) to support their efforts to identify and assist high-risk children and families, and to increase public awareness of child abuse and domestic violence.

By law, persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities. Child welfare specialists must make such notification to county or city governments within 24 hours, and authorities must respond with appropriate measures within 24 hours. County or city officials are required to submit a request for investigation to a supervisory agency within four days. Both the MOI children's bureau and NGO specialists monitored cases to ensure that these requirements were met. A hot line accepted complaints of child abuse and offered counseling. Courts were authorized to appoint guardians for children who lost their parents or whose parents were deemed unfit.

The MOI provided guidance to local governments for day-care facilities and for children's halfway houses and education centers. Financial subsidies were provided to low-income families with children in day-care facilities and to local governments to promote child protection efforts.

The law prohibited advertisements in the media tied to the sex trade. Persons could be indicted and convicted for patronizing underage prostitutes in foreign countries; adding to penalties imposed on citizens arrested abroad for having sex with minors. These laws were enforced in practice.

Solicitors of child prostitutes under the age of 14 faced sentences of three to 10 years in prison. Those who patronized prostitutes between the ages of 14 to 16 were sentenced to three to seven years. Solicitors of child prostitutes older than 16 but younger than 18 faced up to one year in prison or hard labor, or a fine up to \$100,000 (NT\$3 million).

During the year 997 persons were indicted and 887 persons were convicted of violating the Child and Youth Sexual Transaction Prevention Act, which criminalized possession and distribution of child pornography and child prostitution. This was a 16 percent increase in indictments but a 5 percent decrease in convictions from 2005. The law also required the publication of the names of violators in newspapers.

*Trafficking in Persons.*—There was no comprehensive trafficking law, although most forms of trafficking were criminalized through a number of statutes. The law did not address prevention of trafficking or victim protection, which authorities nonetheless provided on an ad hoc basis. The MOJ and the MOI were responsible for combating trafficking.

Trafficking in persons remained a serious problem. The country continued to be a destination for women and girls, mainly from the PRC. These individuals were trafficked for the purpose of sexual exploitation and forced labor. There were numerous reports of women from Southeast Asian countries, primarily from Vietnam, Cambodia, and Thailand, being forced or coerced into the commercial sex trade after receiving fraudulent offers of employment. There also were reports of Taiwanese women being trafficked for sexual exploitation purposes to Canada, Japan, the United Kingdom, the United States, and other countries.

During the year 261 persons were indicted for trafficking related offenses, this represented a 25 percent increase over 2005. Of those indicted, 92 persons were convicted, a 16 percent decrease from 2005. Of those convicted, 74 persons were found guilty of exploiting children for prostitution. Of those defendants, 29 were sentenced to five to seven years in prison, 16 were sentenced for three to five years, and 20 received sentences of one to three years. Another 12 defendants were convicted of forced prostitution. Two of them were sentenced to 10 to 15 years; three were sentenced to seven to 10 years; one was sentenced to five to seven years; and four were sentenced to three to five years. Five defendants were convicted of forced prostitution of a minor: two were sentenced to 10 to 15 years; two received seven to 10 years; and one was sentenced to one to two years. One defendant was convicted of human trafficking and received a prison sentence of seven to 10 years.

NGOs reported that traffickers continued to use fraudulent marriages as a method for human trafficking, in part because penalties for "husbands" were lenient. Foreign spouses, mainly from the PRC, but also from Vietnam and other Southeast

Asian countries, were lured to the country by marriage brokers, only to be forced into prostitution or exploitative labor. To counteract this trend the country reinstated a face-to-face interview requirement in January 2005 for Vietnamese women seeking to marry Taiwanese men. Mainland Chinese spouses were also required to undergo face-to-face interviews.

On June 6, MOI banned the formation of new cross-border matchmaking companies and announced that existing firms would be subject to stricter regulations and monitoring.

In July the Kaohsiung prosecutor's office indicted eight individuals suspected of trafficking Vietnamese women for prostitution. Prosecutors requested sentences ranging from 20 years to life. Prosecutors also investigated allegations that local hospitals had colluded with traffickers to conduct illegal abortions on Vietnamese spouses.

In October a senior immigration official and 10 others were arrested for helping smuggle at least 80 Chinese women into the country for prostitution over a six month period.

NGOs and the media continued to report many incidents of physical and mental abuse. NGOs and academics asserted that more government regulation was needed to reduce deceptive marriage brokering and marriages of convenience for illegal purposes.

NPA officials stated that increasing law enforcement pressure on smuggling rings had forced traffickers to rely on other methods, including sham marriages. Ninety percent of those smuggled, both men and women, were from Fujian Province. Authorities continued to fund NGO anti trafficking prevention programs targeting minors and Southeast Asian women married to Taiwanese men. Taiwan also funded anti trafficking publicity campaigns in source countries.

According to a report released in February by the Coast Guard Administration (CGA), the total number of illegal immigrants from the PRC, especially women, continued to drop. Through September 319 illegal Chinese immigrants were arrested, 28 of whom were women. In 2005 the CGA intercepted 1,069 Chinese nationals smuggled into the country; 182 of whom were women.

Labor trafficking remained a serious problem. NGOs reported that foreign laborers often contracted for one type of employment, but were diverted to another (see section 6.e.).

Authorities took several steps to combat trafficking and to repatriate illegal immigrants; including increased efforts to detect and disrupt criminal syndicates that smuggled migrants and trafficking victims. Officials also exchanged information with foreign law enforcement and immigration counterparts, especially those in Indonesia, Japan, Thailand, and Vietnam.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities and sets minimum fines for violations. Through September there were 969,000 persons identified as having mental or physical disabilities.

The law stipulates that the Government must provide services and programs to the disabled population. Free universal medical care was provided to persons with disabilities. NGOs continued to note that more public nursing homes were needed and current programs, such as home care services, needed to be expanded to meet the growing needs of the disabled population, including the growing numbers of elderly persons.

The law requires all private enterprises with more than 100 employees to hire at least one disabled person per 100 workers. For all government offices, public schools, and public enterprises with 50 or more employees, disabled employees must comprise at least 2 percent of their total workforce. For each unmet quota position, both public and private organizations are required to pay into the Disabled Welfare Fund (DWF) an amount equal to one basic monthly salary or approximately \$500 (NT\$15,840). As of September persons with disabilities constituted approximately 2 percent of the public sector workforce.

The law provides monetary assistance for up to five years, and additional support through other programs, for those with occupational injuries. NGOs maintained that the Government needed to extend the current five-year limit and liberalize the qualifications for assistance.

By law, new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. Violations resulted in fines of \$1,800 to \$9,100 (NT\$60,000 to \$300,000). The MOI guided local government efforts to budget for, develop, and implement refitting guidelines. Handicap-accessible public transportation, although limited to larger cities, increased to 224 special vehicles, including 32 low-chassis buses. Additional handicap-priority seating was installed in 233 buses. Five hundred buses were equipped with

new handrails and 460 were equipped with anti skid flooring. NGOs stated that more vehicles were needed to accommodate demand.

*Indigenous People.*—The only non-Chinese minority group consisted of the aboriginal descendants of Malayo-Polynesians, who were well established on the island when the first Chinese settlers arrived. According to MOI statistics, Aborigines accounted for approximately 2 percent of the population. More than 70 percent of the Aborigines were Christian, while the dominant Han Chinese were largely Buddhist or Taoist. The civil and political rights of Aborigines were protected under law (see section 3). The LY amended the constitution in 1992 and again in 1997 to upgrade the status of aboriginal people, protect their right of political participation, and ensure their cultural, educational, and business development. In addition, the authorities also instituted social programs to help Aborigines assimilate into the dominant Chinese society.

*Other Societal Abuses and Discrimination.*—According to gay rights activists, anti-homosexual violence was rare, but societal discrimination against homosexuals and persons with HIV and AIDS was a problem. It was reported that some politicians and religious groups made derogatory remarks about the homosexual community. Free speech advocates alleged the Government prejudicially applied obscenity laws to punish a seller of legally imported gay pornography (see section 2.a.).

There were no laws prohibiting homosexual activities. While the authorities were committed to protecting homosexual rights, discrimination against some groups continued.

The 2004 Gender Equality Education Law stipulated that except for traditionally male- or female-only schools, educational institutions cannot discriminate against prospective employees or students based on gender or sexual preference. All schools were obligated to establish curricula to foster greater tolerance of non-traditional gender roles. Homosexual rights activists welcomed the law but criticized government enforcement as inadequate.

On September 17, some 5,000 persons took part in the fourth annual gay rights rally; calling for society to respect the civil rights of the country's estimated one million homosexuals.

The national health insurance system provides free screening and treatment, including antiretroviral therapy, for the estimated 12,000 HIV-infected nationals.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The right to unionize is protected by law but is highly regulated. At present, approximately 28 percent of the 10.4 million labor force belongs to one of the 4,352 registered labor unions. Many of them are also members of one of the eight country-wide labor federations.

Workers other than teachers, civil servants, and defense industry workers, are protected by the Labor Union Law (LUL). Under the LUL, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because of their union-related activities. The LUL requires that labor union leaders be elected regularly by secret ballot, and in recent years workers tended to reject management-endorsed union slates. However, in practice employers sometimes dismissed labor union leaders without reasonable cause or laid them off first during employee cut-backs. According to the Taiwan Federation of Trade Unions (TFTC) and the Taiwan Labor Front, the law has no specific penalties for violations.

Some public employees, including teachers, civil servants, and defense industry workers have only limited rights to form unions. These restrictions have led to a long running dispute between government authorities and groups that represent teachers and civil servants. Teachers and civil servants are allowed to form professional associations to negotiate with authorities but are not allowed to strike. A teachers' union has been established since 2003 but has not been recognized by the Council of Labor Affairs (CLA). Domestic workers have no right to organize.

A number of laws and regulations limit the right of association. While labor unions may draw up their own rules and constitutions, they must submit those rules and constitutions to their county and city governments as well as the CLA for review. Labor unions may be rejected or dissolved if they do not meet certification requirements or if their activities disturb public order. During the year for example, employees from two different financial companies attempted to form a union under the name of their parent holding company. The CLA rejected the bid, citing a law which forbids employees from different companies from forming a single union.

In 1971 the PRC replaced Taiwan in the International Labor Organization (ILO). However, Taiwan's Chinese Federation of Labor attends the ILO annual meetings as an affiliate of the International Trade Union Confederation (ITUC).

*b. The Right To Organize and Bargain Collectively.*—Except for some public employees, the law gives workers the right to organize, bargain, and act collectively. As of March there were 233 collective agreements in force; however, they covered only a small proportion of the labor force, and 78 percent of industrial labor unions had no collective agreements.

The law provides for the right to strike, and workers exercised this right in practice. However, the law imposes restrictions that in practice make it difficult to strike legally, which undermines the usefulness of collective bargaining. For example, the law requires mediation of labor/management disputes when authorities deem disputes to be sufficiently serious or to involve “unfair practices.” The law forbids both labor and management from disrupting the “working order” when either mediation or arbitration is in progress. Moreover, labor unions are only allowed to strike over issues of compensation and working schedules. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although no such cases were reported during the year.

Recent efforts to privatize state-run enterprises resulted in rising tensions between labor unions and the authorities. In the last few years, strikes and protests by labor unions at Business Bank of Taiwan, Changhwa Commercial Bank, Taiwan Power Company, and Chunghwa Telecom have delayed privatization efforts. From January to November, 75,351 persons had been involved in labor disputes, compared with 77,260 during the same period of 2005.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including forced and compulsory labor by children. However, the authorities prosecuted several cases of forced child prostitution and there was evidence of labor trafficking (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Standards Law (LSL) stipulates age 15, the age at which compulsory education ends, as the minimum age for employment. County and city labor bureaus effectively enforced minimum-age laws.

*e. Acceptable Conditions of Work.*—The LSL addresses rights and obligations of employees and employers. The law also provides standards for working conditions and health and safety precautions. By year’s end the LSL covered an estimated 6 million of Taiwan’s 7.6 million salaried workers. Those not covered included nursery workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, and domestic workers.

The minimum monthly wage is \$500 (NT\$15,840). While sufficient in less expensive areas, this wage did not assure a decent standard of living for a worker and family in urban areas such as Taipei. The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher. Legal working hours were 336 hours per eight-week period (for an average of 42 hours per work week). While a five-day work week was mandated for the public sector, according to a CLA survey, 55 percent of private sector enterprises also reduced the normal workweek to 5 days.

The law provided standards for working conditions and health and safety precautions and gave workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. Although the CLA conducted publicity campaigns during the year to increase public awareness of the law and operated telephone hot lines to accept complaints of LSL violations, there was widespread criticism that the CLA did not effectively enforce workplace laws and regulations. During the first 10 months of the year 128,992 inspections were completed. This was a 45 percent increase over the same period in 2005. This increase was due in part to the expansion of the CLA inspector corps by 150. Over 440 inspectors were responsible for supervising approximately 300,000 enterprises covered by the Occupational Safety and Health Law.

The CLA did not provide the same protection to foreign workers that it did to citizens. The LSL did not cover the more than 148,000 foreign workers employed as nursing caregivers or the 2,000 employed as housekeepers. According to an ITUC report released in June, 333,000 legal migrant workers suffered wage discrimination. These workers were not allowed to take leadership positions in unions, making them vulnerable to exploitation. In addition, migrant workers were often depicted by local media as dangerous or criminal.

No domestic workers were entitled to the minimum wage. Although the minimum wage was not a legal obligation, most domestic workers were hired through brokers who negotiated the minimum wage to ensure that the worker earned enough to cover the brokers’ fees. Of the \$500 (NT\$15,840) a month typically paid to domestic caretakers, after deductions by brokers, most domestic caretakers reportedly re-



ceived only \$100 (NT\$3,000) to \$200 (NT\$6,000) per month in the first two years of working in Taiwan. Domestic workers could change jobs only under rare circumstances and were often not fully informed of available recourse in the event of abuse.

On January 16, CLA launched the Foreign Workers Service Center at the international airport. The service center provided orientation services to arriving workers and dispute resolution services to those departing the country. Service center telephones were located throughout the airport to facilitate the filing of complaints. As of June the center's multilingual staff had responded to 65,538 service requests, including 124 petitions filed by workers facing deportation. Five workers were exempted from deportation and transferred to shelters to help authorities investigate abuse allegations.

On March 13 and 14, approximately 2,000 Thai factory workers in Kaohsiung city held a strike to seek equal treatment. CLA, with the help of the Yunlin county government and Thailand trade and economic office, quickly negotiated a settlement that addressed most of the workers' demands. A similar strike took place a few weeks earlier in another factory in Kaohsiung.

On March 31, 630 Thai construction workers employed by the Kaohsiung Railway Transit Corporation (KRTC) stopped work for one day to protest unpaid overtime work, increased medical expenses, substandard living conditions, and inadequate meals. KRTC management met with labor representatives and agreed to treat the strike as a holiday. Workers resumed work the next day.

On November 1, a package of new foreign labor regulations went into effect. Employers of foreign workers were required to agree to a "living management plan," specifying an employee's work hours, overtime provisions, living quarters, meal program, and free time. CLA inspectors were required to inspect a foreign worker's living and work environment within 72 hours of the worker's arrival in the country. For companies employing over 100 foreign workers, work and living facility inspections were required every three months. To prevent employers from deporting foreign workers without just cause, CLA required all contract terminations to be witnessed and approved by an appropriate city or county government official.

On November 8, the LY passed legislation establishing the National Immigration Agency (NIA). During the year the new agency consolidated elements of the National Police Agency, Council for Labor Affairs, MOI, and other agencies. NIA's director assumed responsibility for all immigration-related policies and procedures for foreign workers, foreign spouses, immigrant services, and repatriation of illegal immigrants.

Labor trafficking remained a serious problem. NGOs reported that foreign laborers often contract for one type of employment, but were diverted to another. Both brokers and employers profited from this bait-and-switch tactic. Brokers charged much more for high-wage factory jobs than for low-wage domestic worker positions. NGOs reported that many foreign workers who paid to secure a high-wage factory job were offered low-wage domestic work once in the country. In addition, many foreign workers who contracted to do domestic work were instead forced to work in factories, then paid the lower domestic worker wage.

In addition to labor trafficking risks, NGOs urged authorities to address other issues facing foreign workers: an abusive broker system, the lack of rights and legal protections, and the risk of retaliatory deportation. Brokers regularly charged high fees.

On August 3, CLA announced plans to intensify inspection and oversight of brokerage companies. Brokerage companies were rated based on legal compliance. Company ratings were published to encourage good management practices. Lower-rated companies were targeted for more frequent inspection, and were subject to closure.

The country imposed strict quotas on the number of foreign workers admitted each year. According to several NGOs, the lack of legal protection coupled with fear of retaliatory deportation prevented workers from protesting substandard or even dangerous working conditions. These fears were compounded for those foreign workers unable to speak Chinese.

According to CLA, an employer convicted of illegally changing the place or nature of a foreign worker's employment was subject to a fine ranging from \$1,000 to \$5,000 (NT\$30,000 to \$150,000). Anyone convicted of illegally hiring foreign workers or transferring a foreign worker to another employer was fined \$5,000 to \$25,000 (NT\$150,000 to \$750,000).

On April 20, CLA adopted a mandatory maximum fine policy to strengthen deterrence. However, county labor officials continued to assess fines at less than the available maximums. According to CLA, existing laws required labor authorities to annul an employer's permit to recruit or employ foreign workers if the employer

failed to cure a violation within a specified time or if the employer committed a second violation.

During the year 308 employers were fined for hiring illegal foreign workers, 1,584 were fined for hiring foreign workers without a government permit, 110 employers were fined for unlawfully transferring employment of a foreign worker to another employer, and 618 employers were cited for unlawfully changing a foreign worker's job or place of employment. Of the 110 employers fined for unlawfully transferring employment of a foreign worker to another employer, only 25 were assessed the maximum \$25,000 (NT\$750,000) fine. Employers cited for other types of foreign labor violations were often assessed only the minimum fine.

Foreign worker rights groups urged the Government to extend the work permits of foreign workers forced to seek shelter from employer abuse or sexual assault. Foreign workers were allowed to work in the country for three years. Under the law, once a worker files a complaint against the employer, the worker can not resume work until the abuse case is closed, which can take more than a year; this waiting period is included in the three-year work period. Many foreign workers, still burdened with broker fees and other debts, chose to work illegally, rather than face such a long period without income. Foreign workers who worked illegally faced heavy fines, mandatory repatriation, and were permanently barred from re-entering the country, regardless of the circumstances.

There were 24 CLA-funded labor consultation service centers located throughout the country. These centers provided counseling, legal aid, and labor dispute resolution services. They also operated toll-free multilingual hot lines. Through December the service centers responded to 71,613 inquiries, of which 7,497 were related to labor disputes.

Thirteen overnight-stay shelters were available to foreign workers in need. Twelve shelters were operated by NGOs, two of which were wholly supported by funding from the Taipei and Kaohsiung city governments. One shelter was operated by the Indonesian foreign representative office.

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## EAST TIMOR

East Timor is a parliamentary republic with a population of approximately 925,000. Its first parliament was formed from the 88-member constituent assembly chosen in free and fair, UN-supervised elections in 2001. The 41-member cabinet was dominated by the Fretilin Party, which won the majority of assembly seats. Xanana Gusmao, elected in free and fair elections in 2002, was President and head of state. During much of the year, the civilian authorities did not have effective control of the security forces. There were a series of deadly clashes between the national defense force (F-FDTL) and a variety of dissident military, police, and civilian forces. Mob and gang violence in the capital was widespread and tens of thousands of Dili residents were displaced. On May 26, at the request of the Government, Australian forces subsequently joined by forces from New Zealand, Malaysia, and Portugal, began arriving and assumed responsibility for security in the capital. President Gusmao assumed security powers, and on June 27, Fretilin's secretary general, Mari Alkatiri, resigned as prime minister and was replaced two weeks later by Jose Ramos-Horta. On August 25, the UN Integrated Mission for East Timor (UNMIT) took over policing responsibilities, but international military forces remained under a joint Australian-led command.

The Government generally respected the human rights of its citizens; however, there were serious problems. The most severe human rights violations took place in April and May when over 30 unlawful killings committed by security forces, rebel groups, mobs, or gangs occurred. Excessive use of force and abuse of authority by police was a problem. Problems with the justice sector often deprived citizens of due process and an expeditious and fair trial. Internal conflict resulted in the displacement of approximately 150,000 people, primarily residents of the capital. Domestic violence, rape, and sexual abuse were problems. Societal divisions based on regional origin (eastern versus western) emerged as a major problem during the year, resulting in widespread discrimination, segregation, and violence, particularly in the capital.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year security forces and other actors committed more than 30 killings. Many of these killings were politically motivated and took place in April and May.

On January 6, officers of the Border Patrol Unit (BPU) encountered three men illegally on the Timorese side of the border who were alleged members of 1999-era anti-independence militias who had been living in Indonesia. In the ensuing clash, the three men were shot and killed, and there were allegations that the BPU used excessive force. The Indonesian government protested the killings and called for a joint investigation, to which the East Timor government agreed. By year's end there were no known developments.

On April 28, rioting broke out during a demonstration by a large number of former F-FDTL personnel who had been involuntarily discharged and their civilian supporters. The rioting prompted a police and military response and resulted in six confirmed deaths during April 28 and 29. Two civilians were shot and killed in the vicinity of the Government Palace where the riots began; no perpetrators were identified. As the riots moved through the city, an additional civilian was shot to death; the UN Special Commission of Inquiry (COI), which investigated the events of April 28 and 29 and May 23 through 25, established that at least one Rapid Intervention Unit (UIR) officer fired shots into the crowd most likely causing the death. Later on the 28th another civilian was shot and killed by a member of the F-FDTL. The COI found that this action may have been legitimate self-defense, but advised further investigation. Between the night of April 28 and the morning of April 29, following the formal intervention of the F-FDTL in response to the rioting, two civilians were killed in the Tasitolu area while it was under military control. No individuals were identified as responsible. There were allegations that the F-FDTL massacred approximately 60 civilians in Tasitolu; however, the COI noted that while "other deaths may have occurred" in addition to the two confirmed, extensive efforts found no evidence of a massacre. The employment of the F-FDTL for riot control duties was alleged to have been illegal and emerged as a major point of contention in the aftermath of the riots.

On May 23, a clash between an F-FDTL unit and the dissident commander of the F-FDTL Military Police, Major Alfredo Reinado, and his group, resulted in five deaths, including a civilian. A police officer and an F-FDTL officer were killed, each in separate incidents while traveling through the conflict area. In addition, two members of Major Reinado's group were killed. According to the COI Reinado and his group are "reasonably suspected of having committed crimes against life and the person." In late July Reinado and a number of his men were arrested for arms offenses in Dili and held pending investigation into murder charges. However, on August 30, the group escaped from prison, citing among other things the expiration of their 30-day detention period without renewal as justification for their escape. No significant efforts to recapture them ensued, and at year's end the F-FDTL commander and the Government were pursuing dialogue with Reinado.

On May 24 and 25, armed confrontation involving the F-FDTL and groups of armed persons, including police officers, civilians, and members of the group of dismissed soldiers known as the "petitioners," resulted in as many as nine deaths. Precise information on the identity and numbers of the dead was not available, but some civilians not involved in the confrontation were killed.

Also on May 24, police and other actors attacked the house of the F-FDTL commander, Brigadier General Taur Matan Ruak, resulting in the death of a police officer.

On May 25, F-FDTL soldiers opened fire on a group of unarmed police officers who were departing their headquarters under UN escort in accordance with a ceasefire agreement negotiated by UN police and military officials with the F-FDTL commander. Eight police officers were confirmed to have died as a result of the attack, and 27 were seriously injured. According to the COI's findings, at least six F-FDTL officers were involved in the shooting. At year's end the prosecutor reportedly was investigating this case.

On May 8, in Ermera District members of a mob stabbed and killed a UIR officer. The officer was part of an escort for the regional secretary of state. The mob had surrounded and threatened the party; the officers negotiated with the mob, disarmed and removed their flak jackets and began to depart, but members of the mob pulled two officers out of their vehicle and stabbed them. At year's end the prosecutor general had identified 12 suspects in this attack, but further investigations remained pending.

On May 25, six persons were killed when the house they were in was attacked and set on fire by a crowd. The victims were all members of the same family, reportedly relatives by marriage of the then-minister of interior, and included four children. The COI was unable to identify any specific suspects but listed 27 persons warranting further investigation. At year's end no further progress was known to have been made on this case.

On May 25, a man was killed in Dili while driving through a road block set up by a former independence fighter and his men who were armed by the F-FDTL the previous day. While manning the roadblock, the group fired on two vehicles, causing the death as well as two gunshot injuries. In July the leader of the group surrendered, and at year's end he remained in pretrial detention.

Mob and gang violence emerged as a significant problem in late May and early June and continued to plague Dili through the end of the year; the violence caused a number of deaths. In several cases victims were targeted based on eastern or western geographical origin, although the cause of the violence could not be easily explained. Later in the year, conflicts between martial arts groups and other membership organizations became more prevalent amid allegations of political motives in some of these clashes.

In the case of a police (PNTL-National Police of East Timor) officer who died in February 2005 apparently as a result of an assault by other PNTL officers in December 2004, three of the suspects were sentenced to 1<sup>o</sup> months for minor assault charges as the court concluded that there was insufficient evidence to link the assault with the subsequent death.

There were no new developments in the case of the Colimau 2000 member killed in Bobonaro district in January 2005.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment by police officers, of abuses against civilians during domestic conflict; and of abuses by vigilante and other societal groups.

Although the PNTL ceased functioning in Dili by the end of May (see section 1.d.), police in other districts continued to operate through the year. The majority of human rights abuse complaints submitted to the provedor (ombudsman) involved the police and the most common complaint was of use of violence or excessive force. In addition, human rights monitoring organizations noted some cases of excessive force employed by international forces and police. Several such cases were referred to the provedor.

Delay or refusal by police to investigate allegations of rape or domestic violence was a common problem (see section 5).

Rioting and mob action, and the response of the police and later the armed forces on April 28 and 29, resulted in several civilian deaths, a number of civilian injuries, and cases of arbitrary arrest (see sections 1.a. and 1.d.). During rioting on April 28, in the vicinity of the Government Palace, four persons suffered firearms injuries, including three civilians and a police officer, a civilian and a police officer suffered other serious injuries. Shortly thereafter on April 28, demonstrators escorted by police encountered a hostile crowd in the Comoro market area of Dili. In the resulting incident, a number of shots were fired both by members of the police (UIR) and from the crowd. Eight civilians suffered firearms injuries and two suffered other serious injuries. Two police also suffered serious injuries. Later the same day, during a confrontation between a violent mob and members of the F-FDTL, a soldier suffered a minor grenade injury and two civilians suffered firearms injuries. During continued F-FDTL operations in the Tasitolu area of Dili during the afternoon of April 28 through the morning of April 29, four civilians were wounded.

During armed confrontation in Dili between members of the F-FDTL and the police on May 25, two civilians suffered gunshot injuries at the hands of a former independence fighter and his followers who had been armed by the F-FDTL and ordered to set up a road block in Dili to apprehend members of the police. First, a priest driving through the checkpoint was shot and injured, then shortly thereafter, the persons manning the roadblock fired on another vehicle, killing a civilian (see section 1.a.) and injuring another.

Widespread mob and gang violence was a significant problem in Dili in April through June and continued to be an issue through the remainder of the year. There were a number of incidents involving members of the national police. For example, on September 1, at least one member of the police was involved in a shooting incident at an internally displaced persons (IDP) camp in Dili resulting in several injuries. He was arrested the same day and was in pretrial detention at the end

of the year. Allegations of police involvement in mob violence were being investigated by UN police in coordination with the Ministry of Interior as part of a vetting process required before police could return to duty. This vetting was ongoing at year's end. There were also numerous allegations that members of the F-FDTL, the Government, and the opposition were involved in instigating mob and gang violence.

Tensions between easterners and westerners were frequently an element in these incidents, with attacks on easterners by westerners being the most frequent, but the reverse also taking place regularly (see section 5).

During the rioting of April 28, approximately 100 homes, primarily belonging to persons from the eastern districts, were targeted and burned. An estimated 2,000 additional houses were burned or otherwise destroyed in mob or gang attacks in June and July, and arson attacks continued to be a problem through year's end. Other abuses included illegal checkpoints set up to target persons based on geographic origin or membership in specific groups; intimidation of IDP camp residents by groups operating both in and outside of the camps; and attacks and intimidation of communities or individuals.

During the year there were accusations of abuses by international peacekeeping forces. Most of these accusations appeared to be part of a politically inspired effort to discredit the international forces.

There were no known judicial or administrative actions in the cases of the January 2005 border police beating of an Indonesian citizen for illegally crossing the border; the March 2005 police beating of two men and one woman arrested without warrant in Cailaco; the June 2005 police beating and threatening of a man accused of assaulting the wife of a PNTL officer; or the allegations of police abuse during a July 2005 operation against the *Comite Popular de Defesa-Republica Democratica*.

A 2004 case in which four PNTL officers severely beat a detainee in Baucau went to trial. Two of the accused received light sentences; the other two were acquitted.

Lawyers for the alleged victims attempted to pursue the November 2005 case in which the minister of interior (who resigned in May) and three of his bodyguards beat the passengers of a truck involved in a traffic incident. However, following the late May looting of government offices, including that of the prosecutor general, it was discovered that the case file was missing. The lawyers reconstituted the file and at year's end were continuing to pursue the case.

There were no developments in the July 2005 case of an F-FDTL captain and members of the military police detaining and beating a man involved in an alleged assault on the captain.

*Prison and Detention Center Conditions.*—There were three government-run prisons, located in Dili, Baucau, and Gleno. During the year international forces set up additional detention facilities in Dili. Prison conditions generally met international standards; however, government-run prison facilities were not well maintained. The provider noted that in Dili's Becora prison, inmates' movement was extremely restricted movement due to lack of sufficient prison guards.

Two full-time social workers dealt with juveniles, women, elderly, and mentally ill inmates. All prisons operated at or very near capacity throughout the year.

The Government and international forces permitted prison visits by the International Committee of the Red Cross and independent human rights observers. The provider was able to conduct almost daily detainee monitoring in Dili and observed that "international forces are cooperating extremely well—allowing confidential access to detainees and providing regular information."

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, there were instances in which these provisions were violated. A number of persons were arrested and detained but ultimately not charged with crimes. In many cases this was explained by misunderstandings because an investigation exculpated the suspect, or because no judge was available to conduct the required detention review. However, the circumstances of other cases suggested that law enforcement officers may have held detainees as punishment.

*Role of the Police and Security Apparatus.*—The national police consisted of approximately 3,300 members, including specialized units. After deadly clashes involving PNTL, F-FDTL, and dissident forces in late May, the approximately 1,200 Dili-based police, including regular police and specialized units, ceased to function in any law enforcement capacity and most police posts were abandoned. The Government requested international intervention, and international military and police forces began arriving on May 26 to assume responsibility for security in Dili. Under an August 25 UN resolution, responsibility for security in Dili was transferred to UN police, but international military forces operating separately from the UN also assisted in maintaining security.

UN police undertook a vetting process to reintegrate Dili-based police into police operations. At year's end over 1,000 police had registered for the process and vetting was ongoing. More than 200 police had been vetted and undergone reintegration training and were working alongside UN police as trainees. A number of police did not pass the vetting process and were on suspension pending further investigation. At year's end there was some confusion regarding the vetting process as the Ministry of Interior had begun a separate parallel vetting process. Efforts were underway to coordinate the two processes.

Each of the country's 13 districts has a district commander who normally reports to the national police commissioner; at year's end, however, district commanders were reporting to UN police headquartered in Dili. The PNTL remained poorly equipped and under-trained, and it was subject to numerous credible allegations of abuse of authority (see section 1.c.), mishandling of firearms, and corruption. The COI report noted that divisions within the PNTL were exacerbated by the former minister of interior's undermining of the chain of command by giving operational orders for personal or politically partisan reasons.

Prior to the April-May crisis, a professional ethics office within the police was responsible for tracking and investigating allegations of police misconduct, however, its effectiveness was hampered by lack of resources and political interference. The COI report noted that several officers suspected of criminal conduct during the crisis had previously been the subjects of disciplinary complaints, but no or light penalties had been imposed. In general, sanctions for police misconduct were rare.

*Arrest and Detention.*—The law requires judicial warrants prior to arrests or searches, except in exceptional circumstances; however, this provision was often violated. A chronic and extreme shortage of prosecutors and judges outside of the capital, further exacerbated by the crisis, contributed to police inability to obtain required warrants.

Lack of local knowledge and language ability by international police personnel led to cases in which police failed to inform detainees in a timely fashion of the reason for detention, to give detainees early access to legal assistance, or to inform detainees' family members of the detention.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of the arrest and detention and also to provide the right to a trial without undue delay. During these hearings the judge may also determine whether the suspect should be released because evidence is lacking or the suspect is not considered a flight risk. Because of a shortage of magistrates, exacerbated during the year as many international judges departed before replacements arrived, some suspects were forced to wait longer than 72 hours for a hearing. However, according to human rights observers, police increasingly followed the practice of simply releasing suspects after 72 hours in the absence of a judge to review the detention. In areas that did not have a local magistrate or where authorities lacked means to transport suspects to a hearing, this situation was particularly acute and contributed to an atmosphere of lawlessness and impunity.

The law provides for access to legal representation at all stages of the proceedings, and provisions exist for providing public defenders to indigent defendants. However, there was an extreme shortage of qualified public defenders, and many indigent defendants relied on lawyers provided by legal aid organizations. A number of defendants assigned public defenders reported that they had never seen their lawyer, and there were concerns that some low priority cases were being delayed indefinitely while suspects remained in pretrial detention.

During their intervention in response to the rioting on April 28, the F-FDTL arrested approximately 30 persons. All were transferred to the police and most were released within 24 to 48 hours. The legal basis for the F-FDTL making these arrests was not clear. According to the COI report, "the Government did not follow the procedures established by the Organic Law of the F-FDTL" in employing the F-FDTL. Moreover, there was no clear communication, written or otherwise, regarding "the degree of intervention by military authorities and powers conferred and the manner of cooperation between the F-FDTL and (the national police)." The provedor also assessed these arrests as illegal.

A 2003 ruling by the Court of Appeals stated that the pretrial detention limit of six months and the requirement that such detentions be reviewed every 30 days need not apply in cases involving certain serious crimes; however, the 30-day review deadline was missed in a large number of cases involving less serious crimes, and a majority of the prison population consisted of pretrial detainees.

*e. Denial of Fair Public Trial.*—The law provides that judges shall perform their duties "independently and impartially" without "improper influence" and requires public prosecutors to discharge their duties impartially. These provisions generally

were respected. However, the country's judicial system faced a wide array of challenges including concerns about the impartiality of some judicial organs, a severe shortage of qualified personnel, a complex and multi-sourced legal regime, and the fact that the majority of the population does not speak Portuguese, the language in which the laws are written and the courts operate. Even under normal circumstances, access to justice was notably constrained. During the year the national crisis resulted in a number of high profile and complex criminal cases as well as a marked increase in violent crime overall, further burdening the system. The COI report noted that, despite the events of April and May, the judicial system continued to function, albeit in a limited manner. Nevertheless, the report concluded that the country has "a minimally functioning judicial system."

During the year political and other considerations at times influenced the proceedings of both the public prosecutor and the Court of Appeals. Two separate UN commissions concluded that the prosecutor general was insufficiently independent and viewed his constitutional accountability to the President as requiring that he "follow the policy of the latter in relation to prosecutions."

There were also concerns during the year that the Court of Appeals was influenced by political considerations in its decisions.

On August 11, the Court of Appeals upheld the Fretilin Party's decision to hold leadership elections through a public show of hands although the law on political parties appears to stipulate that such elections are to be by secret ballot. The court argued that the 10-day procedural deadline for filing a suit had not been met and that the political party law did not in fact stipulate that all leadership elections must be by secret ballot. There was a widespread perception that political considerations outweighed full examination of the applicable laws in this decision. The COI noted that it received reports of political influence in cases related to the April and May crisis and a "lack of public confidence in the impartiality of the investigation and prosecution process."

The court system includes four district courts (Dili, Baucau, Suai, and Oecussi) and a national Court of Appeals in Dili. The Ministry of Justice is responsible for administration of the courts and prisons and also provides defense representation. The prosecutor general is responsible for initiating indictments and prosecutions. Until a supreme court is established, the Court of Appeals is the country's highest tribunal.

Establishing justice sector institutions and recruiting and training qualified judges, prosecutors, and defense attorneys proved difficult, and the judicial system was heavily dependent on international personnel. In January 2005 the President of the Court of Appeals announced that all 22 sitting judges failed qualifying exams and were therefore required to step down. Exceptions were made for judges on the Court of Appeals, the Special Panels for Serious Crimes, and the National Election Commission. In May 2005 it was announced that all of the prosecutors and public defenders who had taken their qualifying exams had failed. Although 11 national judges returned to work as probationary judges during the year, international judges continued to serve as the primary judges in all cases involving potential sentences of five or more years. The departure of international judges and prosecutors in early August, without replacements having arrived, resulted in additional disruption to the judicial system during a critical period. The public defender's office was staffed by seven national probationary defenders and three international public defenders. Private lawyers continued to represent the majority of defendants in the district courts.

Personnel shortages and administrative issues disproportionately affected the operations of the Baucau, Oecussi, and Suai district courts, which operated at irregular intervals throughout the year. The trial process often was hindered by non-attendance of witnesses due to lack of proper notification or lack of transportation. The functioning of the Dili district court and the Court of Appeals was severely disrupted by the April and May events. Full trials did not resume in the Dili district court until mid-July. The Court of Appeals suffered similar disruption, including looting of computer, translation, and transportation equipment.

The shortage of qualified prosecutors and technical staff in the office of the prosecutor general hampered the work of the office and resulted in a large case backlog. This was exacerbated by the late May looting of the office's files, forensic evidence, and computers. National probationary prosecutors returned to work during the year, but sensitive cases related to the crisis were handled by international prosecutors. There were six international prosecutors and 12 national prosecutors (nine probationary), including the prosecutor general. At year's end there was a nationwide case backlog of over 2,500. The amount of time for cases to come to trial varied significantly, with some delayed for years and others tried within months of accusations.

*Trial Procedures.*—The law provides for the right to a fair trial; however, the severe shortages of qualified personnel throughout the system led to some trials that did not fulfill prescribed legal procedures. Trials are before judges. Except for sensitive cases, such as crimes involving sexual assault, they are public; however, this was inconsistently applied. Defendants have the right to be present at trials and to consult with an attorney in a timely manner. Attorneys are provided to indigent defendants. Defendants can confront hostile witnesses and present witness and evidence. Defendants and their attorneys have access to government-held evidence. Defendants enjoy a presumption of innocence and have a right of appeal to higher courts.

The legal regime is complex and inconsistently applied. Pending development of a complete set of national laws, Indonesian laws and the UN's transitional regulations remained in effect. The constitution stipulates that UN regulations supersede Indonesian laws; however, this was inconsistently applied. For example, in a 2004 decision the Court of Appeals declared that a UN executive order decriminalizing defamation did not effectively overrule an Indonesian law under which defamation is criminalized (see section 2.a.). There was concern that this decision could undermine the precedence of laws stipulated within the constitution. Also of concern was confusion regarding how to apply different sources of law, particularly in criminal cases where the Indonesian penal code remained in effect but procedure was governed by a national criminal procedure code.

The Court of Appeals operated primarily in Portuguese. The UN regulations, many of which remained in force, were available in English, Portuguese, and Indonesian, as well as in Tetum, the language most widely spoken in the country. Laws enacted by parliament, intended to supplant Indonesian laws and UN regulations, were published in Portuguese with very few available in Tetum. Litigants, witnesses, and criminal defendants often were unable to read the new laws. Trials are required to be conducted solely in Portuguese and Tetum. However, the quality of translation provided in court varied widely, and translations to Tetum were often incomplete summaries rather than thorough translations.

During the year concerns arose over the lack of witness protection arrangements. In many violent crimes, witnesses were unwilling to testify because of the high potential for retribution against themselves or their families. No national law provided for witness protection, and an Indonesian law on witness protection was not applied. Reports of witness intimidation and nonappearance of witnesses were widespread. Court personnel also reported increased concern regarding their safety. This contributed to a widespread public perception that crimes could be committed with impunity and that vigilantism or personal revenge were the only avenues available to address criminal accountability.

The COI was mandated in response to a request from the Government to “establish the facts and circumstances relevant to incidents that took place on April 28 and 29 and May 23, 24, and 25 and related events or issues that contributed to the crisis.” Its October 17 report provided a detailed narrative of the events, including an assessment of individual and institutional responsibility.

The COI report recommended the prosecution of over 60 individuals for criminal culpability in the April and May events, including police officers who allegedly took part in deadly incidents; the former minister of interior, Rogerio Lobato; six F-FDTL officers alleged to have been involved in the shooting of unarmed police; the top leadership of the F-FDTL; and the former minister of defense. In addition, it recommended the investigation of more than 60 others for possible involvement in these crimes. Also recommended for prosecution were several civilians alleged to have received illegal weapons transfers or to have been involved in deadly incidents in late May, as well as the dissident military police commander, alleged to have been responsible for initiating deadly clashes with the F-FDTL on May 23. Among the individuals recommended for further investigation was the former prime minister, Mari Alkatiri, for possible complicity in illegal arms transfers.

The COI recommended that criminal cases related to the April and May events be handled within the domestic judicial system, but with a significant role for international prosecutors and judges. It recommended that international actors working within the prosecutor general's office play the lead role. For those cases where a panel of judges was required (the criminal procedure code requires a panel of three judges for crimes involving a potential sentence of five or more years), the report recommended that the panels be composed of two international and one national judge.

The trial of former minister of interior Rogerio Lobato and several codefendants was scheduled to commence on November 30. Due to the absence of one of the codefendants, the judges adjourned the trial until January 2007. No other trials re-



lated to the April and May events were scheduled by year's end. The status of investigations and the preparation of indictments were ongoing at year's end.

The Serious Crimes Unit (SCU) was responsible for investigations and indictments concerning crimes that occurred in 1999, including genocide, war crimes, crimes against humanity, murder, sexual offenses, and torture. Pursuant to UN Security Council resolutions, the SCU ceased its investigations in November 2004 and ceased virtually all other operations in August 2005. At the time of its closure, the SCU had filed 95 indictments against 391 persons. Of these, 290 remained at large in Indonesia with little chance of being returned to stand trial. In 2000 the transitional administration also established the Special Panels on Serious Crimes within the Dili district court to try those charged with the mass killings and other gross human rights violations committed in 1999. As of their adjournment in May 2005, the special panels had issued 84 convictions, three acquittals (one of which was later overturned by the Court of Appeals), and 13 indictment dismissals. In June an academic study of the serious crimes process criticized the UN for failing to ensure proper leadership and staffing throughout the process and noted "a significant number of cases in which the rights of the accused appeared to have been compromised due to severely inadequate defense and appeals process and flawed jurisprudence."

Although the special panels were adjourned, they can be reconstituted whenever needed as long as they meet the requirement of consisting of two international and one local judge. Several serious crimes suspects arrested in 2005 remained in pre-trial detention.

The August 25 UN Security Council Resolution calls for "the provision of a team of experienced investigative personnel, to resume investigative functions of the former Serious Crimes Unit, with a view to completing investigations into outstanding cases of serious human rights violations committed in the country in 1999." At year's end this had not yet been implemented. International observers familiar with the serious crimes process expressed concern that providing only investigations assistance without the inclusion of assistance to prosecute new cases would produce little progress on accountability for 1999.

The SCU worked closely with the Truth and Reconciliation Commission of East Timor (CAVR). While the SCU is mandated to investigate and prosecute crimes against humanity committed in 1999, the CAVR investigated less egregious human rights violations that occurred between April 1974 and October 1999. CAVR also facilitated reconciliation between victims and perpetrators of these violations (see section 4). The President presented the CAVR final report to the UN Secretary General on January 20.

The Ad Hoc Tribunal, based in Indonesia, failed to achieve accountability for crimes against humanity committed in East Timor in 1999. In February 2005 the UN appointed a Commission of Experts (COE) to evaluate the Ad Hoc Tribunal and the SCU and recommend the next steps for achieving accountability. The COE concluded that the serious crimes process in East Timor had "ensured a notable degree of accountability for those responsible for the crimes committed in 1999" but the Ad Hoc Tribunal in Indonesia was "manifestly inadequate." The COE report recommended continued UN support of the serious crimes process in East Timor so that investigation, indictment, and prosecution of perpetrators could continue (see section 4).

In 2004 the Governments of Indonesia and East Timor agreed to form a bilateral Truth and Friendship Commission (TFC) to address human rights violations committed in East Timor in 1999 (see section 4). The TFC was inaugurated in August 2005. The COE report criticized the TFC's terms of reference as contradicting international standards that prohibit impunity for crimes against humanity. Although the TFC continued to meet throughout the year, little evident progress was made. The TFC's mandate was extended to August 2007.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Civil judicial procedures were plagued by the same problems encountered by the judicial system as a whole, including huge backlogs of cases, a complex and inconsistently applied legal regime, and concerns about the impartiality of some judicial organs. Political influence has especially been brought to bear on civil cases involving business or property disputes. Court orders in some of these latter cases have not been enforced. Alleged human rights abuses have been presented to the provedor's office (see Section 4).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were a few reports of arbitrary interference with privacy and home.

There were cases of authorities entering homes without judicial authorization. For example, during an intensive effort by the international forces to recover illegal weapons, there were several reports that international military officers entered homes without securing warrants. Officers maintained that in some of these cases, warrants could not be obtained because the courts were not operating and in others they had to act expeditiously.

A 2003 land law broadly defines what property belongs to the Government; and has been criticized as disregarding many private claims.

A large number of Dili residents arrived as internal migrants since 1999 and occupied empty houses or built houses on empty lots. The majority of properties in Dili are deemed state property, and the Government evicted persons from land identified as state property at times with little notice and with no due process. For example, in November several families were instructed to vacate the property on which they lived in order for the Government to build new housing.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were instances in which government officials attempted to interfere with these rights.

Individuals could generally criticize the Government without reprisal, and a UN executive order decriminalized defamation. However, in 2004 the Court of Appeals decided that the executive order did not overturn the Indonesian statutes that define libel and defamation as criminal offenses and the Indonesian criminal defamation statutes still applied (see section 1.e.). In January the then-prime minister pressed charges against the head of the main opposition party, accusing him of defamation for remarks linking the Prime Minister to corruption. Many journalists were reluctant to pursue investigations on sensitive topics for fear of reprisals. A journalist who published a rare expose on corruption in a government office received threatening phone calls following the story's publication (see section 3).

In December 2005 the cabinet passed a penal code that included provisions criminalizing defamation and insults to a person's "honor." Following an intense national debate, the President sent the law back to the cabinet without promulgating it. The Alkatiri government fell before the bill could be reintroduced. At year's end officials asserted that the criminal defamation provisions of the Indonesian penal code still apply.

There were three daily newspapers, three weeklies, and several newspapers that appeared sporadically. All frequently criticized the Government and other political entities editorially.

Broadcast news, especially radio, was the most widely accessible news medium in the country, but its reach was limited. Few people outside of the capital regularly had access to any form of news. The Public Broadcast Service (PBS) owned and operated a radio station and a television station. The PBS radio service was available in all 13 districts but on a fluctuating and uncertain basis. The PBS television broadcast was available only in Dili and nearby towns. In addition to the PBS radio station, there were 18 community radio stations, including at least one in each district. However, only a few operated dependably (in Los Palos, Baucau, and Dili), while many were frequently inoperative due to technical or resource problems, and most operated only a few hours a day. Few community radio stations provided any news content.

Instability, mob violence, and threats during the height of the crisis in May and June resulted in the temporary closure of all national media outlets for varying periods of time and constricted many journalists ability to report on developments. During this period there were frequent reports of threats and attacks on journalists and media organizations. For example, in late June a mob attacked the PBS headquarters following the broadcasting of a speech by the recently resigned prime minister. Also in late June, two members of the distribution staff of the daily newspaper *Timor Post* were attacked, apparently because of an interview the newspaper published with a person who had alleged that former government officials had armed gangs to attack members of the opposition. UN police investigated the attack against the newspaper staff. At year's end although the situation was somewhat improved, media outlets continued to report that journalists remained constrained in their work due to fear of violence.

During the year there was increased concern about encroachments on the independence of PBS. In September the PBS board of directors dismissed the PBS's managing director. Media observers judged the dismissal to be a response to the managing director's criticism of a government minister's interference in PBS's editorial policies. There were also reports of increased micro-management and political

interference by the President of the board and of pressure on journalists to avoid reporting criticism of national leaders.

*Internet Freedom.*—Although Internet access in the country was limited, there were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail.

*Academic Freedom and Cultural Events.*—The Government generally did not restrict academic freedom; however, a 2004 law requires that academic research on Tetum and other indigenous languages be approved by the National Language Institute. There were no reports during the year that this law had been applied to prevent academic research or to punish researchers. Nor were there any reports of interference with cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for the freedom of assembly and association, and the Government generally respected these rights.

*Freedom of Assembly.*—On January 16, a law on assembly and demonstrations was promulgated, which establishes guidelines for obtaining permits to hold demonstrations and, also requires police be notified four days in advance of any demonstration or strike. The law also stipulates that demonstrations cannot take place within 100 yards of government building or facilities, diplomatic facilities, or political party headquarters. In practice demonstrations were allowed to take place without the requisite advance notification and the 100-yard regulation was rarely observed.

During June competing antigovernment and progovernment demonstrations took place in Dili, involving thousands of participants from the districts. International forces, in coordination with government authorities, provided extensive security and, in some cases, limited the length of the demonstrations or their locations. These arrangements generally facilitated the peaceful conduct of the demonstrations and were considered by human rights observers to be justified given the precarious security environment.

*Freedom of Association.*—There were reports during the year of political parties, particularly opposition parties, being prevented from raising their party flags or from holding meetings in areas identified as strongholds of another party. Such incidents sometimes took place with the involvement of local government officials or police.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice. An overwhelming majority of the population was Roman Catholic, and the Catholic Church was the dominant religious institution. There were small Protestant and Muslim minorities who were generally well integrated into society. The issues, including religious education in the public school curricula, which inspired the large-scale, antigovernment demonstrations organized by Roman Catholic Church officials in April and May of 2005 did not arise during the year.

*Societal Abuses and Discrimination.*—Outside of the capital, non-Catholic religious groups were at times regarded with suspicion. In past years there were occasional reports of threats or assaults against Protestant missionaries; however, there were no reports of such incidents during the year.

There is no indigenous Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice; however, during large-scale, antigovernment demonstrations in Dili in April and May 2005, police roadblocks at times stopped participants coming from outlying areas. In contrast several large-scale demonstrations occurred during the year with no attempts to block access.

During the crisis beginning in April, and through the remainder of the year, there were numerous incidents of dissident groups, gangs, and other groups preventing freedom of movement. In early May a group of dissident military police established an armed checkpoint near the town of Gleno, Ermera District, preventing travel into Dili. During the remainder of the year there were frequent occurrences of illegal, temporary checkpoints set up in Dili, often designed to target people from certain parts of the country or members of a particular group. The tension between people from the eastern and western areas of the country led to a large number of people feeling that they did not have freedom of movement within the country. Within the

capital where these divisions were most marked, many neighborhoods became exclusively eastern or western, and members of one group did not feel free to travel to or through the other group's area.

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

*Internally Displaced Persons (IDPs).*—Approximately 150,000 residents of Dili were displaced from their homes during the year as a result of the crisis that began in late April. Initial displacement occurred in response to the April 28 riots and the response by security forces. In early May thousands of Dili residents fled their homes as rumors of impending clashes between security forces and dissident forces circulated. In late May several days of actual clashes between regular and dissident forces and between police and military caused additional displacements. Widespread mob violence, often targeting and driving out selected populations and individuals, further exacerbated the IDP situation. Widespread destruction meant that many IDPs had no place to which to return. Illegal occupation of temporarily abandoned properties and the unresolved state of many conflicting land and property claims further complicated return (see section 1.f.).

While all groups and levels of society were represented in the IDP population, humanitarian workers observed a greater proportion of easterners. By year's end a large number of IDPs had left the camps. Many returned to their homes, but many others lacking this option moved into houses with relatives, or in many cases returned to their home districts. It was not known to what extent the recent unrest resulted in a permanent reallocation of the population throughout the country. At year's end an estimated 25,000 IDPs remained in camps in Dili and as many as 70,000 remained displaced in the districts.

The Government worked closely with domestic and international humanitarian organizations to provide assistance to IDPs both in Dili and the districts. The Government's initial response to the humanitarian needs, carried out under the leadership of the minister of labor, was judged effective and well-coordinated. However, as time went on, the response became less effective due to the added involvement of other government ministries and the UN agencies that arrived on the scene. Decision making became slow and hampered by competing political considerations. At year's end despite months of discussion regarding the need to prepare for the rainy season and to close several camps where there were significant security concerns, the problem camps remained in place and few camps had made the necessary preparations for the rains.

The provedor, in partnership with the Human Rights Monitoring Network, conducted crisis-related human rights monitoring in IDP camps beginning in June. The network did not find a significant increase in human rights abuses.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum; however, there were concerns that the country's regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status. For example, persons who wish to apply for asylum have only 72 hours to do so after entry into the country. Foreign nationals already present in the country have only 72 hours to initiate the process after the situation in their home country becomes too dangerous for them to return safely. A number of human rights and refugee advocates maintained that this time limit contravenes the 1951 Convention. These advocates also expressed concern that no written explanation is required when an asylum application is denied.

There were no new asylum applications during the year. At the end of the year, there were seven pending cases, originally submitted in 2004, still awaiting final decision. After the promulgation of the 2003 Immigration and Asylum Act, the Government assumed responsibility from the Office of the High Commissioner for Refugees (UNHCR) for adjudicating asylum claims. Throughout the year UNHCR continued to mentor immigration officials to ensure that asylum applications were processed according to treaty guidelines. The Government instituted a process whereby all asylum applications must be approved by the minister of the interior. This requirement led to delays.

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

The law provides citizens with the right to change their government peacefully through periodic elections.

*Elections and Political Participation.*—In 2002 Xanana Gusmao was inaugurated as the first President, and, in accordance with the constitution, the members of the constituent assembly were sworn in as the first national parliament. Mari Alkatiri became the first prime minister. However, on June 27, under great political pressure including allegations of complicity in illegally arming civilians, Alkatiri resigned. On July 10, Jose Ramos-Horta, who previously held the position of foreign minister, was sworn in as prime minister. He was also simultaneously holding the position of minister of defense, a portfolio he assumed when the former minister resigned in May. The 88-member assembly, elected in a generally free and fair election in 2001, was charged with writing a constitution, which was completed in 2002 and came into effect upon independence. Some observers criticized the constitutional provision that allowed the constituent assembly automatically to become the parliament and scheduled the first parliamentary election five years after independence. Fretilin held 55 of the 88 parliamentary seats.

In 2004 the Government, with oversight by independent election authorities and assisted by UN advisors, carried out voter registration, and the list of registered voters was published for public scrutiny. The resulting voter database was used for local elections in 2004–05 and is to be maintained and updated for future Presidential and parliamentary elections.

In December the laws that will govern future national elections were promulgated. These laws were seen by many as reflecting the ruling party's preferences rather than broad national consensus. Concerns were raised regarding the independence of the Technical Secretariat for Election Administration, which under the law will continue to report to a ministry headed by a prominent member of the ruling party.

In November and December, a UN independent electoral certification team conducted two assessment missions concerning the national elections scheduled for 2007. The resulting reports highlighted a number of aspects of the election laws that fell short of meeting certification benchmarks.

There were 23 women in the 88-seat assembly. Women held three senior cabinet positions—minister of state, minister of public works, and minister of finance and planning—and four vice minister positions. Two of the four judges on the appeals court were women, one national and one international.

The country's small ethnic minority groups were well integrated into society. The number of members of these groups in parliament and other government positions was uncertain.

*Government Corruption and Transparency.*—During the year there were credible reports of corruption in government institutions. The office of the provedor by law is the institution charged with leading national anticorruption activities and has the authority to refer cases for prosecution. During the year the provedor investigated the Government procurement process. The anticorruption division of the provedor's office investigated 12 cases of alleged corruption and 59 cases of "maladministration." Most cases submitted to the provedor involved allegations of corruption by mid-level officials but some involved senior-level cases. There continued to be credible reports of petty corruption at the nation's port. In addition, customs and border officials were suspected of facilitating the smuggling of gasoline, tobacco, and alcohol across the border from Indonesia. An investigative report on alleged corruption in the Timor Sea Office was published in a local newspaper in December with details regarding official resources and equipment being redirected for personal use. Such practices are believed to exist in many government institutions. The lack of resources for many district police operations was alleged to result in part from resources being diverted to personal use.

The Office of the Inspector General, the Government's internal oversight office, carried out investigations into eight cases of maladministration or possible corruption during the year and conducted two audits.

The law stipulates that all legislation, Supreme Court decisions, and decisions made by government bodies must be published in the official gazette. If not published they are null and void. Regulations also provide for public access to court proceedings and decisions and the national budget and accounts. In practice there were concerns that public access to information was constrained. For example, the official gazette was published only in Portuguese, although it is required by law to be published in Tetum as well. Moreover, its irregular publishing schedule and varying cost meant that few journalists, public servants, or others had regular access to it or knew how to access it.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Nongovernmental organizations (NGOs) played an active role in assisting and advising in the development of the country, and numerous NGOs were established over the last few years. Following the events of April and May, the Government relayed a request to the UN to conduct a special inquiry to establish the facts and responsibility for the crimes committed. The UN COI was given full access to all relevant documents and persons to conduct its inquiry. A number of national and international NGOs, in coordination with the provedor, monitored human rights issues in IDP camps, resulting from the crisis.

According to the controversial 2003 Immigration and Asylum Act, foreigners are prohibited from taking part in political activities. This provision could preclude foreigners and international NGOs from assisting labor unions or projects to promote the development of civil society, and it could also allow the Government to restrict noncitizens' monitoring of the criminal or judicial systems. However, to date, the act's provisions have not been applied this way.

In March the Office of the Provedor for Human Rights and Justice, established in 2004, officially began its work. The provedor was responsible for the promotion of human rights, anticorruption, and good governance, and he has the power to investigate cases, monitor the observance of human rights, anticorruption and good governance standards, and make recommendations to the relevant authorities. On June 30, in accordance with his mandate, the provedor submitted the office's first annual report to parliament. The report noted that the provedor had received 75 complaints, including 40 from 2005. More than a third of these complaints involved allegations against the police. Most of the complaints, including most of those against the police, were allegations of human rights abuses. The provedor's offices were located in Dili and had limited ability to conduct outreach or other activities in the districts.

In April the Government appointed a "Commission of Notables," chaired by the minister of state administration, to investigate the claims of the approximately 600 involuntarily discharged soldiers known as the "petitioners" (see section 6.b.). After several months of inaction, the Prime Minister gave the commission a deadline of October 30, but by year's end, the commission had not announced its findings. The Government started distributing subsidies to the petitioners in December.

The CAVR, which was charged with inquiring into human rights violations that occurred between April 1974 and October 1999, presented its final report to the President in October 2005, and then to Parliament the following month. The report has been disseminated by international NGOs, but no public distribution has taken place within the country (see section 1.e.).

The UN-appointed Commission of Experts to evaluate the Indonesian and East Timorese procedures and to recommend the next steps for achieving accountability for human rights violations committed in 1999 concluded that the serious crimes process in East Timor had "ensured a notable degree of accountability for those responsible for the crimes committed in 1999" but that the Ad Hoc Tribunal in Indonesia was "manifestly inadequate."

The Governments of Indonesia and East Timor bilateral Truth and Friendship Commission, inaugurated in August 2005, addressed human rights violations committed in East Timor in 1999 (see section 1.e.). The COE report criticized the TFC's terms of reference as contradicting international standards that prohibit impunity for crimes against humanity. The TFC was based in Bali and held a number of meetings during the year. Its one-year mandate has been extended by an additional year. Observers have noted slow progress to date and many concluded that it is unlikely to produce a substantive result.

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

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

*Women.*—Domestic violence against women was a significant problem and often was exacerbated by the reluctance of authorities to respond aggressively. Many authorities regarded it as a family issue rather than a criminal matter, and victims, under pressure to resolve cases within the family, were frequently reluctant to report abuse. In many cases a lack of resources was an element in official inaction and failure to investigate or prosecute cases involving violence against women. The police were particularly slow to pursue cases where the accused occupied a position

of power. Police also at times came under pressure from community members to ignore cases of domestic violence or sexual abuse.

Although rape is a crime, failures to investigate or prosecute in cases of alleged rape and sexual abuse were common as were long delays. For example, in July police in Suai relayed an investigation report to prosecutors for a sexual assault that had occurred earlier that month; however, by year's end no judicial action had been taken on the case. Spousal rape under applicable Indonesian law is not a crime.

Cases of domestic violence and sexual crimes were generally handled by the PNTL's Vulnerable Persons Units (VPUs). Women's organizations assessed the VPUs' performance as variable, with some actively pursuing cases while others preferring to handle them through mediation or as family matters. The national and the Dili district VPUs ceased operating in May as a result of the crisis. In November the work of the national VPU resumed under the UN policing mission, but at year's end the Dili district VPU was still not operational. Advocacy organizations noted that the Dili VPU previously had handled a large number of cases and its absence represented a significant decrease in law enforcement resources in this area. Other district VPUs continued to operate but were severely constrained by lack of support and resources.

Government regulations prohibit persons from organizing prostitution; however, under the Court of Appeals' interpretation of Indonesian laws, prostitution is not illegal. Nonetheless in past years, there were reports of women being arrested for prostitution.

In 2004 a local NGO conducted a study on prostitution and trafficking and estimated that there were up to 358 sex workers in the capital, of whom approximately 115 were possible trafficking victims. Late in the year, concern increased that the country was being targeted as a source for trafficking; suspects were detained and at year's end an investigation was proceeding (see section 5, Trafficking).

There was no law prohibiting sexual harassment, and sexual harassment was reportedly widespread, particularly within some government ministries and the police.

There were no reports of gender-based employment discrimination; however, women usually deferred to men when job opportunities arose at the village level.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property.

A UN-created gender affairs unit continued as the Office for the Promotion of Equality (OPE) within the Prime Minister's office. The unit worked with government ministries and departments to promote gender equality and coordinated activities to reduce gender-based violence. Some activities of the OPE, including coordination of gender-based violence training for police, ceased after the onset of crisis in April as the office's attention shifted to IDP-related issues.

Women's organizations offered some assistance to female victims of violence including shelters for victims of domestic violence and incest; a safe room at the national hospital for victims of domestic violence and sexual assault; and escorts to judicial proceedings. Women's and human rights monitoring organizations formed a committee to monitor violence against women in the IDP camps and to train the camp managers to identify and pursue such cases.

*Children.*—The constitution stipulates that primary education shall be compulsory and free; however, no legislation has been adopted establishing the minimum level of education to be provided, nor has a system been established to ensure provision of free education. According to UN statistics, approximately 20 percent of primary school-age children nationwide were not enrolled in school; the figures for rural areas were substantially worse than those for urban areas.

During the year education was adversely affected by the crisis as both children and teachers were displaced. Dili was the most affected area with all schools shut at the onset of the crisis and most reopened only in September. Key problems faced by schools in Dili included their use as camps for IDPs affecting their ability of resume classes; vandalism and looting, leaving them without the necessary facilities, furniture, equipment, and materials; a shortage of teachers as many fled to the districts; and security issues affecting school attendance. Many students living in IDP camps joined schools near their camp. Camp-based education support was provided at the Airport IDP camp as this was one of two camps with a large school-age population not attending school. Camp-based education could not be provided at the Metinaro IDP camp due to camp management and space allocation constraints.

A country-wide survey of school attendance of students and teachers was conducted in November and December to update education data and assess the effect of crisis. At year's end results of the survey were not yet available.

Poor health facilities throughout the country contributed to high mortality rates for infants and children under five. The major causes of death among children were

combinations of infectious diseases, persistent malnutrition, and parasites. The low rate of vaccinations against communicable diseases was a serious problem. Immunization coverage for children below one year of age increased from 55 percent in 2005 to 62 percent during the year. An emergency measles campaign conducted in IDP camps and neighboring communities, reached 166,840 children from six months to 15 years of age. According to estimates by UN agencies 46 to 56 percent of children under age five were underweight.

Domestic violence, including violence against children and child sexual assault, was a significant problem. Some commercial sexual exploitation of minors occurred. The Indonesian penal code, which remains in effect pending the promulgation of a national penal code, is ambiguous regarding statutory rape, specifying only that it is a crime to have intercourse with someone who has not reached the age of consent for marriage. This age is specified as 15 in the Indonesian civil code.

As a result of the displacement of up to 170,000 persons, thousands of children were exposed to risks. The capacity of the state, communities, and families to protect children has been seriously challenged. According to the UN Children's Fund, many children showed signs of stress, including increased aggressive behaviour, withdrawal, and difficulty sleeping.

Incidents of child abuse, including sexual abuse, were reported both inside and outside the IDP camps. Underreporting of child abuse and gender-based violence was a problem prior to the crisis and with the breakdown in referral and reporting systems it is likely that the actual number of cases was far greater than those reported. Since the crisis there has been a significant drop in the number of reported cases. The absence of the Dili police VPU contributed to this problem.

The Ministry of Labor and Community Reinsertion has dealt with some 30 unaccompanied or separated children as a result of the crisis. The majority of these children were reunited with their families or care-givers. The National Division of Social Services dealt with approximately 50 cases of children in conflict with the law.

*Trafficking in Persons.*—The 2003 Immigration and Asylum Act prohibits trafficking in women and children, whether for prostitution or for forced labor; however, in recent years there have been reports of women and girls trafficked into the country for prostitution. In addition, during the year there was increased concern that the country could be targeted as a source country for trafficking.

In 2004 a local NGO conducted a baseline study of human trafficking and the sex industry and estimated that as many as 115 foreign sex workers in the capital might be victims of trafficking. Several establishments in the capital were known commercial sex operations and were suspected of being involved in trafficking. Although there has been no recent study, reliable sources estimated that the number of foreign trafficking victims remained approximately the same. During the year domestic trafficking was a growing concern, with an increased number of citizens exploited as sex workers. Trafficking victims in the country were almost exclusively forced to work in the sex industry. Reports of trafficking for forced labor have not been verified.

While the police conducted raids on brothels and massage parlors in Dili during the year, credible reports indicated that some police and customs officials colluded with such establishments or with those who trafficked foreign women into the country to work in them. In May Dili's VPU, which had primary responsibility for investigating trafficking cases, ceased to function along with the rest of the Dili-based PNTL and at year's end had not been reconstituted.

Although the country was not previously a source for trafficking victims, there was evidence during the year that it was being targeted. Beginning in October dozens of young women were approached regarding overseas job offers. UN police investigations resulted in detentions, and at year's end investigations were ongoing. It was generally thought that this scheme was intended to force the women into prostitution overseas.

There was widespread ignorance about the trafficking issue. Trafficking victims did not understand their rights or know who to contact for assistance. Police were uninformed about the nature of trafficking, how to recognize it, and how to handle cases. Potential trafficking victims in country were unaware of the risks of accepting overseas employment.

There have been no government-run antitrafficking education campaigns, and the Government does not financially support any antitrafficking programs. However, the Government cooperated with various international and NGO programs. In 2005 UN authorities and the Government established a working group headed by the International Organization for Migration to monitor and control trafficking. The Alola Foundation, an NGO headed by First Lady Kirsty Sword Gusmao, provided assistance to female victims of trafficking and advised the Government on trafficking-related issues.



*Persons With Disabilities.*—Although the constitution protects the rights of persons with disabilities, the Government had not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. There were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services; however, in many districts children with disabilities were unable to attend school due to accessibility problems. Training and vocational initiatives did not address the needs of persons with disabilities. During the year some persons with mental disabilities faced discriminatory or degrading treatment due in part to a lack of appropriate treatment resources or lack of referral to existing resources.

*National/Racial/Ethnic Minorities.*—Tensions between persons from the eastern districts (lorosae) and persons from the western districts (loromonu) were a major element in the April and May national crisis. Historically there had been some tension between East and West, but it was an occasional irritant rather than a major issue. These geographic divisions emerged as a defining factor as the crisis affected the capital, and at year's end many of Dili's neighborhoods had become essentially segregated. The causes involved dynamics within the security institutions, socio-economic pressures in the capital, conflicting views regarding the role of different groups in the independence struggle, and increasingly bitter political divisions.

The crisis began with claims by hundreds of soldiers that they were disadvantaged due to their western identities. Loromonu made up the majority of the population in Dili, and many associated the lorosae population with the controversial F-FDTL intervention on April 28–29. The violence and divisions impacted all communities, but the lorosae population of Dili bore a disproportionate burden as the crisis progressed. Thousands of lorosae were displaced from their homes due to fear of violence, many had their houses burned, and many came under attack if they refused to abandon their homes or attempted to return.

Toward the end of the year, the lorosae-versus-loromonu dynamic had largely dissipated as an element in violent clashes in Dili, supplanted by an upsurge in fighting between competing martial arts groups. However, many Dili neighborhoods remained divided and some observers thought the reduction in lorosae-loromonu violence was a result of the segregation process having run its course.

Relations are generally good between the ethnic majority and members of several small ethnic minority groups; however, there were occasional reports of discrimination against ethnic Chinese (who constitute less than 1 percent of the population) and ethnic-Malay Muslims.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The country has a labor code based on the International Labor Organization's standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally were slowed by inexperience and a lack of organizational skills. In 2004 the Government established official registration procedures for trade unions and employer organizations.

The Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

*b. The Right To Organize and Bargain Collectively.*—While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

The law provides for the right to strike, but few workers exercised this right during the year.

Approximately 400 soldiers were on strike from early February until March over working conditions and alleged discrimination (see section 5). On March 16, they, along with approximately 200 additional soldiers who had been chronically absent without leave, were discharged from the F-FDTL after they refused orders to end the strike and return to their barracks. The underlying grievances and the subsequent activities of this group were important elements of the subsequent tensions and civil unrest.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Government regulations prohibit forced and compulsory labor, including by children, and such practices were not known to occur.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code largely prohibits children under 18 from working; however, there are circumstances under which children between the ages of 15 and 18 can work, and there are even

exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and many children worked in the agricultural sector. Child labor in the informal sector was a major problem. In practice enforcement of the labor code outside of Dili was limited.

*e. Acceptable Conditions of Work.*—The labor code does not stipulate a minimum wage; however, employers generally used and employees expected a wage of \$85 (the U.S. dollar is the country's official currency) per month as a minimum standard. This amount provided a basic standard of living for a worker and family. The labor code provides for a standard workweek of 40 hours, and standard benefits such as overtime and leave, and minimum standards of worker health and safety. A National Labor Board and a Labor Relations Board exist, and there are no restrictions on the rights of workers to file complaints and seek redress. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice.

## FIJI

Fiji is a constitutional republic with a population of approximately 850,000. The constitution provides for an elected President, prime minister, and parliament, but on December 5, armed forces commander Commodore Voreque Bainimarama overthrew the Government of Prime Minister Laisenia Qarase of the Soqosoqo Duavata ni Lewenivanua (SDL) party in a bloodless coup d'état and announced the establishment of an interim military government. Bainimarama declared himself acting President and on December 6 dissolved the Parliament. Bainimarama asserted that the Qarase government was corrupt, that it had manipulated the May election that returned it to power, and that it unfairly favored indigenous Fijian interests. Qarase was elected prime minister in 2001, and Parliament reelected him following multiparty parliamentary elections in May deemed generally free and fair. Prior to the coup the civilian authorities generally maintained effective control of the police but were unable to maintain effective control of the military forces. In the months before the coup the military had publicly threatened to force the Government to resign if it did not comply with certain military demands.

Prior to the December coup the Government generally respected the human rights of its citizens, although there were serious problems in some areas. The human rights situation deteriorated greatly following the coup. The takeover denied citizens the right to change their government peacefully. On December 5, Bainimarama proclaimed a state of emergency, significantly restricting constitutional provisions for freedom of expression and assembly, and the right to privacy, subject to the military's interpretation and without recourse to the courts. The military government arbitrarily detained, and sometimes abused, coup opponents; conducted searches without warrants; engaged in intimidation of the media; and restricted the right to assemble peacefully. Other problems during the year included poor prison conditions; attacks against religious facilities, particularly Hindu temples; government corruption; continuing deep divisions between indigenous Fijians (55 percent of the population) and Indo-Fijians (37 percent); violence and discrimination against women; and child prostitution.

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, there were some reports of abuses by police during the year. The military committed numerous abuses after the December 5 coup.

Reported incidents of police beatings and other abuse of apprehended persons and prisoners prior to the coup were investigated and, when appropriate, offending officers were prosecuted and punished. All such cases appeared to be isolated incidents, not condoned by supervisory officers. At year's end the investigation into a 2005 case in which the police allegedly failed to obtain prompt medical treatment for a suspect injured during apprehension was still ongoing.

Following the coup there were numerous incidents of the Republic of Fiji Military Forces (RFMF) detaining without a warrant and abusing persons who had voiced

opposition to the coup or who supported a return to democratic government. In the late hours of December 24 and early hours of December 25, soldiers took six pro-democracy supporters from their homes, including young persons who had erected a "prodemocracy shrine" outside a house in Lami (see section 2.a.), and brought them to the RFMF's Queen Elizabeth barracks, where they reportedly were beaten, stepped on, and threatened with weapons. They were then forced to run several miles through Suva followed by soldiers in vehicles. Also on December 25, the military seized five young men in a Suva suburb and made them strip to their underwear and crawl through drain pipes before being dropped at a remote jungle location to find their way home. In another incident soldiers seized a former government minister overheard in a bar criticizing Bainimarama, roughed him up, and made him run around a track at gunpoint. Some women detained by the military for speaking out against the coup were sexually molested.

The number of complaints to the Fiji Human Rights Commission (FHRC), a constitutionally mandated statutory body, for violation of the right to freedom from cruel and degrading treatment and torture declined over the previous four years. Formal complaints to the FHRC following the coup did not increase significantly by year's end despite alleged military abuses; according to human rights observers this reflected a climate of intimidation and fears of reprisal after the coup.

Following allegations by human rights nongovernmental organizations (NGOs) of FHRC inaction over rights abuses, the FHRC director stated she would investigate such cases if formal complaints were made. However, on December 27, she also warned members of the public that not all their rights, including that to free speech, could still be exercised freely and lawfully under the state of emergency (see section 4). Although the state of emergency was initially declared on December 5, the details on how constitutional rights had been affected were not made publicly known until December 29.

The law permits corporal punishment as a penalty for criminal acts; however, in 2002 the Court of Appeal ruled that corporal punishment in the penal system was unconstitutional. The FHRC conducted periodic training courses for police, prison officers, and military personnel, using a human rights manual based on international standards.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards. The national prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services. The system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. There were a large number of prison escapes during the year.

In some cases pretrial detainees and convicted prisoners were held together. Courts released pretrial detainees, including some facing serious charges, on bail to minimize their exposure to an unhealthy and overcrowded prison environment. Upon instructions from the High Court, the FHRC compiled reports for the court of inhumane conditions within the Suva prison's facility for those awaiting trial. Based on the reports the High Court declared conditions in the Suva prison to be in breach of the constitution and granted bail on these grounds for several pretrial detainees. Prison authorities subsequently closed the main cell block of the Suva prison.

Family members were routinely permitted to visit prisoners.

The Qarase government permitted visits by independent human rights observers. During the year the International Committee for the Red Cross (ICRC) visited detention facilities and interviewed detainees. Persons detained by the military following the coup were typically held in cells at the main military barracks in Suva for very brief periods, generally overnight. No independent human rights observers were permitted to visit the military detention cells.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the civilian government generally observed these prohibitions. However, from the December 5 coup through the end of the year, military personnel detained numerous persons without warrants for interrogation and intimidation and, in some cases, brief incarceration. None of those detained appeared before any court. The military and the director of the FHRC cited the military's state of emergency proclamation as the basis for the detentions.

*Role of the Police and Security Apparatus.*—The Ministry of Home Affairs oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. The RFMF is responsible for external security. The RFMF maintained that it has a broad constitutional responsibility for national security that also extends to domestic affairs; many constitutional scholars in the country disagreed with that assertion.

The police maintained a network of 31 stations and 54 police posts throughout the country. Policing of more remote and smaller islands was done through regularly scheduled visits. The Government continued a program initiated in 2003 to improve policing standards and combat corruption. The police internal affairs unit is required to investigate complaints of police brutality. Allegations of corruption were investigated, and disciplinary and criminal cases initiated. Some officers were removed from the force. Although there were improvements in discipline and accountability, corruption remained a problem.

Following the December coup the interim military government dismissed the police commissioner, his deputy, and the assistant commissioner for crime; named a military officer as interim commissioner; and instituted joint military and police operations to maintain public order.

The interim military government took no action against military personnel alleged to have committed abuses against coup opponents and prodemocracy activists.

*Arrest and Detention.*—Police officers may arrest persons without a warrant for violations of the penal code. Police also arrest persons in response to warrants issued by magistrates and judges. Arrested persons must be brought before a court without “undue delay,” normally interpreted to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds for their arrest. There was a well-functioning bail system.

Prior to the coup there were no claims of incommunicado or arbitrary detention. After the coup the military detained, and in most cases briefly held incommunicado, a number of persons who publicly opposed its takeover. Reports indicated that the detentions were usually for several hours, typically overnight, and included threats and abuse (see sections 1.c. and 2.a.).

The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys.

The courts had a significant backlog of cases, and processing was slowed by, among other things, a shortage of prosecutors and judges. As a result some defendants faced lengthy pretrial detention.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice. However, there were allegations that some judges held biases stemming from events surrounding the 2000 coup. Perceived bias led one High Court justice to request a ruling from the Supreme Court in late 2005 to bar another High Court justice from hearing the appeal of a verdict in a coup-related trial. In April the Supreme Court denied the request.

The country’s judicial structure is patterned on the British system. The principal courts are the magistrate’s courts, the High Court, the Court of Appeal, and the Supreme Court. In addition to its jurisdiction in civil and criminal cases, the High Court has special-interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Except for the family court, there are no special civilian courts. Military courts try members of the armed forces, and there is an internal police tribunal mechanism.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants have the right to a public trial and to counsel. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. Most cases were heard in the magistrate’s courts, but a case cannot be tried in a magistrate’s court without the defendant’s consent. Absent such consent, cases are tried in the High Court. Trials in the High Court provide for the presence of assessors, typically three, who are similar to jurors but only advise the presiding judge. Magistrates are not authorized to impose prison sentences longer than 10 years. Sentences in the magistrate’s courts in most domestic and family law cases were relatively light. Defendants enjoy a presumption of innocence and can question witnesses, present evidence on their own behalf, and access government-held evidence relevant to their case. The right of appeal exists but often was hampered by delays in the process.

Although the majority of the key participants in the 2000 coup have been charged and tried, several investigations continued during the year. At year’s end approximately 50 defendants were still awaiting trial on charges related to that coup.

On December 11, the High Court acquitted former Prime Minister Sitiveni Rabuka of two charges relating to a November 2000 mutiny linked to the 2000 coup. The trial assessors were split on whether Rabuka was guilty of the charges, and the judge ruled that Rabuka’s guilt had not been proven beyond a reasonable doubt.

The military court system provides for the same basic rights as the civilian court system, although bail is granted less frequently in the military system. During the year 20 former soldiers serving sentences for their roles in the November 2000 mutiny were retried by court martial; the civilian Court of Appeal had ordered the retrial in November 2005 on technical grounds. In separate decisions in February and August, all 20 were again found guilty. The retrial appeared to have been conducted fairly.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or long-term political detainees. Following the coup several human rights activists and others were detained briefly for making statements against the coup or the interim military government, or in support of a return to democracy.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. There is access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. In the event of a human rights violation, an individual also can make a complaint to the FHRC, which, prior to the coup, frequently resolved complaints through conciliation without referring them to the courts.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice prior to the December coup. Following the December coup RFMF forces searched without warrants the homes and offices of a number of persons the military accused of corruption. Soldiers also repeatedly entered private property without warrants to warn and threaten persons who spoke publicly against the takeover.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice prior to the December coup.

In December the interim military government repeatedly attempted to impede criticism of its takeover. On December 6, RFMF troops told prodemocracy activists to remove a “shrine to democracy” they had erected outside a house in the Suva suburb of Lami. On December 9, individuals in civilian clothes and carrying a firearm vandalized the display. On the night of December 24, the house where the democracy shrine had been established was broken into and ransacked, and the shrine vandalized again. The RFMF briefly detained and physically abused a number of prodemocracy advocates and others who criticized the military government, including those who had set up the democracy shrine (see section 1.c.). The RFMF issued warnings to a number of persons who wrote letters to the media critical of the coup; some were detained, interrogated, and abused in barrack cells by the military. Two prominent women’s and human rights advocates who criticized the takeover reported receiving rape threats by telephone that were believed to have come from members of the RFMF.

Prior to the coup the independent media were active and expressed a wide variety of views without restriction in English, Fijian, and Hindi. The country’s television news production was owned and operated by Fiji One, one of two national noncable television stations. A trust operating on behalf of the provincial councils owned 51 percent of Fiji One; the remainder was privately held. The Government owned the Fiji Broadcasting Corporation, which operated four radio stations. The Qarase government also had shares in two daily newspapers, the Daily Post and the Fiji Sun; however, there were no reports that the Government attempted to censor their content. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

Following the announcement of the military takeover, the RFMF sent soldiers to various media outlets in an attempt to censor reporting of the event. A major daily newspaper temporarily suspended publication in protest. The military censors were withdrawn the next day, and the RFMF commander stated that the media would be free to publish without restriction but also stated that “inciting comments” would not be tolerated. On December 13, the editor of the Daily Post newspaper, a foreign national, reported that an army officer visited his office and told the paper to tone down its reporting on the coup. The RFMF briefly took the editor into custody and threatened to deport him but by year’s end had not done so. On a radio talk show on December 22, Bainimarama stated that if prodemocracy activists did not “shut their mouth,” the military would “shut it for them.” On December 24, an office belonging to the co-owner of a monthly magazine, who had written an article criticizing the military takeover, was gutted by a fire of unexplained origin. Media self-censorship increased after the coup.

The Media Council, a private watchdog group of media and academic figures, receives and seeks to resolve complaints of bias and malfeasance within the media. Following the December coup the council publicly denounced military efforts to censor free speech and press. During the year media and civil liberties advocates widely criticized a Qarase government bill to establish a government-appointed broadcast licensing authority, stating it would likely infringe on freedom of the press. The bill was undergoing revision by the cabinet when the coup occurred.

Legislation pertaining to the press is contained in the Newspaper Registration Act and Press Correction Act. Under these acts all newspapers must register with the Government before they can publish. The acts give the minister of information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the minister's view, a false or distorted article was published. A newspaper refusing to publish the minister's correction can be sued in court and, if found guilty, fined. Individuals in such cases can be fined, imprisoned for six months, or both. These acts authorize the Government to arrest any person who publishes "malicious" material. This would include anything the Government considered false, likely to create or foster public alarm, or result in "detriment" to the public. However, this authority has never been used.

The 1992 Television Decree permits the Government to influence programming content. The civilian government did not attempt to use the programming authority during the year. However, the interim military government attempted to censor television news broadcasts that featured deposed Prime Minister Qarase.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—Academic freedom was generally respected; however, government work-permit stipulations prohibit foreigners from participating in domestic politics. University of the South Pacific contract regulations effectively restrict most university employees from running for or holding public office or holding an official position with any political party.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly, and the Government generally respected this right in practice prior to the December coup, with some limitations. Although civic organizations were regularly granted permits to assemble, permits for most political demonstrations and marches were denied.

After the coup the Government effectively suspended the constitutional right of freedom of assembly. No permits to march or demonstrate were issued. On December 14, a group of human rights activists staged a small, unannounced march through downtown Suva and were subsequently warned by the military against further such actions. Police broke up a very small demonstration by a group of activists, held during a meeting of the Great Council of Chiefs concerning the coup, and briefly held the demonstrators for questioning. The military authorities tolerated a small weekly prayer vigil organized by human rights groups at a Suva city church.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice prior to the coup. Following the coup the interim military government did not restrict persons from joining NGOs, professional associations, or other private organizations, but it targeted for threats and harassment members of NGOs who criticized the coup (see sections 2.a. and 4).

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice. The majority of citizens (52 percent) are Christian, and government-sponsored meetings and events often begin with a Christian prayer.

*Societal Abuses and Discrimination.*—Racial polarization was reflected in religious differences, which were largely along ethnic lines; this contributed to political problems. Most ethnic Fijians were Christians, and most Indo-Fijians were Hindu, with a sizable minority of Muslims. The dominant Methodist Church has closely allied itself with the interests of the pro-indigenous Fijian movement.

Break-ins, vandalism, and arson directed at houses of worship, predominantly Hindu temples, were common. The attacks were broadly viewed as reflections of intercommunal strife, although there was often evidence that theft also was a contributing factor. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice prior to the December coup. In December the RFMF established armed military checkpoints in the Suva, Nadi, and Lautoka areas.

A prominent group of six democracy activists who repeatedly defied the military's demands that they cease their activities were banned from leaving the country following their interrogation and abuse on December 25 (see section 1.c.).

The law prohibits forced exile, and prior to December the Government did not practice it. However, in December the military government prohibited ousted Prime Minister Qarase from leaving his home island of Lau, where he fled after the coup.

*Protection of Refugees.*—The law includes provisions for providing refugee and asylum status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. During the year the Government was in the process of establishing a system for providing protection for refugees, but implementing regulations endorsed by the Qarase cabinet in August had not come into effect by year's end. In practice the Government provided protection against refoulement, the forced return of persons to a country where they feared persecution. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government received no applications for refugee status or asylum during the year.

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

The constitution provides citizens the right to change their government peacefully, but on December 5, RFMF commander Bainimarama overthrew the lawfully elected government of Prime Minister Qarase, declared himself acting President, and on December 6 dissolved Parliament.

*Elections and Political Participation.*—The most recent elections, held in May, were judged generally free and fair. Party politics was largely race based, although this did not limit participation in the political process. The governing SDL party was primarily ethnic Fijian, and the Fiji Labor Party (FLP), the second largest party, was primarily Indo-Fijian, although both parties had membership across racial lines. After the elections, compelled by constitutional provisions, the two parties formed a multiparty cabinet consisting of 14 members from the SDL, nine members from the FLP, and one independent.

After the December 5 coup, Bainimarama appointed Jone Baravilala Senilagakali, a military physician, as interim prime minister to replace Qarase. Bainimarama also declared that he had assumed Presidential powers, replacing President Ratu Josefa Iloilo.

Prior to Parliament's dissolution by the RFMF, there were eight women in the 71-seat House of Representatives and five women in the 32-member Senate. There were three women in the Qarase cabinet and two female assistant ministers. According to the Asian Development Bank, women held only about 16 percent of senior government executive positions. Women played important roles in the traditional chiefly system and could be chiefs in their own right.

Prior to the coup there were 29 Indo-Fijians in the House of Representatives and six in the Senate. There were eight Indo-Fijian cabinet ministers and one Indo-Fijian assistant minister in the Qarase government. Indo-Fijians, who accounted for 37 percent of the population, continued to be underrepresented at senior levels of the civil service and in the military. Indo-Fijians comprised approximately 35 percent of the civil service overall.

The political primacy of indigenous Fijians is to some extent enshrined in the constitution, which mandates that 14 of Parliament's 32 senators be appointed by the indigenous Fijian Great Council of Chiefs, a hereditary body, and one by the Rotuma Island Council. The remainder are appointed by the Government and opposition. This arrangement essentially ensured indigenous Fijians effective control in the Senate. Under the 1997 constitution, the Prime Minister and the President may be of any race. The constitution established a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The open seats are apportioned into districts of approximately equal population. Of the 46 communal seats, 23 are allotted to indigenous Fijians, 19 to Indo-Fijians, three to "general voters" (for the most part mixed-race, Caucasian, and East Asian voters), and one to Rotumans (an ethnically distinct Polynesian group). These allotments were generally proportional to the ethnic composition of the country's population in 1996.

*Government Corruption and Transparency.*—Corruption within government, including the civil service, was a significant problem. The media continued to raise numerous allegations of nonaccountability, bribery, abuse of office, fraud, misuse of public property, financial mismanagement, failure to complete statutory audits, and conflicts of interest regarding officials and ministries. In November a Suva court sentenced former Agriculture Ministry chief executive officer Peniasi Kunatuba to four years in prison on corruption charges. The charges involved a large-scale scam and misuse of public monies by the Ministry of Agriculture during 2000 and 2001. In some ministries transparency was virtually nonexistent. The constitution gives the auditor general the right to audit all national and local government bodies. In its annual report to Parliament, the auditor general's office highlighted numerous instances of corrupt practices in government offices and ministries.

In May an individual imprisoned for his participation in the 2000 coup was released from prison to serve his sentence extramurally. This release and numerous similar releases in 2005 were widely seen as politically motivated.

The interim military government, citing general corruption, summarily dismissed from office a large number of senior career bureaucrats and office holders under the Government of ousted Prime Minister Qarase, but by year's end did not produce specific evidence of corruption in their cases or other specific cause for dismissal beyond their association with that government.

Although the 1997 constitution instructs Parliament to enact a freedom of information law as soon as practicable, no such law has been enacted. In practice the Government was sometimes responsive to requests for government information.

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

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

There were several nongovernmental organizations that concentrated on a variety of local human rights causes, such as the Regional Rights Resource Team, the Pacific Center for Public Integrity, the Citizens' Constitutional Forum, the Fiji Women's Rights Movement and the Fiji Women's Crisis Center. A number of UN organizations concerned with human rights, including the Office of the UN High Commissioner for Human Rights, the International Labor Organization, the UN Children's Fund (UNICEF), and the UN Development Fund, had regional offices in the country and worked actively with the Government on various human rights issues. The ICRC continued to operate in the country.

The interim military government stated that it was committed to respecting human rights, but the RFMF harassed, threatened, and abused members of local human rights NGOs who criticized the coup and the military (see sections 1.c. and 2.a.).

Prior to the coup the FHRC appeared to be impartial and independent and generally operated without government interference. The FHRC received and investigated reports of human rights violations and requests for assistance, some involving alleged abuses by the military, police, and prison officials. The FHRC issued widely distributed quarterly and annual reports on its work. In June the FHRC published a lengthy report on the Government's affirmative action programs. The FHRC criticized the programs, which primarily benefited indigenous Fijians, as discriminatory and unconstitutional (see section 5). Prime Minister Qarase dismissed the report as politicized, and the Government announced it would undertake its own review of the programs.

Following the coup the director of the FHRC repeatedly failed to publicly object to some significant human rights abuses by the military. After the December 25 incident in which prodemocracy activists were detained and abused by RFMF members (see section 1.c.), the director stated she would investigate the incident but also advised persons speaking out against the military takeover to bear in mind that they did so at their own risk, since their rights were curtailed under the state of emergency. An FHRC commissioner strongly criticized the director's statements and her failure to take action in support of persons abused by the RFMF. The interim military government called on persons claiming human rights violations to report them to the military authorities.

The Qarase government's controversial 2005 Reconciliation, Tolerance, and Unity Bill, which provided for the possibility of amnesty for certain participants in the 2000 coup, was not enacted prior to the May elections. In late 2005, following widespread criticism of the bill, a parliamentary committee recommended substantial changes to the legislation, including changes to its amnesty provisions. In Novem-



ber, under continuing military pressure, the Government announced that the bill's controversial amnesty provisions had been removed, but a revised bill had not yet been introduced into Parliament when the December coup occurred. There also was extensive criticism by human rights groups of two other controversial pieces of legislation announced by government following the May elections. The bills, on indigenous Fijian foreshore fishing rights and an indigenous land rights tribunal, were undergoing a parliamentary hearing when the coup took place.

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

The constitution prohibits discrimination based on race, sex, place of origin, ethnicity, sexual orientation, color, primary language, economic status, age, or disability. The Government generally enforced these provisions effectively, although there were problems in some areas.

The constitution also cites the "paramountcy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens. A compact included in the constitution specifically provides for affirmative action and "social justice" programs to "secure effective equality" for ethnic Fijians and Rotumans, "as well as for other communities." The compact chiefly benefited the indigenous Fijian majority.

*Women.*—Domestic abuse, rape, incest, and indecent assault were significant problems. Police practiced a "no-drop" policy, under which they pursued investigations of domestic violence cases even if a victim later withdrew her accusation. The police generally were more responsive to domestic violence cases than in the past. Nonetheless, courts often dismissed cases of domestic abuse and incest or gave the perpetrators minimal sentences. The head of the Fiji Women's Rights Movement reported that following the coup soldiers forcibly took a battered wife who had fled to her parents' home back to her husband. Incest was widely believed to be underreported. Traditional practices of reconciliation between aggrieved parties were sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest. An active women's rights movement sought to raise public awareness about domestic violence.

Four women's crisis centers funded by foreign governments operated in the country. The centers offered counseling and assistance to women in cases of domestic violence, rape, and other problems, such as child support.

The women's rights movement pressed for more severe punishments for rape. Sentences varied considerably. Rape cases heard in the lower magistrate's courts typically resulted in shorter sentences. Women's groups continued to urge that all rape cases be heard in the High Court, where lengthier sentences are available. The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases. Women's activists continued to press for criminalization of spousal rape.

Prostitution is illegal, but it occurred, particularly in cities. Sex tourism is prohibited by law but reportedly occurred, particularly in tourist centers such as Nadi and Savusavu, including cases involving children. Reportedly taxi drivers acted as middlemen, facilitating the commercial sexual exploitation of children.

The law does not specifically prohibit sexual harassment, but laws against "indecent assaults on females" prohibit offending the modesty of women and could be used to prosecute sexual harassment cases. According to a recent survey, one in three women has been sexually harassed in the workplace.

The Women's Crisis Center provided a gender awareness program to educate soldiers and police officers about women's concerns.

Women have full rights of property ownership and inheritance but often were excluded from the decision-making process on disposition of communal land. Many women were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women generally were paid less than men for similar work. According to the Asian Development Bank, only about 30 percent of the economically active female population was engaged in the formal economy, and of these a large proportion worked in semi-subsistence employment or self-employment.

*Children.*—The Government devoted 18 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15, but the inability of some families to pay school fees and bus fares limited attendance for some children. There was no significant difference between the school enrollment rates for boys and girls.

The Government provided free medical care for children at public health centers and hospitals, including immunizations in primary schools.

Corporal punishment was common both in homes and in schools, despite a Ministry of Education policy forbidding it in the classroom. Increasing urbanization, overcrowding, and the breakdown of traditional community and extended family-

based structures led to an increasing incidence of child abuse. Multiple reports suggested that child prostitution increased during the year. Child prostitution was evident in poverty-stricken urban areas and among homeless urban youth (see section 5, Trafficking). Urban migration and the subsequent breakdown of community structures, children from outer islands living with relatives while attending high school, and homelessness all appeared to be factors that increased a child's chance of being exploited for commercial sex.

Increasing urbanization led to more children working as casual laborers, often with no safeguards against abuse or injury.

*Trafficking in Persons.*—A November 2005 law prohibits trafficking in persons, and there were no substantiated reports of trafficking to or from the country during the year. There were some reports of children trafficked within the country during the year. Many observers cited poverty as the primary underlying reason for sexual exploitation of children.

The antitrafficking law provides for penalties of up to 20 years' imprisonment and fines up to \$442,000 (F\$750,000) for convicted traffickers.

The Government did not sponsor or provide assistance to any programs specifically to combat or prevent trafficking in persons.

*Persons With Disabilities.*—All persons are considered equal under the law, including persons with disabilities, and discrimination against persons with physical disabilities in employment, education, provision of housing and land, or provision of other state services is illegal. In addition the law provides for the right of access to places and modes of transport generally open to the public and obliges proprietors of such places and services to "facilitate reasonable access for disabled persons to the extent provided by law." The 2004 public health regulations provide penalties for noncompliance; however, there was very little enabling legislation on accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities. Although building regulations issued in 2004 require new public buildings to be accessible to persons with disabilities, according to an FHRC survey of 70 percent of public facilities in the capital, only a single fast food restaurant was fully accessible. There were only a handful of disabled-accessible vehicles in the country. There were a number of community organizations to assist those with disabilities, particularly children.

Persons with mental disabilities largely were separated from society and typically were supported at home by their families. Institutionalization of persons with severe mental disabilities was in a single overcrowded, underfunded public facility in the capital. There were a few special schools for persons with physical, cognitive, and sensory disabilities; however, costs and location limited access. Opportunities for a secondary school education for those with disabilities were very limited. Persons with disabilities in rural settings found it difficult to access special services.

The government-funded Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several NGOs also promoted attention to the needs of persons with various disabilities.

*National/Racial/Ethnic Minorities.*—Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. The constitution notes that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population," but it also specifies the "paramountcy of Fijian interests" as a protective principle (see section 3).

Prior to the coup the Qarase government pursued a policy of political predominance for ethnic Fijians. Land tenure remained a highly sensitive and politicized issue. Ethnic Fijians communally held approximately 85 percent of all land, the Government held another 3.6 percent, and the remainder was freehold land, which private individuals or companies may hold.

Ethnic Fijians' traditional beliefs, cultural values, and self-identity are intimately linked to the land. Most cash-crop farmers were Indo-Fijians, the majority of whom were descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indo-Fijian farmers were obliged to lease land from ethnic Fijian landowners. Many Indo-Fijians believed that their very limited ability to own land and their subsequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. A pattern of refusals by ethnic Fijian landowners to renew expiring leases resulted in evictions of Indo-Fijians from their farms and their displacement to squatter settlements. This situation contributed significantly to communal tensions. Many indigenous Fijian landowners in turn believed that the rental formulas included in the national land tenure legislation discriminated against them.

In June the FHRC reported the results of its investigation into complaints by the FLP, the Citizens Constitutional Forum, and the Fiji Teachers Union that the Gov-

ernment's affirmative action programs unconstitutionally favored indigenous Fijians over ethnic minorities. The FHRC found the complaints to be valid and stated that the Government's programs did not meet the legal standards of the constitution and law. In response the Government indicated it would conduct its own internal review. A cabinet subcommittee on equal opportunity and human rights was reviewing the programs when the coup occurred. The programs were still in place at year's end.

Unlike in the previous year, the ethnic Chinese community appeared to be less of a target for violent attacks. Police worked with the Chinese Association of Fiji to address the issues raised by a number of such attacks in 2005.

*Other Societal Abuses and Discrimination.*—The constitution prohibits discrimination on the basis of sexual orientation, but preexisting statutes criminalize homosexual acts. At year's end the director of public prosecutions was awaiting a hearing on his appeal of the August 2005 court decision that overturned a magistrate's court's April 2005 conviction of a local citizen and an Australian tourist for engaging in consensual homosexual acts. The magistrate's court had sentenced the men to two years in prison. Homosexuality continued to be a hotly debated issue, and during the year church groups again urged the Government to amend the constitution to eliminate its provision prohibiting discrimination based on sexual orientation.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution and law protect the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, and the authorities respected these rights in practice. An estimated 36 percent of the work force was unionized.

All unions must register with, but are not controlled by, the Government. While certain unions were ethnically based, both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

The Employment Act makes it an offense for an employer to victimize any worker or make it a condition of employment for a worker not to belong to a union. Unions reported some cases of victimization of workers who expressed a desire to join a union, but the Ministry of Labor reported that it was unable to verify these cases, and no employers were prosecuted.

*b. The Right To Organize and Bargain Collectively.*—Workers have the right to organize and bargain collectively. However, wage negotiations generally were conducted at the level of individual companies rather than on an industry-wide basis. Employers are required to recognize a union if more than half of the employees in a workplace have signed membership cards; no ballots are held to determine representation. The Government has the power to order recalcitrant employers to recognize unions, and it has done so in the past. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized. Although the law allowed unionization, union organizers' jobs were not protected, resulting in low unionization in some sectors.

Strikes are legal, except in connection with union recognition disputes. Trade unions can conduct secret strike ballots without government supervision. To carry out a legal strike, organizers must give an employer 28 days' notification. The Ministry of Labor also must be notified of the dispute and receive a list of all striking employees, and the starting date and location of the strike. This requirement is intended to give organizers, unions, employers, and the ministry time to resolve the dispute prior to a strike. There were some strikes during the year. Most disputes, including those in which strike action was deemed illegal, were settled by referral to a permanent arbitrator.

Union organizers were occasionally vulnerable to dismissal or to other interference by employers, particularly when operating on company premises, although in theory they have legal protection.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. With the decline of the garment industry in the country, the number of workers employed in the EPZs also declined. The Fiji Trade Union Congress reported that it was able to negotiate collective bargaining agreements with some employers in the EPZs, but that not all employers were cooperative.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, including by children, and there were no confirmed reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Inadequate enforcement of existing child labor regulations failed to fully protect children from exploitation in the workplace. Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise. Children between ages 12 and 15 may be employed on a daily wage basis in nonindustrial work

not involving machinery, provided they return to parents or guardian every night. Persons between the ages of 15 and 17 may be employed in certain occupations not involving heavy machinery; however, they must be given specified hours and rest breaks. In practice the Ministry of Labor had few or no resources to investigate reports of child labor. There were only two inspectors at the ministry who conducted annual workplace inspections, and there were no inspectors to investigate reports of child labor violations. There was no comprehensive policy to eliminate the worst forms of child labor. During the year migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and prostitutes. There were reports of trafficking in children during the year (see section 5).

*e. Acceptable Conditions of Work.*—There was no single, national minimum wage, although the Ministry of Labor set minimum wages for certain sectors. Entry-level wages in unregulated sectors, especially service industries, provided a sparse and often only marginally adequate standard of living for a worker and family. There was no single national limitation on maximum working hours for adults; however, there were restrictions and overtime provisions in certain sectors. Other than a prohibition on working in mines, there were no limitations on the type of work female employees could perform. Workers in some industries, notably transportation and shipping, worked excessive hours.

There are workplace safety regulations, a worker's compensation act, and an accident compensation plan. Safety standards applied equally to citizens and foreign workers; however, government enforcement of safety standards suffered from a lack of trained personnel and delays in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces; however, many work areas did not meet standards and were not monitored by the Ministry of Labor for compliance. In response to public complaints, the Ministry of Labor condemned some facilities as unfit for occupation. The law accords employees the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so.

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## INDONESIA

Indonesia is a multiparty republic with a population of approximately 245 million. In 2004 Susilo Bambang Yudhoyono became the country's first directly elected President in elections that international observers judged to be free and fair. Voters also chose two national legislative bodies in 2004: the House of Representatives (DPR) and the newly created House of Regional Representatives (DPD). While civilian authorities generally maintained effective control of the security forces, in some instances elements of the security forces acted independently of civilian authority.

The Government generally has been unable to adequately address serious human rights abuses committed in the past. Inadequate resources, weak leadership, and limited accountability contributed to continued abuses by security force personnel, although with sharply reduced frequency and gravity than under past governments. The following human rights problems occurred during the year: unlawful killings by security force personnel, terrorists, vigilante groups, and mobs; torture; harsh prison conditions; arbitrary detentions; a corrupt judicial system; warrantless searches; infringements on free speech; restrictions on peaceful assembly; interference with freedom of religion by private parties, sometimes with complicity of local officials; intercommunal religious violence; violence and sexual abuse against women and children; trafficking in persons; failure to enforce labor standards and violations of worker rights, including forced child labor.

During the year the implementation of the Aceh peace accord, signed in 2005, continued to yield substantial legal and judicial improvements. No unlawful disappearances occurred; human rights observers were given open access to the province; and the year marked the election of a former Free Aceh Movement (GAM) leader as governor. Domestic and international observers judged the elections to be free and fair. In the legal area the Government added Confucianism to the list of officially recognized faiths; a new law gave important citizenship rights to foreign spouses of citizens and the children of such marriages; court decisions applied the more expansive press law rather than the more punitive criminal law in press freedom cases; and the Constitutional Court declared articles of the penal code criminalizing defamation of the President and vice President unconstitutional.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year there was a sharp decrease in unlawful killing by security forces, particularly in the conflict areas of Aceh and Papua. However, the Government, in the past, rarely investigated such killings and largely failed to hold soldiers and police accountable for killings and other serious human rights abuses that occurred in past years.

On January 20, soldiers opened fire on a crowd in Paniai, Papua killing one Papuan and wounding two others. The Indonesian Armed Forces (TNI) is reportedly investigating the incident. At year's end no charges had been filed.

On March 6, a man on a motorcycle, trying to evade a police roadblock in Peudawa, East Aceh, died. Police maintained that death was the result of a fall; local residents and others maintained that he was shot by police and that other bystanders on the scene were shot and wounded as well. An investigation reportedly was underway, but no results had been released at year's end.

On May 17, police in Wamena, Papua, shot and killed two persons in a crowd trying to block the arrest of a local official on corruption charges. There were no further developments at year's end.

On July 3, TNI personnel reportedly shot and killed a former GAM member in Keude Paya Bakong, North Aceh, in what may have been a traffic dispute. No new developments were reported at year's end.

On August 19, Deny Lewol was arrested by police in Benteng, Ambon City, Maluku. He reportedly was beaten while in custody at the Benteng police station and later died at the hospital (see section 1.c.).

There were no known developments regarding the 44 civilians and 37 GAM members whom the Human Rights Nongovernmental Organization Coalition in Aceh reported were killed during 2005.

There were no known developments regarding the following 2005 cases: the January incident in Bireuen, Aceh, during which six members of the TNI special forces (Kopassus) reportedly killed two men and injured another; the January incident in Nabire, Papua, in which TNI personnel allegedly beat local Papuan residents leaving seven seriously injured and one, Miron Wonda, dead; the April incident in Mulia City, the capital of Puncak Jaya Regency, during which the police shot and killed Tolino Iban Giri and arrested eight other persons; the report that TNI and Police Mobile Brigade (Brimob) personnel killed three suspected rebels after capturing them during a joint operation in Serba Jaya village in Aceh Jaya District.

The Government made no significant progress establishing accountability for the following 2004 abuse cases: the beating death of an East Java resident by police; the killing of three persons who allegedly tried to escape police custody in Sragen, Central Java; the killings of Hermansyah and Ade Candra, who allegedly tried to escape police questioning in Pekanbaru; the police shooting in Poso that injured Bambang, a wrongly accused murder suspect.

On October 4, the Supreme Court overturned the murder conviction of Pollycarpus Budihari Priyanto for the 2004 poisoning death of prominent human rights activist Munir Thalib. The Court upheld Pollycarpus's conviction and two-year sentence on lesser charges of falsifying official documents. On December 25, Pollycarpus received a three-month remission for good behavior and was released from prison, having served 21 months. A report on the case prepared by a Presidentially appointed fact-finding team in 2005 was not publicly released but, according to press reports, concluded that Munir's killing was a conspiracy and recommended investigation of former and current officials of the State Intelligence Agency and of Garuda airlines officials. Munir's widow publicly expressed disappointment with the Supreme Court ruling. She had previously called on the President to establish a new investigation team with more power than the previous one. President Yudhoyono has publicly promised that the Government would find and try all those responsible for the killing. On December 29, after a meeting with President Yudhoyono, the national police chief declared that the police were continuing to pursue new evidence in the case.

During the year the Indonesian Human Rights Commission (Komnas HAM) investigated the 1998 killing of four students at Trisakti University and nine demonstrators at Semanggi intersection and the 1999 killing of an additional four demonstrators at Semanggi; it concluded that the killings were gross human rights violations. Komnas HAM submitted these cases to the Attorney General's office (AGO) for prosecution; however, the AGO argued that it could not prosecute these cases unless the DPR classified them as gross human rights violations. In February DPR Speaker Agung Laksono said that the DPR would not reconsider its 2001 decision that these cases were not gross human rights violations.

In August 2005 the Governments of Indonesia and East Timor established the Truth and Friendship Commission (TFC) to address the human rights violations that occurred in East Timor in 1999. The mandate of the TFC has been extended to August 2007. The TFC prioritized 14 cases to be addressed, including the Liquica killing, the ambush of Suai Church, and the shooting in the house of Mario Carrascalao (see section 1.e.).

During the year, there were no reports of known killings by the GAM or the Free Papua Movement (OPM).

In 2005 the nongovernmental organization (NGO) Commission for Disappearances and Victims of Violence Aceh reported that GAM killed seven civilians; the Human Rights NGO Coalition reported that GAM killed 17 soldiers during 2005. There were no known developments in these cases.

In May 2005 GAM rebels allegedly shot and killed a seven-year-old boy in North Aceh Regency during a rebel ambush of a vehicle carrying the boy. The incident left 10 others, including three soldiers, injured. There were no known developments in this case.

There was no known progress in the following cases from 2004: the four civilians found dead in a jungle near Peureulak, East Aceh; the killing of civilian Cut Musdaifah in Wakheuh village; the alleged GAM killing of local legislature candidate Muhammad Amin; and the shooting death of a paramedic in South Aceh.

In March 2005 in Mulia, Papua, according to the military district command, an unknown person, believed to be an OPM member, shot and killed local civilian Tinius Tabuni. There was no known progress in this case.

On November 7, a Central Jakarta court sentenced OPM guerrilla Anthonius Wamang to life in prison for the 2002 murder of two American citizens and an Indonesian citizen in Timika, Papua. Two co-defendants were convicted of conspiracy to murder and sentenced to seven years. Four other defendants were convicted of assisting the conspiracy and sentenced to 18 months in prison.

The courts tried a number of suspects in connection with major terrorist incidents. On September 14, the Denpasar District Court in Bali announced the final of four convictions of Jemaah Islamiyah (JI) associates for their role in the October 2005 Bali suicide bombings, which killed 19 persons and injured more than 100 in the tourist areas of Kuta and Jimbaran. The Bali Court used the country's 2003 Counterterrorism Law and the Criminal Code to hand down sentences for charges that varied from assembling explosives linked to the attacks to hiding the suspected architect of the bombing, Noordin Top, and facilitating his use of the Internet to spread the group's violent ideology. The stiffest sentences were given to Mohammad Cholily (18 years) and Anif Solchanudin (15 years), in each case exceeding the prosecutor's recommendations. The court handed down sentences for Abdul Aziz and Widiyanto that were two years less than the 10 recommended by prosecutors. Following the convictions, lawyers for Cholily, Solchanuddin, and Widiyanto filed appeals, which were withdrawn at the insistence of the convicted men.

On December 6, lawyers for the three men convicted of carrying out the 2002 Bali bombing, Amrozi, Ali Ghufron (alias Mukhlas), and Imam Samudra, filed requests for judicial review of their convictions. The attorneys argued that the 2003 antiterror law, which was passed after the bombing and under which the bombers were convicted, could not be applied retroactively. At year's end, the review was underway.

On December 13, the Surabaya district court sentenced Ahmed Arif Hermansyah to three years in prison for hiding explosives that were used in the 2004 bombing of the Australian Embassy in Jakarta, which killed 10 and injured more than 150 people.

On December 21, the Supreme Court overturned the conviction for conspiracy of JI spiritual leader Abu Bakar Ba'asyir in connection with the 2002 Bali bombings. After a key witness renounced his statement that Ba'asyir had attended meetings where the bombings had been discussed, the court decided there was insufficient evidence to uphold Ba'asyir's conviction. Ba'asyir had already completed his prison sentence.

The courts continued with prosecutions related to the 2003 Marriott hotel bombing that killed 12 persons. On May 1, the South Jakarta District Court sentenced Muhammad Iqbal (alias Bayhaqi) to four years for aiding terrorists and smuggling weapons; Abdullah Sunata (alias Arman) was sentenced to seven years for financing terrorists and withholding information on Noordin Top; Joni Ahmad Fauzani and Joko Sumanto were found guilty of helping to conceal Top and received four-year sentences.

Religious and ethnic conflict in Central Sulawesi abated somewhat during the year. The number of murders declined from 37 in 2005 to eight, and the number injured due to religious or ethnic attacks declined from 104 to three. A new provin-

cial police chief and 1,000 additional police improved security which reduced violence in the province.

On January 25, the Poso police chief survived an attack by an assailant on a motorbike when a bullet narrowly missed his head. On September 6, a 50-year-old male was killed when a bomb exploded in Tangkura village of Poso Pesisir subdistrict. On September 9, a bomb exploded in Kawua, South Poso, killing one person. No arrests have been made. On October 1, a Christian woman was stabbed and killed while riding public transportation through a predominantly Muslim area of Poso City. On October 16, an unidentified gunman shot and killed Reverend Irianto Kongkoli in Palu, Central Sulawesi. Police continued to investigate but had made no arrests at year's end.

Government and police continued to make some progress in handling conflicts in Central Sulawesi and Maluku. Police made stronger efforts to investigate, arrest, and prosecute those involved in violence. On May 8, provincial police captured two men, Hasanuddin and Taufik, believed to be the perpetrators of the October 2005 beheadings of three Christian schoolgirls near Poso. Taufik admitted to participating in the beheadings and the murder of Helmi Tobiling in 2004. At year's end Taufik was awaiting trial. Based on information provided by Hasanuddin and Taufik, police arrested five additional suspects for a number of outstanding crimes over the last several years: Jendra (alias Asrudin), Irwanto Irano, Lilik Purwanto (alias Haris), Nano Maryono, and Abdul Muis in Toli-Toli, Central Sulawesi. Police provided local media with a video in which Hasanuddin, Purwanto, Jendra, and Irano confessed to the 2005 beheadings of the three schoolgirls and named two other co-conspirators. On the same video Irano also confessed to participating in the May 2005 Tentena market bombing as well as the 2004 Immanuel Church bombing. Lilik Purwanto confessed to murdering Poso prosecutor Ferry Silalahi and Reverend Susianti Tinulele and to bombing the Immanuel Church and the Anugerah Central Sulawesi Protestant Church in 2004. At year's end neither Purwanto nor Irano had been charged for these crimes.

In November 2005 police arrested four men, Parlin, Nurdin, Arsam, and Alfitzar, in connection with the November 2005 beheading of a Muslim girl in Palu. At year's end all four had been convicted of involvement in the murder.

On September 22, Fabianus Tibo, Dominggus da Silva, and Marianus Riwu were executed for their roles in connection with sectarian violence in Poso in 2000 and in the murder of 191 Muslims in a school. The executions led to violence in areas of Flores and West Timor, Nusa Tenggara Province, and in Central Sulawesi. In Flores, 3,000 persons rioted and burned down at least three government buildings. In Kefamananu and Atambua, West Timor, between 3,000 and 5,000 persons rioted, destroying government buildings, homes, and vehicles. In Central Sulawesi, on the same day as the executions, two Muslims, Arham Badaruddin and Rendi Rahman, were pulled from their car and killed while passing through Taripa, a predominantly Christian village. According to the local police, an autopsy revealed that the men were beaten to death with a blunt object. Police arrested 17 people for participating in the killings, all of whom admitted their involvement. The suspects told police that the victims were killed because of the executions of Tibo, Riwu, and Da Silva. At year's end, the suspects were awaiting trial. Several other incidents occurred following the executions, including three small bombings, attacks on both Muslims and Christians, and an attack on the Central Sulawesi police chief that resulted in the mobbing and destruction of his police helicopter by a crowd of 5,000. Police continued to investigate convicted murderer Fabianus Tibo's accusation that 16 other Christians masterminded the Central Sulawesi violence. In April Central Sulawesi police again questioned 10 out of the 16 people named by Tibo.

Maluku Province saw greatly reduced ethnic and religious tensions during the year, and religious leaders met frequently and openly to discuss local events while cooperating to maintain peace and security in the province. During the year four murders and two injuries from violent attacks occurred in Maluku Province; in 2005 four murders and 13 injuries were reported.

In February the Ambon state court sentenced Ongen Pattimura to life in prison and Muthalib Patty to 15 years in prison for their roles in killing two persons and injuring two others during the February 2005 attack on the "Villa" Karaoke Club in Hative Besar, Ambon. The Ambon district court also sentenced Syamsudin (alias Fatur or Andi) to life in prison for his role in planning the attack.

On April 26, Ambon district court sentenced Zainuddin Nasir to 20 years in prison for his role in the 2004 attack on Wamkana village of Buru Island, during which attackers fired on the village from a speedboat, killing three and injuring four.

On September 12, the Ambon state court sentenced Syarif Tarabubun to 15 years in prison for his involvement in the "Villa" attack. Police originally arrested Tarabubun, a police officer, in November 2005 as a suspect in a number of terrorist

actions, including the killings at Wamkana in March 2005, the attack on the "Villa" Karaoke club in February 2005, and the May 2005 attack on a Brimob operations command post in Loki Village, Piru District in West Seram Island, Maluku Province, which killed seven persons, including five police officers.

During the year the Ambon district court convicted three men for participating in a series of attacks in 2004 and 2005. On February 13, the court sentenced Asep Djaja to death for his involvement in the May 2004 Wamkana attack and the May 2005 Loki attack. The sentence was reduced to life imprisonment on appeal. The court also sentenced Nazaruddin Mochtar (alias Abu Gar) to nine years in prison for his involvement in the Loki attack. On April 13, the court convicted Abdullah Umamit of involvement in the Loki attack and the 2004 Batu Merah grenade attack, which injured five persons in a Muslim neighborhood. The incident provoked Muslim residents to attack a bus in March 2005, killing four and injuring 14 Christian passengers. There has been no progress on the bus attack investigation.

On March 16, protesters in Abepura, Papua Province, killed three policemen and an air force intelligence sergeant. According to a Federation of Papuan Churches report, a civilian, Jeni Hisage, was shot, beaten, and killed by police in the aftermath of the riot.

*b. Disappearance.*—In the past Aceh Province was the scene of numerous disappearances. During the year there were no known disappearances in Aceh. On November 6, in a speech in Aceh, the TNI commander said that the TNI no longer engaged in kidnapping. The Government reported little progress in accounting for persons who disappeared in previous years or in prosecuting those responsible for those disappearances.

During 2005, according to the Human Rights NGO Coalition, 31 civilians and one GAM member were kidnapped in Aceh; 46 civilians and four GAM members reportedly were kidnapped in 2004. Security forces were implicated in some of the disappearances.

There has been no known progress in the 2004 case of a wounded 16-year-old boy whom police allegedly took into custody, or in the cases of Mukhlis and Zulfikar, members of the local NGO Link for Community Development. There was no known progress regarding the 2004 disappearances of elementary school teachers Muhammad Amin Alwi and Hasballah, who were forcibly taken by 10 armed men in military uniforms in Nagan Raya Regency.

In February 2005 GAM members allegedly kidnapped four persons, including an eight-year-old child, and demanded a ransom. Their whereabouts remained unknown at year's end.

In 2004 Pentecostal minister Jokran Hardi Ratu (alias Jarok Ratu) was abducted in South Buru Island, Maluku Province. Abdullah Umamit, who was serving a life sentence for his involvement in the Loki attack (see section 1.a.), was also convicted in the kidnapping of minister Ratu. Umamit admitted in the investigation report that he kidnapped and killed the minister and then threw the body into the sea.

On September 30, a Komnas HAM ad hoc team submitted to the AGO the results of their inquiry into the 1998 abductions of between 12 and 14 pro-democracy activists; the findings had been previously announced publicly in September 2005. Despite refusals from military personnel to cooperate in the investigation, Komnas HAM concluded that all victims still missing were dead and identified suspects for an official investigation without publicly releasing their names. During the year the AGO took no action, stating that it could not prosecute these crimes unless the DPR declared them gross human rights violations (see section 1.a.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution states that every person shall have the right to be free from torture, inhuman and degrading treatment. The law makes it a crime punishable by up to four years in prison for any official to use violence or force to elicit a confession; however, law enforcement officials widely ignored such statutes. Security forces continued to employ torture and other forms of abuse. The Government made some efforts to hold members of the security forces responsible for acts of torture. During the year the use of torture to obtain confessions from suspects was most apparent in Papua. Torture was sometimes used to obtain confessions, punish suspects, and seek information that incriminated others in criminal activity. Security forces also allegedly used torture to extort money from villagers. Reliable figures on the number of incidents of torture that occurred during the year were difficult to obtain. Torture and other abuse included random beatings, bitings, whippings, slashings, and burnings.

The Catholic Peace and Justice Secretariat (CPJS) reported that police arrested more than 20 Papuans following the March 16 Abepura incident, in which three policemen and an air force sergeant were killed (see sections 1.a. and 2.b.). CPJS staff



visited the detainees and reported visible signs of abuse on detainees' faces. On August 28, a police officer named Novril beat one of the Abepura defendants, Nelson Rumbiak, in front of the Abepura Penitentiary (see section 2.b.). Novril was escorting Rumbiak from the Jayapura District Court where Rumbiak had testified that police had beaten him and others following the March 16 incident. The Jayapura police disciplinary committee sentenced Novril to 21 days' detention.

In Aceh Province the Human Rights NGO Coalition reported 17 cases of human rights violations committed by security forces against civilians and two cases against former GAM members during the year, compared with violations of 80 civilians' rights in 2005. In September 2004 Human Rights Watch (HRW) reported widespread abuse of prisoners in Aceh by security forces, including electric shocks and beatings with wooden beams and gun butts. The Government announced it would investigate the allegations; however, there were no known investigations.

On January 20, security officers opened fire on a group of protesters outside a police station in Paniai Regency, Papua Province, killing one person and injuring two others (see section 1.a.).

Following the May 17 incident in Wamena, Papua, in which police killed two persons in a crowd trying to prevent the arrest of a local official (see section 1.a.), police allegedly detained more than 100 villagers, including women and children, and required them to sit in the sun in front of the police station for nearly four hours.

During the year the Government reported no progress in prosecuting those responsible for acts of torture committed in Aceh in past years, including those cases detailed in reports by HRW and Amnesty International (AI).

During the year 15 persons were publicly caned in Aceh for offenses under Shari'a (Islamic law) such as gambling, consumption of alcohol, and being alone with members of the opposite sex who were not blood relatives, a sharp reduction from 2005, when at least 88 people were caned (see section 2.c.).

Military personnel and police officers were responsible for mistreatment and other cruel acts during the reporting period. In March Rosidi from Ra'ab, East Java, was arrested and accused of running an illegal lottery. According to the head of the village, Rosidi was in good health when he was taken to the police station. Following a severe beating, he was rushed to Dr. Sutomo Hospital in Surabaya. On March 27, Probolinggo police arrested three officers accused of the beating. At year's end no details of punishment were available.

On August 19, Deny Lewol was arrested by police in Benteng, Ambon City, Maluku. He was beaten while in custody at the Benteng police station and died at the hospital. A group of persons subsequently attacked and destroyed the Benteng police station. A crowd of hundreds brought his body to the Maluku police to protest. On August 20, Maluku provincial police arrested and charged three members of Maluku provincial police intelligence (Luis Nusamara, Albert Wattimena, Raders Ralahal) and one civilian, Robert Latuheru, in the death. At year's end they were awaiting trial.

No known disciplinary action has been taken in the September 2005 attack by a group of Brimob officers in Kampu Pisa, North Maluku, which injured 12 persons. The deputy chief of the North Maluku Brimob unit had promised to punish the attackers.

On January 16, the Makassar military court sentenced three army soldiers to 10-week jail sentences and fines of \$0.55 (Rp 5,000) each for their involvement in the November 2005 attack on Banrimanurung village in South Sulawesi. Investigators from the Makassar military police found that 25 soldiers were involved in the attack, which injured three persons and destroyed 50 houses, four cars, and three motorcycles. The attack was triggered by an incident the previous week when villagers punched a soldier.

On August 20, Subiyanto, a police officer from the Probolinggo police precinct, beat and kicked five-year-old Rian Amarullah. Amarullah required hospitalization for his injuries. According to a source in the police unit, Subiyanto was drunk and hit three other men who saw the incident. Probolinggo police arrested Subiyanto. On August 23, Subiyanto reportedly committed suicide, hanging himself in his cell. In Poso, in November 2005 two schoolgirls, Ivon Nathalia and Siti Nuraini, were shot as they walked in the street. They stated that one of the perpetrators was a Poso police sergeant. Central Sulawesi Police Chief Oegroseno formed a special task force to investigate the incident and other shooting incidents that had occurred in Central Sulawesi, possibly involving police officers. On April 10, Central Sulawesi police arrested a police sergeant for the shooting of the two schoolgirls. At year's end, no further information about the investigation was available.

There was no reported progress in the investigation of the 2004 case of the TNI soldiers in Kampung Meureu Baro-Indrapuri who repeatedly raped a 16-year-old girl over a period of several months, leaving her pregnant.

On March 24, Hendra Saputra, a cadet at the Semarang Police Academy, was beaten, kicked, and subjected to electric shocks by five senior cadets in a hazing incident. He suffered serious brain injuries as a result. In November five cadets were charged with torturing Saputra. The five cadets were not suspended from the police academy and their ongoing police academy duties delayed the start of the trial until December. The court had not reached a verdict at year's end.

Mobs carried out vigilante justice, but reliable statistics on such actions were not available. Incidents of theft or perceived theft triggered many such incidents. On September 6, in West Jakarta, a mob beat and blinded in one eye a man who attempted to steal a woman's cellular telephone. Police saved him from being burned alive.

*Prison and Detention Center Conditions.*—Conditions at the country's 365 prisons and detention centers were harsh, and overcrowding was widespread. Occupancy frequently was two or three times over recommended capacity. Guards regularly mistreated inmates and extorted money from them. There were widespread reports that the Government did not supply sufficient food to inmates, and family members often brought food to supplement their relatives' diets. Family members reported that prison officials often sought money to allow relatives to visit inmates. Unruly detainees were held in solitary confinement for up to six days on a rice-and-water diet.

The wealthy or privileged had access to better treatment in prison. The country's most famous inmate, Hutomo "Tommy" Suharto, the son of former President Suharto, reportedly left his Central Java prison cell for Jakarta every month via helicopter and stayed at a luxury hotel while being treated at Subroto Army Hospital for a benign tumor behind his eye. In 2002 the Central Jakarta District Court sentenced Tommy to 15 years in prison for hiring two men to kill Supreme Court Justice Syaifuddin Kartasasmita, who had convicted him for corruption. On appeal, the Supreme Court reduced the sentence to 10 years. While serving his sentence, Tommy received regular remissions of between six months and one year for "good behavior," and he was released conditionally on October 30.

Most children convicted of serious crimes served their sentences in juvenile prisons. However, in the arrest and trial phases, authorities held juveniles in detention centers with adults (see section 5). In theory, prisons held those convicted by courts, while detention centers held those awaiting trial; however, in practice, pretrial detainees at times were held with convicted prisoners.

There were no official restrictions on prison visits by human rights monitors, and prison officials granted varying degrees of access, including to the International Committee of the Red Cross.

*d. Arbitrary Arrest or Detention.*—The law contains provisions against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and authorities routinely violated it. The law provides prisoners with the right to notify their families promptly and specifies that warrants must be produced during an arrest. Exceptions are allowed if, for example, a suspect is caught in the act of committing a crime. The law allows investigators to issue warrants; however, at times authorities made arrests without warrants.

*Role of the Police and Security Apparatus.*—The President appoints the national police chief, subject to DPR confirmation. The police chief reports to the President but is not a full member of the cabinet. The national police force has approximately 250,000 officers deployed throughout the 33 provinces. The police maintain a centralized hierarchy, and locally deployed forces formally report to their national headquarters rather than to local governments. The military is responsible for external defense, but also has a residual obligation to support the police in their domestic security responsibilities. In Aceh, the Shari'a police, a provincial body, is responsible for enforcing Shari'a law. During the year international NGOs noted improvement in the degree of police crime-fighting professionalism and an increased emphasis on law enforcement ethics. Overall, however, police professionalism remained low, as did their respect for human rights and effectiveness at investigating human rights abuses. Impunity and corruption remained significant problems. There were instances in which the police failed to respond to mob or vigilante violence. Police commonly extracted bribes, ranging from minor payoffs in traffic cases to large bribes in criminal investigations. From January to October, the Division of Profession and Security (Propam) reportedly investigated 5,486 police officers, including high-level officials, across the country, resulting in 240 dismissals. Other punishments varied from demotion to criminal prosecution.

In August Propam ordered that Southwest Sulawesi Police Chief Brigadier General Edhy Susilo be removed from his position following a disciplinary hearing on sexual harassment charges. On September 16, the provincial chief of police in East

Kalimantan, Inspector General Djosua Sitompul, was removed from his position on suspicion of involvement in illegal logging.

On September 26, the South Jakarta District Court found Brigadier General Ismoko guilty of receiving bribes and sentenced him to 20 months in prison. In the same case, Commissioner General Suyitno Landung, the former head of the Criminal Investigation Division and an instructor at the National Institute of Defense, was arrested in December 2005 on suspicion of accepting bribes. On October 10, Landung was sentenced to 18 months in prison. He is the highest-ranking police official to be jailed for corruption.

On December 4, Senior Commissioner Erick Bismo, the deputy police chief in Rembang, Central Java, was removed from his position for allegedly beating 26 subordinates.

*Arrest and Detention.*—A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained; however, defendants rarely won pretrial hearings and almost never received compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention. The law limits periods of pretrial detention. Police are permitted an initial 20-day detention, which can be extended to 60 days; prosecutors may detain a suspect 30 days initially, with a 20-day extension permitted. Prosecutors may extend police detention periods, and a district court may further extend prosecutors' detention of a suspect. The district and high courts may detain a defendant up to 90 days during trial or appeal, while the Supreme Court may detain a defendant 110 days while considering an appeal. In addition, the law allows detention periods to be extended up to an additional 60 days at each level if a defendant faces a possible prison sentence of nine years or longer or if the individual is certified to be mentally or physically disturbed. Authorities generally respected these limits in practice. The antiterrorism law allows investigators to detain any person who, based on adequate preliminary evidence, is strongly suspected of committing or planning to commit any act of terrorism for up to four months before charges must be filed.

In areas of separatist conflict, such as Papua, police frequently and arbitrarily detained persons without warrants, charges, or court proceedings. The authorities rarely granted bail, frequently prevented access to defense counsel during investigations, and limited or prevented access to legal assistance from voluntary legal defense organizations.

In the aftermath of the March 16 Abepura incident in which three police officers were killed, police allegedly physically abused and arbitrarily arrested suspects. Only one of the persons arrested was on the list of suspects issued by local police immediately after the incident. According to human rights groups, the persons arrested were a combination of student activists and innocent bystanders implicated during the interrogation of other suspects (see sections 1.a., 1.e., and 2.b.).

*e. Denial of Fair Public Trial.*—The law provides for judicial independence. In practice the judiciary became increasingly independent but remained influenced at times by the executive branch, the military, business interests, and politicians. The Constitutional Court demonstrated significant independence and, in some major cases, ruled against the Government. Low salaries continued to encourage corruption, and judges were subject to pressure from government authorities, which often influenced the outcome of cases.

Under the Supreme Court are general, religious, military, and administrative courts. The law provides for the right of appeal. The Supreme Court normally considers only the lower court's application of the law. Another avenue for appeal is the judicial review process. Judicial review allows the Supreme Court to revisit cases that have already been decided (including by the Supreme Court itself), provided that there is new evidence that was not available during earlier trials. Parallel to the Supreme Court is the Constitutional Court, which is empowered to review the constitutionality of laws, settle disputes between state institutions, dissolve political parties, resolve certain electoral disputes, and decide allegations of treason or corruption against the President or vice President.

In August 2005 the President inaugurated the Judicial Commission with a mandate to propose candidates for appointment as justices to the Supreme Court and to monitor and ensure the integrity of judges. In an August 23 verdict, the Constitutional Court stripped the Judicial Commission of an oversight role and concluded that the law establishing the commission did not clearly state what the body would monitor. Legal experts criticized the court's decision as counter to efforts to combat corruption. During the year the commission received a total of 473 reports about the conduct of judges.

The judicial branch theoretically is equal to the executive and legislative branches, and it has the power of judicial review of laws passed by the DPR; government regulations; and Presidential, ministerial, and gubernatorial decrees. In practice the judiciary was less influential than the executive and legislative branches. In each of the country's 2,418 district courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and assessing punishment. Both the defense and prosecution can appeal verdicts. At times judges reversed initial judgments in the appeals process and sometimes lengthened or shortened sentences.

In the aftermath of the March 16 Abepura civil disorder, police arrested a total of 24 persons on charges ranging from murder to assault to obstructing an officer in the performance of official duties; at year's end 22 had been convicted and given sentences ranging from four months to 15 years in jail. The trials of the remaining two were in progress at year's end. Human rights activists raised serious questions about the fairness of the trials. They noted the lack of positive identifications of suspects by police in most cases, the admission of physical evidence without proper foundation being laid, and alleged that the judicial panel was biased against the defendants. Komnas HAM was asked to investigate the trials, but, at year's end, it had not yet decided whether to open an investigation (see sections 1.a., 1.d., and 2.b.).

*Trial Procedures.*—The law presumes that defendants are innocent until proven guilty. It also permits bail, which was used rarely in areas of separatist conflict. Court officials sometimes accepted bribes in exchange for granting bail. Defendants have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases, sworn affidavits may be introduced. The courts allowed forced confessions, particularly in conflict areas, and limited the presentation of defense evidence. Defendants have the right to avoid self-incrimination but generally were required to give testimony before the conclusion of a trial. However, in practice, defendants regularly refused to answer questions. The law gives defendants the right to an attorney from the time of arrest and at every stage of examination, and requires that counsel be appointed in cases involving capital punishment or a prison sentence of 15 years or more. In cases involving potential sentences of five years or more, the law requires the appointment of an attorney if the defendant is indigent and requests counsel. In theory, indigent defendants may obtain private legal assistance, and NGO lawyer associations provided free legal representation to indigent defendants. For example, the Women's Legal Aid Foundation (LBH-Apik) represented many women who otherwise could not afford representation. In many cases procedural protections, including those against forced confessions, were inadequate to ensure a fair trial.

On August 11, President Yudhoyono signed the Witness and Victim Protection Act, which is intended to protect witnesses who testify or provide information to investigators from harm and threats to their safety and security. The law provides security to witnesses and victims, and their family members. In the past many witnesses were reluctant to testify in court for fear of defamation charges. The Witness and Victim Protection Act does not shield against defamation charges.

Widespread corruption throughout the legal system continued. Bribes and extortion influenced prosecution, conviction, and sentencing in countless civil and criminal cases. On January 3, investigators from the AGO and the national police took Judge Herman Alossitandi into custody after he allegedly attempted to extort \$22,000 (200 million rupiah) from Walter Sigalingging, a key witness in a \$34.5 million (311 billion rupiah) graft case involving the former head of the state social security agency. The Supreme Court ordered the Jakarta High Court to set up a disciplinary council and move forward with the possible suspension of Alossitandi. On June 26, Alossitandi was sentenced to 4½ years in prison and fined \$22,000 (200 million rupiah).

On September 6, the Anti-Corruption Court sentenced Suparman, a former Corruption Eradication Commission (KPK) investigator, to eight years' imprisonment and fined him \$22,000 (200 million rupiah) for corruption and blackmailing a witness. The judges concluded Suparman abused his authority as a KPK investigator to extort money and goods from Tintin Surtini, a witness in a corruption case.

On December 19, the Constitutional Court ruled that the legal provision creating the Anti-Corruption Court was unconstitutional but permitted the court to continue functioning for three more years.

During the year the National Ombudsman Commission reported that it received 102 complaints of judicial corruption involving judges, clerks, and lawyers. This represented 13 percent of all corruption complaints, a reduction from 2005, when 36 percent of complaints related to judicial corruption. Key individuals in the justice

system not only accepted bribes but also appeared to turn a blind eye to other government offices suspected of corruption.

Most judges earned \$200 to \$256 (1.8 million to 2.3 million rupiah) per month, while a judge with three decades' experience earned approximately \$660 (5.94 million rupiah) per month; Supreme Court justices earned between \$1,540 and \$2,640 (14 to 24 million rupiah) per month. During the year the Government issued a Presidential instruction to adjust the salary of judges to \$1,100–1,600 (10 to 15 million rupiah) per month. At year's end this decision had not been implemented.

Apart from the handful of soldiers who were tried in human rights courts, hundreds of low-level and sometimes mid-level soldiers were tried in military court, including for offenses that involved civilians or occurred when soldiers were not on duty. If a soldier was suspected of committing a crime, military police investigated and then passed their findings to military prosecutors, who decided whether or not to prepare a case. While administratively managed by the TNI, military prosecutors and judges were responsible to the AGO and the Supreme Court for the application of laws. However, under the "one roof system" adopted in 2004, the Supreme Court exercises administrative control over military and religious courts. A three-person panel of military judges heard trials while the military high court and the military supreme court heard appeals. Some civilians criticized the short length of prison sentences imposed by military courts. TNI legal officials noted that all personnel sentenced to terms of three months or longer, regardless of their record or length of service, were discharged from military service.

Four district courts adjudicated cases of gross human rights violations. The law provides for each court to have five members, including three non-career human rights judges, who are appointed to five-year terms. Verdicts can be appealed to the standing high court and the Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights.

In September 2005, in its first verdict, the country's first permanent human rights court in Makassar, South Sulawesi, found that the police attacks in 2000 against almost 100 victims in Abepura, Papua, were not "crimes against humanity" (see section 2.b.). The court dismissed all charges against Brimob Brigadier General Johnny Wainal Usman and South Sulawesi Police High Commissioner Daud Sihombing. The court also denied the victims' request for rehabilitation and compensation. Prosecutors appealed the verdict to the Supreme Court, which had not issued a decision by year's end (see section 1.a.).

On March 13, the Supreme Court acquitted Noer Muis of all charges and sentenced Eurico Guterres to 10 years in jail for charges in connection with atrocities that occurred during 1999 in three East Timor locations: Liquica, Dili, and Suai. Of the 18 original defendants, only Guterres received a jail sentence. Guterres filed for a judicial review and the hearing was held on October 2. At year's end no decision had been issued. Six of the 18 originally were convicted at the trial level. In 2004 the Jakarta High Court overturned four of the sentences. Later in 2004 the Supreme Court acquitted a fifth.

By 2005 East Timor's Serious Crimes Unit had indicted a total of 391 individuals for crimes against humanity committed during and after the 1999 referendum; however, 290 of these individuals remained at large with little chance of being returned to East Timor to stand trial. The UN sent a Commission of Experts to Indonesia in 2005 to evaluate the Indonesian ad hoc tribunal and the Serious Crimes Unit and to recommend next steps for achieving accountability. The commission recommended that either Indonesia retry the perpetrators of violence within six months or that the cases be tried before an international tribunal. The commission also included the possibility of an exceptional International Criminal Court investigation (that would extend the court's jurisdiction to crimes committed before its establishment) if its recommendations were not implemented.

In August 2005 Indonesia and East Timor established the TFC to address the human rights violations that occurred in East Timor in 1999. The mandate of the TFC has been extended to August 2007. In January and February, the Supreme Court acquitted Captain Sutrisno Mascung, retired army major general Pranowo, and 10 subordinates of all charges stemming from the 1984 Tanjung Priok incident, in which dozens and perhaps hundreds of persons were shot and killed. The court held that the Tanjung Priok incident was a criminal case, not a human rights one. In 2003 the ad hoc human rights tribunal for the 1984 Tanjung Priok incident heard the cases of 16 defendants, including Pranowo; retired army major general Rudolf Adolf Butar-Butar; army major general Sriyanto Muntrasan, the commander of Army Special Forces; and other lower-ranked military officers and enlisted personnel under the command of Captain Sutrisno Mascung. All of the defendants faced charges of crimes against humanity. The tribunal sentenced Butar-Butar to

10 years in prison and found 13 others guilty and sentenced them to two or three years in jail. The prosecutors had requested 10-year sentences. The court found Pranowo and Muntrasan not guilty. In July 2005 the high court overturned all 14 convictions and upheld the lower court's finding that Pranowo and Muntrasan were not guilty as well.

In 2004 Supreme Court Chief Justice Bagir Manan inaugurated the first Shari'a courts in Aceh. Under the system, 19 district religious courts and one court of appeals heard cases. The courts heard only cases involving Muslims and used decrees formulated by the Aceh local government rather than the penal code. In 2003 the provincial legislature passed laws that included caning among the punishments that the Shari'a court may administer as punishment for persons found guilty of gambling, drinking, or being alone with a non-related member of the opposite sex (see sections 1.c. and 2.c.).

**Political Prisoners and Detainees**—In accordance with the 2005 Helsinki Memorandum of Understanding (MOU) between the Government of Indonesia and GAM, the Government unconditionally released prisoners and detainees held due to the Aceh conflict. The Government facilitated reintegration of released prisoners, which proceeded without violence. The Government continued to hold a relatively small number of former GAM personnel whom it maintained had been convicted on criminal charges.

**Civil Judicial Procedures and Remedies.**—Widespread corruption exists at all levels of the civil legal system. Bribes, extortion, and political considerations influenced the outcomes in large numbers of civil cases.

The civil court system can be used to seek damages for victims of human rights violations. However, corruption and political influence over the civil court system limit access of victims to this remedy.

On December 8, the Constitutional Court ruled that the Truth and Reconciliation Commission (TRC) created in 2004 by the DPR was unconstitutional (see section 4). The Constitutional Court chief justice stated that the Government's lack of progress in appointing the TRC's members was one factor in its decision.

**f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.**—The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. The law also provides for searches without warrants when circumstances are "urgent and compelling." Security officials occasionally broke into homes and offices. The authorities occasionally conducted surveillance on individuals and their residences and monitored telephone calls. Corrupt officials sometimes subjected migrants returning from abroad, particularly women, to arbitrary strip searches, theft, and extortion at special lanes set aside at airports for returning workers. Under the special autonomy arrangement in Aceh, Shari'a courts and police have been established to enforce locally drafted laws which ban Muslims from, among other things, drinking alcohol, gambling, and being in close proximity to a member of the opposite sex to whom one is not a close blood relation. The special police charged with upholding Shari'a conducted warrantless searches during the year.

In December the DPR passed a law reaffirming a longstanding requirement that the National Identity Card (KTP), which all citizens are required to carry, identify the holder's religion. NGOs charged that this feature of the KTP undermined the country's pluralistic tradition and endangered cardholders who traveled through areas of interreligious conflict.

Members of the six religions officially recognized by the Government—Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism—had little or no trouble obtaining identification cards. On February 24, the Government issued a decree officially recognizing Confucianism, and Confucians are now able to get KTPs which list Confucianism as their religion (see section 2.c.). Members of unrecognized religious groups such as the Sikhs or Baha'is remained unable to obtain KTPs unless they consented to listing themselves as belonging to one of the officially recognized religions. Also, low-level officials and village heads responsible for issuing KTPs often demanded small bribes or made the process very cumbersome, which made it difficult for disadvantaged groups such as itinerant workers, the poor, religious minorities, and the homeless to obtain KTPs.

In many parts of the country, particularly in Kalimantan and Papua, local residents believed that the government-sponsored transmigration program interfered with their traditional ways of life, land usage, and economic opportunities. No new families have transmigrated under government auspices since 2004. The Government continued to support at least 71,748 households moved in previous years from overpopulated areas to 361 isolated and less developed areas in 26 provinces.

The Government used its authority, and at times intimidation, to appropriate land for development projects, often without fair compensation. In other cases, state-owned companies were accused of endangering resources upon which citizens' livelihood depended. In May 2005 President Yudhoyono signed a decree on land acquisition for public use, which allows the Government to acquire land for public development projects even if landowners have not agreed on the amount of compensation. A number of NGOs argued that the decree served the interests of wealthy developers at the expense of the poor.

Land disputes generated charges of unfair evictions and the use of excessive force by security officials. The NGO Jakarta Residents Forum estimated that security officials evicted at least 6,000 persons in 13 areas during the year compared with 5,000 in 2005.

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

*a. Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and freedom of the press; however, the Government at times restricted these rights in practice. A vigorous, independent media operated in the country and generally expressed a wide variety of views without restriction. During the year trials were held for two men charged with criminal defamation for "insulting the President," but in December the Constitutional Court ruled these articles of the criminal code unconstitutional. At least three persons were arrested for raising separatist flags. In addition, politicians and powerful businessmen often filed criminal or civil complaints against journalists whose articles they found insulting or offensive. During the year some journalists faced threats or violence.

During the year there was a vigorous debate over proposed revisions to the criminal code. Among the more controversial provisions were ones that would protect government officials and the state ideology (Pancasila) from defamation and would criminalize pornography and certain acts deemed pornographic. The revisions were still under debate at year's end.

Three chief editors were charged with the crime of publicly expressing or inciting animosity and defamation towards Islam after they published controversial Danish cartoons of the Prophet Mohammad. However, only Teguh Santosa, editor of the news Web site Rakyat Merdeka Online, was brought to court. On September 20, the South Jakarta District Court dismissed the charges against Santosa saying the prosecution had used an improper legal argument against him. The judges accepted the defense lawyers' argument that journalists should not be tried under the criminal code, but rather under the press law.

On June 28, police arrested student activist Fahrur Rahman for burning pictures of the President and vice President in a student demonstration. On October 30, Rahman was convicted and sentenced to three months in jail. On August 3, the North Jakarta district court tried lawyer Eggi Sudjana on charges of defamation for criticizing the President for allegedly accepting gifts of luxury cars for his son and three of his aides from a businessman. Sudjana asked the Constitutional Court to review the two provisions of the criminal code which criminalize defamation of the President and vice President. On December 7, the Constitutional Court declared the two provisions unconstitutional.

On April 28, police arrested Popy Egenderph, Jhon Sahureka, and Dominggus Saranamual for their involvement in raising the separatist South Maluku Republic flag in the Kudamati area. Popy had been the target of police investigation since 2004 because of her involvement in coordinating such actions as a flag-raising in front of the residence of Maluku Sovereignty Front (FKM) leader Alex Manuputy in 2004. Police were also investigating the involvement of Sahureka and Saranamual in the FKM.

Although the Government did not formally restrict foreign journalists from traveling to the provinces of Papua and West Irian Jaya, as a matter of practice the Government expected journalists to request permission through the foreign ministry or, if abroad, through the nearest Indonesian embassy. The Government approved some requests and denied others. Some journalists traveled to Papua without specific government permission. There were no reports of restrictions on journalists traveling to previous areas of conflict in Aceh, Maluku, North Maluku, and Sulawesi.

Journalists faced violence and intimidation from police, soldiers, government officials, rebels, thugs, students, and ordinary citizens. During the year the Alliance of Independent Journalists (AJI) recorded at least 53 acts of violence against journalists, including physical attacks as well as verbal threats and lawsuits. One journalist was murdered, four faced lawsuits, 17 were threatened, and 31 were attacked. AJI found the most dangerous provinces for journalists were Jakarta (16 cases of violence), East Java (seven cases), and West Java (six cases). Mobs and thugs com-

mitted 15 acts of violence, government officials (district heads, regents, governors, ministerial staff) and the police were each responsible for seven.

On April 29, freelance reporter Herliyanto was found dead with numerous stab wounds to his head, neck, stomach, and back in a teak plantation near Tarokan village, East Java. Herliyanto was investigating corruption allegations involving school construction funds in Tulupari village. Police ruled out robbery as a motive but did not say publicly whether the killing was linked to his reporting.

On June 13, unknown persons attacked a group of journalists from Jakarta who were on assignment in Kutai Kertanegara, East Kalimantan. The journalists were invited by the governor to cover preparations for the 2008 National Sports Week. Police arrested 10 attackers. Several were known delinquents and one was a tribal leader from the Kutai Kertanegara Forestry Service.

On several occasions during the year, an extremist group, the Islamic Defenders' Front (FPI), sought to limit freedom of expression through intimidation. In April the country's first edition of Playboy magazine was published and sparked protests although it contained no nudity. The police charged four models and the chief editor of the magazine in a lawsuit filed by FPI and a group called the Indonesian Anti-Piracy and Pornography Society. The editor's trial began in December and continued through year's end. On April 12, approximately 300 FPI activists attacked the building housing the magazine's office, causing damage and injuring two police officers. They demanded that the magazine cease publication. The police arrested three of the FPI members. The publisher moved the magazine's operations from Jakarta to Bali.

On February 9, the Supreme Court overturned Tempo magazine chief editor Bambang Harymurti's 2004 criminal defamation conviction in a case stemming from an article that suggested that prominent businessman Tomy Winata stood to benefit from a fire that destroyed a Jakarta market. In overturning the conviction, the Supreme Court ruled that the press law should be used in defamation cases against journalists instead of the criminal law.

During the year the Government took no legal action against any person responsible for crimes committed against journalists in 2004 and 2005.

In 2002 the Government enacted a broadcasting law that established an impartial broadcasting commission (KPI) and designated the state as the sole authority to issue broadcasting licenses. In November 2005 the Government issued four implementing regulations banning live broadcast of regularly scheduled foreign programs by domestic carriers and giving the broadcast licensing authority to the Ministry of Communications and Information. Although some stations continued to air live broadcasts of foreign news reports, others delayed them to comply with the law. The 2002 law does not specify whether the ministry or the KPI controls issuance of broadcast licenses, so broadcasters continued to apply to both. In May both KPI and a coalition of NGOs separately requested that the Supreme Court review the 2005 implementing regulations, arguing they infringe on media freedom. At year's end the Supreme Court had not issued a decision in either case.

Despite incidents of violence and intimidation of the press, members of the press continued aggressive reporting on such issues as corruption, the Munir murder case, and environmental degradation. Regional media increasingly prospered. In addition, moderate Islamic publications continued to increase in number and popularity. Internet Freedom

In November, the Ministry of Information issued a decree creating an agency aimed at preventing online crime among local users. Under the decree, Internet cafes are required to provide the identities of Internet users to the agency on a monthly basis. The Ministry of Communication and Information denied that this agency would monitor online content. Human rights NGOs formed a team to monitor implementation of the decree.

*Academic Freedom and Cultural Events.*—The March 16 Abepura incident, in which three police officers and an air force noncommissioned officer were killed, occurred near Cendrawasih University. In the aftermath police swept the dormitories in search of suspects. Many students reportedly fled the university, and it was forced to close for 10 days.

The government-supervised Film Censorship Institute continued to censor domestic and imported movies for content deemed pornographic or religiously offensive.

In December the Jakarta film festival showed the documentary film *A Hero's Journey* about East Timor President and former Indonesian prisoner Xanana Gusmao. Media coverage of the film was limited. The Film Censorship Institute reportedly prevented the planned showing of three other films at the festival, all of which touched upon politically sensitive topics: East Timor, the 2002 Bali bombing, and the Aceh conflict.



In July the women's chapter of FPI, the Mujahidah FPI, claimed that Miss Indonesia's participation in the Miss Universe contest violated an education minister's decree forbidding the holding of beauty contests. FPI also reported members of the Miss Indonesia Foundation to the police for their involvement in sending Miss Indonesia to the contest. Although the case remained open, no charges had been filed at year's end.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right; however, the Government restricted this right in conflict areas. The law generally does not require permits for social, cultural, or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy requires police notification, and demonstrations require a permit.

Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua's cultural identity, on January 28, police arrested Jacob Mamori for hoisting the Papuan Morning Star Flag. Soon after he was described as being mentally deranged and was released. On May 11, police refused permission for a May 12 seminar at Cendrawasih University on the topic "the demand for Freeport closure."

There were instances when police showed notable restraint in dealing with violent demonstrations. For example, on March 16 in Abepura, approximately 150 demonstrators, including students from Cendrawasih University, blocked off roads for two days in front of the university demanding the closure of the foreign-owned Freeport mine in Timika. Demonstrators and students attacked the police and, with large rocks, beat to death three police officers and one member of the air force. In response, police used tear gas and fired rubber bullets at the crowd (see sections 1.a., 1.d., and 1.e.).

On May 3, the police used tear gas and water cannons in confronting labor demonstrators who had torn down the gates to the parliament compound, set fire to tires, and thrown stones at the police (see section 6.b.).

On other occasions police took no action to protect persons being attacked by mobs. On February 4, a mob in West Lombok attacked the houses of Ahmadiyah sect members, destroying 27 houses and leaving 137 people homeless. On March 17, a mob in Central Lombok attacked another Ahmadiyah settlement, destroying 45 homes. In each incident, police received information that an attack was imminent, but took no action to prevent it. In July a mob ransacked an Ahmadiyah mosque in Bogor, West Java (see section 2.c.).

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected it in practice. The Communist Party was banned in 1966.

*c. Freedom of Religion.*—The constitution provides for "all persons the right to worship according to his or her own religion or belief" and states that "the nation is based upon belief in one supreme God." The Government generally respected the former provision, but until recently only five faiths—Islam, Protestantism, Catholicism, Hinduism, and Buddhism—received official recognition in the form of representation at the Ministry of Religious Affairs. However, in February the Government recognized Confucianism as a formal religion following a statement by President Yudhoyono on the celebration of the Chinese New Year (most Confucians in the country are ethnic Chinese). On February 24, the Home Affairs Ministry issued a regulation requiring local and provincial administrations to provide administrative services to Confucians, such as issuing marriage licenses and identification documents which denote the bearer's Confucian religious affiliation. Other religious groups were able to register with the Government, but only with the Ministry of Home Affairs and only as social organizations. These groups experienced official and social discrimination. The law does not recognize atheism, and in practical terms requires all persons to identify themselves with one of the six faiths acknowledged by the Government.

The civil registration system continued to discriminate against members of minority religions. Civil registry officials refused to register the marriages or births of children of animists, members of the Baha'i faith, and others because they did not belong to one of the six officially recognized faiths. According to the Hindu association Parisadha Hindu Dharma Indonesia, Hindus, particularly in North Lampung, Southeast Sulawesi, Kalimantan, and some areas in East Java, despite official recognition of their religion, sometimes had to travel some distance to register marriages or births because local officials would not perform the registration.

Persons whose religion was not one of the six officially recognized faiths, as well as persons of Chinese descent, had difficulty obtaining a KTP, which was necessary to register marriages, births, and divorces. Several NGOs and religious advocacy groups urged the Government to delete the religion category from the KTPs, but the

DPR passed legislation in December retaining it (see section 1.f.). Men and women of different religions experienced difficulties in marrying and in registering marriages. The Government refused to register a marriage unless a religious marriage ceremony had taken place. However, very few religious officials were willing to take part in a wedding involving a man and woman of different faiths. For this reason, some brides and grooms converted to their partner's religion. Others resorted to traveling overseas to wed. In July 2005 the Indonesian Council of Ulemas (MUI) reaffirmed its 1980 ban on marriages between persons of different faiths. MUI edicts are influential but do not have legal standing.

On March 21, the ministers of religious affairs and home affairs signed a joint ministerial decree on the establishment of houses of worship, which replaced a 1969 joint ministerial decree, and declares that a permit for a house of worship can be issued if it is petitioned in a signed statement by at least 90 congregation members and 60 other community members. The petition must then be approved by both the local head of the Religious Affairs Department and the local office of the Communication Forum for Religious Harmony. The joint ministerial decree was in part a response to attacks on unregistered houses of worship. The decree was intended to make it easier to open houses of worship by reducing the number of other community members who must sign the petition. Some groups criticized the new rules for retaining the requirement that community members consent to establishment of houses of worship. These groups also noted that the high number of congregation members required to sign the petition limited the ability of small congregations to register and to exercise their constitutional right to freedom of worship.

In Central Sulawesi and Maluku, NGOs worked closely with religious leaders and the local community to promote mutual respect and cooperation among religions. Muslim and Christian groups in Poso/Palu were communicating better and interacting more intensively.

In March in Bulukumba, South Sulawesi, approximately 100 members of the militant Islamic group Laskar Jundullah ransacked an office/house of two foreign university lecturers/linguists, accusing the two long-term residents of translating the Bible into the local dialect and demanding the two leave the country for allegedly trying to convert residents to Christianity. The local police dispersed the crowd, after allowing them to "search" the couple's house.

In September 2005 a court in West Java sentenced three women to three years in prison each for proselytizing based on their inclusion of Muslim children, albeit with parental permission, in Christian Sunday school activities. On February 7, the Supreme Court denied their appeal. In November 2005 a non-Indonesian and a citizen working on a dam project in Madura were arrested following accusations that they were trying to corrupt the Muslim community. On March 29, the non-Indonesian was found guilty of misusing his visa and sentenced to four months in jail. After serving his sentence, he was deported. The citizen was sentenced to 2° years in jail.

During the year the Government took no concrete steps to implement controversial provisions of the education law that require schools to provide religious instruction to students in their own faith.

As in previous years, some political parties advocated amending the constitution to adopt Shari'a on a nationwide basis, but most parliamentarians and the country's largest Muslim social organizations remained opposed to the proposal. There were no attempts by the national parliament or local legislatures to amend the constitution to adopt Shari'a laws. However, local governments have issued Shari'a-based local laws. Some human rights groups argue that these religiously based laws are illegal, since the Government of Indonesia's regional autonomy law prohibits local laws from dealing with religion. Others argue that the Shari'a based laws violate constitutional provisions that proscribe religiously based laws. The central authorities have not challenged the issuance of such local regulations.

According to the Indonesian Women's Coalition, more than 56 Shari'a-based local laws have been issued throughout Indonesia. These include laws requiring that women wear headscarves in public, that village heads be able to read the Koran (in Arabic), and that prohibit drinking alcohol and gambling.

In Aceh, in accordance with Aceh's special autonomy arrangement, the Government continued to establish Shari'a courts, which heard only cases involving Muslims and did not enforce the national penal code but rather qanuns, decrees formulated by the Aceh government and approved by the provincial legislature. The qanuns cover such "immoral behavior" as extramarital contact between a man and woman, gambling, and the production, distribution, or consumption of alcohol. Extramarital contact warrants from three to nine lashes, consumption of alcohol 40 lashes, and gambling six to 12 lashes. During the year a total of 15 persons were caned.

Members of the Banda Aceh Shari'a office, supported by local police, enforced headscarf use by Muslim women. In a series of December sweeps, Aceh's Shari'a police raided more than 30 beauty salons for allowing "improper contact" between men and women that, they alleged, could lead to adultery. The police also arrested local women for not wearing headscarves.

Courts sentenced several persons to jail for insulting Islam.

On May 17, the Palu District Court sentenced eight followers of Madi, a fugitive sect leader, to nine months in jail for their involvement in a October 2005 clash that left five dead, including three police officers. Two other suspects were acquitted of all charges.

As in previous years, during the Muslim fasting month of Ramadan, many local governments ordered either the closure or limited operating hours for various types of "entertainment" establishments, particularly bars and nightclubs not located in five star hotels. Government and mainstream Islamic leaders called on fringe groups not to carry out vigilante closings of establishments that violated these decrees, and these radical groups complied. Societal Abuses and Discrimination

The Ahmadiyah Islamic sect, considered heretical by many mainstream Muslims, was attacked by mobs on several occasions, sometimes with elements of the authorities assisting the attackers or acquiescing in the attack. The Government has not sought to punish the perpetrators of these attacks (see section 2.b.). At year's end the Ahmadiyah compound in Bogor, West Java, which was attacked and damaged in July 2005, remained sealed, although Ahmadiyah members were able to use the office facilities in a limited fashion.

On February 4, between 500 and 1,000 local residents attacked an Ahmadiyah housing complex in Gegerungan, injuring six persons and destroying all 25 homes. The 137 residents were forced to take shelter in an internally displaced persons (IDP) camp in Mataram, the Lombok provincial capital. The village head informed police of the impending attack but the police were unable or unwilling to stop the violence. Police arrested three participants in the violence after the situation calmed, but they were subsequently released and no further action was taken. An alleged provocateur of the violence was also later arrested, but was released when an angry crowd showed up at the police station holding him. No one has been charged with any crime in the incident.

On March 17, members of the Anti-Ahmadiyah Alliance destroyed homes of Ahmadiyah members in Prapen, Central Lombok Regency, causing the evacuation of 45 people to the Ahmadiyah IDP camp in Mataram. There were no arrests after this attack.

At year's end 182 Ahmadiyah members were living as IDPs in government barracks in Mataram. Police would not allow them to return and rebuild their homes until the local government decided what to do about them. Local political and religious leaders blamed the Ahmadiyah's plight on their unwillingness to "return to the flock" of mainstream Islam.

On February 15, the Regent of Bulukumba closed the Ahmadiyah mosque in Ujung Loe district of Bulukumba Regency, South Sulawesi. Hundreds of persons demanded that Ahmadiyah followers leave the village.

On April 29, dozens of unidentified people vandalized the Ahmadiyah mosque in Ranowila, South Sulawesi Province, while Ahmadiyah followers were commemorating the Prophet Mohammad's birthday. No injuries or arrests were reported.

On October 24, a group attacked a mosque belonging to the Ahmadiyah sect in Buton regency, South Sulawesi, while the group was performing Idul Fitri prayers. Buton police prevented the attackers from setting the mosque on fire and evacuated members of the sect. No arrests were made.

On October 25, followers of Ahmadiyah clashed with local community members in Manislor, West Java, causing damage to the Ahmadiyah mosque and the house of a local resident. No arrests were made.

On October 27, a mob in Bogor, West Java, dragged Muslim cleric Alih bin Hadi from his mosque and beat him to death. Members of the local community had contended for some time that Alih, who was a member of a group called Yayasan Karisma Usada Mustika, was delivering heretical sermons; the MUI was also looking into charges of heresy. In December 2005, Alih agreed to leave Bogor and stop preaching but returned to Bogor during the fall of this year. At year's end an investigation was ongoing.

Religiously motivated violence and vigilante acts in Central Sulawesi, Maluku, and North Maluku occurred less frequently than in previous years. However, Central Sulawesi continued to experience sporadic bombings, shootings, and other violence in spite of broad societal support for security restoration and reconciliation. During the year the police withdrew some forces from areas of the Poso Regency, bombing and other attacks increased in an apparent effort to provoke renewed inter-

communal violence. On March 22, a small bomb exploded in front of the Poso Nursing Academy causing no injuries. Another detonated in the empty Eklesia church in Poso on July 1. An explosion took place in front of the residence of the Poso police chief on August 3. On October 16, an unidentified gunman shot and killed Reverend Irianto Kongkoli in Palu, Central Sulawesi (see section 1.a.).

The indigenous Jewish population is small. Sabili, a radical Islamic publication and the country's second largest magazine by circulation, regularly published articles with anti-Semitic statements and themes. During the year a commercial company, Trustco Multimedia, circulated an interactive computer disk (cd) with material on the Prosperous Justice Party (PKS), which included a "game" entitled "Shoot the Jews." PKS denied any connection with the cd and requested Trustco Multimedia remove it from circulation.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution allows the Government to prevent persons from entering or leaving the country, and sometimes the Government restricted freedom of movement. The Law on Overcoming Dangerous Situations gives military forces broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; however, the Government did not use these powers. The Government continued to restrict freedom of movement for foreigners through a system of "travel letters," required for Papua. Enforcement was inconsistent. In June two foreign citizens were detained and deported for misusing their tourist visas to attend a meeting of a local tribal group in Papua Province. Under the 2005 Helsinki MOU between the Government and GAM, special national identity cards for Acehese were no longer issued. However, at year's end many Acehese continued to use Aceh-specific identity cards, as the Government had not yet issued national identity cards in all parts of the province.

The Government prevented at least 1,167 persons from leaving the country during the year. The AGO and the High Prosecutor's office prevented most of these departures. Some of those barred from leaving were delinquent taxpayers, convicted or indicted persons, and persons otherwise involved in legal disputes.

On April 19, a noncitizen was barred from entering the country. The individual had been detained by the authorities in 2005 for illegally entering Aceh, and was jailed and deported in 2003 for associating with Acehese rebels. On September 14, five foreign journalists were deported from Jayapura, Papua, for not possessing appropriate permission to cover news in the area. The five journalists came to Jayapura as tourists but then allegedly engaged in journalistic activities without the permission of the Foreign Ministry.

The constitution prohibits forced exile, and the Government did not use it.

*Internally Displaced Persons (IDPs).*—The Internal Displacement Monitoring Center (IDMC) reported that there were between 200,000 and 350,000 IDPs in the country, between 140,000 and 150,000 of whom were in Aceh, almost all the result of the 2004 tsunami. Some of the Aceh IDPs lived in temporary shelters, while others stayed with host families or were integrated into local communities.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. However, in practice, there were no reports of the forced return of persons to a country where they feared persecution. The Government cooperated with the UN High Commissioner for Refugees (UNHCR), which maintained an office in Jakarta, for assisting refugees and asylum seekers. At year's end there were 61 UNHCR-recognized refugees and 265 asylum seekers living in the country. Some were applicants and others were dependents. Most were from Iraq, Burma, Nigeria, or Sri Lanka.

The above figures do not include approximately 10,000 former refugees from East Timor who resided in West Timor at year's end, according to the UNHCR and the National Coordinating Board for Disaster and the IDMC. The precise number of East Timorese refugees is a matter of debate; the East Nusa Tenggara Governor cited a figure of 104,436 individuals remaining in West Timor.

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

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

The constitution provides for national elections every five years. The security forces lost their appointed DPR seats in October 2004 with the inauguration of the new legislature. DPR members automatically are members of the People's Consultative Assembly (MPR), which until October 2004 included regional and government appointed representatives. In October 2004 the MPR became a fully elected body consisting of the 550 DPR members and the 128 members of the DPD.

*Elections and Political Participation.*—Domestic and international observers monitored peaceful, first-ever, direct local elections to choose provincial- and district-level executives beginning in June 2005. During the year the Government held 54 local elections: six for governor, seven for mayor, and 41 for regent. Observers generally perceived the local elections as free and fair and, with a few exceptions, without incident affecting the outcome. Most instances of violence involved supporters of losing candidates attacking local election offices.

In 2004 President Yudhoyono became the country's first directly elected President. Domestic and international observers monitored the legislative and Presidential elections, organized by an independent election commission, and considered the elections free and fair. The national elections featured high voter turnouts, an absence of any notable violence, and broad public acceptance of the results.

All adult citizens are eligible to vote except members of the military and the police, convicts serving a sentence of five years or more, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice.

There were no legal restrictions on the role of women in politics. During the year women held four of 36 cabinet seats. The current election law includes a nonbinding call for parties to select women for at least 30 percent of the candidate slots on their party lists. In the 2004 elections, 61 women were elected to the 550-seat DPR, an increase from 1999, when 44 women held seats in the 500-seat DPR. In the DPD, 27 of the 128 members were women. During the year a woman was elected governor of Banten Province; and women won six district chief positions in local elections, raising the total number of female district chiefs to 18. Women are greatly underrepresented in local government in some provinces; for example, in Aceh the highest positions held by women are two deputy mayor and deputy regent positions. With the exception of Aceh Province, where non-Muslims are effectively blocked from political office by a requirement that all candidates must demonstrate their ability to read the Koran in Arabic, there were no legal restrictions on the role of minorities in politics. There were no official statistics on the ethnic backgrounds of legislators in the DPR. President Yudhoyono's cabinet consisted of a plurality of Javanese, with others being of Sundanese, Bugis, Batak, Acehnese, Papuan, Balinese, Arab, and Chinese heritage. The authorities swore in a directly elected governor for West Irian Jaya on July 24, and for Papua Province on July 26.

On December 11, Aceh held its first direct elections for regents, mayors, and governor since the 2005 peace accord. Domestic and international observers judged the elections to be free and fair. A former GAM field commander won the gubernatorial election and GAM-affiliated candidates won positions in six local and district governments.

*Government Corruption and Transparency.*—There was a widespread domestic and international perception that corruption was a part of daily life. Soon after taking office, the President established the Corruption Eradication Commission, giving it a broad investigative mandate. On February 7, former minister of religion Said Agil Hussein Munawar was sentenced for illegally spending approximately \$78.7 million (709 billion rupiah) entrusted to his ministry by Muslims wanting to perform the pilgrimage to Mecca. The Supreme Court reaffirmed the decision in August. On August 25, Theodorus F. Toemion, former chief of the National Investment Board, was sentenced to six years in prison and fined \$33,300 (300 million rupiah) for embezzling \$3.3 million (3 billion rupiah). On November 30, former minister of oceans and fisheries Rokhmin Dahuri was detained in connection with an investigation into his management of an off-budget fund.

The AJI reported no problems for the media in obtaining unclassified public documents from the Government.

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

The Government met with local NGOs, responded to their inquiries, and took some actions in response to NGO concerns. Following the 2004 murder of human rights activist Munir, the President formed a fact-finding team (TPF) consisting of leading members of the NGO community, prosecutors, and a senior police officer. However, the President did not release the TPF's report, which, according to press reports, called for the investigation of former and active officials of the State Intel-

ligence Agency in connection with Munir's death (see section 1.a.). After Polycarpus's murder conviction for Munir's killing was overturned in October (see section 1.a.), the police reconstituted an investigatory team. The chief of the national police stated that police were continuing to pursue leads in the case.

Domestic human rights organizations were subjected to monitoring, harassment, and interference by the Government; however, they actively advocated improvements to the Government's human rights performance. Including the October reversal of Polycarpus' conviction for Munir's murder, Komnas HAM reported that since 2000, 14 human rights activists had been killed, and no perpetrators had been brought to justice. There were no reports of human rights activists killed since 2004.

NGOs in Papua reported widespread monitoring of their activities by intelligence officials as well as threats and intimidation. Activists reported that intelligence officers took their pictures surreptitiously and sometimes questioned their friends and family members regarding their whereabouts and activities.

There were no reports of government interference with the large number of international and domestic NGOs in Aceh to help with the relief and reconstruction following the 2004 earthquake and tsunami, and human rights organizations had full access to the province.

The Government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard with suspicion foreign human rights organizations, particularly those operating in conflict areas. Government monitoring of foreigners was apparent in conflict areas. Some domestic human rights organizations expressed concern about the possible negative consequences of contacting foreigners. A number of government agencies and affiliated bodies addressed human rights problems, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, and Komnas HAM. However, in recent years Komnas HAM's efforts to expose human rights violations and bring perpetrators to account were undermined by a number of court decisions regarding its jurisdiction or authority. In 2003 a Jakarta court refused to subpoena former and active military officers who had ignored Komnas HAM summonses to face questioning about 1998 riots, which claimed more than 1,200 lives. In June 2005 the TNI stated it could not cooperate with attempts by Komnas HAM to summon retired and active-duty generals to answer questions about the abduction of pro-democracy activists between 1997 and 1998. The TNI insisted that Komnas HAM first obtain permission from the DPR (see section 1.b.). By law, severe human rights violations that occurred before 2000 could be investigated only by an ad hoc human rights courts, not Komnas HAM. Such a court could be formed only by a decision of the DPR, but for the DPR to know enough about an incident to approve the formation of a court, a thorough investigation was necessary. The resulting stalemate continued to block progress toward accountability. In June Komnas HAM asked the Attorney General for permission to visit places where the victims were taken during the abduction. In July Komnas HAM also wrote to the Central Jakarta District Court to summon retired and active-duty generals for questioning. These efforts apparently were fruitless, and the Komnas HAM team that worked on this issue from October 2005 was disbanded in September.

In 2005 the Government, in cooperation with East Timor, formed a bilateral Truth and Friendship Commission (see section 1.e.) to investigate alleged human rights abuses that occurred in East Timor.

In 2004 the DPR passed legislation to establish a TRC to investigate human rights violations before making recommendations to the President regarding amnesty for abusers and rehabilitation for their victims. The TRC was empowered to recommend amnesty for a confessed violator, even without the victim's consent. The law also stipulated that cases resolved by the commission could not later be filed in a human rights court. Human rights activists filed an appeal with the Constitutional Court, questioning the constitutionality of two articles: a provision permitting payment of compensation before a finding of guilt and the prohibition on TRC cases being filed in human rights courts. On December 8, the Constitutional Court ruled the entire TRC act unconstitutional. The Constitutional Court chief justice stated that the Government's lack of progress in selecting the 21 TRC members factored into its decision.

The Law on the Government of Aceh promulgated in August states that a Human Rights Court will be established in Aceh within one year and that the judgments passed by the Human Rights Court may prescribe compensation, restitution, and rehabilitation for the victims of human rights violations.

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

The constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. However, in practice, the Government failed to defend these rights adequately.

*Women.*—The law prohibits domestic abuse and other forms of violence against women. However, rape and domestic violence were problems.

Violence against women remained poorly documented. Nationwide figures were unavailable. The National Commission for Women's Rights reported that in 2005 (the most recent statistics available) there were 20,931 cases of violence handled by 215 NGOs in 29 provinces, and the local press reported that violence against women continued to increase. In East Java incidents of violence against women continued to increase both in number and severity. The East Java Integrated Service Center recorded 213 cases of violence against women and children in the first half of the year, compared with approximately 300 cases of violence against women and children in all of 2005. Most East Java NGOs working on women and children's issues believed the real figure was far higher, noting the tendency of many victims to keep silent. During the year at least 10 cases were prosecuted under the 2004 Domestic Violence Act, with punishments ranging from three to 18 months' imprisonment. Two types of crisis centers were available for abused women: government-run centers in hospitals and NGO centers in the community. Reliable nationwide statistics on the incidence of rape were unavailable. The legal definition of rape is narrow and excludes some acts that would commonly be treated as rape in other countries, such as marital rape. Sentencing was a problem. Although rape is punishable by four to 12 years in jail, and the Government jailed perpetrators for rape and attempted rape, most convicted rapists were sentenced to the minimum or less.

In past years rapes by members of the security forces occurred in Aceh. The TNI did not prosecute any of its personnel for rape.

Nationwide, the police operated more than 200 "special crisis rooms" or "women's desks" where female officers received criminal reports from women and child victims of sexual assault and trafficking, and where victims found temporary shelter. During the year the police opened trafficking victims' rehabilitation recovery centers in Pontianak (West Kalimantan) and Makassar (South Sulawesi).

The legal differentiation between a woman and a girl was not clear. The law sets the minimum marriageable age at 16 for a woman (and 19 for a man), but the Child Protection Law states that persons under age 18 are children. A girl who marries has adult legal status. Girls frequently marry before reaching the age of 16, particularly in rural areas. Female genital mutilation (FGM) was practiced in some parts of the country, including West Java. Complications reportedly were minimal. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic. In April the Ministry of Health banned FGM by doctors and nurses. However, symbolic female circumcisions that do not involve physical damaging of the child could be carried out and violators of the ban did not face prosecution.

Prostitution is not specifically addressed in the law. However, many officials interpret "crimes against decency/morality" to apply to prostitution. Child prostitution is illegal. While contrary to societal and religious norms, prostitution was widespread and largely tolerated. Security forces reportedly participated in the running of brothels or protection rackets, which shielded brothels from prosecution. International sex tourism took place, especially on the islands of Batam and Karimun, both near Singapore.

Although it is not explicitly mentioned, sexual harassment is against the law and is actionable under the criminal code. In the most recent statistics available, the State Ministry of Women's Empowerment said in 2004 that 90 percent of women and 25 percent of men have been victims of sexual harassment in the workplace.

State policy and the law state that women have the same rights, obligations, and opportunities as men. However, the law also states that women's participation in the development process must not conflict with their role in improving family welfare and educating the younger generation. Marriage law designates the man as the head of the family. Women in many regions of the country, particularly in Papua, complained about differential treatment based on gender.

Although legal scholars believed that local governments lacked authority to legislate on religious matters, local governments increasingly passed Shari'a-based local laws that some human rights and women's activists believed discriminate against women. The central government has not challenged the validity of these regulations. In 2005 the local government of Tangerang, Banten, issued a local regulation prohibiting women who behave like prostitutes and who are unaccompanied by male

relatives, from frequenting public areas in Tangerang after dark. The law also prohibits public displays of affection. Violation of this law is punishable by three months' imprisonment or a maximum fine of \$1,666 (15 million rupiah). Many activists protested the law because of its potential to lead to wrongful arrests of innocent women. On February 27, public order officers arrested the pregnant wife of an elementary school teacher (for suspected prostitution) as she waited unaccompanied for public transportation. She filed a lawsuit against Tangerang Mayor Wahidin Halim for wrongful arrest and defamation of character. On August 29, the Tangerang District Court ruled in favor of the mayor.

Divorce is available to both men and women. Muslims who sought divorce generally turned to the Shari'a-based family court system as a faster and cheaper alternative to the national court system. Non-Muslims obtained divorces through the national court system. Due to prejudicial attitudes, women often faced a heavier evidentiary burden than men, especially in the Shari'a-based family court system. Although both Islamic and national courts may award alimony, many divorcees received no alimony, since there was no system to enforce such payments. Men and women both keep the separate property they owned before marriage. If there is no prenuptial agreement, joint property is divided equally. The law requires a divorced woman to wait a certain period of time before remarrying; a man can remarry immediately. On August 1, the President signed a citizenship law to end longstanding discrimination against Chinese-Indonesians and Indonesian women with foreign spouses. Among other things, the law revises the definition of "indigenous Indonesian" to include all citizens who have never assumed foreign citizenship; enables foreign spouses, including males, to seek citizenship after living in the country for five consecutive years or 10 accumulated years; entitles foreign-born spouses to permanent resident status after they reside in the country for a stipulated period of time; and allows a child born to a citizen parent and a foreign parent to maintain dual citizenship until age 18, at which point the child would have to choose citizenship.

During the year the Government continued to implement Shari'a in Aceh (see section 2.c.). The most visible impact on women's rights appeared to be the enforcement of dress codes. In Banda Aceh, Shari'a police briefly detained improperly dressed women in the Shari'a enforcement office, where the women were lectured on appropriate attire. In February media reported on a protest against the Shari'a police's humiliation of women in Banda Aceh. In Western Aceh, Shari'a police publicly humiliated women they considered improperly dressed by cutting off their clothes. Local governments and groups in other areas also undertook campaigns to promote conformity by women with the precepts of Shari'a. Some women told reporters that they felt humiliated when detained for dress code violations. In West Sumatra the governor approved a regulation requiring all female civil servants, regardless of religion, to wear headscarves.

Women faced discrimination in the workplace, both in hiring and in gaining fair compensation. In 2003, the latest year for which statistics are available, the International Labor Organization's (ILO) Jakarta office reported that, on average, women's earnings were 68 percent of that of men. According to the Government, 41 percent of all civil servants were women but they accounted for less than 7 percent of senior government officials. Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of as full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. By law, if a couple both worked for a government agency, the couple's head-of-household allowance was given to the husband.

Organizations around the country promoted women's rights or otherwise addressed women's issues during the year, including Solidaritas Perempuan, Mitra Perempuan, LBH-Apik, and the International Catholic Migration Commission (ICMC).

*Children.*—The Government stated its commitment to children's rights, education, and welfare, but it devoted insufficient resources to fulfill that commitment. Although the law provides for free education, in practice most schools were not free of charge, and poverty put education out of the reach of many children. Child labor and sexual abuse were serious problems. In 2003 the leader of the National Commission for Child Protection identified the most pressing problems related to the country's youth as child labor, child trafficking, child prostitution, street children, children in conflict areas, and undernourished children. The Child Protection Act addresses economic and sexual exploitation of children as well as adoption, guardianship, and other problems; however, some provincial governments did not enforce its provisions.



By law children are required to attend six years of elementary school and three years of junior high school; however, in practice, the Government did not enforce these requirements. According to the Government's 2004 National Socio-Economic Household Survey, school enrollment rates were 96.1 percent for children ages seven to 12, 79.2 percent for children ages 13 to 15, and 49.8 percent for children ages 16 to 18. Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school.

Monthly fees for public schools varied by province and were based on average incomes. Tuition, transportation, and school materials, could cost a family between \$444 and \$777 (four million to seven million rupiah) per year for each primary and secondary student. In June 2005 the ILO conducted a limited child labor survey in areas within five provinces (North Sumatra, East Kalimantan, West Java, East Java and South Sulawesi), which revealed that one in five school-age children from low-income families had no access to education and experienced various kinds of exploitation at work—both in the formal and informal sectors. The survey also found that of 2,438 school-age children below 15 years of age, 19 percent were not attending school. It was unclear how many children were forced to leave school to help support their families. In some remote areas of East Java, lack of nearby school locations contributed to drop out rates as high as 50 percent and led children to seek work. In some areas, parents and watchdog groups complained that corruption among public servants severely undermined the quality of education. The 2004 tsunami and the lingering effects of conflicts continued to disrupt the education of significant numbers of children in the coastal areas of Aceh.

Many children grew up in unhealthy circumstances. Malnutrition remained a serious problem. The country's infant mortality rate remained high. According to Bureau of Statistics data for the year, there were 36 deaths for every thousand live births.

During the year malnutrition continued to be a problem in East Nusa Tenggara Province. More than 17,000 children were believed to be suffering from malnutrition in East Nusa Tenggara as of September, an increase from the 2005 figure of 12,000. As of August, 21 infants had died of acute malnutrition, a decrease from 59 such deaths during the first eight months of 2005.

Child abuse is prohibited by law, but government efforts to combat it generally have been slow and ineffective. NGOs reported that it continued to take excessively long to bring a child rape case to court and that mechanisms for reporting and dealing with child abuse were vague. The East Java Children's Protection Agency (LPA) estimated that the number of cases of physical and sexual violence against children increased during the year. In most cases, the offender was a parent of the victim. Commercial sexual exploitation of children continued to be a serious problem. The number of child prostitutes in the country was unclear; however, a 2004 ILO assessment estimated there were approximately 21,000 child prostitutes on the island of Java. In 2003 a team of NGO and government health officials visited a prostitution complex in Riau Province and estimated that 30 to 40 percent of the 365 female prostitutes there were less than 18 years of age. Many teenage girls were forced into or found themselves caught in debt bondage. At times law enforcement officials treated child prostitutes as criminals rather than victims. Women's rights activists and religious groups accused government officials, particularly police and soldiers, of operating or protecting brothels that employed underage prostitutes. Corrupt civil servants issued identity cards to underage girls, facilitating entry into the sex trade. According to official East Java government statistics, there were approximately 4,000 child prostitutes in East Java, 30 percent of the total number of recorded prostitutes; there were approximately 3,000 child prostitutes in Central Java; and 194 in the city of Yogyakarta. There also were reports of sexual exploitation of boys. During the year NGOs reported that long-active pedophile rings continued to operate in Bali, and authorities arrested at least one foreign national and deported another for pedophilia.

There were cases in which employment brokers paid parents advances of future salaries to be earned by their daughters. The child was required to repay the employment brokers. Researchers described a "culture of prostitution" in some parts of the country, where parents encouraged their daughters to work as big-city prostitutes and send the proceeds home. NGO observers said many girls were forced into prostitution after failed marriages they had entered into when they were 10 to 14 years of age. There was no obvious violation of the law, because their paperwork identified them as adults due to the fact they were once married. In 2004 the latest year for which data was available, the Ministry of Manpower and Transmigration reported 2.86 million child workers in its national labor survey; however, this was far lower than the figure cited in a 2003 ILO report of 8 million children under 18 doing the work of adults (see section 6.d.).

In East Java, local NGOs reported that the Government paid little attention to the rights of juvenile offenders. In Surabaya, juveniles were held in the same detention facilities as adults during pre-trial and trial phases of detention. The only prison for juveniles in Blitar, East Java, is far from the population centers of the province. As of July, there were 126 juveniles in the Blitar prison. According to the LPA, the physical conditions were inhumane. Most juveniles from Surabaya were remanded to Surabaya-area adult facilities. Juveniles frequently experienced abuse while in detention. There were no further developments regarding the July 2005 allegation by four juveniles in the Rungkut area of Surabaya that police injured their knees and legs during an interrogation. The head of the local police denied the accusation. Substantial numbers of street children were apparent in Jakarta and the provinces of East Java, West Java, North Sumatra, and South Sulawesi. Surabaya, in East Java, was home to approximately 8,000 street children, many reportedly susceptible to sexual abuse and violence. Approximately 40 shelters in the province provided services to such children. The Jakarta City government opened a shelter in 2004 with the capacity for approximately 200 children. The Government continued to fund other shelters administered by local NGOs and paid for the education of some street children.

A number of NGOs promoted children's rights, including Child Advocacy Network, National Commission on Child Protection, Center for Study and Child Protection, and Foundation for Indonesian Child Welfare.

*Trafficking in Persons.*—Trafficking in persons is illegal under the law; however, the law is not comprehensive in its definition of trafficking. During the year persons were trafficked to, from, and within the country for the purposes of prostitution and forced labor, including instances of debt bondage. Internal trafficking was a significant problem. Although the criminal code lacks an adequate legal definition of trafficking in persons, a variety of laws are applied in cases of trafficking and related offenses. The penal code prohibits trade in women and male minors but is silent on female minors. The Child Protection Act provides for prison sentences of three to 15 years, plus fines for child traffickers. For cases involving underage victims, police and prosecutors used the Child Protection Act, a change from previous reliance on the penal code with its weaker sentencing guidelines. Prior to 2004 judges rarely sentenced traffickers to more than three years in prison; however, during the year sentences for trafficking convictions continued to increase. Judges imposed heavier sentences on child traffickers, with convictions regularly resulting in five- or six-year jail terms.

During the year the Government, NGOs, and the media reported that women were trafficked to Malaysia, Japan, the Middle East (including Saudi Arabia and Kuwait), Taiwan, Hong Kong, Singapore, and other destinations. Malaysia was the destination for the greatest number of credibly documented cases of female trafficking victims. An undetermined number of women from China, Thailand, Eastern Europe, and Central Asia were trafficked into the country for sexual exploitation.

Reliable figures were not available on the number of persons trafficked. A 2003 study by the NGO Solidarity Center and the ICMC estimated that between 2.4 and 3.7 million women and children worked in the vulnerable categories of migrant workers, sex workers, and child domestic workers (see section 5, Children). Within these categories, the estimated total number of children ranged from 254,000 to 422,000. These were not estimates of victims but rather of women and children vulnerable to trafficking.

There is little reliable data regarding human trafficking victims in eastern Indonesia. However, the LPA estimated that at least 100,000 women and children would be trafficked from, to, or through East Java during the year. They also believed that the number of trafficking victims increases between 5 and 10 percent per year. The women's division of the country's largest Muslim organization, Nahdlatul Ulama, believed that the number of victims of trafficking in East Java doubles annually. Based on East Java police data, there were 14,896 trafficking victims in East Java from January to July. The Surabaya NGO Abdi Ahsi reported that 3,000 women per year were trafficked from rural East Java to one of the large prostitution areas in Surabaya.

In West Nusa Tenggara Province, 3,336 cases of "overseas worker problems" were referred to the Panca Karsa Foundation (PCF) in Mataram, Lombok, by the victims and their families during the first six months of the year. These cases ranged from workers not receiving the jobs or salaries they were promised, to torture and rape by employers and employment agents. PCF estimated that at least 10,000 to 15,000 persons were trafficked annually by extensive illegal networks operating in the province.

A notable West Nusa Tenggara case occurred in mid-2005 in Krukah subdistrict, East Lombok. Two 12-year-old girls escaped involuntary captivity and were referred

to the Mataram Legal Aid Society. They complained that they had given \$320 (3,000 rupiah) to an overseas worker agency that promised the girls jobs as domestic workers abroad. They said that the agents held them captive and raped them. The NGO LBH APIK notified the police, who conducted a raid, which discovered 55 other young girls being held captive under conditions that included rape and torture. The perpetrators were arrested, eventually convicted of defrauding the girls' parents of the placement fees, and sentenced to nine months in prison. Public outrage over this case led the East Lombok government to pass the province's first antitrafficking regulations during the year, empowering local police to combat trafficking more effectively.

The Singkawang District of West Kalimantan remained well known as an area from which poor, ethnic Chinese women and teenage girls between the ages of 14 and 20 were recruited as "mail order" brides for men, primarily in Taiwan but also in Hong Kong and Singapore. In some cases the women were trafficked for sexual exploitation and slave-like servitude. In many cases traffickers recruited girls and women under false pretenses. One tactic was to offer young women in rural areas jobs as waitresses or hotel employees in distant regions, including island resorts. After the new recruits arrived and incurred debts to their recruiters, they learned that they had been hired as prostitutes. In October 2005 Jakarta police arrested two persons for duping at least 51 women with offers to work in Japan as "cultural performers." Once in Japan, the women were exploited as prostitutes. No developments in this case were reported during the year.

Many victims became vulnerable to trafficking during the process of becoming migrant workers. Many unauthorized recruiting agents operated throughout the country and were involved in trafficking to various degrees, and some government-licensed recruiting agents also were implicated in trafficking. Recruiting agents often charged exorbitant fees leading to debt bondage and recruited persons to work illegally overseas, which increased the workers' vulnerability to trafficking and other abuses. According to Solidarity Center, hundreds of Burmese fishermen, apparently forced to work on Thai fishing boats, either escaped or were abandoned in Tual, a small island in Maluku Province, where they lived in difficult conditions. In 2004 immigration officials forcibly deported a number of Burmese fishermen to Thailand via foreign fishing vessels. In 2005 the Burmese Seafarers Union estimated that there were still more than 100 Burmese seafarers living near Tual but did not anticipate further deportations. The Southeast Maluku police and the local Maritime and Fishery Office estimated that there were about 500 Thai and Burmese working as fishermen in Tual during the year.

From January until mid-October, the national police trafficking unit reported investigations of 91 suspects involving 437 victims, compared with 82 suspects and 143 victims for all of 2005. Police have submitted 23 cases to prosecutors and continue to investigate 24 cases, compared with 12 cases submitted in 2005. The AGO created a Transnational Crime Task Force, which began operating in July and which is pursuing 10 trafficking cases. Many of the traffickers are members of well financed crime syndicates. During the year courts convicted 18 traffickers, a slight increase over 2005. According to NGOs, convictions resulted in an average jail sentence of four years, an increase from 2.25 years in 2005.

East Java police demonstrated improved commitment in combating trafficking, resulting in increased numbers of investigations, arrests, and detainments. However, relatively few cases resulted in successful prosecutions. It is unclear whether police were unable to gather sufficient evidence to secure convictions or if corruption of prosecutors and judges interfered with the prosecution of these cases.

On March 13, police officers from Rogojompi precinct, Banyuwangi arrested Lemahbangdewo village head Suwardi for allegedly trafficking two girls from his village. No charges were filed.

In March Jember police arrested Burawi and Santo on suspicion of trafficking a girl from Jember, East Java. In November the Jember district court convicted Burawi and Santo for trafficking and sentenced them to seven and six years in prison, respectively.

On March 22, Surabaya police arrested a couple named Jatimah (alias Yati) and Nur Iman as members of a large human trafficking syndicate in Surabaya. No charges were filed.

In March, Surabaya police arrested Saka Baharuddin, owner of "Wisma Barbara" brothel, on trafficking charges. He was convicted and sentenced to two months in jail. On June 19, Surabaya police again arrested Baharudin, on trafficking charges. In July police forwarded the file of Baharudin to the Surabaya prosecutors' office. On September 6, the prosecutors' office returned the case to the police as incomplete. Police released Baharudin on September 16. No charges were filed.

On May 8, Surabaya police arrested two members of a trafficking syndicate in the city's "Moro Seneng" prostitution complex. They allegedly trafficked 14 juvenile girls for prostitution. Their trial was still pending.

On May 30, Nganjuk police in East Java arrested Sudarwati on human trafficking charges. In September she was convicted of trafficking girls from East Java to East Kutai, East Kalimantan and sentenced to 4° years in prison. She was the second person convicted under East Java's Child Protection Law.

On July 20, Krembangan police in Surabaya rescued two female trafficking victims and arrested three alleged traffickers, Alexander Go, Yola (alias Candra Asri), and Lisawati.

The basic three-month course that all police officers received did not include training on countertrafficking in persons. During the year international agencies continued to provide police with specific counter-trafficking training. Trafficking falls under the purview of the Criminal Investigation Department, which has a dedicated antitrafficking unit with operational and coordinating responsibilities. During the year 40 officers trained in countertrafficking were assigned to train police nationwide.

Credible sources noted that individual security force members were involved in setting up and protecting brothels. Traffickers and brothel owners reportedly paid protection money to security force members. An NGO survey of trafficking in Papua concluded that military members operated or protected brothels that housed trafficking victims. Apart from police and soldiers, some government officials were complicit in trafficking, particularly in the production of false documents. The prevalence and ease of obtaining fraudulent national identity cards, which could document children as adults, contributed to the trafficking problem. Within society and the Government, there was continued reluctance to acknowledge that prostitution was a major problem. During the year the Government continued to implement the 2002-07 National Action Plan to counter trafficking of women and children. The Child Protection Act prohibits economic and sexual exploitation of children and also child trafficking. The act specifies severe criminal penalties and jail terms for persons who violate children's rights, including by trafficking in persons. The Government, with the help of NGOs, conducted public education efforts on trafficking. In September the Ministry of Women's Empowerment held a series of workshops on debt bondage to raise awareness and develop a coordinated approach to this issue.

During the year the Government established a trial program to help trafficking victims reintegrate into society, thereby mitigating the risk of people becoming two-time victims, and opened a trafficking victims' shelter in Batam. Police, prosecutors and judges attended workshops on enforcement of antitrafficking laws, and in some provinces government officials and civil society formed committees to stop trafficking. Prosecutors began identifying trafficking cases as such, a step that will help track success in bringing traffickers to justice. Overall, government and society became increasingly aware of trafficking and the special rehabilitation needs of trafficking victims.

Nevertheless, the Government faced several challenges in battling trafficking, including: a limited budget; a lack of awareness of the trafficking issue across a full range of government agencies; uneven collection of data related to trafficking, especially with respect to prosecutions and investigations; and the need for capacity building in the Government's ability to report on and collect information about trafficking within the country's borders. International organizations have witnessed collusion by immigration officials with traffickers at transit points, making victims more vulnerable to traffickers at border and transit points.

Domestic NGOs, with international support, led efforts to monitor and prevent trafficking, frequently in coordination with government agencies. These NGOs included the Consortium for Indonesian Migrant Workers Advocacy, LBH-Apik, Women's Aid and Protection Group, Women's Coalition (Koalisi Perempuan), Solidaritas Perempuan, and Pusaka.

National and local assistance to trafficking victims increased compared with previous years but remained small in comparison with the scope of the problem. In general government assistance was modest and focused on citizens trafficked abroad, while domestic assistance was minimal. The Government and community groups have a number of shelters in Dumai, Riau Province; Nunukan, East Kalimantan Province; West Kalimantan Province; Jakarta; North Sumatra; and North Sulawesi. The police operated more than 200 women's desks, units established to help women and children who fall victim to violence including trafficking. The women's desks provided temporary shelter, special police handling, and some legal services for victims. The women's desks often cooperated with local NGOs to provide medical and psychological services and longer-term shelter. However, distrust of police discouraged some victims from using these desks. The Government's policy is to "treat per-

sons who are trafficked not as criminals but as victims who need help and protection." During the year the People's Welfare Coordinating Ministry and the Ministry of Women's Empowerment continued to reinforce this policy in public settings and training programs for police and other officials. However, local government and police practice varied, particularly in the lower ranks of law enforcement agencies. Local governments, exercising greater authority under the country's decentralization program, sometimes enacted laws or regulations that tended to treat those trafficked for sexual exploitation as criminals, contrary to national policy. In many instances, government officials and police actively protected and assisted victims. In other cases, police treated victims such as trafficked prostitutes as criminals, subjected them to detention, and took advantage of their vulnerability to demand bribes and sexual services. Police and immigration officials periodically rounded up foreign prostitutes and quickly deported them without any reported screening for potential trafficking victims. The media and lower-level officials, including police, often failed to protect victims' identities and commonly provided victims' names to the public. The Government encouraged victims to assist in the investigation and prosecution of traffickers, but victims frequently were reluctant or refused to provide testimony due to shame and fear of retribution against themselves or their families. The new Victim Protection Law was intended to encourage witnesses and victims to come forward with testimony to enable successful prosecutions (see section 1.e.).

During the year the Government established an educational pilot program in East Java and East Nusa Tenggara to raise awareness of trafficking among housewives, religious leaders, out-of-school children, and parents.

*Persons With Disabilities.*—The Government classified persons with disabilities into four categories: blind, deaf, mentally disabled, and physically disabled. The constitution requires the Government to provide them with care; however, "care" is not defined, and the provision of education to children with disabilities never was inferred from the requirement. The law also mandates accessibility to public facilities for persons with disabilities; however, the Government did not enforce this provision. Few buildings and virtually no public transportation facilities provided such accessibility. The law requires companies that employ more than 100 workers to set aside 1 percent of their positions for persons with disabilities. However, the Government did not enforce the law, and persons with disabilities faced considerable discrimination.

In urban areas only a few city buses offered wheelchair access, and many of those have had their hydraulic lifts vandalized, rendering them unusable.

In 2003 the Government stated the country was home to 1.3 million children with disabilities, but only 55,000 of them attended school. The actual number of children with disabilities was believed to be much higher. The law provides children with disabilities with the right to an education and rehabilitative treatment. A government official alleged that many parents chose to keep children with disabilities at home; however, many schools refused to accommodate such children, stating they lacked the resources to do so. According to the Government, there were 1,234 schools dedicated to educating children with disabilities; 960 of them were run privately. Some young persons with disabilities resorted to begging for a living.

Human rights activists in Surabaya reported that discrimination against persons with disabilities existed in employment and education. In 2004 the Surabaya city government refused a civil service candidate with disabilities claiming that she did not fulfill health requirements. In May 2005 the Surabaya Administrative Court ruled in her favor. City officials appealed to the Supreme Court to uphold their actions. At year's end the case was still pending and the city government had not issued a policy to allow persons with disabilities to apply for civil service jobs.

Few companies in East Java provided facilities for persons with disabilities and fewer companies employed disabled persons. Accessibility to public facilities for disabled persons in eastern Indonesia was limited. In November Surabaya's new airport opened and reportedly was not accessible for disabled persons. Lack of funds was generally cited as the primary reason for not improving accessibility.

*National/Racial/Ethnic Minorities.*—The Government officially promotes racial and ethnic tolerance. Ethnic Chinese accounted for approximately 3 percent of the population, by far the largest nonindigenous minority group, and played a major role in the economy. Instances of discrimination and harassment of ethnic Chinese continued to decline compared with previous years. Recent reforms increased religious and cultural freedoms. However, some ethnic Chinese noted that public servants still discriminated against them when issuing marriage licenses and in other services and often demanded bribes for a citizenship certificate, although such certificates were no longer legally required. An attorney advocate for the rights of ethnic Chinese noted 50 articles of law, regulation, or decree that discriminated against

ethnic Chinese citizens. During the year President Yudhoyono revoked a previous Presidential decree that required special permits to engage in Chinese cultural and religious celebrations. The new citizenship law explicitly states that an Indonesian citizenship certificate, which ethnic Chinese often had a difficult time obtaining, is not required to establish citizenship. NGOs such as the Indonesia Anti-Discrimination Movement urged the Government to revoke the remaining discriminatory articles.

The ethnic Chinese community in Surabaya established an anti-discrimination organization, Sikad, on September 27, to address discrimination problems faced by ethnic Chinese.

In May hundreds of students threatened to attack Chinese-Indonesians in Makassar, South Sulawesi, if the police failed to investigate the death of a maid after she was allegedly tortured by her Chinese-Indonesian employer.

On August 7, dozens of university students held violent protests and threatened to expel ethnic Chinese from Makassar after a Chinese-Indonesian man was accused of attempting to rape his maid. No casualties were reported during the protests. Five students were detained and questioned at Makassar police headquarters following the protest.

There were no reports of overt discrimination against Acehnese outside the province. Some Acehnese continued using a national identity card specific to Aceh. The 2005 Helsinki MOU between the Government and GAM included a provision to issue Acehnese standard national identity cards by April. This had not been completed by the end of the year.

*Indigenous People.*—The Government views all citizens as “indigenous”; however, it recognizes the existence of several “isolated communities” and their right to participate fully in political and social life. These communities include the myriad Dayak tribes of Kalimantan, families living as sea nomads, and the 312 officially recognized indigenous groups in Papua. During the year indigenous people, most notably in Papua, remained subject to widespread discrimination, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The Government failed to prevent domestic and multinational companies, often in collusion with the local military and police, from encroaching on indigenous people’s land. In Papua tensions continued between indigenous Papuans and migrants from other provinces, between residents of coastal and inland communities, and among tribes. Some in the indigenous community accused the newcomers of price gouging and condescension, while some newcomers claimed that indigenous Papuans treated them with resentment and suspicion. In Central Kalimantan, relations between indigenous Dayaks and ethnic Madurese transmigrants remained poor in the wake of 2001 interethnic violence. However, between 30,000 and 57,000 displaced ethnic Madurese had returned to Central Kalimantan by the end of 2005. Despite interethnic tensions, local elections were orderly and relatively peaceful. Relations between the two groups also remained poor in West Kalimantan, where former residents of Madurese descent were obstructed in their attempts to reclaim their property.

Human rights activists said that the government-sponsored transmigration program violated the rights of indigenous people, bred social resentment, and encouraged the exploitation and degradation of natural resources on which many indigenous persons relied. In some areas, such as parts of Sulawesi, the Maluku, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were poor.

*Other Societal Abuses and Discrimination.*—There was some societal discrimination against persons with HIV/AIDS. Some individuals received prejudicial treatment at medical centers, saw their confidential laboratory results released or had their identity published in a newspaper. In most, if not all such cases, the Government failed to take corrective action. In Papua, where the incidence of HIV infection is the highest in the country, community members and even families often stigmatized and ostracized those known to be infected with the virus. However, the Government encouraged tolerance, took steps to prevent new infections, and drew up plans to subsidize antiretroviral drugs.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides broad rights of association for workers, and workers exercised these rights. The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of polit-

ical affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The Ministry of Manpower and Transmigration (the manpower ministry) records, rather than approves, the formation of a union, federation, or confederation and provides it with a registration number. During the year, some unions reported local manpower ministry offices prejudicially recommended denial of registration. During the year one union federation registered with the manpower ministry, bringing the total number of registered federations to 88. Ministry officials noted that only 64 federations recorded by the ministry had verifiable members. The vast majority of union members belonged to one of three union confederations: the All-Indonesia Trade Union Confederation (KSPSI), the Indonesian Prosperity Trade Union Confederation (KSBSI), and the Indonesian Trade Union Congress. In addition more than 11,000 workplace-level units were registered with the manpower ministry, a drop from the 18,000 reported in 2005, which were based on unions' self-reported data.

According to the Government, the country's total labor force consisted of approximately 110 million workers, 42 percent of whom worked in the agricultural and forestry sector. From April to September 2005, the manpower ministry conducted a survey of union membership, the results of which indicated a significantly reduced number of union members compared with previous estimates. In the past, the Government had relied upon unions' self-reported membership statistics. The manpower ministry estimated total trade union membership at 3.4 million workers, less than 4 percent of the total workforce. However, this figure of 3.4 million union members is 14 percent of the regular, formal sector workforce of 23.8 million (a category that excludes the self-employed, employers, casual workers, and unpaid workers).

The law recognizes civil servants' freedom of association and right to organize, and employees of several ministries formed employee associations; union organizations sought to organize these workers. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

The law allows the Government to petition the courts to dissolve a union if it conflicts with the state ideology of Pancasila or the constitution, or if a union's leaders or members, in the name of the union, commit crimes against the security of the state and are sentenced to at least five years in prison. Once a union is dissolved, its leaders and members may not form another union for at least three years. There were no reports that the Government dissolved any unions during the year. The law prohibits anti-union discrimination by employers and others against union organizers and members and provides penalties for violations; however, the Government did not effectively enforce the law in many cases. There were frequent, credible reports of employer retribution against union organizers, including dismissals and violence that were not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized. Legal requirements existed for employers to reinstate workers fired for union activity, although in many cases the Government did not enforce this effectively.

On May 19, the Supreme Court upheld the decision of the State Administrative High Court and the lower courts that the workers dismissed following an April 2005 strike be reinstated and receive back pay. On July 19, the union and company reached an agreement whereby the company would compensate the workers for back pay and provide a severance payment. In turn the workers renounced their right to be re-hired. The workers at a private security firm in Jakarta, Group4/Securicor, went on strike over the firm's plans to reduce benefits following a merger. According to the NGO Solidarity Center, in May 2005, Jakarta police called in for questioning and intimidated four union leaders. The police reportedly explained that they were investigating the union leaders for possible charges of defamation and asked them to identify other workers from photographs taken at a lawful union demonstration in April 2005. The company terminated 200 workers and refused to rehire them, despite a decision by the local manpower officer that the strike was legal and the strikers should be rehired. In October 2005 a labor dispute resolution committee awarded the workers two months' salary.

On March 13, the independent Indonesian Union Federation (IUF) held a mass rally in Surabaya to demand government intervention against anti-union activities at PTPN X, and to ensure inclusion of the federation's locals in collective bargaining at both state-owned complexes, and to reinstate IUF-affiliated Federation of Sugar Plantation and Mill Workers President Daud Sukanto, who was fired from his job at a plantation in Central Lampung in 2005 for "gross misconduct" after recommending that his union reject a management wage proposal during labor negotiations. In June the ILO's Freedom of Association Committee concluded that

Sukanto's termination violated the right to conduct legitimate trade union activity and called on the Government to reinstate him.

In August Amnesty International called on the Government to release six imprisoned trade union leaders, who were arrested following a strike and demonstration at a palm oil plantation in Riau Province in September 2005.

In September the state-owned workers' insurance company, PT Jamsostek, demoted two Jamsostek union members and transferred twelve others in connection with a union vote of no confidence in company management. More than 40 workers at a branch office in Banten staged a demonstration at the company's main office in Jakarta, demanding the cancellation of the demotions and transfers. In October legislators called on the Government to end the labor conflict. All the affected workers sued the company seeking reinstatement. At year's end the cases were still pending.

On October 30, KSBSI filed 20 complaints with the manpower ministry on behalf of workers who claimed they had been denied the right to form unions. Many of them had been reportedly dismissed without severance payment or demoted despite their having cases pending in the labor court.

The Industrial Relations Disputes Settlement Act together with the Trade Union Act and the Manpower Act constitute the revised legal basis for industrial relations and worker rights. The Disputes Settlement Act stipulates a system of tripartite labor courts, replacing the previous tripartite committees. The act also outlines settlement procedures through mediation and arbitration. The ILO provided assistance in the development of the law. By the end of 2005, the Government had established the new labor courts in all 33 provinces.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference; however, the Government often did not protect this right in practice. The law provides for collective bargaining and allows workers' organizations that register with the Government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA. The Manpower Development and Protection Act (Manpower Act), which regulates collective bargaining, the right to strike, and general employment conditions does not apply to SOEs. Although the law was written with ILO technical assistance, some unions claimed that it contains inadequate severance benefits and protection against arbitrary terminations and does not sufficiently restrict against outsourcing and child labor. The Government continued to issue implementing decrees for the Manpower Act.

The Government planned to revise the 2003 Labor Law to make Indonesia more competitive and attractive to foreign investors. However, labor unions voiced opposition to the plan, and on May 1, international Labor Day, tens of thousands of workers protested peacefully on the streets of Jakarta and other cities against the proposed revisions, which would have made it easier for employers to hire and fire workers by reducing severance payments and allowing companies to employ workers for up to five years without a contract. On May 3, tens of thousands of workers again took to the streets in opposition to modifying the labor law. The rally turned violent when protesters took down the main gate of the parliament compound, set fire to tires and threw stones at the police. In response, police fired tear gas and water cannons. Police also detained 13 members of the KSPSI. On September 13, the Minister of Manpower and Transmigration announced that the Government had dropped its plan to revise the labor law and instead would issue government regulations detailing termination procedures and severance payments for workers to give them more job certainty.

According to the manpower ministry, during the year there were 9,168 CLAs in effect between unions and private companies. Company regulations, allowed for under government regulations, substituted for CLAs in another 36,652 companies, many of which did not have union representation. The Manpower Act requires that employers and workers form joint employer/worker committees in companies with 50 or more workers, a measure to institutionalize communication and consensus building. However, the number of such bodies did not increase significantly after passage of the act. All workers, whether or not union members, have the legal right to strike, except for public sector workers and those involved in public safety activities. The law allows workers in these latter categories to carry out strikes if they are arranged so as not to disrupt public interests or endanger public safety. Private sector workers exercised their right to strike, as did those in state enterprises, although the latter did so with less frequency. The large majority of government-recorded strikes involved nonunion workers. Unions or workers' representatives must provide seven days' notice to carry out a legal strike. The law calls for mediation



by local manpower ministry officials but does not require government approval of strikes. Workers and employers rarely followed dispute settlement procedures, and workers rarely gave formal notice of the intent to strike because manpower ministry procedures were slow and had little credibility among workers. The number of government-recorded strikes had declined in recent years, from 220 strikes involving more than 97,000 workers in 2002, to 125 strikes involving some 56,082 workers in 2005. During the year, the number of strikes rose to 282 involving 595,783 workers. According to the manpower ministry, the increase was due to protests of the Government's proposed labor law reform.

The underpayment or nonpayment of legally required severance packages precipitated strikes and labor protests. The Solidarity Center documented cases in which foreign employers in the garment and footwear industry, faced with falling orders and plant closures, fled the country to avoid making legally required severance payments. Labor activists also reported that factory managers in some locations employed thugs to intimidate and assault trade union members who attempted to organize legal strike actions. At times the police intervened inappropriately and with force in labor matters, usually to protect employers' interests. In April 2005 the national police adopted new guidelines for "handling law and order in industrial disputes," developed with the assistance of the ILO.

On July 31, police shot labor leader Samsir Hasibuan during a labor dispute near Medan at P[.] T. Cipta Mebelindo Lestari, a furniture manufacturer. According to Hasibuan, police dragged him from his house after the demonstration ended. The police maintained he was shot in front of the factory gate after protesters became violent. According to Medan human rights advocates, police later coerced Hasibuan into signing a document accepting representation by a police-provided attorney by police beating on his injured knee. He and two other labor leaders remained in jail but were allowed to have their own attorney. Other strikers whom the company could identify were all fired.

In September 2005 the management of a palm oil plantation in Riau province, P[.] T. Musim Mas, fired approximately 700 workers for striking in protest of the termination of nine union leaders. In June the Indonesian Union of Wood and Forestry Workers signed an agreement with the company to provide severance pay to strikers, but the workers were not rehired.

On December 8, Kompas newspaper fired union activist Bambang Wisudo. Kompas claimed that Wisudo was fired on grounds that he refused a transfer to Ambon, but the Association of Independent Journalists stated that he was fired for demanding that the newspaper respect the right of employees to profit-sharing.

There are no special laws or exemptions from regular labor laws in special economic zones (SEZs). However, nongovernmental observers, including the Solidarity Center, described stronger antiunion sentiment and actions by employers in SEZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5). The Government tolerated forms of compulsory labor practiced in the migrant worker recruitment process. The unscrupulous practices of migrant worker recruiting agencies, and poor enforcement of government regulations often led to debt bondage and extended unlawful confinement (see section 5). According to press reports and research by the Solidarity Center, recruiting agencies frequently kept migrant workers in holding centers for months before sending them abroad. While in the holding centers, migrant workers normally did not receive pay, and recruiters often did not allow them to leave the centers. In most instances, workers were forced to pay recruiters for the cost of their forced stay, which resulted in large debts to the recruiters. During the year the manpower ministry took limited measures to enforce existing labor laws that prevent employment agencies from trafficking workers through debt bondage and thus protect workers against internal and external trafficking. During the year police and manpower ministry officials conducted raids on 32 licensed and six illegal migrant worker holding centers in Jakarta, targeting those that forcibly held prospective workers, both adults and children, some in inhumane conditions. The raids resulted in the release of 3,438 prospective workers, and the arrests of eight suspects. The manpower ministry was unable to provide information on the disposition of 20 arrest cases arising from the raids conducted in 2004 and 2005.

Under a Malaysia-Indonesia agreement, as of June, Indonesians working in Malaysia's informal sector are to be accorded basic labor rights including a monthly minimum wage, a mandatory day off per week, and paid annual leave for a home visit. However, activists stated that the agreement often protects Malaysian employers to the detriment of Indonesian workers.

Forced and compulsory labor by children occurred (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children from working in hazardous sectors and the worst forms of child labor, including mining, skin diving, construction, prostitution, and offshore fishing platforms. However, the Government did not enforce these laws effectively. Law, regulations, and practice acknowledged that some children must work to supplement family incomes. The Manpower Act prohibits the employment of children, defined as persons under 18, except for those 13 to 15 years of age, who may work no more than three hours per day and only under a number of other conditions, such as parental consent, no work during school hours, and payment of legal wages. The law does not appear to address exceptions for children ages 16 to 17. The law addresses economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade, and provides severe criminal penalties and jail terms for persons who violate children's rights.

The Government has a national action plan to eliminate the worst forms of child labor, as well as separate national action plans for combating trafficking and for eliminating the commercial sexual exploitation of children. Child labor remained a serious problem in the country. An estimated six to eight million children exceeded the legal three-hour daily work limit, working in agriculture, street vending, mining, construction, prostitution, and other areas. More children worked in the informal than the formal sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily. Children worked in industries such as rattan and wood furniture, garment, footwear, food processing, and toy making, and also in small-scale mining operations. Many girls between 14 and 16 years of age worked as live-in domestic servants. The ILO estimated that there were 2.6 million domestic workers in the country, of whom at least 688,000 were children. According to a 2005 Human Rights Watch report, children between 12 and 15 years of age worked 14 to 18 hours per day, seven days a week from 4 a.m. to 10 p.m. with employers who often subjected them to physical and sexual threats. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights. The law and regulations prohibit bonded labor by children; however, the Government was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution, pornography, begging, drug trafficking, domestic service, and other exploitative situations, including a small number on fishing platforms (see section 5). Social and cultural resistance remained a challenge in addressing child labor. Many parents disagreed with government efforts to restrict children from working, arguing that the Government offered inadequate economic support to guarantee these families' welfare.

Enforcement of child labor laws remained largely ineffective. Despite legislative and regulatory measures, most children who worked, including as domestics, did so in unregulated environments. Anecdotal evidence suggested that local labor officials carried out few child labor investigations.

*e. Acceptable Conditions of Work.*—Provincial and district authorities, not the central government, establish minimum wages, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. The provincial minimum wage rates establish a floor for minimum wages within the province. Local districts set district minimum wages using the provincial levels as references. Districts also set minimum wages in some industrial sectors on an ad hoc basis. Provinces and districts conducted annual minimum wage rate negotiations, which often produced controversy and protests. The minimum wage levels set by most local governments did not provide a worker and family with a decent standard of living. Most province-level minimum wage rates fell below the Government's own calculation of basic minimum needs. During the year Aceh offered the highest minimum wage level of approximately \$91 (820 thousand rupiah) per month, while the manpower ministry reported official minimum wages as low as \$43 (390 thousand rupiah) per month in one area.

Local manpower officials are responsible for enforcing minimum wage regulations. Enforcement remained inadequate, particularly at smaller companies and in the informal sector. In practice, official minimum wage levels applied only in the formal sector, which accounted for 35 percent of the workforce. Labor law and ministerial regulations provide workers with a variety of benefits. Persons who worked at more modern facilities often received health benefits, meal privileges, and transportation. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency JAMSOSTEK.

The law establishes a 40-hour workweek, with one 30-minute rest period for every four hours of work. Companies often required a five and a half- or six-day work-

week. The law also requires at least one day of rest weekly. The daily overtime rate was 1° times the normal hourly rate for the first hour and double the hourly rate for additional overtime, with a maximum of three hours of overtime per day and no more than 14 hours per week. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Unions complained that companies relied upon excessive overtime in some garment and electronics assembly plants, to the detriment of workers' health and safety. Observance of laws regulating benefits and labor standards varied between sectors and regions. Employer violations of legal requirements were fairly common, resulting in some strikes and protests. The Solidarity Center reported that workers in the garment industry worked extremely long hours but because their pay slips do not specify the amount of overtime paid, workers cannot be certain they are fully compensated for overtime. The manpower ministry continued to urge employers to comply with the law; however, government enforcement and supervision of labor standards were weak. Both law and regulations provide for minimum standards of industrial health and safety. In practice, the country's worker safety record was poor. JAMSOSTEK reported 70,069 accidents in the first nine months of the year, compared with 99,023 for the whole of 2005. Local officials have responsibility for enforcing health and safety standards. In larger companies, the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Workers are obligated to report hazardous working conditions, and employers are forbidden by law from retaliating against those who do report hazardous working conditions; however, the law was not enforced effectively.

## JAPAN

Japan is a parliamentary democracy with a population of approximately 127.7 million. Sovereignty is vested in the citizenry, and the emperor is defined as the symbol of state. Shinzo Abe, who replaced Junichiro Koizumi as prime minister on September 26, headed a coalition composed of the Liberal Democratic Party and the New Komeito Party. The most recent national elections, held in September 2005, were generally considered free and fair. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the rights of its citizens. However, violence against women and children continued, as did sexual harassment. Despite government efforts to combat human trafficking, it remained a widespread problem. Societal discrimination against women as well as burakumin, Ainu, and other ethnic minorities was prevalent throughout the country.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these provisions in practice. Unlike in past years, there were no reports of violence against prisoners or detainees. Human rights nongovernmental organizations (NGOs) reported that treatment of prisoners improved after revisions to the law took effect in May.

At year's end a number of prisoner abuse and neglect cases were pending in courts, including the appeal of an assistant police inspector found guilty of raping a female suspect in 2005 and the civil case against three police officers convicted for the 2004 death of a suspect being held in a police detention center.

The Government continued its practice of denying death-row inmates and their families information about the date of execution. Families of condemned prisoners were not notified of the execution until after the fact. Condemned prisoners were held in solitary confinement for an average of seven years and five months until their execution. They were allowed visits by their families and lawyers, and a new law scheduled to take effect in 2007 would allow access by persons other than family members or lawyers.

Prisoners' rights NGOs reported that prison management officials regularly abused the rules on solitary confinement for prisoners. Although the Prison Law En-

forcement Regulation stipulates the maximum time prisoners may be held in solitary confinement, the regulation gives wardens broad leeway. Punitive solitary confinement may be imposed for a maximum of 60 days, but prison operating procedures allow wardens to keep prisoners in "isolation" solitary confinement indefinitely.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. However, several facilities were overcrowded and unheated and provided inadequate food and medical care. NGOs reported that inmates in some institutions were given insufficient clothing and blankets to protect themselves against cold weather. A prisoner in Saga City was refused medical attention for almost two years despite severe medical symptoms, according to press reports. When the prisoner was finally able to see a doctor, he was diagnosed with advanced intestinal cancer.

Unlike in past years, there were no reports of rape or brutality against prisoners. The Ministry of Justice reported that 15 prisoners committed suicide in 2005.

Minors were sometimes held in the same correctional facility as adults. NGOs reported that as of December, two 16-year-old Kurdish immigrants had been held in an Ibaraki Prefecture immigration detention center alongside adults for more than three months.

Access to prisoners, while still restricted, continued to become easier. During the year the Ministry of Justice implemented regulations established by the revised law for prison management that set up independent inspection committees. The committees included physicians, lawyers, and NGO representatives. Prisoners' rights advocates reported that the committees visited many prisons supervised by the Ministry of Justice. However, by year's end the National Police Agency (NPA) did not have a similar program for police-operated detention centers. Access to these facilities was limited and strictly controlled by police officials.

Prison rules on correspondence became less restrictive during the year. Although prison management officials continued to inspect and occasionally censor inmate mail for security reasons, limits were no longer placed on the amount of mail that inmates could receive or on the number of their correspondents.

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

*Role of the Police and Security Apparatus.*—Police forces are responsible for law enforcement and maintenance of order within the country. The military forces are responsible for external security and have limited domestic security responsibilities. Corruption and impunity were not reported as significant problems within either national or local police forces. The National Public Safety Commission, an independent body under the Prime Minister's jurisdiction, oversees the NPA.

The law permits persons to lodge complaints against police with national and local public safety commissions. The commissions have the authority to direct police to conduct internal investigations. NGOs criticized the commissions for lacking independence from or sufficient authority over police agencies.

*Arrest and Detention.*—Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and detainees were brought before an independent judiciary.

The law provides detainees the right to a prompt judicial determination of the legality of the detention, and authorities respected this right in practice. The law requires authorities to inform detainees immediately of the charges against them. Authorities usually hold suspects in police-operated detention centers for an initial 72 hours. A judge must interview a suspect prior to further detention. The judge may extend preindictment custody by up to two consecutive 10-day periods. Prosecutors routinely sought and received these extensions. Prosecutors may also apply for an additional five-day extension.

The code of criminal procedure allows detainees, their families, or representatives to request that the court release an indicted detainee on bail. However, bail was not available before indictment to suspects held in police-operated detention centers. More than 25 percent of persons arrested were released without being indicted.

Police and prosecutors have the power to limit suspects' access to their legal counsel. Suspects may be detained for up to 23 days without access to counsel. Counsel may not be present during interrogations at any time. A court-appointed attorney is not approved until after indictment; suspects must rely on their own resources to hire an attorney before indictment. Local bar associations provided detainees with limited free assistance. Family members were allowed to meet with detainees, but only in the presence of a detention officer.

In contrast to government claims, critics said that access to counsel was limited both in duration and frequency. Critics also alleged that allowing suspects to be de-

tained by the same authorities who interrogated them heightened the potential for abuse and coercion. The Government countered that cases where persons were sent to police detention facilities tended to be those in which the facts were not in dispute. According to government statistics, more than 98 percent of arrested suspects were sent to police detention facilities. The other 2 percent were held in Ministry of Justice-operated preindictment detention centers.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

There are several levels of courts, including family and summary courts, district courts, high courts, and the Supreme Court, which serves as the court of final appeal. Criminal trials normally begin at the district court level. Verdicts may be appealed to a higher court and ultimately to the Supreme Court.

The law provides for a speedy trial, and the Government generally followed this practice. The average length of a criminal trial in 2005 was 3.2 months.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law extends this right to all citizens, and it also ensures that each charged individual receives a public trial by an independent civilian court, has access to defense counsel, and has the right to cross-examine witnesses. There is no trial by jury. A defendant is presumed innocent until proven guilty in a court of law, and defendants cannot be compelled to testify against themselves.

Most cases are decided before they reach the courts. Safeguards exist to ensure that suspects cannot be compelled to confess to a crime or convicted when a confession is the only evidence, but a manual of police interrogation procedures showed that police investigators are authorized to use heavy pressure to extract confessions from detainees. According to legal advocacy NGOs, the majority of detainees who were indicted confessed while in police custody. The use of police-operated detention centers, which puts suspects in the custody of their interrogators, has been on the rise for more than 30 years, from 82 percent of all arrests in 1970 to 98 percent in 2004. More than 99 percent of cases that appeared in a trial court resulted in conviction.

Although the law provides for access to counsel, a significant number of defendants reported insufficient access to legal counsel. The Government contended that the right of defendants to consult with attorneys could be restricted when compatible with the spirit of the constitution.

Trial procedures favor the prosecution. The law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that the legal representatives of some defendants did not receive access to relevant material in the police record.

The language barrier was a serious problem for foreign defendants. No guidelines exist to ensure effective communication between judges, lawyers, and non-Japanese-speaking defendants. No standard licensing or qualification system exists for court interpreters, and trials proceeded even if no translation or interpretation was provided to the accused. Several foreign detainees claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Cases involving human rights violations have been brought before these courts (see section 1.c.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Persons regularly used the widely available Internet connections.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. Allegations by the Unification Church that the Government was unresponsive to claims that its members were being abducted and deprogrammed decreased.

*Societal Abuses and Discrimination.*—Relations among religious groups were generally amicable. An estimated 200 Jewish families lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

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

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. The Government generally cooperated with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. However, in February two Kurdish men were deported before being able to exercise their legal right to appeal the denial of their application for asylum.

The Government granted refugee status or asylum in only a small number of cases. Of 384 claims submitted to the Ministry of Justice in 2005, the Government granted refugee status to 46 persons. The country also provided temporary protection to 97 individuals who did not qualify as refugees under either the 1951 Convention or the 1967 Protocol. During the year the Government did not accept any refugees for resettlement.

Refugees faced the same patterns of discrimination that ethnic minorities did: reduced access to housing, education, and employment. Persons whose refugee status was pending or on appeal did not have the legal right to work or receive social welfare, rendering them completely dependent on overcrowded government shelters or the support of NGOs (see section 5).

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

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

*Elections and Political Participation.*—The country held its most recent national elections in September 2005. There were few reported irregularities, and the elections were judged to be generally free and fair.

Except for a brief hiatus in the 1990s, the Liberal Democratic Party has been re-elected as the dominant party in every government since the mid-1950s. There were no government restrictions on the political opposition. Individuals could freely declare their candidacies and run for election.

There were 34 women elected to the 242-member upper house and 45 women elected to the 480-member lower house, representing the highest number of women elected to the lower house since women first entered the Diet in 1946. In September the Prime Minister appointed two women to his 18-member cabinet. On a regional level, there were five female governors and five female deputy governors, which represented a greater number of women holding public office at that level than in the past.

NGOs reported that two members of the burakumin minority were elected to the Diet in 2005.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year. According to NPA figures for January through June, there were 42 cases involving bribery and 17 cases of bid rigging, compared with 39 for bribery and nine for bid rigging during the same period in 2005.

Corruption scandals led to public calls for reform. One major bid-rigging case involved the Defense Facilities Administration Agency and the governors of three prefectures. In August an Osaka prison warden was arrested for taking a bribe from an inmate who was a member of an organized crime family. Investigators also uncovered a 12-year pattern of widespread corruption in the Gifu prefectural government.

On December 8, the law to prevent collusive bid rigging by government officials was revised and enacted. The new law sets penalties for government officials involved in bid rigging to imprisonment for a period not exceeding five years or fines of up to \$21,000 (2.5 million yen).

The public has the legal right to access government information. There were no reports that the Government denied legal requests for information or required information seekers to pay prohibitive fees to gain access.

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

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

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

The law prohibits discrimination on the basis of race, gender, disability, language, and social status. Although the Government generally enforced these provisions, discrimination against women, ethnic minority groups, and foreigners remained a problem.

*Women.*—Although prohibited by law, domestic violence against women persisted. District courts may impose six-month restraining orders on perpetrators of domestic violence and impose sentences of up to one year in prison or fines of up to \$8,500 (one million yen). The law covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local governments offer financial assistance to 40 private institutions already operating such shelters.

Because domestic violence often went unreported due to social and cultural pressures, NPA statistics on violence against women most likely understated the magnitude of the problem. In 2005 spousal violence consultation assistance centers received 51,358 consultations. According to NPA statistics, in 2005 there were 16,888 reported cases of domestic violence. Police were quick to respond to calls for assistance; they also trained victims in basic self-defense and taught them how to file restraining orders.

The law criminalizes all forms of rape, including spousal rape, and the Government generally enforced the law effectively. According to government statistics, 2,076 rapes were reported in 2005, and courts handed out 132 convictions. Out of 104 reported gang rapes, there were five convictions in 2005. Gang rape is punishable by a minimum penalty of four years in prison. Many local governments maintained special, female-staffed consultation departments in police stations to provide confidential assistance to female victims.

Sexual harassment in the workplace remained widespread. In 2005 the Ministry of Health, Labor, and Welfare (MHLW) received 7,894 reports of such harassment. The law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance other than publicizing the names of offending companies. The Government has established hotlines and designated ombudsmen to handle complaints of discrimination and sexual harassment. In December 2005 the MHLW notified labor bureaus nationally that mental illness resulting from sexual harassment could be compensated under the law. The Government also supported private companies and public institutions that made voluntary efforts to prevent sexual harassment. Local governments and private rail operators enforced measures to address the widespread problem of groping and molesting female commuters. Several railway companies maintained women-only rail cars on various trains, and an antigrope ordinance makes first-time offenders subject to imprisonment.

The law prohibits sexual discrimination and provides women the same rights as men. A Council for Gender Equality monitored enforcement; its high-level members included the chief cabinet secretary, cabinet ministers, and Diet members. During the year the council regularly met to examine policies and monitor progress on gender equality.

Inequality in employment remained entrenched in society. Although Ministry of Internal Affairs and Communication statistics showed that women composed 41.6

percent of the labor force, the average monthly wage for women was \$1,900 (222,500 yen), less than two-thirds of the monthly wage that men earned (\$2,890, or 337,800 yen). Many private sector companies directed men into higher paying managerial jobs while steering equally qualified women into lower paying clerical work.

Prostitution is illegal but widespread. Sex tourism was not a significant problem. The Government continued to address the problem of trafficking in women for prostitution (see section 5, Trafficking).

The issue of "comfort women," or women forced into sexual slavery for Japanese troops in World War II, continued to draw controversy. In 1993 then chief cabinet secretary Yohei Kono officially acknowledged that the Imperial Japanese Army forced women from the Korean Peninsula and elsewhere into sexual slavery for soldiers. As part of its efforts to atone for the damage, in 1995 the Government established the Asian Women's Fund (AWF), which sent a signed apology from the Prime Minister along with privately raised financial compensation to each victim. Although many victims refused to accept the atonement money, from 1995 to 2002 the AWF successfully distributed compensation to 285 former comfort women.

Critics of the policy towards comfort women maintained that the apology letter from the Prime Minister took moral but not legal responsibility for the suffering endured by the comfort women. Human rights NGOs also called for the Government to pay direct compensation to victims and rejected the Government's position that the San Francisco Peace Treaty absolved the Government of any obligation to pay direct restitution. During the year some politicians fueled the controversy by calling for a reexamination of the comfort women issue.

*Children.*—The Government is committed to the rights and welfare of children, and in general children's rights were protected adequately.

Public school education is provided for up to 12 years. Primary education is free and compulsory through the lower secondary level (age 15 or the ninth grade). Education was widely available through age 18 to students who met minimum academic standards at the upper secondary level. Society placed an extremely high value on education, and enrollment levels for both boys and girls through the upper secondary level exceeded 94.4 percent, according to the Government. There were no differences in the treatment of girls and boys at any level of school.

The Government provides universal health care for all citizens, including children.

Reports of child abuse continued to increase. In 2005 there were 34,451 reported cases of child abuse, a 45 percent increase over the previous year. A total of 37 children died in 2005 after being abused, according to the NPA. The law grants child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. The law also bans abuse under the guise of discipline and obliges teachers, medical doctors, and welfare officials to report any suspicious circumstances to a local child-counseling center or municipal welfare center.

Law enforcement officials were not able to participate in some international child pornography investigations because the access, downloading, and possession of child pornography was legal.

Trafficking of minors, teenage prostitution, and dating for money also continued to be problems (see section 5, Trafficking).

*Trafficking in Persons.*—Human trafficking remained a widespread problem despite significant efforts by the Government, including stricter visa requirements and the authorization of a temporary legal immigration status for victims. The country remained a destination and transit country for men, women, and children trafficked for commercial sexual exploitation. Victims came from China, Southeast Asia, Eastern Europe, and to a lesser extent Latin America. Unlike in past years, internal trafficking of Japanese girls for sexual exploitation was not a significant problem.

Brokers in the countries of origin recruited women and sold them to intermediaries or employers, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation usually had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex entertainment businesses included strip clubs, sex shops, hostess bars, private video rooms, escort services, and mail-order video services.

Most women trafficked into the sex trade had their travel documents taken away and their movements strictly controlled by their employers. Victims were threatened with reprisals to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. NGOs reported that in some cases brokers used drugs to subjugate victims.



Debt bondage was another method traffickers used to control their victims. Before arrival in the country, trafficking victims generally did not understand the size of the debts they would owe, the amount of time it would take them to repay the debts, or the conditions of employment to which they would be subjected upon arrival. Women typically faced debts upon commencement of their contracts from \$26,000 to \$43,000 (three million to five million yen). In addition, they had to pay their employer for their living expenses, medical care (when provided by the employer), and other necessities. “Fines” for misbehavior added to the original debt over time; in general the process that the employers used to calculate these debts was not transparent. Employers also sometimes “resold,” or threatened to resell, troublesome women or women found to be HIV positive, thereby increasing the victims’ debts and often leading to even worse working conditions.

In addition to organizing antitrafficking conferences that included NGO participation, the NPA made significant improvements in its handling of trafficking cases and identification of victims. Nevertheless, there continued to be isolated reports that police failed to identify victims adequately or declined to investigate suspected brokers when presented with information obtained from trafficking victims. NGOs reported that police and immigration officers occasionally neglected to classify a woman working in abusive conditions as a victim because she willingly entered into an agreement to work illegally in the country. Government statistics probably understated the scope of the problem because they did not always include persons who agreed to one kind of work but were forced into prostitution by fraud or coercion.

The Government expanded efforts to protect victims of trafficking. In addition to allocating funds to subsidize private shelters, the MHLW encouraged police and immigration officers to use its preexisting network of shelters for domestic violence victims as temporary housing for foreign trafficking victims awaiting repatriation. The Government paid for victims’ medical care and subsidized repatriation through a grant to the International Office of Migration (IOM). The MHLW reported that in 2005 112 women were protected in private and public shelters, and IOM representatives stated that they helped 50 women return home with the Government’s support.

Originally used only as shelters for victims of domestic violence, the Government shelters lacked the resources needed to provide adequate services to trafficking victims. Private NGO shelters that specialized in assisting victims of human trafficking had full-time staff able to speak seven or more languages, but the MHLW shelters had to rely on interpretation services from outside providers. Without sufficient counseling in their native language by professionals familiar with the special needs of trafficking victims, foreign women staying at government shelters elected to repatriate as quickly as possible. Although the Government reserved funds to subsidize victims’ stays in private shelters, very few victims were referred to the specialized NGO facilities.

A suspended sentence remained the most common punishment for those convicted of trafficking-related crimes. According to Ministry of Justice statistics, in 2005 only six of 75 convictions resulted in incarceration, with an average two-year sentence. All but one of the six offenders who were imprisoned were foreigners. Police, government officials, and NGO representatives agreed that organized crime syndicates (the *yakuza*) were the controlling investors in the sex industry, but only one *yakuza* member was prosecuted. Ministry of Justice officials declared that it was “difficult to tell the level of involvement” of the owners of bars and clubs selling the sexual services of trafficking victims. However, NPA officials claimed it was difficult to build cases without a program to encourage victim testimony, long-term undercover work by the police, or the ability to plea bargain. In addition, an entrenched reluctance to move against the sex establishments persisted, according to NGO lawyers, who noted that although buying sexual services is illegal, clients were never arrested and the establishments were permitted to operate relatively unconstrained.

Coercive control of “foreign trainees” in some companies was increasingly reported by the media (see section 6.e.).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the Government effectively enforced these provisions.

Persons with disabilities generally were not subject to overt discrimination in employment, education, or provision of other state services; however, in practice they faced limited access to these services.

During the year the revised law to promote employment of persons with disabilities went into effect, mandating that the Government and private companies hire fixed minimum proportions of persons with disabilities (including mental disabilities). Companies with more than 300 employees that do not comply must pay a fine of \$425 (50,000 yen) per position per month. As of June public employment of per-

sons with disabilities exceeded the minimum, but the private sector lagged behind despite increases over 2005, according to MHLW statistics.

In December revisions to accessibility laws mandated that new construction projects for public use must include provisions for persons with disabilities. In addition, the Government allows operators of hospitals, theaters, hotels, and other public-use facilities to receive low-interest loans and tax benefits if they upgrade or install features to accommodate persons with disabilities.

The Government supported the right of persons with disabilities to participate in civic affairs.

*National/Racial/Ethnic Minorities.*—Burakumin (descendants of feudal era “outcasts”) and ethnic minorities experienced varying degrees of societal discrimination, some of it severe and longstanding. The approximately three million burakumin, although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing, education, and employment opportunities.

During the year a banned “black book” cataloguing burakumin lineages for the purpose of discriminating against them was found in a major company office. This discovery dispelled the widely held belief in society that the book was no longer published and that discrimination against the burakumin had ended. NGOs reported that discrimination was still extensive outside major metropolitan areas.

Despite improvements in legal safeguards against discrimination, the country’s large populations of Korean, Chinese, Brazilian, and Filipino permanent residents—many of whom were born, raised, and educated in Japan—were subject to various forms of deeply entrenched societal discrimination, including restricted access to housing, education, and employment opportunities. There was a widespread perception among citizens that “foreigners,” often members of Japan-born ethnic minorities, were responsible for most of the crimes committed in the country. The media fostered this perception despite the fact that the “foreigner”-committed crime rate was much lower than the rate of crimes committed by citizens, according to the Ministry of Justice.

Aliens with five years of continuous residence are eligible for naturalization and citizenship rights. However, many immigrants struggled to overcome obstacles to naturalization, including the broad discretion available to adjudicating officers and the great emphasis on Japanese-language ability. Naturalization procedures also require an extensive background check, which includes inquiries into the applicant’s economic status and assimilation into society. The Government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society.

*Indigenous People.*—Conditions improved for the estimated 27,000 indigenous Ainu that lived in the country. Ending a long history of oppressing the Ainu, in 1997 the parliament passed the Law for the Promotion of the Ainu Culture and Dissemination and Advocacy for the Traditions of the Ainu and the Ainu Culture (Culture Promotion Law). The law recognized the Ainu as an ethnic minority, required all prefectural governments to develop basic programs for promoting Ainu culture and traditions, canceled previous laws that discriminated against the Ainu, and required the Government of Hokkaido to return Ainu communal assets. Although the Ainu enjoyed the same rights as all other citizens, they faced the same patterns of discrimination that all ethnic minorities encountered (see section 5, National/Racial/Ethnic Minorities).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and the Government effectively enforced the law. Unions were free of government control and influence; however, governed by a separate law, public service employees’ basic union rights are considerably restricted, which the International Labor Organization described as “tantamount to prior authorization” to form unions. Approximately 18.7 percent of the total workforce was unionized.

*b. The Right To Organize and Bargain Collectively.*—Except for public sector workers and employees of state-owned enterprises, the law allows unions to conduct their activities without interference, and the Government protected this right. Collective bargaining is protected by law and was freely practiced. Unions have the right to strike, and workers exercised this right in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law bans the exploitation of children in the workplace, and the Government effectively implemented the law. The MHLW is responsible for enforcement. Both societal values and the rigorous enforcement of the law protect children from exploitation in the workplace. By law children under the age of 15 may not be employed, and those under 18 may not be employed in dangerous or harmful jobs. An exception is made for children in the entertainment industry, who may begin work at age 13. Other than victims of human trafficking (see section 5), child labor was not a problem.

*e. Acceptable Conditions of Work.*—Minimum wages are set on a prefectural and industry basis, with the input of tripartite (workers, employers, and public interest) advisory councils. Employers covered by a minimum wage must post the relevant minimum wages, and compliance with minimum wages was considered widespread. Minimum wage rates ranged, according to prefecture, from \$5.21 (610 yen) to \$6.15 (719 yen) per hour. The minimum daily wage provided a decent standard of living for a worker and family.

The law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked above 40 in a week or above eight in a day. However, it was widely accepted within the population that workers, including those in government jobs, routinely exceeded the hours outlined in the law. Labor unions frequently criticized the Government for failing to enforce maximum working hour regulations.

Activist groups claimed that employers exploited illegal foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. The Government tried to reduce the inflow of illegal foreign workers by prosecuting employers of such workers. Citizen groups worked with illegal foreign workers to improve their access to information on worker rights.

The “foreign trainee” program came under increasing scrutiny for human rights abuses, and the media reported investigations into abusive company practices. In some companies trainees earned less than the minimum wage, and their wages were automatically deposited in company-controlled accounts, despite the fact that such deposits are illegal. In addition, employers sometimes confiscated their travel documents and controlled their movements to “prevent escape.”

The Government sets occupational health and safety standards, and the Ministry of Labor effectively administered the various laws and regulations governing occupational health and safety. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

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## KIRIBATI

Kiribati is a constitutional multiparty republic with a population of approximately 92,000. The President exercises executive authority and is popularly elected for a four-year term. The legislative assembly nominates at least three, and no more than four, Presidential candidates from among its members. The most recent parliamentary and Presidential elections, held in May and July 2003 respectively, were considered generally free and fair. Anote Tong of the Boutokan te Koaua party was elected President. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. There were instances of extrajudicial communal justice. Government corruption, violence and discrimination against women, child abuse, and child prostitution also were problems.

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed them. Traditional village practice permits corporal punishment for criminal acts and other transgressions. On some outer islands, village asso-

ciations occasionally ordered strokes with palm fronds to be administered for public drunkenness and other minor offenses, such as petty theft. Communal justice in the form of beatings and banishment sometimes occurred.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Children under age 16 usually were not incarcerated. There was no separate facility for juvenile offenders. Juveniles age 16 to 17 generally may be detained no longer than a month in the adult facility; however, for more serious offenses, such as murder, juveniles over the age of 16 can be held in custody for more than a month and can be sentenced to longer terms. Pretrial detainees accused of serious offenses who did not meet bail were held with convicted prisoners. Persons charged with minor offenses normally were released on their own recognizance pending trial.

Family members and church representatives were allowed access to prisoners. Diplomats and senior judicial officials visited the prisons, including some unannounced visits, and reported no problems.

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

*Role of the Police and Security Apparatus.*—The commissioner of police and prisons, who reports directly to the Office of the President, heads the police force. There are three superintendents under the commissioner responsible for crime and security, prisons, and administrative functions respectively. The force consisted of approximately 300 police officers and 40 correctional officers and was reasonably effective in maintaining law and order. Police corruption and impunity generally were not serious problems. The police commissioner is responsible for investigating allegations of police misconduct, and police officers occasionally were dismissed.

*Arrest and Detention.*—In most cases magistrates issued warrants before an arrest was made. Persons taken into custody without a warrant must be brought before a magistrate within 24 hours or within a reasonable amount of time when arrested in remote locations. The law requires that arrested individuals be informed of their rights, which include the right to legal counsel during questioning and the right not to incriminate themselves. Two police officers must be present at all times during questioning of detainees, who also are provided the option of writing and reviewing statements given to police. Many individuals were released on their own recognizance pending trial, and bail was granted routinely for many offenses. Detainees were allowed prompt access to legal counsel.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The judiciary consists of magistrates' courts, the High Court, and the Court of Appeal.

*Trial Procedures.*—The constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right. There is no trial by jury. An accused person must be informed of the charges and be provided adequate time and facilities to prepare a defense. The law also provides for the right to confront witnesses, present evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. Procedural safeguards are based on British common law and include the presumption of innocence until proven guilty.

Cases of extrajudicial traditional communal justice, in which village elders decide cases and mete out punishment, remained a part of village life, especially on remote outer islands. In the past there were reports that in extreme cases, those deemed guilty were banished from an island or even killed; however, the incidence of communal justice was declining under pressure from the codified national law.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, as well as access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and with some limitations, the Government generally respected these rights in practice. Under the Newspaper Registration Act, newspapers are re-

quired to register with the Government, but there were no reports that the Government denied registration to any publication.

The country had three weekly newspapers: one government owned, one church owned, and one privately owned. The Government also owned AM and FM radio stations in Tarawa. There was one privately owned FM radio station. Churches published newsletters and other periodicals.

In March a journalist formerly employed by Radio Kiribati lost his appeal against the Government for wrongful dismissal. In December 2005 he was dismissed from his employment after refusing to reveal his sources for a report about a case of alleged corruption involving the auditor general.

Opposition politicians claimed that local media were constrained from reporting on a corruption case involving alleged improper allocation of university scholarships (see section 3).

*Internet Freedom.*—There were no government restrictions on the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. Unlike in 2005, there were no refusals for demonstration permits during the year.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There was no known Jewish community in the country.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice. The law prohibits government restrictions on citizens' freedom of movement; however, it does not restrict such actions by village councils.

The law provides for the forced expulsion from the country of a convicted person, if "in the interests of" defense, public safety, order, morality, health, or environmental conservation. The Government has not used forced exile; however, on rare occasions village councils have banished persons from a specific island within the country, usually for a fixed period of time. The legality of this form of punishment has never been challenged.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. There were no applications for refugee resettlement or asylum during the year, and the country had no formal association with the Office of the UN High Commissioner for Refugees.

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

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

*Elections and Political Participation.*—The legislature has 42 members: 40 are elected by universal adult suffrage, the Rabi Island council of I-Kiribati (persons of Kiribati ancestry) in Fiji selects one, and the Attorney General is an ex officio member. The most recent parliamentary elections were held in May 2003. Then-opposition leader Anote Tong of the Boutokan Te Koaua party was elected President in July 2003. The elections were considered generally free and fair. The Government party and allied independents together held 25 legislative seats. Candidates and parties were free to stand for election. There were no government restrictions on political opponents. Elected village councils run local governments in consultation with traditional village elders.

There were two women, including the vice President, in the 42-member legislature, and the head of the civil service was a woman. No women sat on the High Court.

Members of minorities have held cabinet positions in the past. The President and several members of the legislature were of mixed descent.

*Government Corruption and Transparency.*—Nepotism, based on tribal, church, and family ties, was prevalent. The auditor general (AG) is responsible for oversight of government expenditures. In reality the AG lacked sufficient resources, and findings of misappropriations and unaccounted-for funds were generally ignored, or the investigations were inconclusive.

During the year there were allegations that nationally funded university scholarships were not fairly awarded. Several public servants stated that the original list of individuals eligible for scholarships on the basis of test scores was later replaced by another list, and that the substitution unfairly denied scholarships to some individuals. A commission of inquiry's report on the matter was not made public. One whistleblower public servant was dismissed from his job after allegations of the scholarship misallocations were made.

No specific law provides for citizen or media access to government information. In practice the Government was fairly responsive to individual requests for information.

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

There were no restrictions on the formation of local human rights nongovernmental organizations (NGOs), but none have been formed. There were no restrictions on operations by international human rights groups. Government officials were cooperative and responsive to their views.

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

The constitution prohibits discrimination on the basis of race, national origin, color, or creed, and the Government observed these prohibitions in practice; however, only native I-Kiribati may own land. Society is fundamentally egalitarian and has no privileged class.

*Women.*—Spousal abuse and other forms of violence against women were significant problems. Alcohol abuse frequently was a factor in attacks on women. The law does not address domestic violence specifically, but general common law and criminal law make assault in all forms illegal. The law provides for penalties of up to six months' imprisonment for common assault and up to five years' imprisonment for assault involving bodily harm. Rape, including spousal rape, is a crime, with a maximum penalty of life imprisonment, but sentences were typically much shorter. Prosecutions for rape and domestic assault were infrequent, largely due to cultural taboos on reporting such crimes and police attitudes encouraging reconciliation over prosecution.

Prostitution is not illegal, and child prostitution was highlighted as a problem by the UN Children's Fund (UNICEF) and other international NGOs (see section 5, Children). Procuring sex and managing brothels are illegal; however, the lack of a law against prostitution hindered the ability of the police to restrict these activities.

The law does not specifically prohibit sex tourism. There were multiple reports of foreign fishermen engaging in sexual acts with minors (see section 5, Children). Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment, which sometimes occurred but generally was not regarded as a major problem.

The law does not prohibit discrimination on the basis of gender, and the traditional culture, in which men are dominant, impeded a more active role for women in the economy. Nevertheless, women were slowly finding work in unskilled and semiskilled occupations. Women filled many government office and teaching positions. The law prohibits night work by women except in certain specified occupations, including health worker, pharmacist, business manager, theater employee, and hotel, bar, and restaurant worker; however, there were no reported prosecutions based on this ordinance. Statistics generally were not well collected in the country, and data on the participation of women in the work force and on comparative wages were unavailable. Women have full rights of ownership and inheritance of property as well as full and equal access to education.

*Children.*—Within its limited financial resources, the Government made adequate expenditures for child welfare. Primary education is compulsory, free, and universal for children between the ages of six and 14 years. In practice the Government did not enforce primary school attendance. According to the Department of Statistics, 93.5 percent of all school-age children attended primary school. Boys and girls had similar attendance rates. The approximately 40 percent of primary school graduates who pass a national examination qualify for three additional years of subsidized junior secondary and four years of subsidized senior secondary education; a small

fee was charged to other students who wished to matriculate at these levels. There were allegations that university scholarships were awarded unfairly (see section 3). The Government provided free medical services for children.

Chronic alcohol abuse leading to child abuse (physical and occasionally sexual) and neglect continued to be a serious problem. There is a police unit specifically focused on child and family violence.

UNICEF and other international NGOs identified child prostitution as a problem. Specifically, workers on foreign fishing vessels often exploited underage girls. A study conducted in June 2005 by the National Youth Commission of the Republic of Korea and a Korea-based children's rights group, and a regional report on commercial sexual exploitation of children in the Pacific published during the year by UNICEF, both highlighted commercial sexual exploitation of underage girls by crew members of foreign fishing vessels that stopped in Kiribati. The reports estimated that approximately 20 to 80 girls were involved in such prostitution. Some of the girls worked as prostitutes in bars frequented by crewmembers, and local I-Kiribati often acted as facilitators, delivering girls to the boats. According to the reports the girls generally received cash, food, or goods in exchange for sexual services. The lack of a legal ban on prostitution hindered police efforts to stem the practice, which continued. During the year the Government, with assistance from UNICEF and other NGOs, was working on a national plan to combat child prostitution and child sexual abuse.

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

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities; however, there were no complaints of discrimination in employment, education, or the provision of other state services for persons with mental or physical disabilities. Accessibility of buildings for persons with disabilities has not been mandated, and special accommodations for persons with disabilities were basically nonexistent. The central hospital on Tarawa had a wing for persons with mental disabilities, and there was a psychiatrist working on Tarawa.

There was no government agency specifically responsible for protecting the rights of persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution provides for freedom of association, and workers are free to join and organize unions; workers exercised these rights in practice.

More than 80 percent of the adult workforce was occupied in fishing or subsistence farming. The small wage-earning workforce had a relatively strong and effective trade union movement. An estimated 10 percent of wage-earning workers were union members. There were no official public sector trade unions, but nurses and teachers belonged to voluntary employee associations similar to unions and constituted approximately 30 to 40 percent of total union and association membership.

*b. The Right To Organize and Bargain Collectively.*—The law protects workers from employer interference in their right to organize and administer unions. The Government did not control or restrict union activities; however, unions must register with the Government. The law provides for collective bargaining. The Government sets wages in the large public sector. In a few statutory bodies and government-owned companies, however, employees could negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise.

The law provides for the right to strike, but no strikes have taken place since 1980.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred. The prohibition does not mention specifically forced and compulsory labor by children; however, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under age 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Labor and Human Resources Development generally enforced these laws effectively. Children rarely were employed outside the traditional economy.

Underage girls were solicited for prostitution (see section 5).

*e. Acceptable Conditions of Work.*—The wage-earning workforce consisted of approximately 8,000 persons, mostly employed on the main atoll of Tarawa, the political and commercial capital. The remainder of the working population worked within a subsistence economy. There is no official minimum wage, but the Labor Ministry estimated the “non-legislated” minimum to be between \$1.24 and \$1.32 (A\$1.60 to A\$1.70) per hour in practice. There is provision for a minimum wage at ministerial discretion, but it has never been implemented. In 2004 the Asian Development Bank reported that approximately one half of the population lived below the national basic needs poverty line. Income tended to be pooled within individual extended families. The standard wage income provided a marginally decent standard of living for a worker and family. There is no legislatively prescribed workweek. Workers in the public sector (80 percent of the wage-earning workforce) worked 36 hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace. For example, employers must provide an adequate supply of clean water for workers and ensure the availability of sanitary toilet facilities. Employers are liable for the expenses of workers injured on the job, but a lack of qualified personnel hampered the Government’s ability to enforce employment laws. Workers do not have the right to remove themselves from hazardous work sites without risking loss of employment.

## DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA

The Democratic People’s Republic of Korea<sup>1</sup> (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong-il, general secretary of the Korean Workers’ Party (KWP) and chairman of the National Defense Commission, the “highest office of state.” The country has an estimated population of 22.7 million. Kim’s father, the late Kim Il-sung, remains “eternal President.” Elections held in August 2003 were not free or fair. There was no civilian control of the security forces, and members of the security forces committed numerous serious human rights abuses.

The Government’s human rights record remained poor, and the regime continued to commit numerous serious abuses. The regime subjected citizens to rigid controls over many aspects of their lives. Citizens did not have the right to change their government. There continued to be reports of extrajudicial killings, disappearances, and arbitrary detention, including of political prisoners. Prison conditions were harsh and life-threatening, and torture reportedly was common. Pregnant female prisoners reportedly underwent forced abortions, and in other cases babies reportedly were killed upon birth in prisons. The judiciary was not independent and did not provide fair trials. Citizens were denied freedom of speech, the press, assembly, and association, and the Government attempted to control all information. The Government restricted freedom of religion, citizens’ movement, and worker rights. There continued to be reports of severe punishment of some repatriated refugees. There were widespread reports of trafficking in women and girls among refugees and workers crossing the border into China.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Defector and refugee reports indicated that in some instances the regime executed political prisoners, opponents of the regime, repatriated defectors, and others, including military officers suspected of espionage or of plotting against Kim Jong-il. The law prescribes the death penalty for the most “serious” or “grave” cases of “antistate” or “antination” crimes, including: active participation in a coup or plotting to overthrow the state; acts of ter-

<sup>1</sup>Note on Sourcing: The United States does not have diplomatic relations with the Democratic People’s Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited guests the freedom of movement that would enable them to fully assess human rights conditions or confirm reported abuses. This report is based on information from interviews, press reports, nongovernmental organizations (NGOs) reports, and refugee testimony obtained over the past decade, and supplemented where possible by information drawn from more recent reports from visitors, both private and official, to the country and NGOs working on the Chinese border. Refugee testimony is often dated because of the time lapse between refugee departures from North Korea and contact with NGOs or officials able to document human rights conditions. The report cites specific sources and time frames wherever possible, and reports are corroborated to the best of our ability. While limited in detail, the information in this report is indicative of the human rights situation in North Korea in recent years.



rorism for an antistate purpose; treason, which includes defection or handing over state secrets; and suppressing the people's movement for national liberation. In March the Government added "cutting electric power lines or communication lines and illegal drug transactions" to the list of antistate crimes punishable by death. In September a Japanese television station broadcast a video allegedly filmed in South Hamkyong Province. The video depicted the trial and public execution of Yoo Bun-hee. In the past border guards reportedly had orders to shoot to kill potential defectors, and prison guards were under orders to shoot to kill those attempting escape from political prison camps. During the year a North Korean defector reported that he witnessed two public executions, one in 2000 and one in 2003, of prisoners who had attempted to escape the Yodok prison camp.

Religious and human rights groups outside the country alleged that some North Koreans who had contact with foreigners across the Chinese border were imprisoned or killed (see section 2.c.). However, anecdotal evidence from refugees suggested that refugees forcibly repatriated from China were generally being treated less harshly than in past years.

In March the Government reportedly sentenced Son Jong-nam to death for espionage. Nongovernmental organizations (NGOs) claimed the sentence was the result of his contacts with Christian groups in China, proselytizing activities, and alleged sharing of information with his brother in the Republic of Korea (ROK or South Korea). Because the DPRK effectively bars outside observers from investigating such reports, it was not possible to verify the DPRK's claims about Son's activities or determine whether he was executed.

As recently as 2004, defectors reported that prison camp authorities mandated forced abortions and, in other cases, authorized infanticide. Prisoners reportedly continued to die from beatings, disease, starvation, or exposure (see section 1.c.).

*b. Disappearance.*—The Government was responsible for cases of disappearance. Defectors in recent years claimed that state security often apprehended individuals suspected of political crimes and sent them, without trial, to political prison camps. There are no restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado.

According to Amnesty International (AI), in August Lee Kwang-soo, who defected to the ROK in March, learned that 19 members of his family in the DPRK reportedly had disappeared after his defection.

Japan continued to seek further information about the cases of 11 officially designated Japanese nationals believed to have been abducted by DPRK government entities, despite the DPRK's insistence that the 11 were either dead or were never in North Korea. Japan also hoped to gain answers regarding other cases of suspected abductions of Japanese nationals.

Credible reports indicated that the DPRK has also kidnapped other nationals from locations abroad. However, the Government continued to deny its involvement in the kidnappings of non-Japanese citizens.

The ROK government estimated that approximately 485 civilian South Koreans who were abducted or detained by the DPRK since the end of the Korean War remained in the DPRK. A number of South Korean prisoners of war (POWs) and missing in action were also believed to remain in the DPRK.

The whereabouts of defector Kang Gun remained unknown. In 2005 AI reported that Kang may have been kidnapped from China by North Korean agents.

At year's end the whereabouts of South Korean missionary Kim Dong-shik, who disappeared in 2000 near the China-DPRK border, remained unknown.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The penal code prohibits torture or inhumane treatment; however, many sources continued to confirm its practice. According to a 2003 report by the U.S. Committee for Human Rights in North Korea, torture was "routine" and "severe." Methods of torture and other abuse reportedly included severe beatings, electric shock, prolonged periods of exposure, humiliations such as public nakedness, confinement for up to several weeks in small "punishment cells" in which prisoners were unable to stand upright or lie down, being forced to kneel or sit immobilized for long periods, being hung by one's wrists, being forced to stand up and sit down to the point of collapse, and forcing mothers recently repatriated from China to watch the infanticide of their newborn infants. Defectors continued to report that many prisoners died from torture, disease, starvation, exposure, or a combination of these causes.

During the year a North Korean defector reported that, upon his repatriation from China in 2000, authorities forced him to crouch for long periods of time with a wooden pole placed between his calves and thighs; while crouching, booted guards would stomp on the top of his legs, crushing his toes and hyperextending his knees.

He also reported that interrogators forced him to kneel forward onto fire-heated iron plates.

In September 2005 a defector reported that she lost the use of her feet due to severe beatings she received from police for attempting to leave the country.

Over the years there have been unconfirmed reports from a few defectors alleging the testing on human subjects of a variety of chemical and biological agents up through the early 1990s.

According to refugee reports, officials continued to prohibit live births in prison and ordered forced abortions, particularly in detention centers holding women repatriated from China. According to defectors, in some cases of live birth, prison guards killed the infant or left it for dead. In addition guards reportedly sexually abused female prisoners.

In April Cho Chang-ho, a former ROK POW who escaped in 1994, testified that the Government held ROK POWs in various types of prison camps and forced them to work in coal mines and other types of forced labor. Cho reported POWs faced daily abuses, beatings, and threats.

*Prison and Detention Center Conditions.*—An estimated 150,000 to 200,000 persons were believed to be held in detention camps in remote areas. NGO, refugee, and press reports indicated that there were several types of detention centers and camps, including forced labor camps; separate camps reportedly existed for political prisoners. Using commercial satellite imagery to bolster their assertions about the existence of the camps and point out their main features, defectors claimed the camps covered areas as large as 200 square miles. The camps appeared to contain mass graves, barracks, work sites, and other prison facilities. The Government continued to deny the existence of political prison camps.

Reports indicated that conditions in the camps for political prisoners were harsh, and many prisoners were not expected to survive. During the year a former Yodok prisoner reported prisoners were expected to provide their own clothing, and food rations were barely life-sustaining. He reported that four or five persons per month died from malnutrition of approximately 200 to 250 persons in his “village.”

Reeducation through labor was a common punishment and consisted of forced labor such as logging, mining, or tending crops under harsh conditions. Reeducation involving memorizing speeches by Kim Jong-il and forced self-criticism sessions focused on work performance were also a standard practice. According to refugees, in some places of detention, prisoners were given little or no food and were denied medical care. Sanitation was poor, and former labor camp inmates reported they had no changes of clothing during their incarceration and were rarely able to bathe or wash their clothing.

The Government did not permit inspection of prisons or detention camps by human rights monitors.

*d. Arbitrary Arrest or Detention.*—The penal code reflects the principle of *nullum crimen sine lege* (no crime without a law), but gaps remained between principles and practice.

*Role of the Police and Security Apparatus.*—The internal security apparatus includes the Ministry of Public Security (MPS) and the State Security Department. Reports of diversion of food aid to the military and regime officials and of official quid-pro-quo bribery were indicative of corruption in the security forces.

*Arrest and Detention.*—Members of security forces arrested and transported citizens to prison camps without trial.

There were no restrictions on the Government’s ability to detain and imprison persons at will or to hold them incommunicado. Family members and other concerned persons reportedly found it virtually impossible to obtain information on charges against detained persons or the lengths of their sentences. Judicial review of detentions did not exist in law or in practice.

Entire families, including children, reportedly have been imprisoned when one member of the family was accused of a crime (see section 1.f.).

*e. Denial of Fair Public Trial.*—The constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary did not exist. The constitution mandates that the central court is accountable to the Supreme People’s Assembly, and the criminal code subjects judges to criminal liability for handing down “unjust judgments.” Furthermore, individual rights are not acknowledged.

*Trial Procedures.*—The Public Security Ministry dispensed with trials in political cases and referred prisoners to the State Security Department for punishment. Little information was available on formal criminal justice procedures and practices,

and outside access to the legal system was limited to show trials for traffic violations and other minor offenses.

The constitution contains elaborate procedural protections, stating that cases should be heard in public, except under circumstances stipulated by law. The constitution also states that the accused has the right to a defense, and when trials were held the Government reportedly assigned lawyers. Some reports noted a distinction between those accused of political crimes and common criminals and claimed that the Government offered trials and lawyers only to the latter. There was no indication that independent, nongovernmental defense lawyers existed.

*Political Prisoners and Detainees.*—The Government considered critics of the regime to be political criminals. Reports from past years described political offenses as including sitting on newspapers bearing Kim Il-sung's picture, mentioning Kim Il-sung's limited formal education, or defacing photographs of the Kims. The number of political prisoners and detainees remained unknown.

*Civil Judicial Procedures and Remedies.*—Article 69 of the Constitution states that "[c]itizens are entitled to submit complaints and petitions. The state shall fairly investigate and deal with complaints and petitions as fixed by law." Under the Law on Complaint and Petition, citizens are entitled to submit complaints to stop encroachment upon their rights and interest or seek compensation for the encroached rights and interest.

In 2001 the UN Human Rights Committee expressed concern that "there is no independent national institution for the promotion and protection of human rights." It stated that article 69 of the constitution and the Law on Complaint and Petition are "no substitute for such an independent monitoring body" and recommended "establishment of a national human rights institution."

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution provides for the inviolability of person and residence and the privacy of correspondence; however, the Government did not respect these provisions in practice. The regime subjected its citizens to rigid controls. The Government relied upon a massive, multilevel system of informers to identify critics and potential troublemakers. Entire communities sometimes were subjected to security checks. Possessing "antistate" material and listening to foreign broadcasts were crimes that could subject the transgressor to harsh punishments, including up to five years of labor reeducation.

The Government monitored correspondence and telephone conversations. Private telephone lines operated on a system that precluded making or receiving international calls; international phone lines were available only under restricted circumstances. Reportedly there were several separate phone networks: one for international calls, which was available to foreigners; another for foreign embassies; and a third for the domestic needs of citizens. Foreign diplomats in Pyongyang stated that the local network was subdivided further so phone use remained a privilege. Although a government-controlled cellular phone network existed, cell phone use was banned for the general population since 2004. However, visitors to Pyongyang continued to report an increase in the number of persons with cell phones. NGOs also reported that migrants obtained cell phones in China and used them on a limited basis in border areas of the DPRK on the Chinese network. During the year North Korean defectors reported contacting their relatives in the country via this network. Foreign visitors to the country were required to leave their cell phones at their point of entry for the duration of their stay. Foreigners were allowed to have North Korean mobile phones, although in practice few did.

Allegations continued to circulate that imprisonment and execution had been ordered for individuals who made statements at home that were critical of the regime.

In the late 1950s the regime began dividing society into three classes: "core," "wavering," and "hostile." Security ratings were assigned to individuals; according to some estimates, nearly half of the population was designated as either "wavering" or "hostile." Loyalty ratings determined access to employment, higher education, place of residence, medical facilities, and certain stores. They also affected the severity of punishment in the case of legal infractions. Citizens with relatives who fled to the ROK at the time of the Korean War were classified as part of the "hostile class." Between 20 and 30 percent of the population was considered potentially hostile. Members of this class were subject to discrimination, although defectors reported their treatment had improved in recent years. Economic reforms may have eroded rigid loyalty-based class divisions to some extent, although growing economic disparities also resulted from price and wage reforms. In his August 2005 report, the UN special rapporteur on the situation of human rights in North Korea stated that "while this practice may have been abolished in law, it seems to persist and

is implied by the testimonies of those who leave the country in search of refuge elsewhere.”

Citizens of all age groups and occupations remained subject to intensive political and ideological indoctrination. The cult of personality of Kim Jong-il and his father remained an important ideological underpinning of the regime, at times seeming to resemble tenets of a state religion. The Government continued to emphasize a “military first” policy along with *juche* principles (often described as extreme self-reliance). Indoctrination was intended to ensure loyalty to the system and the leadership, as well as conformity to the state’s ideology and authority.

Indoctrination was carried out systematically through the mass media, schools, and worker and neighborhood associations. According to North Korean media, Kim Jong-il frequently told officials that ideological education must take precedence over academic education in the nation’s schools. Indoctrination continued to involve mass marches, rallies, and staged performances, sometimes including hundreds of thousands of persons.

Collective punishment reportedly was practiced. Entire families, including children, have been imprisoned when one member of the family was accused of a crime. The March decree on cutting electric power or communication lines and illegal drug transactions states that a violator’s family shall be “expelled.”

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, the Government prohibited the exercise of these rights in practice. Articles of the constitution that require citizens to follow “socialist norms of life” and to obey a “collective spirit” took precedence over individual political and civil liberties. In February international media reported that 21 North Korean cheerleaders who had participated in the Busan Asian Games in 2002 had been imprisoned in the Daeheung prison camp, reportedly for discussing what they had seen in the ROK upon their return to the DPRK. According to the UN special rapporteur’s January report, the Government banned discussion of Kim Jong-il’s succession at the end of 2005, after media speculation on the topic.

The constitution provides for the right to petition. However, when anonymous petitions or complaints about state administration were submitted, the State Security Department and MPS sought to identify the authors, who could be subjected to investigation and punishment.

The Government sought to control virtually all information. There was no independent media. The Government carefully managed visits by foreigners, especially foreign journalists.

On occasion, when it served its agenda, the Government allowed foreign media to cover certain events. During visits by foreign leaders, groups of foreign journalists were permitted to accompany official delegations and to file reports. In all cases journalists were strictly monitored. They generally were not allowed to talk to officials or to persons on the street, and cellular or satellite phones were held at the airport for the duration of a visitor’s stay (see section 1.f.). In March a group of 24 South Korean reporters covering family reunions at Kungangsan left in protest after officials prevented two broadcasters from transmitting stories and asked one reporter to leave. Reporters without Borders reported that in May North Korean authorities blocked the arrival of 200 ROK journalists to the Kaesong Industrial Complex (KIC) after the ROK press criticized North Korea’s decision to halt a railroad project between the two countries.

Domestic media censorship continued to be enforced strictly, and no deviation from the official government line was tolerated. The Government prohibited listening to foreign media broadcasts except by the political elite, and violators were subject to severe punishment. Radios and television sets, unless altered, received only domestic programming; radios obtained from abroad must be altered to operate in a similar manner. During the year the Government attempted to jam all foreign radio broadcasts. In October the Government condemned the activities of a defector-run broadcasting station and urged ROK authorities to shut down the organization. During the year there was evidence that radios were more accessible than in the past due primarily to corrupt border guards. Some NGOs reported that more defectors said they had listened to foreign broadcasts than in previous years. Numerous NGOs reported that Chinese and South Korean DVDs smuggled from China were available in the northern border area and perhaps in Pyongyang.

*Internet Freedom.*—Some deluxe hotels in Pyongyang offered Internet service in the rooms of foreign visitors when it was ordered in advance. Internet access for citizens was limited to high-ranking officials and other designated elites, including select university students. This access was granted via international telephone lines through a provider in China, as well as a new local connection that was linked with

a German server. NGO and press reports claimed that the DPRK established an “intranet” in 2004, available to a slightly larger group of users including an elite grade school, selected research institutions, universities, factories, and a few individuals. The Korean Communication Corporation acts as the gatekeeper, downloading only acceptable information for access through the intranet. Reporters Without Borders reported that some e-mail access existed through this network.

*Academic Freedom and Cultural Events.*—The Government has long restricted academic freedom and controlled artistic and academic works. A primary function of plays, movies, operas, children’s performances, and books was to buttress the cult of personality surrounding Kim Il-sung and Kim Jong-il.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution provides for freedom of assembly; however, the Government did not respect this provision in practice and continued to prohibit public meetings without prior authorization.

*Freedom of Association.*—The constitution provides for freedom of association; however, the Government failed to respect this provision in practice. There were no known organizations other than those created by the Government. Professional associations existed primarily to facilitate government monitoring and control over organization members.

*c. Freedom of Religion.*—The constitution provides for “freedom of religious belief”; however, in practice the Government severely restricted religious freedom, except that which was supervised by officially recognized groups linked to the Government. The law also stipulates that religion “should not be used for purposes of dragging in foreign powers or endangering public security.” Genuine religious freedom did not exist.

The personality cult of Kim Il-sung and Kim Jong-il remained a virtual civil religion that provided a spiritual underpinning for the regime. Refusal on religious or other grounds to accept the leader as the supreme authority exemplifying the state and society’s needs was regarded as opposition to the national interest and continued to result in severe punishment. In his January report, the UN special rapporteur on the situation of human rights in the DPRK observed that “the regime’s emphasis is to inculcate religiously upon the people from a young age a belief in and total adherence to the past and current political leadership, coupled with massive ideological mobilization akin to cult worship.”

In its 2002 report to the UN Commission on Human Rights, the Government reported the existence of 500 “family worship centers,” although the existence of such centers has not been independently confirmed. Some unconfirmed reports indicated that such worship centers were tolerated as long as they did not openly proselytize or have contact with foreign missionaries. There continued to be unconfirmed reports of underground Christian churches.

On August 13, the Holy Trinity Russian Orthodox Church opened in Pyongyang. Most of the 300 Buddhist temples in the country were regarded as cultural relics, but in some of them religious activity was permitted. Monks reportedly resided at a few temples that were being restored, although they were expected to serve primarily as guides for South Korean tourists.

Several government-sponsored religious organizations served as interlocutors with foreign church groups and international aid organizations. Foreigners who met with representatives of these organizations reported that some were genuinely religious, while others appeared to have little knowledge of religious doctrine or teachings. Some foreigners who visited the country stated that church services contained political content supportive of the regime in addition to religious themes. The 2005 Korea Institute for National Unification’s white paper on human rights in North Korea indicated that the regime used authorized religious entities for external propaganda and political purposes and strictly barred local citizens from entering places of worship. Ordinary citizens considered such sites to be primarily “sightseeing spots for foreigners.”

There were reports that the Government channeled to the KWP funds and goods that had been given to government-approved churches. There were unconfirmed reports that the nonreligious children of religious believers may be employed at midlevels of the Government. In the past such individuals suffered broad discrimination with sometimes severe penalties or even imprisonment.

Overseas religious relief organizations have been active in responding to the country’s food crisis; however, they have been denied access to many areas of the country and their movement restricted and closely monitored.

According to some defectors, the Government increased repression and persecution of unauthorized religious groups in recent years. These defectors reported that persons engaging in religious proselytizing, persons with ties to overseas evangelical

groups, and repatriated persons who contacted foreigners while outside the country were arrested and subjected to harsh punishment. During the year defectors asserted that North Koreans who received help from foreign churches were considered political criminals and received harsher treatment. This has included imprisonment, prolonged detention without charge, torture, and execution. According to defector reports, the Government was concerned that faith-based South Korean relief and refugee assistance efforts along the northeast border of China had both humanitarian and political goals.

Religious and human rights groups outside the country continued to provide numerous unconfirmed reports that members of underground churches have been beaten, arrested, detained in prison camps, tortured, or killed because of their religious beliefs in prior years. Members of underground churches connected to border missionary activity were regarded as subversive elements.

*Societal Abuses and Discrimination.*—There was no known Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for the “freedom to reside in or travel to any place”; however, the Government did not respect these rights in practice. During the year the Government continued to attempt to control internal travel. Numerous reports suggested that internal travel rules were relaxed to allow citizens to search for food, conduct local market activities, or engage in enterprise-to-enterprise business activities.

Only members of a very small elite and those with access to remittances from overseas had access to personal vehicles, and movement was hampered by the absence of an effective transport network and by military and police checkpoints on main roads at the entry to and exit from every town. Use of personal vehicles at night and on Sundays was restricted. According to NGO reports, in response to a scarlet fever outbreak, the Government banned travel to or from infected areas and closed schools.

The Government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country.

The regime limited issuance of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, academics, and religious figures. Short-term exit papers were available for some residents on the Chinese border to enable visits with relatives or to engage in small-scale trade. During the year press reports claimed that the DPRK and China had ended their visa waiver program for short-term visitors.

In the past the Government engaged in forced internal resettlement to relocate tens of thousands of persons from Pyongyang to the countryside. Sometimes this occurred as punishment for offenses, although social engineering was also involved. For example, although disabled veterans were treated well, other persons with physical and mental disabilities, as well as those judged to be politically unreliable, have been sent out of Pyongyang into internal exile.

The Government did not allow legal emigration, although officials in border areas reportedly often have taken bribes from, or simply let pass, persons crossing the border into China without required permits. During the year official media reported periodic crack-downs on this practice, with a stepped-up military presence along the border.

Substantial numbers of North Koreans have crossed the border into China over the years, and NGO estimates of those that lived there during the year ranged from tens of thousands to hundreds of thousands. Some settled semipermanently in northeastern China, others traveled back and forth across the border, and still others sought asylum and permanent resettlement in third countries. There was evidence that the number of North Koreans crossing into China leveled off during the year, after declining in 2005. A few thousand North Koreans were able to gain asylum in third countries during the year.

The law criminalizes defection and attempted defection, including the attempt to gain entry to a foreign diplomatic facility for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of “labor correction.” In “serious” cases defectors or asylum seekers are subject to indefinite terms of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily were imprisoned under harsh conditions (see section 1.a. and 1.c.). Some sources indicated that the harshest treatment was reserved

for those who had extensive contact with foreigners. In March China reported it repatriated a North Korean asylum seeker known as Kim Chun-hee, despite requests from the international community to treat her humanely. Kim's whereabouts remained unknown. In October Chinese police arrested and deported to North Korea nine relatives of South Korean POWs; one NGO reported that the nine were likely in prison in the DPRK, but their whereabouts were unknown.

Reports from defectors indicated that the regime was differentiating between persons who crossed the border in search of food, who might be sentenced only to a few months of forced labor or in some cases merely issued a warning, and persons who crossed repeatedly or for political purposes, who were sometimes sentenced to heavy punishments. The law stipulates a sentence of up to two years of "labor correction" for the crime of illegally crossing the border. According to the UN special rapporteur's August 2005 report, there was a new policy to enable persons leaving the country for nonpolitical reasons to return with the promise of a pardon under the penal code. Other NGO reports indicated that North Koreans returning from China were often able to bribe North Korean border guards into letting them freely pass across the border. Several NGOs operating in the region confirmed that punishments seemed to be less severe than in the past. During the year a North Korean who fled the country in 2004 reported that repatriated North Koreans generally were sentenced to six months of hard labor at a labor training camp and then released. He reported that, in certain cases, such as when defectors were accused of denouncing the DPRK, punishments could be harsher.

The Government permitted an increasing number of overseas Koreans to visit relatives in North Korea over the past decade.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, nor has the Government established a system for providing protection for refugees. The Government had no known policy or provision for refugees or asylees and did not participate in international refugee fora.

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

Citizens do not have the right to change their government peacefully. The KWP and the Korean People's Army, with Kim Jong-il in control, dominated the political system. Little reliable information was available on intraregime politics. The legislature, the Supreme People's Assembly (SPA), meets only a few days per year to rubber-stamp resolutions presented by the party leadership.

The Government justified its dictatorship with nationalism and demanded near deification of both Kim Jong-il and Kim Il-sung. The military first policy and "our style socialism" mark the twin pillars of the Government's ideology under Kim Jong-il's direction. Military first touts the People's Army as the main ideological force of the revolution, and "our style socialism" emphasizes the supposed superiority of the North Korean method of governance.

*Elections and Political Participation.*—In an effort to give the appearance of democracy, the Government has created several "minority parties." Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. Free elections have never existed, and the regime regularly criticized the concept of free elections and competition among political parties as an "artifact" of "capitalist decay."

Elections to the SPA are held every five years. Provincial, city, and county assemblies were held irregularly. Elections were not free and fair. Elections were held in 1990, 1998, and in 2003; the outcomes of all were virtually identical. The Government openly monitored voting, resulting in nearly 100 percent participation and 100 percent approval rate.

Women reportedly made up 20 percent of the membership of the SPA as of the 2003 elections, but only approximately 4 percent of the membership of the central committee of the KWP.

The country is racially and ethnically homogenous. Officially there are no minorities, and there is, therefore, no information on minority representation in the Government.

*Government Corruption and Transparency.*—Reports of diversion of food aid to the military and government officials and of quid pro quo bribery were indicative of corruption in the Government and security forces. The Government continued to deny any diversion of food aid, although it hinted that it was combating internal corruption.

There are no known freedom of information laws. The Government has not taken steps towards transparency that would make it eligible for membership in international financial institutions.

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

There were no independent domestic organizations to monitor human rights conditions or to comment on the status of such rights. The Government's North Korean Human Rights Committee has denied the existence of any human rights violations in the country. The Government decried international statements about human rights abuses in the country as politically motivated and an interference in internal affairs. The Government said that criticism of its human rights record was an attempt by some countries to cover-up their own abuses, and said that such hypocrisy undermined human rights principles. In December the UN General Assembly passed a resolution condemning the country's human rights record. In November 2005 in a meeting with the UN high commissioner on human rights, the DPRK's permanent representative to the UN office in Geneva rejected the high commissioner's offer to work with the DPRK on human rights treaty implementation.

The Government ignored requests for visits from international human rights NGOs. The NGO community and numerous international experts continued to testify to the grave human rights situation in the country during the year.

North Korea emphasized that it had ratified most UN human rights instruments.

The Government has not allowed UN Special Rapporteur on the Situation of Human Rights in the DPRK Vitit Muntarbhorn to visit the country to carry out his mandate. In response to a letter from the special rapporteur, the Government wrote in a December 2005 letter that it did not recognize his mandate and therefore did not wish to communicate with him on human rights issues. Muntarbhorn has issued several reports documenting the country's human rights abuses. The European Parliament also passed a resolution on the issue of North Korean human rights in June.

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

The constitution grants equal rights to all citizens. However, the Government has never granted its citizens most fundamental human rights in practice, and there continued to be pervasive discrimination on the basis of social status.

*Women.*—The UN special rapporteur on the situation of human rights in the DPRK reported that violence against women was a significant problem both in and out of the home. Women in prison camps reportedly were subject to rape and forced abortions (see section 1.c.).

There continued to be reports of trafficking in women and young girls who had crossed into China (see section 5, Trafficking).

The constitution states that "women hold equal social status and rights with men"; however, although women were represented proportionally in the labor force, few women had reached high levels of the party or the Government. Working-age women, like men, were required to work. They were thus required to leave preschool-age children in the care of elderly relatives or in state nurseries. According to the law, women with large families are permitted to work shorter hours. During the year approximately two-thirds of the refugees who found safe haven in the ROK were women.

*Children.*—The state provides 11 years of free compulsory education for all children. However, in the past some children were denied educational opportunities and subjected to punishments and disadvantages as a result of the loyalty classification system and the principle of "collective retribution" for the transgressions of family members (see section 1.f.).

Like others in society, children were the objects of intense political indoctrination; even mathematics textbooks propound party dogma. In addition, foreign visitors and academic sources reported that from an early age, children were subjected to several hours a week of mandatory military training and indoctrination at their schools.

The World Food Program's (WFP) Protracted Relief and Recovery Operation, which went into effect in June, aspired to provide nutritional assistance to 1.9 million persons, primarily children and pregnant or nursing women, through targeted feeding programs in schools, hospitals, and orphanages. A nutrition survey carried out in 2004 by the UN Children's Fund and the WFP, in cooperation with the Government, found that in the sample of 4,800 children under six, 23 percent were underweight, 37 percent were stunted (chronic malnutrition, measured by height for age) and 7 percent suffered from "wasting" (acute malnutrition, measured by weight for height). The survey also found that 32 percent of mothers with children under two were malnourished, and 35 percent were anemic.



The UN Committee on the Rights of the Child has repeatedly expressed concern over de facto discrimination against children with disabilities and the insufficient measures taken by the state to ensure these children had effective access to health, education, and social services.

Information about societal or familial abuse of children remained unavailable. There were reports of trafficking in young girls among persons who had crossed into China (see section 5, Trafficking).

School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects or in meeting production goals (see section 6.c.). Children were also used in cultural activities and, according to academic reports, were subjected to harsh conditions during mandatory training sessions.

*Trafficking in Persons.*—There were no known laws specifically addressing the problem of trafficking in persons, and trafficking of women and young girls into and within China continued to be widely reported. Some women and girls were sold by their families or by kidnappers as wives or concubines to men in China; others fled of their own volition to escape starvation and deprivation. A network of smugglers reportedly facilitated this trafficking. According to defector reports, many victims of trafficking, unable to speak Chinese, were held as virtual prisoners, and some were forced to work as prostitutes. According to some defectors, traffickers sometimes abused or physically scarred the victims to prevent them from escaping.

*Persons With Disabilities.*—Traditional social norms condone discrimination against persons with physical disabilities. Although veterans with disabilities were treated well, other persons with physical and mental disabilities have been sent out of Pyongyang into internal exile. The Government passed a law in 2003 on the protection of persons with disabilities, ensuring equal access for persons with disabilities to public services; however, implementing legislation has not been passed. According to a report released in April by the World Association of Milal, approximately 3.4 percent of the population was disabled. According to the report, more than 64 percent of persons with disabilities lived in urban areas. During the year a North Korean who defected in 2005 reported that “there are no people with physical defects in North Korea” because babies born with disabilities were killed in a practice encouraged by the Government.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution provides for freedom of association; however, this provision has never been respected in practice. There were no known labor organizations other than those created by the Government. The KWP purportedly represents the interests of all labor. There was a single labor organization, the General Federation of Trade Unions of Korea. Operating under this umbrella, unions functioned on the classic Stalinist model, with responsibility for mobilizing workers to support production goals and for providing health, education, cultural, and welfare facilities.

The country was not a member of the International Labor Organization, but it had observer status.

*b. The Right To Organize and Bargain Collectively.*—Workers do not have the right to organize or to bargain collectively. Factory and farm workers were organized into councils, which had an impact on management decisions. Unions do not have the right to strike.

There was one special enterprise zone (SEZ) in the Rajin-Sonbong area. The same labor laws that applied in the rest of the country applied in the Rajin-Sonbong SEZ, and workers in the SEZ were selected by the Government.

At year's end 18 South Korean companies were producing goods at the KIC. A North Korean agency provides candidates for selection by the South Korean companies; there are approximately 10,000 workers currently employed at the site. Special regulations covering labor issues were negotiated for the management of the area, and the respective assemblies of both North and South Korea approved the Kaesong Industrial Complex Act. Under this agreement, North Korean workers in the KIC were guaranteed a monthly minimum wage of approximately \$50. Employing firms reported that, with overtime, the average worker earned about \$67 before deductions. Although the special laws governing the KIC require direct payment to the workers, the wages were paid to the Government, which withheld a portion for social insurance and other benefits and then remitted the balance (reportedly about 70 percent) to the workers in an unknown combination of coupons, which could be exchanged for staple goods, and North Korean won, converted at the official exchange rate. Due to the lack of transparency, it was difficult to determine how much workers ultimately took home.

*c. Prohibition of Forced or Compulsory Labor.*—The laws prohibit forced or compulsory labor. However, the Government sometimes mobilized the population for construction and other voluntary labor projects, including on Sundays, the one day off a week; the 2005 rice planting and harvesting effort, designed by the Government to help boost the country's food production, was an example of such projects. Following severe flooding in July, several NGOs observed mobilized work groups, including both soldiers and private citizens, engaged in infrastructure reconstruction projects. According to a South Korean press report, the Government required high school and college students to participate in unpaid "voluntary work," particularly rice planting efforts, during their vacation. A North Korean defector interviewed by the UN special rapporteur reported that the Government sometimes took young people from the street and forced them to work on the farms. The Government also frequently gathered large groups together for mass demonstrations and performances. "Reformatory labor" and "reeducation through labor" have traditionally been common punishments for political offenses. Forced and compulsory labor, such as logging and tending crops, continued to be the common fate of political prisoners.

The penal code requires that all citizens of working age must work and "strictly observe labor discipline and working hours." According to the penal code, failure to meet economic plan goals can result in two years of "labor correction."

*d. Prohibition of Child Labor and Minimum Age for Employment.*—According to the law, the state prohibits work by children under the age of 16 years, and the penal code criminalizes forced child labor. Still, school children may be assigned to factories or farms for short periods to help meet production goals and to other work such as snow removal on major roads.

*e. Acceptable Conditions of Work.*—No data were available on the minimum wage in state-owned industries. Since the 2002 economic reforms, wages have become the primary form of compensation, and factory managers have had more latitude to set wages and provide incentives. Workers were expected to use some of their increased income to pay for services that had previously been provided either free or at highly subsidized rates by the state, such as rent for housing and fees for transportation. While education and medical care technically remained free, educational materials and medicines appeared available only for purchase in markets.

Class background and family connections could be as important as professional competence in deciding who received particular jobs, and foreign companies that have established joint ventures continued to report that all their employees must be hired from registers screened by the authorities.

The constitution stipulates an eight-hour workday; however, some sources reported that laborers worked longer hours, perhaps including additional time for mandatory study of the writings of Kim Il-sung and Kim Jong-il. The constitution provides all citizens with a "right to rest," including paid leave, holidays, and access to sanitariums and rest homes funded at public expense; however, the state's willingness and ability to provide these services was unknown. Foreign diplomats reported that workers had 15 days of paid leave plus paid national holidays. Some persons were required to take part in mass events on holidays, which sometimes required advance practice during work time. Workers were often required to "celebrate" at least some part of public holidays with their work units and were able to spend a whole day with their families only if the holiday lasted for two days.

Many worksites were hazardous, and the rate of industrial accidents was high. The law recognizes the state's responsibility for providing modern and hygienic working conditions. The penal code criminalizes the failure to heed "labor safety orders" pertaining to worker safety and workplace conditions only if it results in the loss of lives or other "grave loss." In addition workers do not have an enumerated right to remove themselves from hazardous working conditions.

North Koreans suffered human rights abuses and labored under harsh conditions while working abroad for North Korean firms and under arrangements between the North Korean government and foreign firms. According to press reports, North Korean contract laborers worked in the Czech Republic, Poland, Mongolia, Russia, Libya, Saudi Arabia, Bulgaria, and Angola. In most cases employing firms paid salaries to the North Korean government, and it was not known how much of that salary the workers actually received. Workers were typically watched closely by North Korean government officials while overseas and reportedly did not have freedom of movement outside their living and working quarters. For example, according to the Czech Republic Ministry of Labor, approximately 400 North Korean women worked in garment and leather factories in several locations throughout the Czech Republic. The Czech Labor Ministry investigated their situation and concluded that although the situation was "troubling" in several aspects, the women were working volun-

tarily. North Koreans sought opportunities to work abroad, and most were vetted by the party for their ideological health and background.

It was reported that wages of some of the several thousand North Koreans reportedly employed in the Russian Far East were withheld until the laborers returned home, making them vulnerable to deception by North Korean authorities, who promised relatively high payments. AI charged that a 1995 bilateral agreement with North Korea allowed the exchange of free labor for debt repayment, although the Russian government claimed that a 1999 intergovernmental agreement gave North Koreans working in Russia the same legal protections as Russian citizens.

## REPUBLIC OF KOREA

The Republic of Korea (Korea) is a constitutional democracy governed by a President and a unicameral legislature. The country has a population of approximately 48 million. In April 2004, in a free and fair election, President Roh Moo-hyun's Uri Party obtained a majority. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Domestic violence, rape, and child abuse remained serious problems. Women, persons with disabilities, and minorities continued to face societal discrimination. The country was a country of origin, transit, and destination for trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

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

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

However, in 2005 the National Human Rights Commission found that two demonstrators probably died as a result of police violence (see section 2.b.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits mistreatment of suspects, and officials generally observed this prohibition in practice. However, the National Human Rights Commission determined that the Seoul Detention Center submitted false reports to senior authorities in an attempt to cover up the sexual assault by a male prison guard on a female inmate in February. The guard was subsequently sentenced to four years in prison.

The Government continued to investigate incidents of possible abuse under the country's former military regimes. As of September, the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement, established to review cases in which political activists may have been tortured, had reviewed 10,078 of 11,990 reported cases since 2000 and determined that compensation was due in 2,596 of them.

There were a number of incidents, including assaults related to military hazing.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. However, rules regarding arrest and detention under the National Security Law (NSL) are vague. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to seven years of anyone who “with the knowledge that he might endanger the existence or security of the state or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization.” The legal standard for what constitutes “endangering the security of the State” is vague. Thus, persons could be arrested for the peaceful expression of views that the Government considered pro-North Korean or antistate. Between January and September authorities arrested 11 persons for alleged NSL violations.

The UN Human Rights Committee has termed the NSL “a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights.” Proposals to annul or substantially revise the NSL were sparked again during the year after a teachers' union published a pamphlet using text from a North Korean state document. A university professor who was arrested under the

NSL late last year for publishing unpopular columns about the Korean War was subsequently found guilty of violating the NSL and was dismissed from his job. In May he was sentenced to two years of prison with a stay of execution of three years. At year's end the case was under appeal.

*Role of the Police and Security Apparatus.*—The Korean National Police Agency (KNPA) is under the Ministry of government Administration and Home Affairs. The approximately 93,000-member force has a national headquarters in Seoul, five special agencies, including the Maritime Police, 13 provincial headquarters, 220 police stations, and 3,389 branch offices. The KNPA was considered well disciplined, and corruption and impunity were not major problems. The KNPA conducts internal investigations of alleged wrongdoing by the police, but citizens also are able to file a claim directly with the National Human Rights Commission to investigate any allegations of wrongdoing.

*Arrest and Detention.*—The law requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such cases, judges must issue arrest warrants within 48 hours after the suspect is apprehended, or within 72 hours if a court is not located in the same county. Police may detain suspects who appear voluntarily for questioning for up to six hours but must notify the suspects' families. The police generally respected these requirements.

Authorities generally must release an arrested suspect within 20 days unless an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances.

There is a bail system, but human rights lawyers said bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address. The law provides for the right to representation by an attorney, including during police interrogation. There were no reports of access to legal counsel being denied.

*Amnesty.*—In August the Government granted a special amnesty to 142 prisoners and paroled another 750. The list also included three politicians who had been convicted of illegal fundraising.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice. Of the nine justices on the constitutional court, three are appointed by the President, three are elected by the National Assembly, and three are designated by the chief justice of the Supreme Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. The prosecutor's office, under the jurisdiction of the Ministry of Justice (MOJ), has shown increased independence and impartiality in recent years.

Local courts are presided over by judges who render verdicts in all cases. Both defendants and prosecutors can appeal a verdict or a sentence to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the constitutional court.

*Trial Procedures.*—Trials are open to the public, but a judge may restrict attendance if he believes spectators might disrupt the proceedings. There is no trial by jury. Court-appointed lawyers are provided by the Government (at government expense) in cases where the defendant cannot afford to provide his or her own legal counsel. When a person is detained, the initial trial must be completed within six months of arrest. Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. The law provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. Although the law prohibits double jeopardy, the courts interpreted this provision to mean that a suspect cannot be indicted or punished more than once for the same crime, while the prosecution can appeal a not-guilty verdict or a sentence it considers excessively lenient. Therefore, a suspect may be tried more than once for the same crime.

*Political Prisoners and Detainees.*—It was difficult to estimate the number of political prisoners because it was unclear whether persons were arrested for exercising the rights of free speech and association, or were detained for committing acts of violence or espionage. Mianhyup, a nongovernmental organization (NGO), reported that as of September the Government had prosecuted 129 persons for their political beliefs. As of August the Government had convicted 252 conscientious objectors who failed to report for military service.

There were no reports of political detainees.

*Civil Judicial Procedures and Remedies.*—There was an independent and impartial judiciary in civil matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Some human rights groups raised concerns about possible government wiretapping abuse. The Anti-Wiretap Law lays out broad conditions under which the Government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national security cases. The Ministry of Information and Communication said that between January and June, the Government conducted 528 cases of wiretapping, down 11 percent from the 550 cases during the same time period in 2005. Telecommunications companies also reported providing more than 35 percent fewer phone records to law enforcement agencies when compared with last year.

The Government continued to require some released prisoners to report regularly to a probation officer under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the Government determines that the action endangers national security or the basic order of democracy in the country (see section 1.d.). However, this prohibition was rarely enforced, and the viewing of North Korean satellite telecasts in private homes is legal.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, under the NSL, the Government may limit the expression of ideas that authorities consider Communist or pro-North Korean (see section 1.d.). Proposals to annul or substantially revise the NSL failed to reach a majority in the National Assembly.

In January 2005 the National Assembly passed a law that allows the Fair Trade Commission to impose restrictions on publishers if any one newspaper has more than 30 percent of the market or if three major newspapers have a combined market share of 60 percent or more. The law also requires press owners to report their circulation and advertising revenue to a Press Development Committee. In June the Constitutional Court ruled that some parts of the law, including the market share issue, were unconstitutional.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage.

*Internet Freedom.*—The Government blocked violent and sexually explicit Web sites and required site operators to rate their site as harmful or not harmful to youth, based on the country's telecommunications laws that ban Internet service providers from offering harmful information for youth. The Government also continued to block North Korean Web sites that it deemed inappropriate. The Government also blocked the sale of video games that featured North Korea in a negative way.

According to the 2005 Organization for Economic Cooperation and Development data, 92.7 percent of households had access to the Internet. In addition to Internet access from home, public Internet rooms were widely available and inexpensive.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, police routinely approved demonstrations.

During the year demonstrators on several occasions used steel bars, rocks, and other weapons to attack police. Violence erupted in demonstrations involving labor disputes, trade issues, and U.S. Forces Korea base consolidation. In December 2005 the National Human Rights Commission found that two demonstrators allegedly died as a result of police violence, and the President apologized for the incident in a nationally publicized address. The protesters had participated in a November 2005 rally during which demonstrators armed with wooden sticks and fire bombs clashed with police armed with batons and plastic shields. It was determined that the officers who were likely to have caused the deaths of the protestors could not be identified given the nature of the confrontation between the large group of police and protestors. The commissioner-general of the KNPA took responsibility for the police actions and resigned a few days after the commission issued its ruling.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice. Associations operated freely, except those deemed by the Government to be seeking to overthrow the Government.

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

*Societal Abuses and Discrimination.*—The small Jewish population was comprised almost entirely of expatriates. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Most citizens could move freely throughout the country; however, government officials had discretion to restrict the movement of some former prisoners and North Korean defectors. While foreign travel generally was unrestricted, the Government must approve travel to North Korea. Travelers going to places other than Kaesong or Mt. Geumgang must receive a briefing from the Ministry of Unification prior to departure and demonstrate that their trip does not have a political purpose and is not undertaken to praise North Korea or criticize the Government. In October a group of 50 South Koreans traveled to visit a national cemetery in Pyongyang after receiving government approval. Under the NSL, the cemetery commemorating patriotic martyrs previously was off-limits.

The law does not include provisions for forced exile of its citizens, and the Government did not employ it.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. The Government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. In practice the Government generally provided protection against refoulement, the return of persons to a country where they feared persecution; however, the Government did not routinely grant refugee status or asylum. Those few asylum-seekers who were recognized as refugees were provided with basic documentation but frequently encountered problems in exercising their rights. In particular, their protected status was not always recognized by all government departments, and refugees, like other foreigners, were frequently subjected to various forms of informal discrimination. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers and an alternative form of protection, a renewable, short-term permit, to those who met a broader definition of “refugee.” Between January and December the Government received 278 refugee applications (not including North Koreans). Between July 1994, when the Government first accepted applications, and December, the Government approved 52 of 724 applications. The Government continued to work with the UNHCR to bring its refugee processing up to international standards; however, a complex procedure and long delays in decision making continued to be problems.

The Government continued its longstanding policy of accepting refugees from North Korea, who are entitled to citizenship in the ROK. The Government resettled 2,023 North Koreans during the year, resulting in a total of approximately 9,800 North Koreans resettled in the country.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older. Elections are held by secret ballot.

*Elections and Political Participation.*—A free and fair national assembly election was held in April 2004. After by-elections in July, the ruling Uri Party maintained a plurality of 141 of 299 seats in the National Assembly.

In general elections, 50 percent of each party's candidates on the proportional ballot must be women, and 30 percent of each party's geographical candidates must be women. As a result, in the 2004 elections 39 women were elected to the 299-seat legislature. At year's end three of the 19 National Assembly committees were chaired by women. In the Supreme Court, two of 14 justices were women, and in the cabinet, two of 19 ministers were women. In April the first female prime minister, Han Myeong-sook, was confirmed by the National Assembly.

*Government Corruption and Transparency.*—On taking office, President Roh encouraged prosecutors to investigate political parties and politicians for corruption. Several investigations involved his close aides.

The country has a Freedom of Information Act, which went into effect in 1998.

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

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

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

The law forbids discrimination on the basis of gender, religion, disability, age, social status, regional origin, national origin, ethnic origin, physical condition or appearance, marital status, pregnancy and child delivery, family status, race, skin color, thought or political opinion, record of any crime for which punishment has been fulfilled, or sexual orientation or medical history, and the Government generally respected these provisions. However, traditional attitudes limited opportunities for women, persons with disabilities, and ethnic minorities. While courts have jurisdiction to decide discrimination claims, many of these cases were instead handled by the National Human Rights Commission.

*Women.*—Violence against women remained a problem. Between January and July the MOJ registered 6,549 cases of domestic violence and prosecuted 1,153 cases. The Special Act on the Punishment of Domestic Violence defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Offenders may also be placed on probation or ordered to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence, and the police generally were responsive. The Government has established some shelters for battered women and has increased the number of childcare facilities, giving women in abusive situations more options. However, women's rights groups said these measures fell far short of effectively dealing with the problem.

In 2005 the National Assembly eliminated the household registration system that made women legally subordinate to the male family head. The reforms also allowed remarried women to change their children's family name to their new husband's name and ended the six-month waiting period to remarry that was directed only at women. The family law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to divorce, there remained a stigma of divorce and little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities, led some women to stay in abusive situations. However, according to a National Statistical Office report, 44.8 percent of marriages ended in divorce.

Rape remained a serious problem. Between January and August there were 4,917 reported cases of rape and 2,281 prosecutions. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rape, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is three years' imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment. In 2004 the courts set a precedent by prosecuting spouses in cases of spousal rape, although there is no specific statute that defines spousal rape as illegal.

Prostitution is illegal but widespread. In 2004 the Government passed sweeping antiprostitution and antitrafficking legislation that provided protection for the victims of prostitution and enhanced punishment for those engaged in prostitution. There are no laws that specifically addressed sex tourism. Some NGOs also expressed concern that sex tourism to China and Southeast Asia was becoming more prevalent.

The law defines sexual harassment as a form of gender discrimination. The Gender Discrimination Prevention and Relief Act covers almost all kinds of human relations—including, for example, relations between teachers and students and citizens and civil servants. Nevertheless, sexual harassment continued to be a problem. The

National Human Rights Commission of Korea received 99 cases of sexual harassment in the past year.

Relative to other developed countries, few women worked in managerial positions or earned more than a median income, and gender discrimination in the workplace remained a problem. According to the Korea Women's Development Institute, the average working woman earned 64 percent of what a man made in a comparable job. The Equal Employment Act penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination could be fined up to \$4,399 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless, some government agencies' preferential hiring of applicants with military service (nearly always men) perpetuated legal barriers against women, despite a constitutional court ruling that such preferential hiring was unconstitutional. A recent poll showed that 79 percent of women responded that they had experienced some form of discrimination in the workplace, usually in the form of job duties and pay.

Women had full access to education, and social mores and attitudes were improving gradually. For example, the major political parties made more efforts to recruit women, and an increasing number of women occupied key political positions, including that of prime minister.

*Children.*—The Government demonstrated its commitment to children's rights and welfare through public education. The Government provided high-quality elementary education to all children free of charge. Education is compulsory through the age of 15, and most children obtained a good secondary education. Enrollment rates for elementary school were at 98.8 percent as of 2005. Boys and girls have equal access to education. High-quality health care was widely available to children.

As of June, 4,548 cases were registered with the National Child Protection Agency, of which 2,561 were determined to be abuse cases. In 2005 the Ministry of Health and Welfare increased requirements for child abuse reporting. In the past child abuse reporting was limited to employees of welfare institutes, teachers, medical professionals, and social workers. The new measure includes lawyers, private institute instructors, and kindergarten teachers.

The Youth Protection Law provides for prison terms of up to three years or a fine of up to \$17,680 (20 million won) for owners of entertainment establishments who hire persons under the age of 19. The Commission on Youth Protection's definition of "entertainment establishment" includes facilities such as restaurants and cafes where children are hired illegally as prostitutes. The Juvenile Sexual Protection Act establishes a maximum sentence of 25 years' imprisonment for the brokerage and sale of the sexual services of persons younger than 19 years of age. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (see section 5, Trafficking). Based on this law, the commission publicized the names of those who had committed sex offenses against minors. The National Youth Commission said in 2005 that Korean fishermen were greatly responsible for the commercial sexual exploitation of children in Kiribati. As a result, the Ministry of Maritime Affairs and Fisheries undertook a program to educate the fishermen, but no criminal charges were filed.

With a birthrate of 1.08 boys for every girl, the traditional preference for male children continued. Although the law bans fetal testing except in cases in which a woman's life is in danger, hereditary disease could be transmitted, or in cases of rape or incest, such testing and the subsequent abortion of female fetuses frequently occurred. The Government continued an education campaign aimed at eradicating gender-preference abortions, which are already prohibited by law.

*Trafficking in Persons.*—The law prohibits trafficking in persons; nevertheless, the country was a country of origin, transit, and destination. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada and Mexico, as well as to other Western countries and Japan. Relatively small numbers of economic migrants, seeking opportunities abroad, were believed to have become victims of trafficking as well.

The country was a transit point for alien smugglers, including human traffickers. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of Korean citizens to Western countries. In addition to trafficking by air, transit traffic occurred in the country's territorial waterways by ship.

Unlike in previous years, Chinese women were not known to have been trafficked through the country to the United States and other parts of the world. However, women from Russia, other countries of the former Soviet Union, China, the Philippines, and other Southeast Asian countries were trafficked to the country for sex-



ual exploitation and domestic servitude. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer or tourist visas. In an effort to curb abuse, the Government restricted issuance of certain types of entertainer visas. In 2005 the Government issued 4,293 entertainer visas. Once these visa recipients were in the country, employers in some instances held victims' passports. There was no credible evidence that officials were involved in trafficking.

Legislation targeting prostitution and human trafficking implemented in 2004 led to a decline in the overall number of red-light districts and prostitutes. According to the National Police Agency, the number of prostitutes dropped from 5,500 in 2004 to 2,660 during the year, and the number of red-light districts dropped from 1,679 in 2004 to 1,097 during the year. However, as prostitution continued to move underground and overseas, accurate numbers were difficult to estimate. In recent years prostitution has become more prevalent in massage parlors rather than traditional brothels. A recent survey by the Korean Institute for Criminology found that 60 percent of men who had purchased sexual favors in the past year had done so through a massage parlor. The Internet was also used more frequently to arrange sexual encounters in private homes and hotels. Despite reports of prostitution crackdowns involving thousands of suspects, on average, only 15 percent of those who were booked for investigation were actually prosecuted.

The Juvenile Sexual Protection Act imposes lengthy prison terms for persons convicted of sexual crimes against minors (see section 5, Children). The KNPA and the MOJ were principally responsible for enforcing antiprostitution laws. While many credited the laws with increasing societal awareness of prostitution as a crime, some observers believed the new laws were not being enforced to their fullest potential. The Government continued to support a public awareness campaign, a victim support hot line, and a reward system for information leading to the arrest of traffickers.

The Government maintained a network of shelters and programs to assist victims. As of June 482 Korean women were housed in 40 shelters and 22 foreign women were in three shelters. Victims were also eligible for medical, legal, vocational, and social support services. Many of these services were provided in conjunction with NGOs. The MOJ continued to educate male offenders about the antiprostitution and antitrafficking laws. During the year 11,216 men participated in the program.

*Persons With Disabilities.*—Discrimination against persons with disabilities in employment, education, or the provision of other state services is illegal. The law states, "No one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability." The Government took measures to increase opportunities and access for persons with disabilities. Although many public facilities remained inadequate, most Seoul sidewalks were designed to alert the sight-impaired, intersections had audible cross-signals, and nearly all subway stations were equipped with elevators, wheelchair lifts, or both.

Firms with more than 300 employees are required by law either to hire persons with disabilities or pay a fine. Nevertheless, the hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force.

Many persons with disabilities lived in group facilities or rehabilitation centers, where there were periodic reports of physical and sexual abuse.

*National/Racial/Ethnic Minorities.*—The country is racially homogeneous, with no sizable populations of ethnic minorities. However, international marriages were becoming increasingly common. During the year approximately 14 percent of marriages were with foreigners, primarily the result of brokered marriages between Korean men and women from China, Vietnam, and the Philippines. Such marriages accounted for 36 percent of marriages in rural areas. According to the MOJ, the number of foreign women married to Korean men living in Korea stood at 66,659 at the end of 2005. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained "foreign," thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. Foreign workers continued to report difficult working conditions. Unlike in previous years, there were no reports of unduly aggressive police crackdowns on illegal migrants. Amerasians faced no legal discrimination, and informal discrimination appeared to be on the decline.

*Other Societal Abuses and Discrimination.*—Age discrimination continued to be a problem. For example, the National Human Rights Commission criticized airline companies' policy of not hiring women over the age of 25 as crew members.

During the year a United Nations Report on the Global AIDS Epidemic estimated that the country had approximately 13,000 persons with HIV or AIDS, although the Government recorded only 4,229 official cases. The AIDS Prevention Act, enacted in 1987, ensures the confidentiality of persons with HIV/AIDS and protects individuals from discrimination. The Government supported rehabilitation programs and shelters run by private groups and subsidized medical expenses from the initial diagnosis. The Government operated a Web site with HIV/AIDS information and a telephone counseling service. Some observers claimed that persons with HIV/AIDS suffered from severe societal discrimination and social isolation.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to associate freely. A new law, which took effect in January, allows public servants to organize unions; however, the unions protested the law, as it bans them from taking collective action. In September the Federation of government Employees submitted an application to the Ministry of Labor for the establishment of a legal union that was subsequently approved.

Labor law changes in 1997 authorized the formation of competing unions starting in 2002, but implementation was postponed until 2007 by mutual agreement among members of the Tripartite Commission, which included representatives of government, labor, and management (see section 6.b.). In September the commission again decided to delay implementation until the end of 2009.

The ratio of organized labor in the entire population of wage earners was approximately 11 percent, or 1.5 million unionists from a total of 14 million workers. The country has two national labor federations, the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), and an estimated 1,600 labor unions. The FKTU and the KCTU were affiliated with the International Confederation of Free Trade Unions. Most of the FKTU's constituent unions maintained affiliations with global union federations, as did the KCTU Metalworkers Council. In protest of government policies perceived to be antilabor, the FKTU and KCTU officially withdrew from the Tripartite Commission, although the FKTU rejoined in February and served as the labor chairman.

The Government recognized a range of other labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. Labor federations not formally recognized by the labor ministry have generally operated without government interference, with the exception of the Korean government Employees Union, which was forced out of its offices in September after failing to register as an official union before the specified deadline.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the workers' right to collective bargaining and collective action, and workers exercised these rights in practice. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. However, forced reinstatement has been used less frequently because employers have taken extra precautions when laying off union members.

Under the Special Act on Public Servants' Unions that went into effect on January 28, public servants are allowed to organize trade unions and bargain collectively, although the act restricts the public service unions from collective bargaining on topics such as policymaking issues and budgetary matters.

Under the Trade Union and Labor Relations Adjustment Act, unions must submit a request for mediation to the Labor Relations Commission before a strike. In most cases the mediation must be completed within 10 days; in the case of essential services, within 15 days. Once a dispute is referred to arbitration, striking is prohibited. Management can initiate criminal proceedings against an illegal strike. Arrest warrants can be issued against union leaders, and striking workers can be removed by police from the premises and prosecuted, along with union leaders, and sentenced under the penal code for "obstruction to business." Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

On July 13, subcontractors of POSCO Steel Company entered the corporate headquarters in Pohang and remained for eight days. The President spoke out against the strike labeling the action "illegal," which prompted the workers to disband with only minor conflicts with police.

Strikes are prohibited for most government officials and for those who produce mainly defense goods. A total of 80 strikes occurred between January and July, with 89,202 participating workers. During the same period in 2005, 105,577 persons par-

ticipated in 228 strikes. By law, unions in enterprises determined to be of “essential public interest”—including railways, utilities, public health, the Bank of Korea, and telecommunications—can be ordered to submit to government-ordered arbitration. Although arbitration was not used, the threat of arbitration effectively brought to conclusion a Korean Power strike in September and a medical workers strike in August.

There is no independent system of labor courts. Semijudicial agencies such as the Central and Local Labor Relation Commissions mediate or arbitrate labor disputes based on the Trade Union and Labor Relation Adjustment Act. Each commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the “public interest.” The Labor Relations Commission can decide on remedial measures in cases involving unfair labor practices and can mediate or arbitrate labor disputes in sectors deemed essential to public welfare.

The Government originally designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises gradually were given the rights enjoyed by workers in other sectors of the economy; however, foreign companies are exempt from many of these labor standards. Foreign-invested enterprises located in free economic zones are exempt from articles 54, 57, and 71 of the Labor Standards Act, which mandate monthly leave, paid holidays, and menstruation leave for women; article 31 of the Honorable Treatment and Support of Persons of Distinguished Services to the State Act, which gives preferential treatment to patriots, veterans, and their families; article 24 of the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act, which obligates companies with more than 300 persons to recruit persons with disabilities for at least 2 percent of its workforce; article 12 of the Employment Promotion for the Aged Act, which encourages companies to reserve 3 percent of their workforce for workers over 55 years of age; and articles 4 and 12 of the Act on the Protection of the Business Sphere of Small and Medium Enterprises and Promotion of Their Cooperation, which restrict large companies from participating in certain business categories. Labor organizations are permitted in EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor standards law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (approximately age 15), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. These regulations were enforced through regular inspections, and child labor was not considered a problem.

*e. Acceptable Conditions of Work.*—The minimum wage is reviewed annually. As of December the minimum wage was \$2.92 (3,100 won) per hour, \$23.38 (24,800 won) per day. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. According to the National Statistical Office, the size of the population living below the official poverty level reached 18 percent in 2005, an increase of 1.1 percent from 2003.

As of 2004 the five-day workweek system was adopted for employees of large conglomerates, publicly owned companies, banks, and insurance companies with 1,000 registered workers or more, reducing working hours to 40 hours a week. Companies with more than 300 employees adopted the shortened workweek in 2005. Labor laws mandate a 24-hour rest period each week. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 44 hours during certain weeks without paying overtime, so long as average weekly hours for any given two-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not be required to work more than 12 hours per working day. Unions claimed that the Government did not enforce adequately the maximum workweek provisions at small companies. The amended labor standards law also provides for a 50 percent higher wage for overtime.

As of August there were 196,288 foreigners, mostly from China, Bangladesh, Mongolia, the Philippines, Thailand, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, working legally in the country. They often faced difficult working conditions but tolerated the conditions in order to keep their employment status. Unlike in pre-

vious years, there were no reports of unduly aggressive police crackdowns. The Government continued its crackdown on illegal foreign labor.

The Government continued to utilize its employment permit system designed to increase protections and controls on foreign workers while easing the labor shortage in the manufacturing, construction, and agricultural sectors. Under the system, permit holders may work in certain industries only and have limited job mobility but generally enjoy the same rights and privileges, including the right to organize, enjoyed by domestic workers. Foreign workers are limited in their freedom to change jobs. Before changing jobs, the employee's place of work must close down or the worker must have proof of physical abuse at the hand of the employer. If the worker does not find a new employer within two months, he or she becomes "illegal." The MOJ estimated that there were almost 186,000 illegal workers in Korea.

Foreign workers working as language teachers continued to complain that the language institutes for which they worked frequently violated employment contracts, but employers reported there were a large number of foreign teachers who did not fully honor their work contracts.

Contract and other "nonregular" workers accounted for a substantial portion of the workforce. According to the Government, there were approximately 5.48 million nonregular workers, approximately 37 percent of the workforce. Labor unions and other groups believed that the actual number of workers could have been as high as 8.5 million workers. In general nonregular workers performed work similar to regular workers but received approximately 60 percent of the wages. A new bill passed in February attempts to cut the disparity in pay to 20 percent. Further, most nonregular workers were ineligible for national health and unemployment insurance and other benefits.

The Korea Occupational Safety and Health Agency is responsible for implementing industrial accident prevention activities. The Government set health and safety standards, but the accident rate was high by international standards. In 2005 there were 2,493 fatalities related to industrial accidents, a decline of 11.8 percent over the previous year. The Ministry of Labor believed that the "Fatal Accident Prevention Program" launched in 2005 contributed to the reduction in fatalities. In particular, the number of fatalities caused by the 10 most vulnerable construction areas, including those performed near openings or those performed without installing scaffolding, decreased by more than 32 percent from 2004 numbers. According to the Korea Occupational Safety and Health Act, an employer may not dismiss or otherwise disadvantage an employee who interrupts work and takes shelter because of an urgent hazard that could lead to an industrial accident.

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## LAOS

The Lao People's Democratic Republic is an authoritarian, communist, one-party state ruled by the Lao People's Revolutionary Party (LPRP). Based on the 2005 census, the country had an estimated population of 5.6 million. Although the 1991 constitution outlines a system composed of executive, legislative, and judicial branches, in practice the LPRP continued to control governance and the choice of leaders at all levels through its constitutionally designated "leading role." The most recent National Assembly election was held in April. In June the National Assembly elected the President and vice President and ratified the President's selection of a prime minister and cabinet. The LPRP generally maintained effective control of the security forces, but on occasion elements of the security forces acted outside the LPRP's authority.

The Government's overall human rights record worsened during the year. Citizens continued to be denied the right to change their government. Government agents committed unlawful killings. Prison conditions were harsh and at times life threatening. Corruption in the police and judiciary persisted. The Government infringed on citizens' right to privacy and did not respect the right to freedom of speech, the press, assembly, or association. Local officials at times interfered with religious freedom and restricted citizens' freedom of movement. There were no domestic non-governmental human rights organizations. Trafficking in persons, especially women and girls for prostitution, remained a problem, as did discrimination against minority groups, such as the Hmong. Workers' rights were restricted. The Government continued to deny ever holding a group of 27 Hmong, most of them children, who were deported from Thailand in December 2005.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of politically motivated killings by the Government or its agents; however, human rights nongovernmental organizations (NGOs) reported that the Government or its agents carried out several unlawful killings.

Amnesty International and the U.S. based Fact Finding Commission alleged that on April 6 in Vientiane Province, Lao People's Army (LPA) troops killed 26 unarmed Hmong, 25 of them women and children, who were foraging for food. Despite evidence of the killing, the Government dismissed the incident as a fabrication and refused to investigate.

On June 8, in the capital of the former Saisomboun Special Zone, two police officers allegedly killed a Hmong farmer who was a cousin of a Hmong insurgent leader. His six-year-old son was also shot and, despite suffering life-threatening injuries, was refused treatment at the local hospital. The Government reported that the incident was carried out by unknown assailants and was the result of a business dispute. Authorities did not investigate the killing.

In northeast Thailand, four foreign and two Thai citizens, all of Lao ethnicity and connected to the former Lao regime, were killed. On January 18, a husband and wife who claimed kinship to royalty under the former Lao regime were killed in Nongkai. On May 11, an ex-soldier under the former Lao regime and his wife were killed in Ubon Ratchathani. On December 13, another two men, one an ex-soldier and one an ex-policeman under the former Lao regime, were also killed in Ubon Ratchathani. Thai authorities were investigating all of these cases at year's end. Press reports and NGOs alleged Lao government complicity in these killings; however, the Government denied any involvement and did not investigate the incidents.

There were no developments in the cases of persons allegedly killed by police in previous years, including the December 2005 death of Aloun Voraphom, a Protestant pastor who was killed in Pak Kading District; the 2004 killing of five ethnic Hmong children, allegedly committed by LPA members, in the former Saisomboun Special Zone; and the 2004 death of an ethnic Hmong man, Khoua Lee Her, who reportedly died while incarcerated in Houaphanh Province.

Clashes between insurgent and military forces resulted in an unknown number of deaths of civilians, insurgents, and military forces. During the year insurgents reported increased military pressure from LPA forces against their encampments in Bolikhamsai, Xieng Khouang, Luang Prabang, and Vientiane provinces as well as the former Saisomboun Special Zone. Much of the LPA's pressure was intended to starve the remnants of insurgent families from their jungle dwellings. According to insurgent reports, the attacks and starvation campaigns resulted in dozens of deaths and injuries of persons, mostly women and children (see section 1.c.).

*b. Disappearance.*—The Government continued to deny that it had detained 26 Hmong children deported from Thailand in December 2005. After Thai authorities provided evidence of the deportation to Laos' Bolikhamsai Province, government officials privately acknowledged that the Government was holding the children but later denied that it ever had the children or knew of their whereabouts (see sections 1.d., 2.c., and 2.d.).

There were no developments in the 2004 disappearance of Cher Wa Yang, an ethnic Hmong schoolteacher from the former Saisomboun Special Zone.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits the beating or torture of an arrested person. In practice members of the police and security forces sometimes abused prisoners, especially those suspected of associations with the insurgency; however, there were anecdotal reports that abuse decreased, and during the year there were no verifiable reports of prisoner abuse.

Detainees have sometimes been subjected to beatings and long-term solitary confinement in completely darkened rooms, and in many cases they were detained in leg chains or wooden stocks for long periods. Former inmates reported that degrading treatment, the chaining and manacling of prisoners, and solitary confinement in small unlit rooms were standard punishments in larger prisons, while smaller provincial or district prisons employed manacles and chains to prevent prisoners from escaping. In April a Christian man was placed under house arrest in Salavan Province, reportedly for refusing the village chief's order to recant his faith, and was held in hand and ankle stocks for 10 days (see sections 1.d. and 2.c.).

During the year the Government increased military pressure against insurgent encampments in Bolikhamsai, Xieng Khouang, Luang Prabang, and Vientiane provinces as well as the former Saisomboun Special Zone. Insurgents reported that such

actions resulted in dozens of deaths and injuries of persons, mostly women and children (see section 1.a.).

*Prison and Detention Center Conditions.*—Prison conditions varied widely but in general were harsh and occasionally life threatening. Prisoners in larger, state-operated facilities in Vientiane generally fared better than those in provincial prisons. Food rations were minimal, and most prisoners relied on their families for subsistence. Most larger facilities allowed prisoners to grow supplemental food in small vegetable gardens. Prison wardens set prison visitation policies. Consequently, in some facilities families could make frequent visits, but in others visits were severely restricted. Credible reports indicated that ethnic minority prisoners and some foreign prisoners were treated particularly harshly. Former prisoners reported that incommunicado detention was used as an interrogation device and against perceived problem prisoners; however, there were fewer reports of its use. Although most prisons had some form of clinic, usually with a doctor or nurse on staff, medical facilities were extremely poor, and medical treatment for serious ailments was unavailable. In some facilities prisoners could arrange treatment in outside hospitals if they could pay for the treatment and the expense of police escorts.

Prisons held both male and female prisoners, although they were placed in separate cells. In some prisons juveniles were housed with adult prisoners. International organizations opposed the Government's plan to construct a separate facility to serve juvenile detainees, arguing that juveniles would best be kept in segregated sections of adult prisons located close to their homes and families. Most juveniles were in detention for narcotics offenses or petty crimes. Rather than send juveniles to prisons, authorities used drug treatment facilities as holding centers for juvenile offenders. While conditions in treatment facilities were generally better than those in prisons, conditions were nevertheless Spartan and lengths of detention indefinite. During the year the UN Children's Fund (UNICEF) began counting child detainees, but the Government stopped the organization's activities shortly after the project began. At the time the project was halted, UNICEF had counted more than 600 child detainees in various provincial prisons.

The Government did not permit regular independent monitoring of prison conditions. The International Committee of the Red Cross (ICRC) continued its long-standing efforts to establish an official presence in the country to carry out its mandate of monitoring prison conditions, but at year's end the Government had not granted the ICRC's request. The Government at times provided UN and nongovernmental organization (NGO) personnel access to some juvenile detention facilities, but such access was strictly limited.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, in practice the Government did not respect these provisions, and arbitrary arrest and detention persisted.

*Role of the Police and Security Apparatus.*—The Ministry of Public Security (MoPS) maintains internal security but shares the function of state control with the Ministry of Defense's security forces and with LPRP and popular fronts. The Ministry of Foreign Affairs, with MoPS support, is responsible for oversight of foreigners, including ensuring that foreigners do not visit sensitive areas or have sexual relations with citizens. The MoPS includes local police, traffic police, immigration police, security police (including border police), and other armed police units. Communication police are responsible for monitoring telephone and electronic communications. The armed forces are responsible for external security but also have domestic security responsibilities that include counterterrorism and counterinsurgency activities as well as control of an extensive system of village militias.

Impunity was a problem, as was police corruption. Many police officers used their authority to extract bribes from citizens. Corrupt officials reportedly were rarely punished. There was no formal mechanism for investigating police abuse. In theory the Government's National Audit Committee has responsibility for uncovering corruption in all government ministries, including the MoPS, but in practice the office's investigative activities were minimal. Lower-level officials were on occasion arrested and punished for corruption. During the year several customs officials were reportedly dismissed for corruption.

Police are trained at the National Police Academy, but the extent to which the academy's curriculum discusses corruption was unknown. At the instruction of the LPRP, the government-controlled press rarely reported cases of official corruption.

*Arrest and Detention.*—Police and military forces both had powers of arrest, although normally only police carried out these powers. Police agents exercised wide latitude in making arrests, relying on exceptions to the requirement that warrants are necessary except to apprehend persons in the act of committing crimes or in ur-

gent cases. Police reportedly sometimes used arrest as a means to intimidate persons or extract bribes. There were reports that military forces occasionally arrested or detained persons suspected of insurgent activities.

There is a one-year statutory limit for detention without trial. The length of detention without a pretrial hearing or formal charges is also limited to one year. The Office of the Prosecutor General (OPG) reportedly made efforts to ensure that all prisoners were brought to trial within the one-year limit, but the limit sometimes was ignored. The OPG must authorize police to hold a suspect pending investigation. Authorization is given in three-month increments, and a suspect must be released after a maximum of one year if police do not have sufficient evidence to bring charges. There is a bail system, but its implementation was arbitrary and in practice often amounted to a bribe to prison officials for a prisoner's release. Prisoner access to family members and a lawyer was not assured. Incommunicado detention was a problem; however, it was used less frequently than in the past (see section 1.c.). A statute of limitations applies to most crimes. Alleged violations of criminal laws at times led to lengthy pretrial detentions without charge and minimal due process protection of those detained. Authorities sometimes continued to detain prisoners after they had completed their sentences, particularly in cases where prisoners were unable to pay court fines. In other cases prisoners were released contingent upon their agreement to pay fines at a later date.

On April 1, a Christian man in Salavan Province's Tabeng Village was placed under house arrest for several months, reportedly without charges, for refusing to recant his faith. During the first 10 days of his house arrest, he was reportedly placed in wrist and ankle stocks. He was reportedly released from house arrest in October (see sections 1.c. and 2.c.). On August 11, two ethnic minority Christians were arrested in Savannakhet Province's Xephone District, reportedly for being outspoken about their Christian faith and for their perceived prowestern views. At year's end the two remained in prison without charge.

On November 17, 11 ethnic Khmu Christians were arrested in Khon Kean Village, Vientiane Province, along with two foreign citizens. The foreigners were released after three weeks' detention and the reported payment of a \$9,000 fine. Two additional Khmu Christians from Khon Kean Village were subsequently arrested, and at year's end the 13 individuals remained incarcerated (see section 2.c.).

During the year authorities arrested, with no apparent charges or with questionable charges, a total of approximately 49 Christians due to their efforts to practice their religion, refusal to give up their religious beliefs, or suspicions that they were pro-western or opposed to the Government.

At year's end a group of 27 Hmong Christians, 26 of whom were children, were presumed to remain in detention. In December 2005 the Government detained them after Thai authorities unofficially deported them to Bolikhamsai Province (see sections 1.b., 2.c., and 2.d.).

Early in the year authorities in Phine District, Savannakhet Province, released two ethnic Brou who, after refusing to cease their religious activities, were convicted in mid-2005 on charges of "illegal weapons trafficking."

There were no reports that police administratively overruled court decisions by detaining exonerated individuals. However, local police reportedly continued to detain persons who had been ordered released by higher authorities. There were no known instances of police being reprimanded or punished for such behavior. The OPG made efforts to encourage compliance with the law regarding detention of suspects but acknowledged that police widely continued to ignore the law's provisions.

*e. Denial of Fair Public Trial.*—The law provides for the independence of the judiciary and the OPG; however, senior government and party officials influenced the courts, although to a lesser degree than in the past. Impunity was a problem, as was corruption. Reportedly, some judges could be bribed. The National Assembly may remove judges from office for "impropriety"; however, according to government sources, since 1991 only one judge at the district level has been removed for improper behavior.

The people's courts have four levels: district courts, municipal and provincial courts, a court of appeals, and the Supreme People's Court. In 2004 the Supreme Court established a commercial court, family court, and juvenile court. Decisions of the lower courts are subject to review by the Supreme Court, but military court decisions are not. Both defendants and prosecutors in civilian courts have the right to appeal adverse verdicts. There are instances in which civilians may be tried in the military courts, but this was rare.

*Trial Procedures.*—Court judges, not juries, decide guilt or innocence. All judges were Communist Party members. Trials that involve certain criminal laws relating to national security, state secrets, children under the age of 16, or certain types of

family law are closed. The law provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other persons. Defense attorneys are provided at government expense only in cases involving children, cases for which there is the possibility of life imprisonment or the death penalty, and cases that are considered particularly complicated, such as those involving foreigners. The law requires that authorities inform persons of their rights and states that defendants may have anyone assist them in preparing written cases and accompany them at their trials; however, only the defendant may present oral arguments at a criminal trial. Defendants are permitted to question witnesses and can present witnesses and evidence on their own behalf. Court litigants may select members of the Lao Bar Association to represent them at trials. The association, with a membership of nearly 50 private attorneys, is nominally independent but receives some direction from the Ministry of Justice. For several reasons, including a lack of funds, shortage of attorneys, and the general perception that attorneys cannot affect court decisions, most defendants did not choose to have attorneys or trained representatives.

Under the law defendants enjoy a presumption of innocence. However, in practice judges usually decided guilt or innocence in advance, basing their decisions on the result of police or the prosecutor's investigation reports. Most trials, including criminal trials, were little more than pro forma examinations of the accused, with a verdict having been reached beforehand. Defendants have the right of appeal.

Most of the country's 450 judges had only basic legal training, and many provincial and district courts had few or no reference materials available to which judges could refer for guidance. The National Assembly's Legal Affairs Committee occasionally reviewed Supreme Court decisions for "accuracy" and returned cases to the court or the OPG for review when the committee believed decisions were reached improperly.

There were no developments in the 2003 arrest of three Hmong porters in Xieng Khouang Province. The three were arrested along with two foreign journalists and their foreign interpreter. The foreign journalists and interpreter were released, but the three porters were charged with having conspired with ethnic Hmong villagers in the killing of a local militia member and given long prison sentences. One later escaped, but at year's end the other two remained in custody.

*Political Prisoners and Detainees.*—There were three known political prisoners. Colonel Sing Chanthakoumane, a former government official, was serving a life sentence after a 1990 trial that was not conducted according to international standards. Sing reportedly was very ill, but the Government ignored numerous requests to release him on humanitarian grounds. He was the sole remaining reeducation camp inmate from the old regime. At least two persons, Thongpaseuth Keuakoun and Seng-aloun Phengboun, who were arrested in 1999 for attempting to organize a pro-democracy demonstration in Vientiane, continued to serve 10-year sentences for antigovernment activities.

Other political prisoners may have been arrested, tried, and convicted under laws relating to national security that prevent public court trials. However, there was no reliable independent method to ascertain accurately their total number.

Based on information provided by former prisoners, a small but unknown number of persons, particularly Hmong suspected of insurgent activities, were detained for allegedly violating criminal laws concerning national security.

*Civil Judicial Procedures and Remedies.*—The law provides for independence of the judiciary in both criminal and civil matters. If civil or political rights are violated, one may seek judicial remedy in a criminal court or pursue an administrative remedy from the National Assembly under the Law on Public Complaints. In regard to social and cultural rights, one may seek remedy in a civil court. Despite some improvement following the creation of the Department of Law Enforcement in 2000, enforcement of court orders remained a problem.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law generally protects privacy, including that of mail, telephone, and electronic correspondence, but the Government reportedly violated these legal protections in situations when there was a perceived security threat.

The law prohibits unlawful searches and seizures. By law police must obtain search authorization from a prosecutor or a panel of judges, but in practice police did not always obtain prior approval, especially in rural areas. Security laws allow the Government to monitor individuals' movements and private communications, including via cellular telephones and e-mail (see section 2.a.).

The MoPS regularly monitored citizens' activities through a vast surveillance network. An informal militia in urban and rural areas, operating under the aegis of the armed forces, had responsibility for maintaining public order and reporting "un-



desirable elements” to police. Militia units were usually more concerned with addressing petty crime, robberies, and instances of moral turpitude than with political activism, although in remote rural areas where the Hmong insurgency was active, the militia also played a role in providing security against insurgents. Members of the LPRP’s many front organizations, including the Lao Women’s Union, the Youth Union, and the Lao Front for National Construction (LFNC), served as watchdogs over the citizenry at all levels of society. The MoPS also maintained a network of secret police whose job was to monitor the citizenry in order to prevent acts threatening the Government.

The Government monitored the e-mails of private citizens. All Internet service providers were licensed by the Government and were required to report quarterly to the Prime Minister’s Office regarding their activities (see section 2.a.).

The Government continued its program to relocate highland slash-and-burn farmers, most of whom belonged to ethnic minority groups, to lowland areas in keeping with its plan to end opium production by the end of 2005 and slash-and-burn agriculture by 2010. In some areas district and provincial officials used persuasion to convince villagers to move to relocation areas. In other areas villagers relocated spontaneously to be closer to roads, markets, and government services. Although the Government’s resettlement plan called for compensating farmers for lost land and providing resettlement assistance, this assistance was not available in many cases or was insufficient to give relocated farmers the means to adjust to their new homes and new way of life. Moreover, in some areas farmland allotted to relocated villagers was of poor quality and unsuited for intensive rice farming. The result was that some relocated villagers experienced increased poverty, hunger, malnourishment, susceptibility to disease, and mortality rates. The Government relied on assistance from NGOs, bilateral donors, and international organizations to cover the needs of those recently resettled, but such assistance was not available in all areas.

Unlike in 2005, there were no reports of forced resettlement during the year.

Local officials confiscated lands of Christians in one area of Oudomsay Province in February but returned the land after a few months (see section 2.c.).

The Government allowed citizens to marry foreigners only with prior approval. Premarital cohabitation was illegal. Although the Government routinely granted permission to marry, the process was lengthy and burdensome and offered officials the opportunity to solicit bribes. Marriages to foreigners without government approval could be annulled, with both parties subject to arrest and fines.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, in practice the Government severely restricted political speech and writing. The Government also prohibited most criticism that it deemed harmful to its reputation. The law forbids slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state. Citizens who lodged legitimate complaints with government departments generally did not suffer reprisals; criticism of a more general nature or targeting the party leadership could lead to censure or arrest.

The state owned and controlled most domestic print and electronic media. Local news in all media reflected government policy. Television talk shows and opinion articles referred only to differences in administrative approaches. Although domestic television and radio broadcasts were closely controlled, the Government made no effort to interfere with television and radio broadcasts from abroad. Many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts. Citizens had 24-hour access to CNN and the BBC as well as other international stations accessible via satellite and cable television. The Government required registration of receiving satellite dishes and payment of a one-time licensing fee, largely as a revenue-generating measure, but otherwise made no effort to restrict their use. A Chinese-owned company provided cable television service to subscribers in Vientiane. This government-registered cable service offered Thai and international news and entertainment programs without restriction from authorities.

The Government permitted the publication of several privately owned periodicals of a nonpolitical nature, including periodicals specializing in business, society, and trade topics. While government officials did not review in advance all articles in these periodicals, they reviewed them after publication and imposed penalties on periodicals that carried articles that did not meet government approval. A few Asian and Western newspapers and magazines were available through private outlets that had government permission to sell them.

Foreign journalists were required to apply for special visas and were restricted in their activities. The authorities did not allow journalists free access to informa-

tion sources, but journalists often were allowed to travel without official escorts. When escorts were required, journalists had to pay daily fees for their services.

Authorities prohibited the dissemination of materials deemed indecent, subversive of "national culture," or politically sensitive. Any person found guilty of importing a publication considered offensive to the national culture faced a fine or imprisonment for up to one year. Decree 92 on religious practice permits the publication of religious material with permission from the LFNC. Although several religious groups sought such permission, at year's end no Christian or Baha'i groups had received authorization to publish religious materials (see section 2.c.).

*Internet Freedom.*—The Government controlled all domestic Internet servers and occasionally blocked access to Internet sites that were deemed pornographic or were critical of government institutions and policies. The Government also sporadically monitored e-mail. Highly restrictive regulations regarding Internet use by citizens significantly curtailed freedom of expression. "Disturbing the peace and happiness of the community" and "reporting misleading news" are criminal acts. The Prime Minister's Office required all Internet service providers to submit quarterly reports and link their gateways to facilitate monitoring, but the Government's ability to enforce such regulations appeared to be limited. Fearful of monitoring by the authorities, many citizens used the Internet services of a growing number of Internet cafes rather than personal computers for private correspondence.

*Academic Freedom and Cultural Events.*—The law provides for academic freedom, but in practice the Government imposed restrictions. The Ministry of Education tightly controlled curriculums in schools, including private schools and colleges, to ensure that no subjects were taught that might raise questions about the political system.

Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel, access to information, and publication. The Government exercised control, via requirements for exit stamps and other mechanisms, over the ability of state-employed academic professionals to travel for research or obtain study grants, but it actively sought such opportunities worldwide and approved virtually all such proposals.

Films and music recordings produced in government studios were required to be submitted for official censorship; however, uncensored foreign films and music were easily available in video and compact disc format. The Ministry of Information and Culture repeatedly attempted to impose restrictions aimed at limiting the influence of Thai culture in Lao music and entertainment, but these restrictions were widely ignored and appeared to have little effect.

The Government did not interfere with cultural events unless it considered such events antigovernment. During the year there were no reports that the Government forced the cancellation of cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly; however, the Government restricted this right in practice. The law prohibits participation in organizations that undertake demonstrations, protest marches, or other acts that cause "turmoil or social instability." Participation in acts deemed to cause turmoil or social instability, such as protest marches, is punishable by prison terms of one to five years. Defendants tried for crimes against the state could face sentences of up to 20 years or execution.

*Freedom of Association.*—The law provides citizens the right to organize and join associations, but the Government restricted this right in practice. The Government registered and controlled all associations and prohibited associations that criticized the Government. Political groups other than popular front organizations approved by the LPRP were forbidden. Although the Government restricted many types of formal professional and social associations, informal nonpolitical groups were able to meet without hindrance. The Government permitted the creation of some associations of a business nature, such as allowing hotel owners and freight forwarders to create their own business associations. The Government also began permitting the establishment of nonprofit organizations designed to promote science and agriculture. The Prime Minister's Office oversees the small but growing number of organizations that have registered to conduct activities in these areas.

*c. Freedom of Religion.*—The constitution provides for freedom of religion; however, the authorities, particularly at the local level, interfered with this right.

Although the state is secular, the LPRP and the Government supported Theravada Buddhism, which was followed by more than 40 percent of the population and was the faith of nearly all of the ethnic Lao population. The law does not recognize a national religion, but the Government's support for and oversight of temples and other facilities and its promotion of Buddhist practices gave Buddhism an elevated status among the country's religions.

During the year local authorities arrested or detained approximately 49 Christians in Luang Namtha, Savannakhet, Salavan, Oudomsay, Bolikhamsai, and Vientiane provinces. Authorities detained a group of 27 Hmong Christians, including 26 children, who had been deported from Thailand in December 2005 (see sections 1.b., 1.d., and 2.d.). On April 1, a Christian man in Salavan Province was arrested and initially placed in ankle and wrist stocks after refusing the village chief's order to recant his faith. After 10 days the stocks were removed, but he remained under house arrest before being released in October (see section 1.c.).

On November 17, 11 ethnic Khmu Christians were arrested in Khon Kean Village, Vientiane Province, along with two foreign citizens. The Khmu Christians reportedly were arrested for collaborating with the two foreigners, who had preached at a Christian celebration and videotaped interviews with some church members. The two foreigners were released after three weeks' detention and the reported payment of a \$9,000 fine. Two additional Khmu Christians from Khon Kean Village were subsequently arrested. Among the 13 arrested, three pastors were imprisoned in Thongharb Prison, and 10 other church leaders remained in detention in Hin Heup, Vientiane Province, at year's end (see section 1.d.).

On December 20, five ethnic Yao Christians in Luang Namtha Province were arrested for building a church without proper authorization. On December 26, authorities arrested one additional member of the group. The six church leaders had received village approval for the church's construction, but when district officials ordered them to stop construction, they reportedly continued without district approval.

Ethnic minority Christians were sometimes arrested under what were alleged to be false charges because of their faith. In midyear a Christian in Oudomsay's Nam Heang Village reportedly was arrested for having ammunition at his home. He was held for two months and released contingent upon his agreement to pay a \$200 (two million kip) fine. Church leaders, noting the man had recently completed three years of military service, alleged that the village chief, known to be anti-Christian, used the ammunition as an excuse for the arrest. On August 11, two Christians in Savannakhet's XePHONE District were imprisoned for being outspoken about their faith and for what the village chief regarded as prowestern views. The Government reported that the men were sentenced to six months' imprisonment, to be followed by one year's probation for "dividing society and damaging solidarity." At year's end the men remained in prison.

Early in the year authorities reportedly released two ethnic Brou Christian men convicted of weapons trafficking in Savannakhet in 2005. However, some in the religious community said the two were never convicted and were held at a police facility until their families were able to pay fines to the police. Members of the religious community believed the arrests were due to their religious beliefs and said that many non-Christians in the community were also selling ammunition but were not arrested. Community members also believed that the men's arrest and detention was motivated by local officials' desire to force them to renounce their faith.

In August Lao Evangelical Church member Nyoht, sentenced in 1999 to 12 years' imprisonment for treason and sedition, died following a period of illness. Another church member, Thongchanh, sentenced to 15 years in prison at the same time, remained incarcerated. Some persons believed their conviction was due to their proselytizing activities.

The constitution prohibits "all acts of creating division of religion or creating division among the people." The LPRP and the Government used this to justify restrictions on religious practice by all religious groups, including the Buddhist majority and animists. Although official pronouncements acknowledged the positive benefits of religion, they also emphasized its potential to divide, distract, or destabilize. The constitution notes that the state "mobilizes and encourages" Buddhist monks and novices as well as priests of other religions to participate in activities "beneficial to the nation and the people."

Authorities continued to be suspicious of non-Buddhist religious communities, including some Christian groups. Local authorities, apparently in some cases with encouragement from government or LPRP officials, singled out Protestant groups, both those officially recognized by the LFNC and those that were not recognized, as a target of abuse.

Decree 92 permits minority religious groups to engage in a number of activities previously considered illegal, such as proselytizing and printing religious material; however, it requires religious groups or individuals to obtain permission in advance for these activities, in most cases from the LFNC. Although the intent of the decree was to clarify the rights and responsibilities of religious groups, many minority religious leaders complained that it was too restrictive in practice. The requirement that religious groups obtain permission, sometimes from several different offices, for a broad range of activities greatly limited the freedom of these groups.

The LFNC has recognized two Protestant groups: the Lao Evangelical Church (LEC), which is the umbrella Protestant church, and the Seventh-day Adventist Church. The LFNC refused to recognize congregations such as the Methodists, who operated independently.

The Government's tolerance of religion varied by region. In most parts of the country, members of long-established congregations had few problems in practicing their faith, although long-time congregations in some parts of Savannakhet and Luang Prabang provinces continued to face restrictions from local authorities. Authorities sometimes advised new congregations to join the LEC, despite clear differences between the groups' beliefs. In some areas, such as Luang Prabang and Xieng Khouang provinces, independent congregations were ordered to join the LEC or face sanctions, including arrests of their leaders. In other areas, however, authorities allowed congregations not affiliated with the LEC or Seventh-day Adventists to continue their worship unhindered.

The LFNC often sought to intervene with local governments in cases where minority religious practitioners, particularly Christians, had been harassed or mistreated; however, incidents of religious intolerance by local officials continued in some areas. Although officials in a few urban areas—notably Vientiane City, Savannakhet, and Pakse—were relatively tolerant of Christian religious practice, government authorities in many regions restricted the practice of properly registered religious groups. Officials in Savannakhet Province's Muang Phine District arrested and detained religious believers without charges, apparently as a means of forcing them to change their religious beliefs (see section 1.d.). Authorities in other areas used threats of arrest as a means of intimidating local religious communities. Local officials in some parts of the country also threatened to withhold government identification cards and household registration documents as well as deny educational benefits to those who did not give up their religious beliefs. Local officials confiscated lands of Christians in one area of Oudomsay Province in February but reportedly returned them after a few months.

The Roman Catholic Church was unable to operate effectively in the northern part of the country, and church members had only intermittent contact with the bishop of Luang Prabang, who lived in Vientiane. The small Catholic communities in Luang Prabang, Sayaboury, and Bokeo provinces sporadically held services in members' homes, but there were no priests in the areas, and pastoral visits from Vientiane were infrequent.

On June 18, the Government allowed the Catholic Church to ordain the country's first new priest in 30 years, after forcing a cancellation of the event in 2005. The Government allowed the Catholic Church to ordain two additional priests on December 9 and another on December 30.

In contrast with 2005, there were no reports that authorities arrested or detained persons bringing Bibles into the country.

Followers of the Baha'i Faith were able to practice their religion without hindrance in Vientiane City and in Savannakhet and Khammouane provinces. Small Baha'i groups faced fewer restrictions from local authorities than in the past. The small Muslim community in Vientiane was able to practice its religion without hindrance.

Animists generally experienced no interference from the Government in their religious practices, which varied extensively among the approximately 70 identified ethnic groups and tribes in the country. However, the Government actively discouraged animist practices that it regarded as outdated, unhealthful, or illegal, such as the practice in some tribes of infanticide of those with birth defects or of keeping the bodies of deceased relatives in homes.

Officials in Savannakhet Province continued to refuse requests by the Christian congregation in the village of Khamstan for the return of their church building, seized by authorities many years earlier. In several areas authorities continued to deny requests by local congregations to construct permanent church buildings, but in other areas officials permitted the construction or renovation of churches. Authorities in some regions used intimidation or threats of expulsion to force Christians to renounce their religious faith, particularly in parts of Savannakhet, Salavan, and Oudomsay provinces (see section 1.f.).

Officials in some areas were suspicious of persons who converted to Christianity. Two Christians arrested in Savannakhet Province on August 11 were said to be relatively new converts and among the most vocal Christians in the community (see section 1.d.).

The Government strictly prohibited foreigners from proselytizing, although it permitted foreign NGOs with religious affiliations to work in the country. Foreign persons who distributed religious material were subject to arrest or deportation. Although Decree 92 permits proselytizing by religious practitioners provided they ob-

tain permission for such activities from the LFNC, the LFNC did not grant such permission, and persons found evangelizing risked harassment or arrest. In May authorities arrested two foreign citizens in Bokeo Province for proselytizing and, after holding them for two days, expelled them from the country.

The Government permits the printing, import, and distribution of Buddhist religious material, but it made no such concessions to the printing or import of religious material and literature by non-Buddhist faiths. Decree 92 authorizes the printing of religious material, provided permission is obtained from the LFNC, but the LFNC did not grant permission to Christian congregations. The Government required and usually granted permission for formal links with coreligionists in other countries for all recognized religions; however, in practice the distinction between formal and informal links was unclear, and relations with coreligionists generally were established without difficulty.

*Societal Abuses and Discrimination.*—For the most part, the various religious communities coexisted amicably. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, but in practice the Government restricted some of them. Citizens who traveled across provincial borders are not required to report to authorities; however, in designated security zones officials occasionally set up roadblocks and checked travelers' identity cards. Citizens who sought to travel to contiguous areas of neighboring countries could do so with travel permits that generally were easily obtained from district offices. Those wishing to travel farther abroad were required to apply for passports and exit visas. While the Government usually issued these documents for a fee, officials at the local level sometimes denied some persons permission to apply for passports and exit visas. Authorities restricted access by foreigners to certain areas, such as the former Saisomboun Special Zone, an area previously administered by military forces, or remote districts in Xiang Khouang and Bolikhamsai provinces, where antigovernment insurgents continued to operate.

The Government did not use forced exile; however, a small group of persons, who fled the country during the 1975 change in government and were tried in absentia for antigovernment activities, did not have the right of return.

*Protection of Refugees.*—The country is not a signatory to the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol, but the Nationality Law provides for asylum and the protection of stateless persons. In practice the Government did not provide protection against refoulement, the return of persons to a country where they feared persecution, and did not routinely grant refugee or asylum status. However, the Government showed some flexibility in dealing pragmatically with individual asylum cases.

In the years following their return, citizens who had temporarily sought refuge abroad were subject to greater scrutiny by the authorities than were other citizens. However, these returnees have largely reintegrated and no longer received unusual attention from officials. Many who fled after the 1975 change of government have returned to visit relatives, some have stayed and gained foreign resident status, and some have reclaimed citizenship successfully.

The Government continued to refuse the request from the Office of the UN High Commissioner for Refugees (UNHCR) to reestablish a presence in the country to monitor the reintegration of former refugees who returned under UNHCR's resettlement program. The Government stated that the UNHCR's mandate expired in 2001 and all former refugees had been successfully reintegrated. However, there were estimates that since June 2005 more than 2,000 Hmong had surrendered, mainly in the provinces of Xiang Khouang, Bolikhamsai, and Vientiane (part of which composed the former military-administered Saisomboun Special Zone).

During the year the Government continued to deny that it had detained 26 Hmong children, but many sources indicated the children had been held in various government detention facilities since December 2005. In November 2005 Thai authorities in Petchaboon Province arrested a group of ethnic Hmong, most of them girls, who had fled to Thailand and were living in a holding camp in Petchaboon Province. The Thai government later confirmed that it had unofficially deported the group of 27 persons, 26 of whom were children, to Laos in early December 2005. Lao authorities initially refused to acknowledge the presence of the group but then privately indicated that they were holding them; however, later they denied that they ever held the group or knew of its whereabouts. At year's end the case remained unresolved.

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

Citizens do not have the right to change their government. Although the constitution outlines a system composed of executive, legislative, and judicial branches, the LPRP controlled governance and the leadership at all levels through its constitutionally designated "leading role."

*Elections and Political Participation.*—The law provides for a representative National Assembly, elected every five years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage. However, the constitution legitimizes only a single party, the LPRP; all other political parties are outlawed. Election committees, appointed by the National Assembly, must approve all candidates for local and national elections. Candidates do not need to be LPRP members, but in practice almost all were.

The National Assembly chooses a Standing Committee, generally based on the previous Standing Committee's recommendation. Upon the committee's recommendation, the National Assembly elects or removes the President and vice President. The committee has the mandate to supervise all administrative and judicial organizations and the sole power to recommend Presidential decrees. It also appoints the National Election Committee, which has powers over elections, including approval of candidates. Activities of the Standing Committee were not fully transparent.

The National Assembly, upon the President's recommendation, elects the Prime Minister and other ministers of the Government. The 115-member National Assembly, elected in April under a system of universal suffrage, approved the LPRP's selection of the President at its inaugural session in June, when it also ratified the President's selection of a new prime minister and cabinet. The National Assembly may consider and amend draft legislation, but only permanent subcommittees of the Assembly may propose new laws. The law gives the right to submit draft legislation to the Standing Committee and the ruling executive structure.

There were 29 women in the 115-member National Assembly and four women in the 55-member LPRP Central Committee, one of whom was also a member of the seven-member Standing Committee. There was one woman in the 11-member Politburo and one in the Prime Minister's Office, who also served as minister of the civil service and public administration authority. The minister of labor and social welfare was a woman.

There were seven Lao Soung (members of highland dwelling tribes) and 16 Lao Theung (from midslope dwelling tribes) in the National Assembly. Most Assembly members were ethnic Lao, who also dominated the upper echelons of the LPRP and the Government. Three of the 28 cabinet ministers were members of ethnic minority groups.

*Government Corruption and Transparency.*—There was a widespread public perception that many officials within the executive and judicial branches of the Government were corrupt. Wages of all government officials were extremely low, and many officials, such as police members, had broad powers that they could easily abuse. Early in the year there reportedly was some action taken against corrupt customs officials. The LPRP's measures to suppress all information that would lead citizens to conclude the party was flawed ensured that there was no public censure of corrupt officials who were party members.

There are no laws providing for public access to government information, and in general the Government closely guarded the release of any information pertaining to its internal activities, deeming such secrecy necessary for "national security."

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

There were no domestic human rights NGOs, and the Government does not have a formal procedure for registration of such groups. Any organization wishing to investigate and publicly criticize the Government's human rights policies would face serious obstacles, if it were permitted to operate at all.

The Government only sporadically responded in writing to requests for information on the human rights situation from international human rights organizations. However, the Government maintained human rights dialogues with several foreign governments and continued to receive training in UN human rights conventions from several international donors.

The Government maintained contacts with the ICRC. The Government continued to translate international human rights and humanitarian law conventions with ICRC support. Since the 2001 closing of the UNHCR office, the Government has not permitted UNHCR personnel to conduct monitoring visits to the country.

A human rights division, established in 2005 in the Ministry of Foreign Affairs' Department of International Treaties and Legal Affairs, has responsibility for investigating allegations of human rights violations. However, in practice the division appeared to be a correspondence unit with responsibility for answering letters of inquiry regarding alleged human rights abuses and apparently had no authority to perform or request investigations. The Foreign Ministry on occasion responded to inquiries from the UN regarding its human rights situation.

The Government at times permitted limited access by international organizations and NGOs to provide food and other material assistance to former insurgents who had accepted government resettlement offers.

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

The constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. The 1990 Family Law also includes provisions providing for equal treatment without regard to social status. The Government at times took action when well-documented and obvious cases of discrimination came to the attention of high-level officials, although the legal mechanism whereby citizens may bring charges of discrimination against individuals or organizations was neither well developed nor widely understood among the general population.

*Women.*—There were reports that domestic violence against women occurred, but such violence did not appear to be widespread. There was no evidence of police or judicial reluctance to act on domestic abuse cases. Spousal abuse is illegal. Rape reportedly was rare. In rape cases that were tried in court, defendants generally were convicted with penalties ranging from three years' imprisonment to execution. Spousal rape is not illegal. Penalties for domestic abuse may include both fines and imprisonment.

Prostitution is illegal, with penalties ranging from three months to one year in prison. However, in practice antiprostitution laws generally were not enforced, and in some cases officials reportedly were involved in the trade. Trafficking in women and girls for prostitution, both to Thailand and internally, was a problem (see section 5, Trafficking). Sexual relations with foreigners are forbidden under what the Government refers to as a "special law," and police occasionally arrested both citizens and foreigners for having sexual relations outside of marriage.

Sexual harassment was rarely reported, and the actual extent was difficult to assess. Although sexual harassment is not illegal, "indecent sexual behavior" toward another person is illegal and punishable by six months' to three years' imprisonment.

The law provides for equal rights for women, and the Lao Women's Union operated nationally to promote the position of women in society. The law prohibits legal discrimination in marriage and inheritance. Discrimination against women did not appear common; however, varying degrees of traditional, culturally based discrimination persisted, with greater discrimination practiced by some hill tribes. Many women occupied responsible positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

During the year the Prime Minister issued a decree making the 2004 Law on Women fully enforceable. The law establishes penalties for crimes against women that are significantly more severe than those contained in the criminal code. The law defines trafficking and violence against women and children as criminal actions and provides for the protection of victims internally and by international agencies.

*Children.*—Although the Government has made children's education and health care a priority in its economic planning, funding for children's basic health and educational needs remained inadequate, and the country had a very high rate of infant and child mortality. Education is free and compulsory through the fifth grade; however, high fees for books and supplies and a general shortage of teachers in rural areas prevented many children from attending school. Although not reliable, 2005 census data claimed that 67 percent of primary school-age children, 81 percent of junior high school-age children, and approximately 41 percent of high school-age children were enrolled in school. In contrast, the UN Development Program estimated that almost 40 percent of children did not attend primary school and only 10 percent entered secondary school. There was a significant difference in the educational opportunities offered to boys and girls. While figures were not reliable, literacy rates for girls were approximately 10 percent lower than for boys in general. However, according to government policy an equal number of men and women were accepted by the national university.

The law prohibits violence against children, and violators were subject to stiff punishments. Reports of the physical abuse of children were rare.

Trafficking in girls for prostitution and forced labor was a problem (see section 5, Trafficking). Other forms of child labor generally were confined to family farms and enterprises (see section 6.d.).

*Trafficking in Persons.*—The law prohibits abduction and trade in persons as well as detaining persons against their will, procuring persons for commercial sex, and prostitution; however, trafficking in persons, particularly women and girls, was a problem. The 2004 Law on Women includes provisions protecting women and children from trafficking and domestic violence and imposes stiff penalties on traffickers (see section 5, Women).

The country was primarily a country of origin for trafficking in persons, including girls ages 13–16, and, to a much lesser extent, a country of transit. The primary destination country was Thailand. There was almost no effective border control. There was little reliable data available on the scope and severity of the problem until recently, when studies conducted between 2004 and year's end indicated that the scale of economic emigration, mostly by young persons between the ages of 15 and 30, was far greater than previously supposed. Approximately 7 percent of the total sample population in three southern provinces migrated, primarily to Thailand, either seasonally or permanently, and approximately 55 percent of the migrants were female. Thai authorities estimated that at least 180,000 undocumented Lao worked in Thailand, while other estimates suggested the number was higher. An unknown number of these persons were actually trafficked in some sense of the term. Internal trafficking of mostly minority girls and women increased, with many minority victims working in the sex services trade in the northern part of the country. According to one study, a very small number of female citizens also were trafficked to China to become brides for Chinese men.

Most trafficking victims were lowland Lao, although small numbers of minority women also were victimized by traffickers, and the number of minority trafficking victims was increasing. Minority groups were particularly vulnerable because they did not have the cultural familiarity or linguistic proximity to Thai that Lao-speaking workers could use to protect themselves from exploitative situations. A much smaller number of trafficked foreign nationals, especially Burmese and Vietnamese, transited through the country.

Many labor recruiters in the country were local persons with cross-border experience and were known to the trafficking victims. For the most part, they had no connection to organized crime, commercial sexual exploitation, or the practice of involuntary servitude, but their services usually ended once their charges reached Thailand, where more organized trafficking operations operated.

There were few reports of official involvement in trafficking; however, anecdotal evidence suggested that local officials knew of trafficking activities, and some may have profited from them.

Before the antitrafficking provisions in the 2004 Law on Women went into effect, the Government had prosecuted only a handful of traffickers, according to available information. All were prosecuted under other criminal statutes. The Law on Women became enforceable in February when the Prime Minister issued implementing regulations. While the Government worked to publicize the law, at year's end it had not been fully disseminated. Based on reports provided by the Lao Anti-People's Trafficking Unit (LAPTU), the primary law enforcement unit responsible for investigating human trafficking cases, the Government prosecuted five persons for human trafficking-related offenses, and eight cases were pending court action. The average penalty of the five that were convicted was six-and-a-half years' imprisonment and fines ranging from \$500 (five million kip) to \$3,500 (35 million kip). Only one person, arrested in August, was charged under the amended penal code that specifically addresses human trafficking. LAPTU officers participated in joint investigations with their Thai counterparts from northeast Thailand.

The Government became more involved in countering the worst forms of trafficking and the exploitation of underage persons, chiefly through cooperation with international NGOs working on trafficking problems. In August the Government hosted a meeting of the Coordinated Mekong Ministerial Initiative Against Trafficking and also held its first national workshop on antitrafficking.

The Ministry of Labor and Social Welfare (MLSW) had a unit devoted to children with special needs, including protection of trafficking victims and prevention of trafficking. The MLSW also maintained two small-scale repatriation assistance centers for returned victims of trafficking, but their effectiveness was limited by a small budget, inadequate international assistance, and a lack of trained personnel. The centers also served victims of domestic violence. The MLSW and the Lao Women's Union conducted pilot studies on antitrafficking information campaigns and began to pursue antitrafficking efforts more actively in conjunction with NGOs. Financial constraints limited the cash contributions the Government could make, but it of-



ferred the services of ministerial personnel and meeting venues to NGOs doing antitrafficking work.

In October the NGO Assistance for Women in Distressing Situations (AFESIP) established a shelter in Vientiane Municipality to aid victims of human trafficking and sexual exploitation, particularly those in need of long-term counseling and assistance.

The Lao Women's Union and the Youth Union, both party-sanctioned mass organizations, offered educational programs designed to inform girls and young women about the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere. These organizations were most effective in disseminating information at the grassroots level.

In the past some trafficking victims were punished for improper documentation or for crossing the border illegally. In July the Government reissued a 2004 order to stop the practice of fining returnees and followed up with training for local immigration officials in some areas. With support from UNICEF, the National Commission for Mothers and Children continued an active program of support for victims.

*Persons With Disabilities.*—The constitution provides citizens protection against discrimination but does not specify that these protections apply to persons with disabilities. Regulations promulgated by the MLSW and the Lao National Commission for the Disabled protect such persons against discrimination; however, the regulations lack the force of law. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the MLSW has established regulations regarding building access and built some sidewalk ramps in Vientiane.

*National/Racial/Ethnic Minorities.*—The law provides for equal rights for all minority citizens, and there is no legal discrimination against them; however, societal discrimination persisted. Moreover, critics charged that the Government's resettlement program for ending slash-and-burn agriculture and opium production adversely affected many ethnic minority groups, particularly in the north. The program requires that resettled persons adopt paddy rice farming and live in large communities, ignoring the traditional livelihoods and community structures of these minority groups. The program has led to an active debate among international observers about whether the benefits of resettlement promoted by the Government—access to markets, schools, and medical care for resettled persons—outweigh the negative impact on traditional cultural practices (see section 1.f.).

The Government encouraged the preservation of minority cultures and traditions; however, due to their remote location and inaccessibility, minority tribes had little voice in government decisions affecting their lands and the allocation of natural resources from their areas.

The Hmong are one of the largest and most prominent highland minority groups. There were a number of Hmong officials in the senior ranks of the Government and LPRP, including at least five members of the LPRP Central Committee. However, societal discrimination continued against the Hmong (as well as other ethnic minorities), and some Hmong believed their ethnic group could not coexist with the ethnic Lao population. This belief has fanned separatist or irredentist beliefs among some Hmong. In recent years the Government focused limited assistance projects in Hmong areas to address regional and ethnic disparities in income. The Government also provided for Hmong and Khmu language radio broadcasts but reportedly denied Khmu requests to use the Lao script as their official written language. The Khmu language does not have its own writing system.

There were no substantiated reports of attacks by Hmong insurgent groups during the year. Nonetheless, the Government leadership maintained its suspicion of Hmong irredentist desires, which resulted in increased efforts by security forces to eliminate scattered pockets of insurgents and their families in remote jungle areas (see section 1.a.).

There were reports of scattered surrenders of groups associated with the insurgency, often consisting of one or two families but also including a group of 350 ethnic Hmong in October in Vientiane Province. On December 13, another group of more than 400 Hmong surrendered to authorities in Xiang Khouang Province. While there were no reports of violence against those who surrendered, the Government did not handle the surrenders in a transparent manner and refused to allow international observers. At year's end the status and welfare of these groups remained unknown.

For several years the Government has had a vaguely defined policy of giving resettlement assistance and "amnesty" to insurgents who surrender to authorities. At least partially in response to charges that it was trying to kill all insurgent elements, the Government used family members of insurgents living in the forest and former insurgents to approach these groups to urge them to surrender. Throughout

the late 1990s and early 2000s, small groups accepted this offer and received small amounts of resettlement assistance from the Government, especially in Vientiane, Bolikhamsai, and Xieng Khouang provinces and in the Saisomboun Special Zone. In some areas, such as in Bolikhamsai, the program included job training, land, and equipment for farming. However, in some cases the assistance was less than had been promised. Moreover, because of their past activities, amnestied insurgents continued to be the focus of government suspicion and scrutiny.

The Government generally refused offers from the international community to assist surrendered insurgents directly, but it allowed some aid from the UN and other international agencies to reach them as part of larger assistance programs (see section 2.d.). The Government continued to refuse international observers permission to visit the 170 insurgents who surrendered in June 2005 or to provide them with promised food and assistance.

The constitution states that foreigners and stateless persons are protected by "provisions of the laws," but in practice they did not enjoy such protection.

*Other Societal Abuses and Discrimination.*—Within lowland Lao society, despite wide and growing tolerance of homosexual practices, societal discrimination persisted against such practices.

There was no official discrimination against persons with HIV/AIDS, but social discrimination existed. The Government actively promoted tolerance of those with HIV/AIDS, and during the year it conducted awareness campaigns to educate the population and promote understanding toward such persons.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the law workers may form unions in private enterprises without previous authorization as long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. However, most of the FLTU's approximately 99,000 members worked in the public sector.

The Government employed the majority of salaried workers, although this situation was changing as the Government privatized state enterprises and otherwise reduced the number of its employees. Subsistence farmers made up an estimated 85 percent of the work force.

*b. The Right To Organize and Bargain Collectively.*—There is no right to organize and bargain collectively. The law stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the MLSW. According to NGOs and embassies based in Vientiane, the law generally was not enforced by the MLSW, especially in dealings with joint ventures in the private sector. Labor disputes reportedly were infrequent. According to labor activists, the FLTU needed government permission to enter factories and had to provide advance notice of such visits, rendering it powerless to protect workers who filed complaints. The Government sets wages and salaries for government employees, while management sets wages and salaries for private business employees.

Strikes are not prohibited by law, but the Government's ban on subversive activities or destabilizing demonstrations (see section 2.b.) made strikes unlikely, and none were reported during the year.

The law stipulates that employers may not fire employees for conducting trade union activities, lodging complaints against employers about law implementation, or cooperating with officials on law implementation and labor disputes, and there were no reports of such cases. Workplace committees were one mechanism used for resolving complaints, but there was no information on how effective these committees were in practice.

There was one export processing zone under development. It was part of the Savan-Seno Special Economic Zone in Savannakhet Province. Three companies signed agreements to rent land in the zone, but at year's end the zone was not operational. Labor laws apply to the zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor except in time of war or national disaster, during which time the state may conscript laborers. The law also prohibits forced or compulsory labor by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the law children under age 15 may not be recruited for employment except to work for their families, provided the work is not dangerous or difficult. Many children helped their families on farms or in shops, but child labor was rare in industrial enterprises. Some garment factories reportedly employed a very small number of underage girls. The Ministries of Public Security and of Justice are responsible for enforcing these

provisions, but enforcement was ineffective due to a lack of inspectors and other resources.

*e. Acceptable Conditions of Work.*—The daily minimum wage was approximately \$2.90 (29,000 kip), which was insufficient to provide a decent standard of living for a worker and family. Most civil servants received less than the minimum wage but often received other government benefits and housing subsidies. Some piecework employees, especially on construction sites, earned less than the minimum wage.

The law provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities) and at least one day of rest per week.

The law provides for safe working conditions and higher compensation for dangerous work. Employers are responsible for compensating a worker injured or killed on the job, or the worker's family. This requirement was generally fulfilled by employers in the formal economic sector. The law also mandates extensive employer responsibility for those disabled while at work, and this provision appeared to be enforced adequately. Although workplace inspections reportedly have increased over the past several years, the MLSW lacked the personnel and budgetary resources to enforce the law effectively. The law has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam and China, and they were vulnerable to exploitation by employers. Unlike in 2005, there were no reports that children from illegal immigrant Vietnamese families sold goods on the streets of Vientiane.

## MALAYSIA

Malaysia is a federal constitutional monarchy with a population of approximately 26.6 million. It has a parliamentary system of government headed by a prime minister selected through periodic multiparty elections. The National Front, a coalition of political parties dominated by the United Malays National Organization (UMNO), has held power since 1957. The most recent national elections, in March 2004, were conducted in a generally transparent manner, but the opposition complained of the ruling coalition's exploitation of the powers of incumbency. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The Government abridged citizens' right to change their government. The Government maintained no independent body to investigate deaths that occurred during apprehension by police or while in police custody. Other problems included police abuse of detainees, overcrowded prisons, use of the Emergency Ordinance and other statutes to arrest and detain persons without charge or trial, and persistent questions about the impartiality and independence of the judiciary. The Government continued to restrict freedom of press, association, and assembly and placed some restrictions on freedom of speech, including prohibitions of organized public discussions about "sensitive" religious topics. Violence against women remained a problem. The country was a destination and transit point for trafficking in women and girls for the purposes of prostitution and domestic servitude. Longstanding government policies gave preferences to ethnic Malays in many areas. Workers' rights were impeded by long court backlogs and limitations on the right to organize unions in some industries. Migrant workers faced some discrimination and exploitation.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings during the year. Local nongovernmental organizations (NGOs) reported that police killed 20 persons while apprehending them, up from nine such killings in 2005. Local NGOs also reported that 19 persons died in police custody during the year, up from eight such deaths in 2005.

The law empowers magistrates and public prosecutors to investigate deaths of persons in police custody and to charge those responsible. In April the director of the federal criminal investigation department stated that magistrates had absolved police of blame in 39 of the 96 deaths in their custody between 2000 and March. Magistrates determined those cases to be "sudden deaths" involving no police culpa-

bility. The remaining cases were in various stages of investigation. At year's end no prosecutions had been initiated as a result of the investigations, and no investigation results had been released.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—No law specifically prohibits torture; however, laws that prohibit “committing grievous hurt” encompass torture. There were no reports of torture by police. According to the Government, every report of abuse of prisoners was investigated; however, the Government generally did not release information on the results of internal police investigations, and whether those responsible for abuses were punished was not always known.

In July parliament passed amendments to the criminal procedure code (CPC) that banned the use of nude ear squats and codified new body search procedures designed to ensure that police conduct searches in a more dignified and standardized manner. The amendments were in response to a November 2005 incident in which police forced a detained woman suspected of harboring narcotics to strip naked, hold her ears, and squat repeatedly in front of a policewoman. Police authorities later confirmed that such squats were standard police procedure at detention facilities for females suspected of committing narcotics offenses and were intended to expose or dislodge hidden contraband. A male policeman who surreptitiously filmed the female detainee's nude squats was dismissed from the police force.

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes, such as narcotics possession, criminal breach of trust, and alien smuggling. The law prescribes up to six strokes of the cane for both illegal immigrants and their employers. In February the Government offered approximately \$2,300 (8,340 ringgit) to a legal Nepalese worker who was mistakenly detained for 51 days and caned prior to his deportation. The worker refused the settlement offer, calling the amount insufficient to compensate for his pain and suffering.

Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. Some state Shari'a (Islamic) laws, which bind only Muslims, also prescribe caning (see section 1.e.). The caning, carried out with a half-inch-thick wooden cane, commonly causes welts and at times scarring. Males older than 50 and women are exempted from caning. Male children 10 years of age and older may be given up to 10 strokes of a “light cane” (see section 5).

*Prison and Detention Center Conditions.*—Prison overcrowding remained a serious problem. Prison overcrowding was concentrated near major cities, with several facilities experiencing occupancy rates more than 50 percent above capacity. The Internal Security Ministry stated that five new prisons were under construction at year's end, and five additional prisons were scheduled to be completed by 2010. In September officials from Suhakam, the Human Rights Commission of Malaysia, reported that detainees under investigative detention or awaiting trial accounted for a significant portion of the prison overcrowding problem. On September 19, the Government announced that it would hire additional judges, in an effort to reduce the backlog of pending court cases (see section 1.e.).

The Internal Security Ministry stated in September that 42,483 individuals were incarcerated in prisons and illegal-migrant detention centers.

NGOs and international organizations involved with migrant workers and refugees made credible allegations of inadequate food and medical care, poor sanitation, and abuse by guards in the 15 government detention camps for illegal immigrants. Immigrant detainees were not medically screened prior to placement in the camps. An NGO with access to the camps claimed that overcrowding and deficient sanitation sometimes facilitated the spread of disease. During the year local NGOs were allowed into the camps with mobile medical clinics.

The Government does not have an agreement with the International Committee of the Red Cross permitting prison visits. NGOs and the media generally were not permitted to monitor prison conditions. However, during the year Suhakam officials visited various prisons and immigration detention camps on an ad hoc basis.

The UN High Commissioner for Refugees (UNHCR) continued to have unlimited access to the country's immigration detention camps. During the year UNHCR staff members conducted numerous visits at various prisons and immigration detention facilities located throughout the country.

*d. Arbitrary Arrest or Detention.*—The constitution stipulates that no person may be incarcerated unless in accordance with the law. However, the law allows investigative detention, designed to prevent a criminal suspect from fleeing or destroying evidence while police conduct an investigation. Several laws also permit preventive detention to incarcerate an individual suspected of criminal activity or to prevent

a person from committing a future crime. Such laws severely restrict, and in some cases eliminate, access to timely legal representation and a fair public trial.

*Role of the Police and Security Apparatus.*—The Royal Malaysia Police is under the command of the inspector general of police (IGP), who reports to the minister of internal security. For the past several years, the Prime Minister also served as the minister of internal security. The IGP is responsible for organizing and administering the police force. Police functions generally are divided into five areas: enforcement of law and order, maintenance of national peace and security, prevention and detection of crimes, arrest and prosecution of offenders, and gathering of security intelligence. The police force consisted of approximately 93,000 officers, of which 4,500 were women.

A 2005 police commission report on reform noted a rising incidence of police corruption and stated that it was endemic. Police offenses listed in the report included accepting bribes, theft, and rape; punishments included suspension, dismissal, and demotion. According to police statistics, the number of disciplinary actions against police officers had steadily declined—1,444 in 2003, 1,200 in 2004, and 886 in 2005. Warnings and fines accounted for 48 percent and 36 percent, respectively, of all disciplinary punishments of police officers during the year. In addition, a police spokesman stated that an average of 10 senior police officers and 80 to 100 lower-ranked policemen were charged with corruption each year. During the first 10 months of the year, the police dismissed 46 officers, compared with 77 dismissals during all of 2005.

As in 2005, the Government continued to focus most of its police reform efforts on improving the salaries, quarters, and general living conditions of police officers. The status of other reforms recommended in the 2005 police commission report, including the formation of an Independent Police Complaints and Misconduct Commission (IPCMC), remained uncertain. On March 16, the Prime Minister stated that 65 percent of the commission's 125 recommendations had been implemented. On March 21, the Internal Security Ministry submitted a chart to parliament that identified whether each recommendation had been implemented but provided no subsidiary information that allowed independent observers to verify the Government's claims. NGO leaders complained that the Government's efforts to implement the commission's recommendations lacked transparency.

While the Prime Minister initially supported creation of an IPCMC, police leaders strongly resisted such a body. In late May the police Web site contained a quote from a senior police official that threatened police support for opposition candidates during the next general election if the Government did not abandon forming the IPCMC. Following a strong counterresponse by National Front politicians, the IGP publicly reversed his earlier opposition and stated that neither he nor other police officers would oppose formation of the IPCMC. All anti-IPCMC commentary on the police Web site was removed, but by year's end the Government had not established an IPCMC.

The police training center continued to include human rights awareness training in its courses. In March the country's 145 district police chiefs attended a mandatory three-day human rights seminar. In addressing the district chiefs, the IGP urged them to respect suspects' human rights and not tolerate misbehavior by police officers under their command.

*Arrest and Detention.*—The law permits police to arrest individuals for some offenses without a warrant and hold suspects for 24 hours without charge. A magistrate may extend this initial detention period for up to two weeks. Although police generally observed these provisions, the 2005 police commission report noted that police sometimes released suspects and then quickly rearrested them and held them in investigative custody. Police often denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations, and judicial decisions generally upheld the practice. The commission stated that an "arrest first, investigate later" mentality pervaded some elements of the police force and recommended that detention procedures be reviewed to prevent abuse.

The CPC allows the detention of a person whose testimony as a material witness is necessary in a criminal case if that person is considered likely to flee. Bail is usually available for those accused of crimes not potentially punishable by life imprisonment or death. The amount and availability of bail is determined at the judge's discretion. When bail is granted, accused persons must usually surrender their passports to the court.

On July 27, parliament passed a series of amendments to the CPC that strengthened the rights of criminal suspects during their initial detention period. The amendments require an arresting officer to inform a detainee of the reason for his

arrest and enable the suspect to contact his lawyer and family free of charge within 24 hours of arrest. In addition, the amendments limit investigative custody to a maximum period of seven days for crimes punishable by less than 14 years of incarceration. Judges are allowed to extend the first detention application for up to four days, followed by an additional three-day period if requested by police. For crimes potentially punishable by 14 years or more in custody, a judge is allowed to grant up to seven days' detention on the first application, followed by a maximum of seven additional days based on a second application. NGO leaders praised these amendments as a significant step toward reducing historical abuses of the detention process by police.

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years.

On November 15, the federal Islamic Development Department (Jakim) announced revised guidelines for conducting raids on premises where Muslims are suspected of engaging in offenses such as gambling and consumption of alcohol. Although Jakim enforcement officers need not be escorted by police during their raids, the new guidelines authorize Jakim officials to enter any private premises without a warrant if they deem swift action to be necessary.

Four preventive detention laws permit the Government to detain suspects without normal judicial review or filing formal charges: the Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act.

The ISA empowers police to arrest without warrant and hold for up to 60 days any person who acts "in a manner prejudicial to the national security or economic life of Malaysia." During the initial 60-day detention period in special detention centers, suspects are not always given access to counsel. Upon the recommendation of an advisory board, the internal security minister may authorize further detention for up to two years, with an unlimited number of two-year periods to follow. Some of those released before the end of their detention period are subject to "imposed restricted conditions." These conditions limit freedom of speech, association, and travel inside and outside the country. Since 1960 more than 10,500 persons have been arrested under the ISA, of whom more than 4,100 were detained beyond the initial 60-day detention period and 2,000 were subjected to restriction orders.

Even when there are no formal charges, the ISA requires that authorities inform detainees of the accusations against them and permit them to appeal to an advisory board for review every six months. However, advisory board decisions and recommendations are not binding on the internal security minister, not made public, and often not shown to the detainee. In past years local human rights NGOs claimed that police at times intimidated and harassed family members of ISA detainees to prevent them from taking legal action against the police.

The 1988 ISA amendments circumscribe judicial review of ISA detentions. The Bar Council has asserted that ISA detentions should be subject to full judicial review; however, the courts do not concur with this interpretation and limit their review to procedural issues. Detainees freed by judicial order nearly always were immediately detained again. Following several successful procedural challenges to ISA detentions, the Federal Court ruled that the courts should not intervene in matters of national security and public order.

In August the Abolish ISA Movement, a local NGO, stated that there were 97 persons in detention under the ISA, following the release of 11 ISA detainees during the year. The 97 detainees included 59 suspected of involvement with terrorist groups, 22 held for forging currency, and 16 held for falsification of documents or other offenses. According to Suaram, a local human rights NGO, none were formally charged with a criminal offense. Among those detained were members of the opposition Islamic Party (PAS), including Nik Adli, son of the PAS spiritual leader. In October the Government paroled Adli and 16 other ISA detainees previously accused of involvement with terrorist groups. The released detainees were required to remain within a fixed area of residence and were prohibited from international travel.

Under the Emergency Ordinance, the internal security minister may issue a detention order for up to two years against a person if he deems it necessary for the protection of public order, "the suppression of violence, or the prevention of crimes involving violence." On August 26, senior representatives from the Bar Council and Suaram criticized the ordinance and said that 712 persons were being held under the ordinance at the Simpang Renggam detention facility. Council and Suaram representatives stated that the ordinance was being used to detain alleged criminals when police lacked sufficient evidence to support a traditional prosecution. For example, in June a high court judge ordered the release of 13 men held at Simpang Renggam prison for more than two years under the Emergency Ordinance for various offenses. Fearing their rearrest under the ordinance, and assisted by friends

and family members, the 13 men attempted to escape as they were transported from the prison to a police station. Police immediately captured eight of the men and re-arrested them under the ordinance. The other five men initially escaped but were later recaptured and incarcerated again under the ordinance. At year's end the men remained detained at Simpang Renggam prison.

Provisions of the Dangerous Drugs Act give the Government specific power to detain suspected drug traffickers without trial for up to 39 days before the internal security minister must issue a detention order. Once an order is issued, the detainee is entitled to a court hearing, which may order the detainee's release. Suspects may be held without charge for successive two-year intervals with periodic review by an advisory board, whose opinion is binding on the minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. Police frequently detained suspected narcotics traffickers under this act after the traffickers were acquitted of formal charges. According to the National Anti-Drug Agency, the Government detained 2,020 persons under the preventive detention provisions of the act during the first 10 months of the year, compared with 2,247 persons during the same period in 2005.

The Restricted Residence Act allows the minister of internal security to place individuals under restricted residence away from their homes. These persons may not leave the residential district assigned to them, and they must present themselves to police on a daily basis. As under the ISA, the term of detention may be renewed every two years. The minister is authorized to issue the restricted residence orders without any judicial or administrative hearings. The Government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted.

*e. Denial of Fair Public Trial.*—Three constitutional articles provide the basis for an independent judiciary, and the Government generally respected these provisions in practice. However, other constitutional provisions, legislation restricting judicial review, and additional factors limited judicial independence and strengthened executive influence over the judiciary.

The constitution provides that judicial powers be conferred by parliament rather than vested directly in the courts. It also confers certain judicial powers on the Attorney General, including the authority to instruct the courts on which cases to hear, the power to choose venues, and the right to discontinue cases. The Attorney General has control and direction of all criminal prosecutions under the CPC and has assumed responsibility for judicial assignments and transfers. Senior judges are appointed based on the recommendation of the Prime Minister.

Members of the bar, NGO representatives, and other observers expressed serious concern about the general decline of judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. On November 21, the chief justice publicly called on the Government to transfer supervision of judges operating below the high-court level to the judiciary, citing the potential for government interference if they remain as civil servants. The Bar Council immediately endorsed the chief justice's comments. At year's end the Government had not responded to the chief justice's recommendation.

Minor civil suits and criminal cases are heard by sessions courts. High courts have original jurisdiction over all criminal cases involving serious crimes. Juvenile courts try offenders below age 18. The special court tries cases involving the King and the sultans. The court of appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court, the country's highest court, reviews court of appeal decisions.

Indigenous peoples in the states of Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Additionally, penghulu (village head) courts may adjudicate minor civil matters, but these were rarely used.

The armed forces have a separate system of courts.

*Trial Procedures.*—The secular legal system is based on English common law. The constitution states that all persons are equal before the law and entitled to equal protection of the law. Trials are public, although judges may order restrictions on press coverage. Juries are not used. Defendants have the right to counsel at public expense if requested by an accused individual facing serious criminal charges. Strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves. Defendants are presumed innocent and may appeal court decisions to higher courts. The 1964 Judiciary Court Act limits a defendant's right to appeal in some circumstances. The Government stated

that the limits expedite the hearing of cases in the upper courts, but the Bar Council declared that the act imposes excessive restrictions on appeals.

The Essential (Security Cases) Regulations restrict the right to a fair trial by lowering the standard for accepting self-incriminating statements by defendants as evidence in firearm and certain national security cases. The regulations also allow authorities to hold the accused for an unspecified time before making formal charges.

Even when the Essential Regulations were not invoked, police sometimes used other tactics to limit the legal protections of defendants. For example, during a trial police summoned and interrogated witnesses who had previously given testimony that was not helpful to the prosecution. Police also used raids and document seizures to harass defendants, but there were no reports that police used such tactics during the year.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves; however, the use of such charges appeared to be decreasing.

In July the Attorney General's directive regarding confessions became law after parliament passed a CPC amendment regarding police-obtained confessions (see section 1.d.). In August 2005 the Attorney General issued a directive that banned the use of such confessions in the prosecution of criminal cases unless the public prosecutor explicitly allowed the confession. The Attorney General claimed that it would significantly reduce accusations of police abuse in obtaining confessions as well as force the police to become more proactive and thorough in criminal investigations. A deputy public prosecutor stated that the directive would enable speedier trials, since judges would no longer need to rule on the admissibility of confessions. Both Suhakam and the Bar Council publicly praised the CPC amendment. Senior police officials stated that the restrictions on confessions would place greater demands on the investigative resources of police. Several NGO leaders warned that this could result in greater use of preventive detention laws against suspected criminals.

Certain provisions of the Anticorruption Act impinge on the presumption of a public office holder's innocence, such as the requirement that accused persons prove that they acquired monetary and other assets legally. Failure to satisfy the court's demand for a satisfactory explanation can result in imprisonment of up to 20 years and a fine. In practice few such cases have been brought.

Shari'a laws are administered by state authorities through Islamic courts and bind all Muslims, most of whom are ethnic Malays. The laws and the degree of their enforcement varied from state to state. Shari'a courts do not give equal weight to the testimony of women. Many NGOs also complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody (see sections 2.c. and 5).

At year's end the Attorney General's review of amendments to the Islamic Family Law Act continued (see sections 2.c. and 5). In December 2005 parliament passed the amendments to harmonize Shari'a throughout the country. The Attorney General undertook the revision following protests by NGOs about several provisions.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The structure of the civil judiciary mirrors that of the criminal courts. The subordinated courts (magistrate's and sessions) have jurisdiction in criminal as well as civil matters. Many minor civil cases involving Muslims are handled in Shari'a courts pursuant to both constitutional provisions and subsequent court decisions that delineated their jurisdictional sphere of responsibility.

The high courts have general supervisory and revisionary jurisdiction over all the subordinate courts as well as jurisdiction to hear appeals from the subordinate courts in civil matters. The high courts generally hear civil cases involving claims in excess of \$69,400 (250,000 ringgit), other than actions involving motor vehicle accidents and disputes between landlords and tenants. Civil cases have routinely been elevated into the court of appeal and the Federal Court.

A large case backlog often resulted in delayed provision of court-ordered relief for civil plaintiffs. As of June 30, approximately 320,000 civil cases remained collectively backlogged in the sessions, magistrate's, and high courts. The chief justice of the Federal Court advocated reappointment of retired judges on an ad hoc basis to reduce the case backlog. On September 19, the Government announced that it would increase the number of high court and appeals court judges from 72 to 95, and by year's end 82 judges were in place.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—Various laws prohibit such actions; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow police to enter and search



without a warrant the homes of persons suspected of threatening national security (see section 1.d.). Police also may confiscate evidence under these provisions. Police used this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant. The Government monitored e-mails sent to Internet blog sites and threatened detention for anyone sending content over the Internet that the Government deemed to threaten public order or security (see section 2.a.).

The Anticorruption Act empowers a deputy public prosecutor to authorize the interception of any messages sent or received by a suspect through any means of communication, once a written application has been received from a senior police official involved in an official investigation. Information obtained in this way is admissible as evidence in a corruption trial.

Passed by parliament in July and scheduled to take effect on January 1, 2007, antiterrorism amendments to the penal code and CPC provide government security forces broader authority to surreptitiously install surveillance devices on private property. In addition, public prosecutors are allowed to authorize police to intercept postal and telecommunications messages if a prosecutor judges these likely to contain information regarding a terrorist offense. Intercepted communications from such efforts are admissible in court.

The law permits the Internal Security Ministry to place criminal suspects under restricted residence in a remote district away from their homes for two years (see section 1.d.).

The Government bans membership in unregistered political parties and organizations (see sections 2.b. and 3).

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions (see section 2.c.).

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

*a. Freedom of Speech and Press.*—The constitution provides each citizen with “the right to freedom of speech and expression”; however, some important legal limitations exist. In practice the Government restricted freedom of expression, and journalists practiced self-censorship. According to the Government, restrictions were imposed to protect national security, public order, and friendly relations with other countries.

The law provides that freedom of speech may be restricted by legislation “in the interest of security (or) public order.” For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. The Sedition Act, the Official Secrets Act, the Printing Presses and Publications Act, criminal defamation laws, and other laws were used to restrict or intimidate dissenting political speech.

The election law makes it an offense for a candidate to “promote feelings of ill will, discontent, or hostility.” Violators could be disqualified from running for office.

Criminal defamation is punishable by a maximum of two years in jail, a fine, or both. The Centre for Independent Journalism, a local NGO, claimed that the threat of imprisonment and large monetary judgments for criminal defamation reinforced self-censorship.

Print journalism was dominated by nine national daily newspapers—three in English, two in Malay, and four in Chinese. Parties in the ruling coalition owned or controlled a majority of shares in two of the three English and both Malay dailies. Politically well-connected businessmen owned the third English-language newspaper and, following a controversial private sale in October, all four major Chinese-language newspapers. In October a group of 45 NGOs issued a joint press statement describing the ownership concentration of Chinese-language newspapers as “detrimental to press freedom and democratic space.”

Self-censorship and biased reporting in the print media, while common, were not uniform; the English-, Malay-, and Chinese-language press sometimes provided balanced reporting on sensitive issues. The mainstream press occasionally printed editorials and interviews with opposition leaders that included criticism of government policy. Observers believed this indicated the Government had relaxed its interpretation and enforcement of press restrictions. However, the restrictions remained unamended and were reasserted several times during the year.

In August, following a series of controversial public forums at which constitutional guarantees of religious freedom and the legal supremacy of the constitution were discussed (see section 2.c.), the Prime Minister publicly called on forum organizers, news media, and Internet content providers to cease public discourse about “sensitive” religious issues. On August 21, the Government’s law minister stated that the Government would take legal action against those who ignored the Prime Min-

ister's directive. In the months following these statements and until year's end, public debate and media reporting on religious issues were significantly reduced.

The Printing Presses and Publications Act limits press freedom. Under the act, domestic and foreign publications must apply annually to the Government for a permit. The act makes publication of "malicious news" a punishable offense and empowers the minister of internal security to ban or restrict publications believed to threaten public order, morality, or national security. The act also prohibits court challenges to suspension or revocation of publication permits. According to the Government, these provisions ensured that "distorted news" was not disseminated to the public.

In February and March, following publication and broadcast of several caricatures of the Prophet Muhammad that were deemed highly offensive by most Muslims in the country, the Government suspended publication of three daily newspapers (including permanent suspension of the Sarawak Tribune), prompted an apology from a fourth newspaper, and accepted the apologies of two of the four free-to-air television channels that "inadvertently" broadcast the caricatures.

In January the two chief editors of the second-largest Chinese-language daily newspaper, the China Press, were compelled to resign after the newspaper mistakenly identified a woman who was forced by police to do nude squats while in detention (see section 1.c.). The China Press identified the woman as a Chinese national, although she was actually an ethnic Chinese Malaysian. The deputy prime minister said the misstatement regarding her nationality had negatively impacted the perceptions of current and potential Chinese tourists. He acknowledged the Government's role in the editors' forced resignations, saying it was a "reminder" to newspapers to be more responsible. The China Press published a front page apology in an apparent effort to prevent suspension of its publishing permit.

On November 7, the Internal Security Ministry suspended the weekend edition of the English-language daily newspaper Malay Mail, following publication of an edition focused on teenagers and sex. The weekend edition and its editor remained suspended at year's end, pending completion of the Government's investigation. The Malay Mail parent company's chief executive publicly apologized for the edition's publication.

Government power over annual license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. Government officials continued to argue that the act helped to preserve harmony and promote peaceful coexistence in a multiracial country. In November 2005 the deputy internal security minister stated that during the first nine months of 2005, the Home Affairs Ministry had inspected more than one million foreign publications to assess whether their content threatened national security, public order, or morality. During that time the ministry blocked 8,812 (mostly English-language) titles and confiscated more than 431,000 copies of books, newspapers, magazines, and comic books. During the year the ministry continued to review, censor, and confiscate many foreign publications.

The Government continued to permit publication of haze levels whenever air quality deteriorated significantly. Until August 2005 the Government had banned publication of such information.

The appeal of human rights monitor Irene Fernandez remained pending. In 2003 she was sentenced to 12 months' imprisonment for malicious publication of false material regarding abuse and torture of migrant workers at detention camps.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the Government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to organization members. Unlike in the past, the Government brought no libel suits against the media during the year.

Printers, who also must have their permits renewed annually, often were reluctant to print publications that were critical of the Government.

Radio and television stations were more restricted than the print media and were almost uniformly supportive of the Government's news coverage and commentary. News of the opposition was tightly restricted and reported in a biased fashion. In the weeks prior to the Sarawak state assembly election on May 20, opposition parties and candidates received very little coverage—positive or otherwise—in Sarawak's mainstream media outlets, which were controlled by National Front constituent parties. Opposition party representatives claimed that one-sided media coverage impeded their ability to reach voters (see section 3).

Broadcasting licenses permit only Malay-language news from 8:00 to 9:00 p.m., except on a Ministry of Information channel. Internet television faced no such re-

strictions, and PAS continued daily Internet television broadcasts. At year's end no other material provider of Internet television content had emerged.

The Government censored and banned books for profanity, nudity, sex, violence, and certain political and religious content. In June the Government banned 18 books, many with religious themes (see section 2.c.). Television stations censored programming in line with government guidelines. The Government banned some foreign newspapers and magazines and, infrequently, censored foreign magazines or newspapers, most often for sexual content; however, the Internet provided a means to bypass such restrictions. The Government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or radio broadcasts.

The Government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at mosques in the states controlled by the governing coalition. Some state governments banned certain Muslim clergymen from delivering sermons. The Religious Affairs Department continued to conduct background checks on all clergymen (see section 2.c.). The Government also cracked down on the distribution and sale of the opposition party's video compact discs and audiocassettes. The Government maintained its ban on the weekly Chinese-language newspaper *Epoch Times*.

*Internet Freedom.*—There were no government restrictions on access to the Internet; however, on August 1, the Prime Minister stated that the Government would closely monitor the content of Internet Web sites and blogs that published "seditious material." At least one Internet news provider complained that the police actively monitored his Web site for "seditious" or "offensive" content.

While individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail, Internet users were subject to the same speech-restricting laws as non-Internet users. Internet access was freely available, and Internet subscriptions totaled approximately 11 million at year's end; however, criminal defamation and preventive detention laws generated significant self-censorship from local Internet content sources such as bloggers, Internet news providers, and NGO activists.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In the past the Government stated that it did not intend to impose controls on Internet use but noted that it would punish the "misuse" of information technology under the CMA. During the year the Government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

The CMA also permits punishment of the owner of a Web site or blog for allowing content of a racial, religious, or political nature that a court deems offensive. In July 2005 police raided the home of the editor of *Malaysia Today*, an independent Internet news provider, and seized two computers after *Malaysia Today* published corruption allegations against royal family members in the state of Negeri Sembilan. No legal action was taken against the editor, but at year's end his computers had not been returned to him.

Investigations of Malaysiakini, the country's largest independent Internet news organization, continued. On July 31, police commenced an investigation of Malaysiakini, following an erroneous initial newsflash by the organization that identified police officials as possible participants in an assault on former prime minister Mahathir. That investigation continued despite a public offer of apology to police by Malaysiakini's editor-in-chief. A second ongoing investigation concerned Petronas' September 2005 accusation of criminal defamation.

On March 22, police seized the computers of an Internet columnist after he published reports of alleged financial wrongdoing by the chairman of Malaysian Airlines. The columnist said that the police did so to locate the information source used for his column. The case against him ceased upon the columnist's death on April 28 from natural causes.

*Academic Freedom and Cultural Events.*—The Government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and enforced restrictions on teachers and students who expressed dissenting views. The Government continued to require that all civil servants, university faculty, and students sign a pledge of loyalty to the King and the Government. Opposition leaders and human rights activists claimed that this was intended to restrain political activity among civil servants, academics, and students.

Although faculty members sometimes were publicly critical of the Government, there was clear self-censorship among public university academics whose career advancement and funding depended on the Government. Private institution academics practiced self-censorship as well, fearing that the Government might revoke the li-

censes of their institutions. The law also imposes limitations on student associations and on student and faculty political activity (see section 2.b.).

The Government has long stated that students should be apolitical and used that assertion as a basis for denying political parties access to student forums. According to student leaders, students who signed antigovernment petitions sometimes were expelled or fined. The Government enforced this policy selectively and did not refrain from spreading government views on political issues among students and teachers.

The Government censored and banned films for profanity, nudity, sex, violence, and certain political and religious content. Films banned during the year included *Brokeback Mountain*, due to its references to homosexuality, and a locally produced film, *The Last Communist*, about the communist insurgency in the country from 1948 to 1960.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution states that all citizens have “the right to assemble peaceably and without arms”; however, the Government placed significant restrictions on this right through usage of the Public Order Ordinance and the Police Act. The ordinance restricts public assemblies that could damage security and public order, while the act requires police permits for all public assemblies except for workers on picket lines. Police define a public assembly as a gathering of five or more persons.

The decision to grant a permit rests with the district police chief; however, senior police officials and political leaders have influenced the grant or denial of some permits. Police granted permits routinely to government and ruling coalition supporters but used a more restrictive policy with government critics, opposition parties, and human rights activists.

On May 28, riot police used water cannons and batons to disperse approximately 500 demonstrators gathered in front of Kuala Lumpur’s Petronas twin towers. Led by opposition members of parliament, the crowd protested the Government’s decisions to increase government-fixed (and subsidized) prices for gasoline and electricity. Police arrested 20 protesters and reportedly beat several others as they attempted to flee the area. No one was seriously injured, but two protesters required medical treatment.

While protesting the continued detention of Aung San Suu Kyi, 68 ethnic Burmese persons were arrested in June 2005 and accused of participating in an illegal assembly. Initially, all of the detainees reportedly pleaded not guilty, claimed their right to a trial, and were remanded to prison. During the course of the proceedings, 34 of them changed their plea to guilty and were transferred from prison to an illegal-migrant detention center. The other 34 were released from prison in June after the prosecution withdrew its case against them. One of the 68 protesters remained in detention at year’s end.

*Freedom of Association.*—The constitution provides for the right of association; however, the Government placed significant restrictions on this right, and certain statutes limit it. Under the Societies Act, only registered organizations of seven or more persons may function as societies. The Government sometimes refused to register organizations or imposed conditions when allowing a society to register. The Government prohibited the Communist Party and affiliated organizations from registering and has blocked the registration of the Socialist Party of Malaysia since 1999 (see section 3). The Government also has the power to revoke the registration of an existing society for violations of the act, a power that it enforced selectively against political opposition groups.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government argued that the act still was necessary.

*c. Freedom of Religion.*—The constitution provides for freedom of religion; however, the Government placed some restrictions on this right. Islam is the official religion, but the Government significantly restricted the practice of Islamic beliefs other than Sunni Islam. Non-Muslims, which included large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions. The Government provided financial support to an Islamic religious establishment and also provided more-limited funds to non-Islamic religious communities. State authorities imposed Islamic religious laws administered through Islamic courts on all ethnic Malays (and other Muslims) in some civil matters but generally did not interfere with the religious practices of the non-Muslim community.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits. Various religious groups were not recognized as such by the Government, and they sometimes registered themselves as businesses under the Companies Act to operate legally.

Prime Minister Abdullah, a proponent of Islam Hadari ("civilizational Islam"), continued to emphasize religious tolerance towards all faiths. In January non-Muslim cabinet members presented a memorandum to the Prime Minister calling for a review of constitutional provisions affecting the legal rights of non-Muslims. Following protests from several Muslim leaders within the governing coalition and a commitment by the Prime Minister to address the non-Muslim ministers' concerns, the ministers withdrew their memorandum. The Prime Minister stated publicly that the constitution provided sufficient protection of religious freedom and therefore should not be reviewed or amended.

The Government maintained that views held by "deviant" groups endangered national security. According to the Jakim Web site, 56 deviant teachings were identified and prohibited to Muslims as of year's end. They included Shi'a, transcendental meditation, and Baha'i teachings. The Government asserted that "deviationist" teachings could cause divisions among Muslims. Jakim established written guidelines concerning what constituted "deviationist" behavior or belief. State religious authorities, in making their determinations on these matters, generally followed the federal guidelines. Members of groups deemed "deviationist" were arrested and detained, with the consent of a Shari'a court, in order to be "rehabilitated" and returned to the "true path of Islam." The religious affairs minister stated that members of these groups were subject to prosecution, detention under the ISA, or rehabilitation. Neither the Government nor religious authorities provided data on the number of persons subjected to prosecution or rehabilitation.

At year's end cases were pending against 69 of 70 followers of Ayah Pin, leader of the Sky Kingdom religious group, arrested in July 2005. One of the arrested followers agreed to undergo religious rehabilitation (see section 1.e.).

On November 14, the Selangor Islamic Affairs Department (JAIS) detained 107 persons, including several children, during a raid in Kuala Lumpur against suspected followers of the banned al-Arqam Islamic group. The Government banned al-Arqam in 1994, and Ashaari Muhammad, the leader of its approximately 10,000 followers, subsequently spent 10 years under restricted residence. Ashaari established a holding company, Rufaqa Corporation, to manage his business interests while detained under restricted residence. At year's end Rufaqa was under investigation for allegedly supporting the revival of the al-Arqam group. Four of its leaders were charged with disobeying a national fatwa (Islamic ruling) issued by Jakim against al-Arqam's teachings, and they were in detention at year's end. The remaining alleged al-Arqam followers were released.

The Government generally respected non-Muslims' right of worship; however, state governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for building permits sometimes were granted very slowly. Minority religious groups reported that state governments sometimes blocked construction using restrictive zoning and construction codes.

The Government demolished unregistered religious statues and places of worship. Several NGOs complained of the demolition of unregistered Hindu temples and shrines located on both private and government-owned lands. The structures were often constructed on privately owned plantations prior to independence in 1957, which were later transferred to government ownership. In March state officials in Negeri Sembilan announced their intention to demolish an unregistered Hindu temple believed to be 150 years old. The temple sat on state-owned land zoned for road construction in 1956 and was regularly used by approximately 300 worshippers. In May persons who used the temple sought a court injunction against the pending demolition. The court case remained open at year's end.

In July, following an 11-year dispute, a high court judge prevented a developer in Pahang State from destroying a Hindu temple on land purchased by the developer. The judge ruled that the temple existed on the land prior to the purchase and had the right to coexist on the land.

In practice Muslims are not permitted to convert to another religion. In several court rulings during the year, secular courts ceded jurisdiction to Islamic courts in matters involving conversion to or from Islam. Shari'a courts routinely denied conversion requests. In September 2005 the court of appeal denied the request of Lina Joy, a Muslim woman who had converted to Christianity, to change the religion designated on her national identity card. Joy appealed the decision to the Federal Court, and in April, citing the case as "a matter of general public interest," the Fed-

eral Court agreed to hear her appeal and address the degree to which Shari'a courts have jurisdiction over determinations of Muslim apostasy. At year's end the court had made no ruling.

The Federal Court made no decision in the appeal of a non-Muslim woman involving the disposition of the remains of her Hindu spouse, who allegedly converted to Islam before his death. Despite her claim that there was no clear evidence of the conversion, Islamic religious authorities buried the man with Muslim rites. A similar case arose following the November 29 death of a Catholic man who had converted to Islam in 1990 after marrying a Muslim woman and then converted back to Catholicism in 1999. JAIS prevented the man's Catholic wife and children from claiming his body for nine days, asserting that the man remained a Muslim until his death. Following intervention by the Attorney General and acting at the behest of the cabinet, Selangor State Islamic authorities withdrew their claim on the man's body; he received a Catholic funeral, and his family cremated his remains.

Article 11, an NGO named after the freedom of religion clause in the constitution, organized four public forums to discuss the perceived erosion of constitutional protection of non-Muslims' religious freedom. The last three events sponsored were either canceled or shortened at the request of police, following the actual or threatened appearance of a large number of Muslim protesters. As debate over religious topics intensified, in July and August the Prime Minister warned both mainstream and Internet-based media to refrain from publicizing debates about contentious religious issues (see section 2.a.). He also directed all NGOs—both Muslim and non-Muslim—to cease all public statements and activities that could generate further religious controversy. Article 11 held no further public discussions during the remainder of the year.

Proselytizing of Muslims by members of other religions is strictly prohibited, although proselytizing of non-Muslims faced no obstacles.

On November 5, police reacted quickly and forcefully to protect worshippers at a Catholic church in Ipoh, when more than 1,000 Muslims gathered to protest the rumored baptism of several hundred Muslim children. The rumor was false, and the IGP subsequently declared that those responsible for initiating the rumor were a threat to public order and national security. The Prime Minister declared that the parties responsible for starting the rumor should be severely punished. On November 20, police detained a married couple from Ipoh on suspicion of starting the rumor. The couple was later released on bail, and at year's end the Government had not decided whether to charge the couple.

According to the Malaysian Consultative Council of Buddhists, Christians, Hindus, Sikhs, and Taoists, the Government restricted visas for foreign clergy under the age of 40 to inhibit "militant clergy" from entering the country. While representatives of non-Muslim groups did not sit on the immigration committee that approved visa requests for clergy, the committee asked the consultative council for its recommendations. An August 2005 decision by the Selangor state religious authorities to withhold support for visa applications by foreign Muslim imams and religious teachers remained in effect at year's end. Local media reported that the decision largely targeted the ethnic Indian Muslim community, in an effort to increase the number of "homegrown" imams. Ethnic Indian religious leaders expressed concern that some mosques and religious schools might need to be closed.

Religious education according to a government-approved curriculum is compulsory for Muslim children. Muslim civil servants are required to attend Islamic religious classes taught by government-approved teachers.

The Government discouraged but did not ban distribution in peninsular Malaysia of Malay-language translations of the Bible, Christian tapes, and other printed materials. The distribution of Malay-language Christian materials faced few restrictions in the eastern states of Sabah and Sarawak. In June the Government banned 18 books, many with religious themes, including *The Battle for God*, by Karen Armstrong. Two previous books by Armstrong, *A History of God* and *Muhammad: A Biography of the Prophet*, were banned in 2005.

The Government continued to monitor the activities of the Shi'a minority, and state religious authorities reserved the right to detain members of what they considered Islamic "deviant sects" under the ISA. According to the Government, no individuals were detained under the ISA for religious reasons during the year.

The Government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The Government also restricted the content of sermons at mosques. In recent years both the Government and the opposition Islamic party PAS have attempted to use mosques in the states they control to deliver politically oriented messages. Several states have attempted to ban opponent-affiliated imams from speaking at mosques. Some states also announced meas-

ures including vigorous enforcement of existing restrictions on the content of sermons and replacement of mosque leaders and governing committees (see section 2.a.).

In family and religious matters, Muslims are subject to Shari'a. According to some women's rights activists, women were subject to discriminatory interpretations of Shari'a and inconsistent application of the law from state to state. In December 2005 parliament approved a series of amendments to the Islamic Family Law Act intended to harmonize Shari'a family law throughout the country. However, the Prime Minister ordered a review of amendments to the act before they were gazetted into law; the review continued at year's end (see sections 1.e. and 5).

In Kelantan State local authorities enforced wearing of headscarves by Muslim women and imposed fines for violators. In March the IGP stated that all female police officers, including non-Muslims, should wear headscarves during public ceremonies. The President of the Bar Council called on the IGP to withdraw the directive, but the policy remained in effect.

During the year the PAS-led state government in Kelantan reversed several previously enacted Islamic law-related prohibitions. The state government allowed operation of gender-segregated cinemas and concert venues, fashion shows limited to female attendees, and billiard centers for men only; however, state authorities continued to ban traditional Malay dance theaters, prohibited advertisements depicting women not fully covered by clothing, enforced wearing of headscarves by Muslim women, and imposed fines for violators. In May a case challenging Islamic penalties for theft, robbery, illicit sex, consumption of alcohol, and renunciation of Islam in Kelantan State was withdrawn from the Federal Court. In December the Kelantan state government enacted a by-law against "indecent dressing" by Muslim women working in retail outlets and restaurants. The dress code requires headscarves and allows only faces and hands to be exposed. The law also stipulates that non-Muslim women should avoid dressing "sexily or indecently." Women who violate the dress code can be fined up to \$139 (500 ringgit). Women's rights leaders and the minister of women, family, and community development criticized the new law as overly restrictive.

The Government provided no statistics regarding raids by federal religious police of nightclubs and similar places during the year. The religious affairs minister stated that 28 such raids had been conducted in Kuala Lumpur between 2002 and January 2005.

On September 14, a Shari'a court sentenced a Muslim man and woman each to a fine of \$792 (2,850 ringgit) or seven months in jail for committing *khalwat*, or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations) near Kuala Lumpur in December 2005. The maximum sentence for *khalwat* is a maximum of two years in jail, a fine \$833 (3,000 ringgit), or both.

On October 12 on the island of Langkawi, a married foreign tourist couple was awakened at 2 a.m. by six Muslim religious enforcement officials. The officials suspected the couple of engaging in *khalwat* and demanded to see their marriage certificate. The couple was Christian and therefore not subject to the jurisdiction of the religious authorities. Following a brief standoff with the religious authorities in their rented condominium, the couple filed a police report. Langkawi tourism officials subsequently issued an apology to the couple.

On June 13, the National Fatwa Committee (the primary advisory body to the National Fatwa Council that guides Muslims on religious matters) announced its resolution that Muslims should not attend traditional "open house" festivals in honor of other religions' holidays. According to news reports, the committee said such gatherings could erode Muslims' faith and lead to blasphemy. The minister of culture, arts, and heritage called the recommendation regrettable, stating that it undermined efforts to improve racial and religious harmony.

*Societal Abuses and Discrimination.*—Relations among religious groups were generally amicable, although the public discourse between Muslims and non-Muslims about religious issues became strained during the year (see section 2.a.). In August a leaflet was widely distributed that contained a death threat against a prominent Muslim human rights lawyer who had played a leading role in organizing Article 11 discussions and publicly warned against the encroachment of Shari'a upon the jurisdiction of the civil court system. Political and religious leaders from across the religious spectrum criticized the leaflet. However, several NGO leaders and opposition party politicians noted that government criticism of the death threat was muted; no cabinet level minister publicly condemned it. At year's end police continued their investigation of the death threat.

No reliable estimate of the country's Jewish population was available, and there was no locally based Jewish community or synagogue in the country. There were

no reports of anti-Semitic acts. For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice, although there were restrictions in some circumstances. The eastern states of Sabah and Sarawak controlled immigration and required citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. The Government regulated the internal movement of provisionally released ISA detainees. The Government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities (see section 1.d.).

Citizens must apply for government permission to travel to Israel.

The constitution provides that no citizen may be banished or excluded from the country. However, according to the terms of a 1989 peace agreement, Chin Peng, the former leader of the communist insurgency in the country, continued to live in exile in Thailand and was denied permission to return.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice the Government did not provide protection against refoulement, the return of persons to a country where they feared persecution, but the Government generally did not deport such individuals recognized as persons of concern by the UNHCR. The Government did not grant refugee status or asylum, but it cooperated with the UNHCR and generally did not impede other humanitarian organizations from assisting refugees and asylum seekers.

The Government continued to deport some asylum seekers and refugees but allowed certain asylum seekers and persons of concern to remain, pending resettlement to other countries. The Government generally did not distinguish between asylum seekers and illegal immigrants, detaining them in the same camps. Detention facilities were overcrowded and lacked medical facilities. Local human rights NGOs alleged that detainees were sometimes abused by prison officials and received inadequate food.

A group of Thai citizens who illegally entered the country in August 2005 remained in an illegal-migrant detention center. Due to several births, their number had grown from 131 to 134.

At year's end the UNHCR listed 37,170 persons as refugees, of whom 40 percent were Indonesians from Aceh Province and 58 percent were Burmese citizens. The UNHCR received 9,091 new applications for refugee status during the year, down from 15,166 applications in 2005.

The UNHCR stated that 9,186 persons had active asylum cases pending in the country, of whom 74 percent were Burmese citizens. During the year the UNHCR submitted 3,501 refugee cases to third countries for resettlement consideration, and 1,220 refugees were resettled out of the country.

The UNHCR identified 2,996 persons arrested during the year as asylum seekers, recognized refugees, or individuals granted "temporary protection." The UNHCR facilitated the release of 3,333 individuals from police lockups and immigration detention camps. Police and immigration officials continued to observe an August 2005 directive not to arrest or detain persons solely for immigration violations if they had been granted UNHCR refugee or asylum-seeker status.

The Government issued temporary residence permits (IMM 13 documents) to more than 30,000 refugees from Aceh between 2005 and year's end. The permits, which allow recipients to gain lawful employment and access to education and health care, were largely subject to renewal on an annual basis. On August 1, the Government began to register approximately 12,000 Rohingya refugees, as the initial step toward provision of IMM 13 documents. However, the Government quickly halted the registration process, following charges of corruption against intermediaries who facilitated the registration process. At year's end the Government had not resumed the IMM 13 registration process.

While holders of IMM 13 documents were allowed to send their children to private schools, the Government refused to allow these children into the public school system on a cost-free basis. However, refugee parents who held IMM 13 documents generally lacked sufficient funds to afford private schooling for their children.

To find and detain illegal migrants, the Home Affairs Ministry relied primarily upon a People's Volunteer Corps, known as RELA and consisting of approximately 440,000 citizens, to accompany police and immigration officials on raids. Following repeated media reports of alleged abusive behavior and inappropriate language by RELA members during raids, in February the ministry stated that only a small mi-



nority of RELA members would be allowed to participate in operations against illegal migrants and that RELA officers remained prohibited from body-searching a suspect.

The immigration law provides for six months in prison and up to six strokes of the cane for immigration violations. In practice, delays in processing travel documents led to the detention of many illegal immigrants in camps for more than a year (see section 1.d.).

In July several NGO leaders reported that conditions in immigrant detention centers had not materially improved, largely due to inadequate funding for food, medical care, and infrastructure maintenance, despite the fact that in 2005 the Prisons Department took over management of the centers from the Immigration Department.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections based on universal suffrage; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections.

*Elections and Political Participation.*—Opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since independence in 1957) because of significant restrictions on campaigning, freedom of assembly and association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in past state and national elections. In the most recent national elections, held in 2004, opposition parties captured 19 of 219 parliamentary seats and 52 of 505 state assembly seats.

The lack of equal access to the media was one of the most serious problems encountered by the opposition in the 2004 national elections (see section 2.a.). Opposition leaders also claimed that the election commission was under government control and did not carry out its duties impartially. There were numerous opposition complaints of irregularities by election officials during the 2004 campaign; however, most observers concluded that they did not substantially alter the results. Allegations were lodged of voter rolls being inflated by illegally registered “phantom” voters reportedly brought in from other districts to vote in tightly contested districts, nonregistered voters using fictitious names or the names of dead voters still listed on the voter rolls, and noncitizens illegally registered to vote. In addition, ballots were marked with a serial number that could be matched against a voter’s name. Prior to the Sarawak state assembly election on May 20, the election commission disallowed such ballot marking for all future state and national elections.

On November 18, the election commission announced that it had eliminated the names of more than 180,000 deceased voters from the electoral rolls during the preceding three months. As a result of the commission’s ongoing efforts, the election commission chairman estimated that the election rolls for the next general election would contain approximately 9.8 million names, compared with the 10.3 million names registered for the 2004 election.

Following the May election in Sarawak, a local NGO criticized the data quality of Sarawak’s elector rolls, commenting that they increased the likelihood of voting fraud. Upon examination of 14 of Sarawak’s 71 electoral districts, the NGO reported in August that more than 35 percent of the districts’ 230,000 electors had no address listed on the elector rolls. In addition, in some cases more than 50 voters were simultaneously registered to a single address. Despite problems with the elector rolls and very little press coverage from Sarawak’s mainstream media sources, controlled by National Front constituent parties, opposition parties increased their representation in the 71-seat state assembly from one seat to eight.

The constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters; however, in practice the numbers varied significantly. The constitution also states that greater weight should be given to rural constituencies. In 2003, following nationwide redistricting, 25 new parliamentary seats were added, primarily in states in which the ruling coalition was strong. The opposition complained that the two states it controlled prior to the 2004 elections did not receive any new seats and that the redistricting was undertaken to weaken the opposition. Observers agreed that the redistricting favored government candidates for parliamentary seats but believed it had less influence on elections for state seats.

The Malay-based UMNO party dominated the ruling National Front coalition. Since 1969 the National Front coalition has maintained at least a two-thirds majority in parliament, which enabled the Government to amend the constitution at will.

Over the years power increasingly has been concentrated in the Prime Minister, and parliament's function as a deliberative body has deteriorated. Legislation proposed by the Government rarely was amended or rejected, while legislation proposed by the opposition was not given serious consideration. Parliamentary procedures allow the speaker of parliament to suspend members, establish restrictions on tabling questions, edit written copies of members' speeches before delivery, and severely restrict members' opportunities to question and debate government policies. Nonetheless, government officials often faced sharp questioning in parliament, and this was reported in the press in greater detail than in the past.

After the 1969 race riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Under the Local government Act, elections of public officials were confined to state assemblies and the federal parliament. Some politicians and NGO activists advocated the reintroduction of local government elections. Some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the Government.

On July 24, the Government refused to register the Malaysian Dayak Congress, a new opposition political party in Sarawak. The registrar of societies provided no public justification for the refusal. On August 16, the court of appeal unanimously upheld a high court ruling that supported the Government's decision to withhold nationwide registration for the Socialist Party of Malaysia (PSM), based in Selangor State. The court of appeal did not base its decision on the Government's claim that national registration of the party would negatively impact national security. Instead, the three judges stated that the PSM lacked representatives in its leadership committee from the requisite minimum seven states and therefore could not receive formal recognition as a national political party. PSM leaders appealed the case to the Federal Court, where it remained pending at year's end.

Women faced no legal limits on participation in government and politics. At the end of the year, three of 33 cabinet ministers were women. Women held 21 of 219 seats in the lower house and 17 of the 64 senate seats. Ethnic minorities were well represented in cabinet-level positions in government as well as in senior civil service positions. In practice the political dominance of the Malay majority meant that ethnic Malays held the most powerful senior leadership positions. Nonetheless, non-Malays filled 10 of the 33 ministerial posts and 21 of 35 deputy minister positions.

*Government Corruption and Transparency.*—There was a broadly held perception of widespread corruption and cronyism within the governing coalition and in government institutions. As of November the Anti-Corruption Agency (ACA) employed approximately 1,800 staff members nationwide. According to the ACA director general, the agency initiated the arrest of 339 individuals during the first nine months of the year, resulting in 205 prosecutions. During the same period the ACA reviewed 8,614 corruption allegations against public officials; most were not pursued due to lack of evidence. The ACA stated that more than 90,000 citizens participated in the agency's anticorruption talks, exhibitions, and seminars during the year.

In May the ACA launched an investigation into an UMNO member of parliament accused of attempting to circumvent customs duties on imported logs. The Government formed a four-person panel, headed by the deputy prime minister and other National Front politicians, to investigate the matter. The panel had not completed its investigation by year's end.

On December 7, a high court judge agreed to hear the appeal and stay the sentence of a former municipal council President who was convicted on four corruption charges, including solicitation of bribes from a property developer. On November 29, he was sentenced to four years in jail and fined \$113,000 (405,000 ringgit).

There was no law designed to facilitate citizens' requests for government statistics or other information collected and compiled by the Government. Individual members of parliament were allowed to request and obtain such information on an ad hoc basis, some of which was then made available to the public.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. However, under Prime Minister Abdullah there generally was a more cooperative atmosphere toward human rights NGOs.

The Government generally did not encourage international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of those organizations.

Suhakam was generally considered a credible monitor of the human rights situation and a check on police activities. Suhakam is not empowered to inquire into alle-

gations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject matter of a court case. In its most recent annual human rights report, published in May, Suhakam focused on the rights of women and children, older persons, and persons with disabilities; land rights for native tribes; and Suhakam's provision of human rights awareness training for teachers and their pupils. In addition, the report criticized prison conditions, deaths in police custody, detentions without trial, lengthy delays in the disposal of court cases, and some government-imposed restrictions on freedom of assembly. The report recommended enactment of freedom of information legislation, requested a review of the ISA, and recommended legislative amendments to uphold the right to peaceful assembly.

Suhakam commissioners traveled throughout the country to educate community leaders, including police officials, on the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. They repeatedly noted that a major unresolved challenge was the slow government response to their reports on major topics that touched on fundamental liberties.

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

The constitution provides for equal protection under the law and prohibits discrimination against citizens based on sex, religion, race, descent, or place of birth. However, the constitution also provides for the "special position" of ethnic Malays and the indigenous peoples of the eastern states of Sabah and Sarawak (collectively, bumiputras), and discrimination based on this provision persisted. Government policies and legislation gave preferences to bumiputras in housing, home ownership, awarding of government contracts and jobs, educational scholarships, and other areas. Nonbumiputras regularly complained about these preferences, arguing that government subsidies for disadvantaged persons should be dispensed without regard to race.

*Women.*—Violence against women remained a problem. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. The Domestic Violence Act of 1994 addresses violence against women in the home. Under the act, anyone who willfully contravenes a protection order by using violence against a protected person may be punished by imprisonment of up to one year and a maximum fine of \$556 (2,000 ringgit); however, violators were commonly punished under the penal code, which carries the same penalty. In extreme cases involving "grievous hurt" inflicted using a deadly weapon, the maximum imprisonment increases to 20 years. Women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger because it requires separate reports of abuse to be filed with both the Social Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that the act's incorporation into the penal code limits legal protection for victims to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse. As in 2005, NGOs working on women's rights claimed that police enforcement continued to be lax. Although the Government, NGOs, and political parties maintained shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. There was a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse. Police responses and sensitivity to complaints of domestic violence continued to improve, but women's rights activists claimed that police needed additional training in handling domestic abuse and rape cases.

The 2005 police commission report noted that police abuses of women's rights were largely the result of a lack of adherence to existing laws and the police code of conduct. In response, police in Kuala Lumpur assigned female officers in each police district to work exclusively on domestic violence cases and provide basic counseling to victims.

Some Shari'a experts urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. Provisions in state Shari'a laws, however, generally prohibit wives from disobeying the "lawful orders" of their husbands and present an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in civil courts.

Spousal rape is not a crime. CPC and penal code amendments approved by parliament in July do not define marital rape, although a husband may be charged for causing hurt to his wife while attempting to force sexual relations with her. By year's end the Government had not amended the penal code to explicitly include

spousal rape as an offense, despite recommendations in 2004 from Suhakam and local NGOs.

Another amendment approved in July stipulates that the courts may decide the minimum jail term for a man convicted of statutory rape of a girl age 15 years or less. Prior to the amendment, the penal code had stipulated minimum jail sentences for such behavior. In addition, an amendment prohibits a person in authority from using his position to intimidate a subordinate into having sexual relations.

According to the police, 2,012 rapes were reported during the first 10 months of the year, compared with 1,931 in all of 2005. Over the same time periods, domestic violence incidents reported to police totaled 2,699 and 3,093, respectively. Many government hospitals had crisis centers where victims of rape and domestic abuse could make reports without going to a police station. NGOs and political parties also cooperated in providing counseling for rape victims, but cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women, Family, and Community Development (MWFC) and a leading women's NGO, only 10 percent of rape cases were reported to police. The penal code states that rape is punishable by a prison term of up to 30 years, caning, and a fine. On September 3, a sessions court sentenced a child rapist to 62 years in prison and five cane strokes for raping six children ages nine to 14 during eight days in July. Women's groups noted that while other rapists also received heavy punishments, including caning, some rapists received inadequate punishments.

Prostitution by citizens is not a criminal offense, although Muslims engaged in prostitution could face civil penalties under Shari'a for engaging in sexual relations out of wedlock. Foreign prostitutes were routinely arrested for violating the terms of their nonimmigrant visas. Pimping, or financially benefiting from the prostitution activities of others, is illegal and was prosecuted. During the first 10 months of the year, police arrested 4,727 foreigners suspected of involvement in prostitution, compared with 6,484 such persons arrested during all of 2005. Chinese nationals accounted for the largest percentage of these arrests (42 percent), followed by Indonesians (23 percent), Thais (18 percent), and Filipinas (10 percent). Police were accused of profiling female Chinese nationals as potential prostitutes, following several highly publicized arrests (see section 1.c.). In March a police spokesman stated that an estimated 142,000 women were involved in prostitution.

The country was a destination, transit, and, to a lesser extent, source country for trafficking in women for purposes of prostitution and domestic servitude (see section 5, Trafficking).

A government code of conduct provides a detailed definition of sexual harassment and attempts to raise public awareness of the problem, but women's groups advocated passage of a separate law on sexual harassment in lieu of the voluntary code. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations. Amendments to the Employment Act passed in March require employers to act within two weeks to address complaints of sexual harassment filed by a worker.

Polygyny is allowed and practiced to a limited degree. Islamic inheritance law generally favors male offspring and relatives. There was a small but steadily increasing number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent.

Women's rights advocates asserted that women faced discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of such laws among the various states. In addition, the country had no female Shari'a court judges. In December 2005 parliament passed amendments to the Islamic Family Law Act to harmonize Shari'a throughout the country. Following sustained public pressure by women's rights leaders early in the year, the Prime Minister ordered a review of the amendments before they were gazetted into law; the review continued at year's end.

Non-Muslim women are subject to civil law. The Guardianship of Women and Infants Act gives mothers equal parental rights. Four states extend the provisions of the act to Muslim mothers, and women's groups urged the other states to do the same.

The Government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. In January the state of Johor appointed the first woman to head a state's civil service. In another unprecedented move, in April women were selected to lead two of the country's 17 public universities. In 2005 women comprised 63.4 percent of all university students and more than half of all university graduates in the scientific and medical fields. According to the National Union of Bank Employees, 65 percent of

its members were women, but only one of eight principal banking officials was a woman. Women comprised approximately 10 percent of board members at publicly traded companies during each year from 2000 to 2005. At the end of 2005, women accounted for a significant portion of the country's lawyers (45 percent), accountants (43 percent), and medical doctors (37 percent).

*Children.*—The Government has demonstrated a commitment to children's rights and welfare and allocated approximately 25 percent of the national budget to education. The Government provides free education for children through age 15. Although primary education is compulsory, there is no enforcement mechanism governing school attendance. Attendance at primary school was 96 percent, while secondary school attendance was 82 percent. There was no difference in the treatment of girls and boys at the primary and secondary levels. A variety of programs provided low-cost health care for most children.

The law prescribes severe punishments for child trafficking, abuse, molestation, neglect, and abandonment. The law allows that a maximum of 10 strokes with a "light cane" be applied to male children between ages 10 to 18.

The Government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. The law provides for six to 20 years' imprisonment and caning for individuals convicted of incest. The police stated that 295 cases of incest were reported in 2005, down from 334 cases in 2004. In past years the majority of incest cases involved children under 15 years of age. The testimony of children is accepted only if there is corroborating evidence. This posed special problems for molestation cases in which the child victim was the only witness.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with *khalwat*, even if she is under the age of 18 and her partner is an adult. Thus Shari'a courts sometimes punished the victims of statutory rape. Although Shari'a courts sometimes were more lenient with males charged with *khalwat*, in many cases Muslim men were charged and punished for statutory rape under civil law.

Child prostitution existed, but child prostitutes often were treated as delinquents rather than victims (see section 5, Trafficking).

Child labor occurred in certain areas of the country (see section 6.d.).

Sabah State had a problem of street children. Estimated to number anywhere from a few score to a few hundred, they were born in the country to illegal immigrant parents who had been deported. These children lacked citizenship and access to government-provided support.

*Trafficking in Persons.*—There is no law that specifically and comprehensively criminalizes trafficking in persons. However, the Child Act prohibits all forms of trafficking of children under 18, and the penal code addresses procurement of women for the purpose of prostitution. The Government also uses other laws, such as the Immigration Act, the Restricted Residence Act, and the ISA, to arrest, prosecute, and detain traffickers.

The country was a destination, and to a lesser extent, a source and transit point for men and women trafficked for the purposes of sexual exploitation and forced labor. Foreign trafficking victims, mostly women and girls from the People's Republic of China, Indonesia, Cambodia, Thailand, the Philippines, and Vietnam, were trafficked to the country for commercial sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses. Some Malaysian women, primarily of Chinese ethnicity, were trafficked abroad for sexual exploitation. Some economic migrants working as domestic servants or laborers in the construction and agricultural sectors faced exploitative conditions that met the definition of involuntary servitude (see section 6.e.).

According to police, the Bar Council, and Suhakam, many foreigners found to be involved in prostitution were possible trafficking victims. Foreign embassies, NGOs, and government authorities reported that at least 300 to 400 trafficking victims were rescued and repatriated in each of the past two years, although the rescues did not lead to a significant number of arrests and prosecutions of traffickers. There were allegations of corruption among law enforcement personnel, since some trafficking victims were known to pass through two or more ports of entry without travel documents.

A small number of Malaysian women and girls were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and ethnic Chinese community leaders, female citizens who were victims of trafficking were usually ethnic Chinese, although ethnic Malay, ethnic Chinese, and ethnic Indian women also

worked as prostitutes domestically. Police and NGOs believed that criminal syndicates were behind most of the trafficking. Information from the Ministry of Foreign Affairs and NGOs indicated that fewer than 100 Malaysian women were trafficked to other countries during the year and that the number had declined in recent years.

Foreign trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year there were reports of foreign women escaping from apartments where they were held against their will and forced to serve as unwilling prostitutes. According to news reports, these women said that they were lured to the country by promises of legitimate employment but were forced into prostitution upon their arrival in the country.

The penal code includes extensive provisions that prohibit buying or selling any person, using deceitful means to bring anyone into or out of the country, and wrongfully restraining (defined to include using threats, withholding clothing, or holding a person's passport) any person with the intention to use that person for prostitution. Punishment for these offenses includes a maximum 15-year prison term, caning, and a fine, to be determined at the discretion of the sentencing judge. During the first 10 months of the year, police arrested 22 individuals under sections of the penal code that criminalize procuring and brothel operations, compared with 34 such arrests during all of 2005. During the first 10 months of the year, police arrested 16 individuals under the Restricted Residence Act for allegedly arranging prostitution activities, compared with 64 such arrests during 2005. In addition, six individuals were detained under the Emergency Ordinance for vice activities during the first 10 months of the year, compared with two such detentions during 2005. In September the IGP stated that police had arrested 143 pimps since June 2003 and detained 126 persons under the RRA, plus 18 under the Emergency Ordinance.

In March, based on information supplied by Thai NGOs, police in Kuala Lumpur conducted raids in Johor and rescued two Thai trafficking victims under age 18 and three adult Thai victims.

The Government assisted some underage prostitutes and rescued some trafficked women and girls. During the year police implemented a referral system to place foreign trafficking victims in shelters operated by NGOs and certain foreign embassies. However, shelter space in private shelters remained inadequate to hold all identified victims, and those whom shelters could not accept were transferred to immigration detention facilities for deportation processing. At year's end the Government had not implemented training programs that would enable systematic screening and identification of trafficking victims from among the illegal migrants processed by police and immigration authorities. In September the IGP publicly called for the Government to enact comprehensive antitrafficking legislation and stressed the need for the law to include provisions for victim protection, shelters, repatriation, and prevention of re trafficking.

A number of foreign embassies arranged temporary shelter for their respective trafficking victims and assisted in their repatriation. The Indonesian embassy compound in Kuala Lumpur contained a separate shelter facility that typically held more than 150 female victims of employer abuse and of sexual and labor trafficking. The Indonesian embassy assisted up to 800 victims during the year.

The MWFC, as well as senior immigration and police officials, stated that a comprehensive antitrafficking law was needed to treat trafficked women as victims rather than as illegal immigrants. The ministry stated that, lacking such legislation, it could not legally establish a shelter for trafficked women.

*Persons With Disabilities.*—Neither the constitution nor other laws explicitly prohibit discrimination based on physical or mental disabilities, but the Government promoted public acceptance and integration of persons with disabilities.

The Government did not discriminate against persons with disabilities in employment, education, or in the provision of other state services. A public sector regulation reserves 1 percent of all public sector jobs for persons with disabilities. The Government did not mandate accessibility to transportation for persons with disabilities, and few older public facilities were adapted for such persons. New government buildings were generally outfitted with a full range of facilities for persons with disabilities. The budget for the fiscal year included additional tax benefits for persons with disabilities and their spouses.

A code of practice serves as a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs. Suhakam recommended legislation to address discriminatory practices and barriers facing persons with disabilities, and it organized dialogues among persons with disabilities, government departments, and NGOs to promote awareness of the rights of persons with disabilities.

Special education schools existed but were not sufficient to meet the needs of the population with disabilities. The Government undertook initiatives to promote public acceptance of persons with disabilities, make public facilities more accessible to such persons, and increase budgetary allotments for programs aimed at aiding them. Recognizing that public transportation was not "disabled-friendly," the Government maintained its 50 percent reduction of the excise duty on locally made cars and motorcycles adapted for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The law and government policy provide for extensive preferential programs designed to boost the economic position of bumiputras. Such programs limited opportunities for nonbumiputras in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs were necessary to ensure ethnic harmony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups.

In August the minister of higher education stated that the nation's 17 public universities employed few nonbumiputra deans. At the University of Malaysia, 19 of 20 deans were bumiputras; in many other universities deans were exclusively bumiputras. They also accounted for more than 85 percent of the country's almost 900,000 civil servants at the end of 2005. The percentage has steadily increased over previous decades. Bumiputras accounted for approximately 95 percent of the almost 410,000 applications for civil service jobs that the Government received in 2005.

*Indigenous People.*—Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region, known as the Orang Asli, vest considerable authority in the non-Orang Asli minister for rural development to protect, control, and otherwise decide issues concerning this group. As a result, indigenous people in peninsular Malaysia had very little ability to participate in decisions that affected them.

The Orang Asli, who numbered approximately 149,500, constituted the poorest group in the country. According to government statistics, approximately 77 percent of Orang Asli households were categorized as living below the poverty level. A government-sponsored national advisory council monitored the development of Orang Asli, but only five of the council's 17 members were Orang Asli. In addition, only one Orang Asli held a management position in the Government's Department of Orang Asli Affairs. Under its ninth economic plan covering the years 2006–10, the Government allocated slightly more than \$100 million (361.8 million ringgit) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and economic activities. The plan included an additional \$28 million (100 million ringgit) for development of lands inhabited by the Orang Asli.

The dropout rate among Orang Asli students remained high. Government statistics as of November indicated that 26,000 Orang Asli pupils were registered at the primary school level, while only 8,700 students were registered in secondary schools. In March the minister of rural and regional development stated that the dropout rate among Orang Asli children was more than 50 percent in secondary schools.

Under the Aboriginal People's Act, the Orang Asli were permitted to live on designated land as tenants-at-will, but they did not possess land rights. Observers reported that over the years the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve had been rezoned for development.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states. Indigenous people in Sabah and Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they considered theirs under native customary rights. After four Suhakam commissioners visited impoverished natives of the large Penan tribe September 17–19 in Sarawak, they stated that living conditions of the Penan people had not improved during the past five years. The commissioners also found that the vast majority of the Penan people visited were not registered as citizens by the Government.

A case regarding ownership of the land used for the construction of the Kuala Lumpur International Airport remained pending at year's end. In September 2005 the court of appeal upheld a high court ruling that the Temuans, an Orang Asli group in peninsular Malaysia, were the rightful owners of the land and ordered the Selangor state government pay compensation; however, the Government appealed the decision. On November 21, the Federal Court agreed to hear the appeal initiated

by the state of Selangor and the federal government. At year's end no decision had been issued.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers, to which indigenous people may have no access. In past years this led to indigenous people being deprived of their traditional lands with little or no legal recourse. However, during the year there were no reports of such acts.

*Other Societal Abuses and Discrimination.*—Although there are no laws that prohibit homosexuality, laws against sodomy and “carnal intercourse against the order of nature” exist and were enforced. Religious and cultural taboos against homosexuality were widespread. The Government's response to HIV/AIDS was generally nondiscriminatory, although stigmatization of AIDS sufferers was common.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law most workers have the right to engage in trade union activity, but only 9.5 percent of the labor force was represented by trade unions. Those restricted by law from joining a union include public sector workers categorized as “confidential” and “managerial and executive,” as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory foreign workers can join a trade union; however, the Immigration Department placed conditions on foreign workers' permits that effectively barred them from joining a trade union (see section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or participation in lawful trade union activities. However, the act restricts a union to representing workers in a “particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries.” The director general of trade unions may refuse to register a trade union and in some circumstances may also withdraw the registration of an existing trade union based on provisions outlined in the act. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association. During the year the director general canceled the registrations of five trade unions. None of the cancellations was challenged in court.

Trade unions from different industries may join in national congresses, but such congresses must register separately as societies under the Societies Act (see section 2.b.).

Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires that an employer respond to a union's request for recognition within 21 days of application, it was not uncommon for such applications to be refused and unions to go unrecognized for one to four years. At year's end 21 trade union applications were pending approval.

Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry. The Government stated that establishment of national unions in the electronics sector would impede foreign direct investment and negatively impact the country's international competitiveness in the sector; government leaders stated that enterprise-level unions were more appropriate for the electronics industry. According to MTUC officials, 150,000 electronics workers were unable to organize, and only eight in-house unions existed in the electronics industry.

Unions maintained independence from both the Government and political parties, but individual union members may belong to political parties. Although by law union officers may not hold principal offices in political parties, individual trade union leaders have served in parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain on behalf of local unions.

Trade unions were permitted to affiliate with international trade union organizations, such as global union federations and the International Confederation of Free Trade Unions, subject to the approval of the director general of trade unions.

*b. The Right To Organize and Bargain Collectively.*—Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized.

There are two national labor organizations. The MTUC is a society of trade unions in both the private and government sectors and is registered under the Societies Act. As such, the MTUC does not have collective bargaining or industrial action rights but provides technical support for affiliated members. The other national organization is the Congress of Unions of Employees in the Public and Civil Service



(CUEPACS), a federation of public employee unions registered under the Trade Unions Act.

CUEPACS is an umbrella organization that included 127 distinct civil servant unions with approximately 300,000 members of a total of one million civil servants, represented by an estimated 160 unions. Teacher unions accounted for 140,000 of CUEPACS' 300,000 members. CUEPACS holds talks with the Government through three National Joint Councils (NJs) that represent three types of workers: managerial and professional, science and technology, and general (all other types of workers, such as clerical and support staff). The Government established the NJC system to have NJCs serve as aggregating, intermediary negotiating bodies between the Government and the various unions served by CUEPACS. NJC members are elected from constituent unions. While an individual civil service union may approach the Government directly on narrow issues that affect only that particular union or its members, broader issues that affect the entire civil service flow up to CUEPACS and then to one of the NJCs, depending on the type of civil servants involved.

Government regulations limited CUEPACS' negotiating power and virtually eliminated its right to organize strikes. During the year CUEPACS sought to obtain a minimum wage for civil servants; however, by year's end the Government had announced no plans to institute a minimum wage for public or private sector workers.

The Government placed limits on collective bargaining agreements in companies designated as having "pioneer status." The MTUC continued to object to legal restrictions on collective bargaining in "pioneer" industries. On September 21, approximately 1,000 factory workers from 200 factories nationwide held a protest outside parliament. They demanded a national minimum wage of \$250 (900 ringgit) per month, a national union for electronics workers (prohibited by the Government, due to the electronics industry's "pioneer" status), reduced working hours, and an increase in paid maternity leave from 60 to 90 days. At year's end the Government had not responded to their demands.

Charges of discrimination against employees engaged in organizing union activities may be filed with the Ministry of Human Resources or the industrial court. Critics alleged that the industrial court was slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources failed. In addition, beginning in 2004 the court introduced voluntary mediation as a means for faster case settlements. During the first eight months of the year, mediation was initiated for 95 industrial court cases, with 27 settlements recorded. During 2005 a total of 186 cases were mediated, resulting in 93 settlements. The industrial court does not enforce its own awards, and unions complained that employers often ignored the court's judgments with impunity.

The Government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with International Labor Organization (ILO) standards. The minister of human resources can suspend for up to six months any trade union deemed to be used for purposes prejudicial to or incompatible with security or public order. The Government has taken no such action during the past several years.

Although strikes are legal, the right to strike is severely restricted. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to Ministry of Human Resources statistics, only one minor strike occurred during the first nine months of the year, compared with 10 strikes during 2005. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the minister has the power to refer the dispute to the industrial court. Strikes or lockouts are prohibited while the dispute is before the industrial court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. However, some trade unions questioned the effectiveness of the provisions.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies were organized, especially in the textile and electrical products sectors.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, and the Government generally enforced this prohibition. Certain laws allow imprisonment with compulsory labor as punishment for persons who

express views opposed to the established order or who participate in strikes. However, these laws were not applied.

Some of the estimated 320,000 foreign women employed as household workers were subjected to physical abuse and forced to work under harsh conditions. While the Workmen's Compensation Act and the Employment Act provide a minimum standard of protection to workers, in several important respects they do not apply to household employees (see section 6.e.).

The Government prohibits forced and compulsory labor by children, and there were no reports that such practices occurred in the formal sector, although some child household employees worked in conditions amounting to forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children younger than age 14 but permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than six hours per day, more than six days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the agricultural sector, helping their parents in the field; however, only adult members of the family received a wage. In urban areas, child labor could be found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers had largely replaced child labor and that child labor provisions were vigorously enforced. Some children were exploited in the commercial sex industry (see section 5).

Mechanisms for monitoring workplace conditions were inadequate, and the resolution of most abuse cases frequently was left to private, for-profit labor agencies that were themselves often guilty of abuses. Bilateral labor agreements with Indonesia do not provide adequate protections for household workers.

*e. Acceptable Conditions of Work.*—There was no minimum wage provision governing all workers, as the Government preferred to allow market forces to determine wages. Prevailing market wages generally provided a decent standard of living for citizens, although not for all migrant workers. Wage councils, established by a 1947 act to provide a recommended minimum wage for sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, the wage councils had not met for more than 15 years, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. Under a 2003 agreement, plantation workers received a minimum wage of \$97 (350 ringgit) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to nearly \$194 (700 ringgit).

Under the Employment Act, working hours may not exceed eight hours per day or 48 hours per workweek of six days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources is responsible for enforcing the standards, but a shortage of inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal migrants, worked on plantations and in other sectors. According to statistics from the National Union of Plantation Workers (NUPW), foreign workers made up 50 percent of the plantation work force; however, the true number may have been higher, since illegal immigrants were not counted. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belonged to the NUPW.

Work-related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during 2004 occurred on plantations. On September 12, the deputy prime minister reported that over the past 12 years industrial accidents had declined by 60 percent, to fewer than 44,000 in 2005. He stated that there had been an average of 14 work-related deaths per 100,000 workers over the past several years, adding that the number compared unfavorably with much lower work-related death rates in highly developed countries.

As of September 30, almost 1.9 million legal migrant workers worked mainly in manufacturing (33 percent), plantations (23 percent), as maids (18 percent), and in construction (16 percent). According to the Ministry of Human Resources, as of September 30, the legal foreign workers came from Indonesia (64 percent), Nepal (10 percent), India (7 percent), Burma (5 percent), Vietnam (5 percent), Bangladesh (3

percent), Pakistan (1 percent), the Philippines (1 percent), and other countries (4 percent). Among legal foreign workers, Indonesian workers accounted for 92 percent of domestic helpers, 89 percent of plantation workers, and 81 percent of construction workers. The deputy prime minister stated that between 300,000 and 500,000 illegal migrants also worked in the country, but several union leaders and state politicians believed that the number of illegal migrants could exceed one million.

Foreign workers, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. However, the Government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the law. According to the results of a survey conducted during the year by the Federation of Malaysian Manufacturers, the average monthly wage of foreign workers engaged in the manufacturing sector was \$161 (581 ringgit).

The Workmen's Compensation Act covers both local and foreign workers but provides no protection for foreign household workers. According to the Government, foreign household workers are protected under the Employment Act with regard to wages and contract termination. However, these workers are excluded from provisions of the act that would otherwise ensure that they received one rest day per week, an eight-hour work day, and a 48-hour work week.

Employers sometimes failed to honor the terms of employment and abused their household workers. Only household workers ages 25 to 45 were allowed into the country, according to Immigration Department officials. They were not allowed to bring family members into the country while employed. The terms of the contract for Indonesian maids, who comprised approximately 92 percent of all foreign household workers, were often vague and open to abuse. The typical contract provided for a monthly salary of \$111 (400 ringgit) but did not specify the number of working hours per day. NGOs reported that many Indonesian household workers were required to work 14 to 18 hours a day, seven days a week. The contract for Filipina household workers included more comprehensive protections, but both groups suffered from a lack of education concerning their legal rights. The Government of the Philippines doubled the minimum contractual wage rate for the approximately 12,000 Filipina household workers in the country to \$400 per month, beginning December 15, which the embassy estimated would reduce the number of Filipina household helpers in the country by at least 60 percent.

In May the Government signed a memorandum of understanding (MOU) with Indonesia stipulating that all household workers must sign a contract with their employer. The contract's terms and conditions, including the maid's salary and working hours, are freely negotiable. Under the MOU, an employer is obliged to open a bank account in the maid's name and deposit her salary into the account on a monthly basis. In addition, employers are required to purchase life and disability insurance for their household workers. Maids are allowed to take contract grievances to the labor court. The MOU contains no provisions regarding mandatory leave or overtime payments for maids. At year's end the Government had not released the MOU's full text to the public. This led several workers' rights lawyers and NGO leaders to question the Government's commitment to enforce the MOU's provisions.

Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, confiscated their travel documents, and physically assaulted them. Workers have the right to take legal action against abusive employers. According to NGOs, the courts generally sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries, but long delays in court proceedings and rulings often precluded aggrieved foreign workers from seeking redress through the court system.

Legal and illegal foreign workers from Indonesia, Nepal, India, Burma, Vietnam, Bangladesh, the Philippines, and other countries constituted approximately 20 percent of the work force. Illegal foreign workers have no legal protection under the law and have no legal recourse in cases of abuse.

The Occupational Safety and Health Act covers all sectors of the economy except the maritime sector and the armed forces. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and cooperate with employers to create a safe, healthy workplace. Employers or employees that violate the act are subject to substantial fines or imprisonment for up to five years, although the MTUC complained that some employers flouted the rules with impunity. There are no specific

statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

## MARSHALL ISLANDS

The Republic of the Marshall Islands is a constitutional republic with a population of approximately 56,000. In November 2003 voters elected the parliament (Nitijela) in generally free and fair multiparty elections. The President is elected by majority Nitijela vote. In January 2004 the Nitijela elected President Kessai Note of the United Democratic Party (UDP) to a second four-year term. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, prison conditions, government corruption, violence against women, child abuse, and lack of worker protections were areas of concern.

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards. All 47 male prisoners were held in a single facility attached to police headquarters, consisting of three interconnected rooms and four small cells. On-duty police officers also served as guards, separated from the jail area by a closed door. Lighting, ventilation, and sanitation were inadequate, and there was no program to ensure regular access to outside activity. Security was poor.

Some male juveniles were held together with adults; as juvenile crimes increased in number and seriousness over the past several years, the courts tried more male juveniles as adults and ordered them held with the general prison population. Pre-trial detainees were not separated from the general prison population. There were no prison facilities for female prisoners, including juveniles; they generally were held under house arrest. During the year the one female juvenile prisoner was held in a separate office in the jail vacated to accommodate her.

During the year the Government permitted a prison visit by independent journalists, who subsequently published an article on prison conditions in the Marshall Islands Journal newspaper. There were no other requests for visits by independent human rights observers.

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

*Role of the Police and Security Apparatus.*—There are local police forces, and there is a national police force under the Ministry of Justice. In most situations police officers did not carry firearms and generally used the minimum force necessary to detain a suspect. Although there were some instances of police corruption, it was not widespread. There is a director of investigations in the Attorney General's Office to handle allegations of police abuse and corruption.

*Arrest and Detention.*—Under the constitution and law, a warrant issued by a court is required for an arrest if there is adequate time to obtain one; however, the courts have interpreted this provision to exempt situations such as a breach of the peace or an ongoing felony. Detainees may request bond immediately upon arrest for minor offenses; most serious offenses require the detainee to remain in jail until a hearing can be arranged, normally the morning after arrest.

In May a public defender charged that on several occasions police and immigration officers detained nationals of the People's Republic of China (PRC) for immigration violations without first obtaining an arrest warrant and in some cases held the individuals in jail two to three days without filing charges. The Attorney General's Office responded that the officers had acted within the law since a violation of the Immigration Act is deemed to be an ongoing felony.

Families had access to detainees, and detainees have the right to lawyers of their choice. There was a functioning system of bail, and the Government provides a lawyer if the defendant is indigent.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The judiciary consists of a Supreme Court with appellate jurisdiction, a High Court with general jurisdiction in civil and criminal matters and appellate jurisdiction over subordinate courts at the district and community levels, and a Traditional Rights Court with jurisdiction in cases involving customary law and traditional practice. The cabinet appoints judges.

Few citizens were trained in the law, and the judicial system relied heavily on noncitizen public prosecutors and defense attorneys. Lower court judges were citizens; the higher courts relied on noncitizen judges, in part to prevent conflicts of interest in the small, highly interrelated society. The chief justice of the High Court is a foreign national appointed for a 10-year term.

During the year the High Court chief justice, with foreign assistance, continued work on development of a judicial training program and improvements in trial procedures.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants can choose either a bench trial or a four-member jury trial. In recent years defendants increasingly opted for jury trials, which had a higher rate of acquittals. Defendants enjoy a presumption of innocence and have the right to counsel, to question witnesses, to access government-held evidence, and to appeal convictions.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is no separate judiciary in civil matters, but there are administrative remedies for alleged wrongs as well as judicial remedies within the general court system.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals generally could criticize the Government privately or publicly without reprisal. In July, however, one incident that questioned the right to freedom of speech occurred when a special interim committee of the Nitijela summoned the President of the Chamber of Commerce to answer inquiries regarding a letter the chamber sent to the speaker of the Nitijela and the Marshall Islands Journal condemning travel of certain elected officials to the PRC. The committee criticized both the letter and similar comments made by the chamber President in an interview with Radio New Zealand. Although the Nitijela took no action against the chamber, the committee's public scolding of chamber leaders led some members of the public to express concern about censorship.

During the year the nongovernmental organization (NGO) Women United Together in the Marshall Islands (WUTMI) broadcast its outreach programs on the government-owned radio station under the auspices of a Pacific Resources for Education and Learning (PREL) program grant. Previously the Government had denied permission to WUTMI for weekly broadcasts, and after the PREL program was completed in September, the Government again denied WUTMI access to weekly public broadcasting; however, WUTMI's General Assembly meetings were broadcast on the government-owned station.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There were few known individuals of Jewish background in the country.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The law does not prohibit forced exile, but the Government did not employ this practice.

*Protection of Refugees.*—Although not a signatory, the Government adhered to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and it cooperated with the Office of the UN High Commissioner for Refugees in assisting refugees and asylum seekers. The Government has not established a system for providing protection to refugees; however, it has granted asylum in the past.

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

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

*Elections and Political Participation.*—Executive power is centralized in the President and his cabinet. The legislature consists of the Nitijela and a council of chiefs (Iroij), which serves a largely consultative function dealing with custom and traditional practices. Citizens 18 years of age and older elect the 33-member Nitijela and mayors by secret ballot every four years. Elections for the Nitijela were held in November 2003; President Kessai Note's UDP won a majority of the seats, and the Nitijela reelected him in January 2004.

There were no widespread allegations of electoral fraud, but the complex electoral system, which grants voters the option of voting where they have land rights instead of where they reside, requires almost every polling place to provide for voters from many other districts. A significant number of absentee ballots also were cast in the 2003 elections. As a result several close elections generated formal complaints against election officials for alleged mishandling of ballots and other problems, including some allegations of favoritism. The courts did not overturn any electoral commission decisions.

Individuals and parties can freely declare their candidacy and stand for election. There are no restrictions on the formation of political parties, although many candidates prefer to run independently or loosely aligned with informal coalitions. The law prohibits political activity by foreigners.

There are no legal impediments to women's participation in government and politics; however, traditional attitudes of male dominance, women's cultural responsibilities, traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. There was one woman in the Nitijela and four women in the 12-seat House of Iroij. There were no female judges, but the chief public defender was a woman. There were a number of women in prominent appointive government positions, including the secretary of education, secretary of health, secretary of foreign affairs, director of the Social Security Administration, and banking commissioner.

There were very few members of minority groups who were citizens, and there were no members of minorities in the legislature.

*Government Corruption and Transparency.*—According to the general audit report of 2003, performed by an independent accounting firm, government corruption was a problem, including instances of misuse of public funds and irregularities in the collection of certain taxes. In 2005 the Ministry of Finance was reorganized in an effort to increase accountability. The Attorney General's Office is responsible for investigating cases of alleged corruption, but only a few cases have been prosecuted. No high-level elected official has ever been indicted for corruption. In March the chief immigration officer was dismissed for alleged improper professional conduct.

The law does not provide specifically for public access to government information. Although there is no specific statutory basis for denying such information, the Government has taken the position that the burden for overcoming a denial of access rests with the public, and a court filing showing the reason the information is required is often necessary.

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

Human rights groups generally operated without government restriction, but few local groups have been formed. The Government was not always responsive to

NGOs' concerns. The NGO WUTMI worked on women's, children's, and family issues and played a significant role in social issues.

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

The constitution prohibits discrimination on the basis of sex, race, color, language, national or social origin, place of birth, and family status or descent, and the Government generally observed these provisions.

*Women.*—Spousal abuse was common. Domestic violence was not condoned, and most assaults occurred while the assailant was under the influence of alcohol. According to a 2003 WUTMI survey, more than 80 percent of women had been affected by spousal abuse. Violence against women outside the family occurred, and women in urban centers risked assault if they went out alone after dark. Police generally responded to reports of rape and domestic assault, and the Government's health office provided counseling in reported spousal and child abuse cases, but many cases apparently went unreported. Rape and assault are criminal offenses, with penalties of up to 25 years' imprisonment for first-degree sexual assault, but women involved in domestic violence were reluctant to prosecute spouses in the court system. Most observers believe that few sexual offenses are prosecuted because cultural constraints may discourage victims from reporting such crimes to the police.

During the year there were three reported incidents of sexual assault against foreign women. In one case a juvenile was charged with three counts of sexual assault, one count of burglary, and one count of disturbing the peace. He was found not guilty of sexual assault but was sentenced to 18 months in prison on the other two charges. In the second case a juvenile pled guilty to first-degree sexual assault and was sentenced to 15 years' imprisonment, with five years suspended. The third case, which involved alleged sexual fondling of a teacher on an outer atoll, was not prosecuted due to lack of evidence.

Women's groups under the WUTMI umbrella continued to publicize women's issues and promote a greater awareness of women's rights.

Prostitution is illegal but continued to occur, particularly on the Majuro and Kwajalein atolls. Organized prostitution on Majuro, run primarily by foreigners, no longer catered only to the crews of foreign fishing vessels. There were no specific reports of violence against prostitutes, although the Government assumed that it existed. The Government prosecuted and expelled several individuals who had overstayed their visas, could show no income or other evidence of support, and were alleged to be involved in prostitution.

There is no law against sex tourism, but none has been reported.

Sexual harassment is not prohibited by law but was not considered a widespread or serious problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance in the traditional system, although control of property often was delegated to male family members on behalf of female landowners. Many educated women held prominent positions, particularly in government (see section 3); however, while female workers were very prevalent in the private sector, many were in low-paying jobs with little prospect for advancement. The traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands; nonetheless, many observers believed women continued to be a significant social force.

*Children.*—The Government showed a commitment to children's welfare through its programs of health care and free education, but these have not been adequate to meet the needs of the country's increasing population.

Education was compulsory and universal, and the national government did not charge school fees. However, individual public schools were permitted to charge modest registration fees to help support their programs, and some schools did so. A 2004 law expanded compulsory education from six- to 14-year-olds to four- to 18-year-olds, but the Government lacked the resources to implement the expanded mandate.

It was estimated that up to 20 percent of elementary-school-age children did not attend school on a regular basis. In many cases this was because they lived too far away from a school or their families could not afford the annual registration fee (which varied by school but averaged approximately \$10) or incidental expenses. (The U.S. dollar is the national currency.) The lack of school lunch programs in most public schools was cited as another factor that contributed to absenteeism and poor performance. Despite the 2004 law extending compulsory education through age 18, there were not enough high school facilities to accommodate all high-school-age children. Admission to high school continued to be by competitive examination; not all children qualified to attend. The Government's enrollment report indicated that only two-thirds of those completing eighth grade attended high school. Approximately 50

percent of high school students—or one-third of those who started elementary school—eventually graduated.

There were five public high schools in the country: two in Majuro and one each on Jaluit, Kwajalein, and Wotje. In addition there were a dozen private high schools, which were open to all who were able to pay the private school tuition. The Government provided subsidized essential medical services for all citizens, including children.

The law sets age 16 as the minimum age of consent for sexual activity. Convictions for violation of the law are punishable by up to 25 years in prison, depending on the degree of the offense. Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. Nonetheless, there were few reports and few prosecutions. Child abuse and neglect were considered to be on the increase. In July the Supreme Court dismissed the appeal by a foreigner of his 2004 conviction for attempted rape and attempted incest against his minor daughter, a citizen of the country, on the ground that his appeal failed to comply with prescribed rules of procedure. A deportation proceeding against him was pending at year's end.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical or mental disabilities, and there are no restrictions on the right of persons with disabilities to vote or participate in civic affairs. There was no apparent discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services; however, there were no building codes and no legislation mandating access for persons with disabilities.

There were approximately 50 persons who could be medically defined as psychotic. When these individuals demonstrated dangerous behavior, they were imprisoned with the general prison population and visited by a doctor. On occasions when prison officials protested disruptions caused by this practice, other arrangements, such as house arrest, were made.

There is no government agency specifically charged with protecting the rights of persons with disabilities. The Attorney General is responsible for handling court cases involving complaints of discrimination against persons with disabilities, but no such cases were brought during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of free association in general, and the Government interpreted this right as allowing the existence of labor unions, although none have been formed to date. With few major employers, there were few opportunities for workers to unionize, and the country has no history or culture of organized labor.

*b. The Right To Organize and Bargain Collectively.*—There is no legislation concerning collective bargaining or trade union organization. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

The law does not provide for the right to strike, and the Government has not addressed this issue.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits involuntary servitude, and there were no reports of its practice among citizens. Officials suspected that some forced or compulsory labor existed among the illegal alien population. In August the Nitijela passed immigration and labor bills designed to deter illegal entry into the country and illegal employment activities of third country nationals. During the year five PRC national women charged that after they began working in a Majuro restaurant and bar in 2005, the owner, PRC national Xu Xin, withheld the pay they were promised and forced them to engage in acts of prostitution, threatening to have them arrested if they refused to comply. They also alleged that they paid Xu \$1,500 each to obtain extended entry and work permits, but never received the permits. In August Xu was charged with five counts of prostitution and one count of public nuisance. She also was charged with illegal employment of aliens in a separate case. However, she left the country before the cases came to trial. The five victims voluntarily left the country by year's end.



The law does not specifically prohibit forced and compulsory labor by children; however, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There is no law or regulation setting a minimum age for employment of children. Children typically were not employed in the wage economy, but some assisted their families in fishing, agriculture, retailing, and other small-scale enterprises.

*e. Acceptable Conditions of Work.*—The law establishes a minimum wage of two dollars per hour for both government and private sector employees. The national minimum wage did not provide a decent standard of living for a worker and family. In the subsistence economy, however, extended families were expected to help less fortunate members, and there were often several wage earners to support each family. The Ministry of Resources and Development adequately enforced the minimum wage regulations. Foreign employees and Marshallese trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce.

There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses were closed, and persons generally refrained from working.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards, and the office periodically convenes board meetings that are open to the public. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions. The law protects foreign workers in the same manner as citizens.

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## FEDERATED STATES OF MICRONESIA

The Federated States of Micronesia is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Its population was approximately 107,000. Voters elect a unicameral legislature that elects the President from among its members for a four-year term. There were no formal political parties. Congress chose Joseph J. Urusemal as President in May 2003. The most recent elections for Congress, held in March 2005, were considered generally free and fair. Individual states enjoy significant autonomy, and traditional leaders retain considerable influence in some states. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, government efforts to address societal problems such as family violence were constrained by traditional society. Reported human rights problems included judicial delays, government corruption, discrimination against women, domestic violence, and child neglect.

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed torture; however, there were occasional reports of physical abuse by police.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards; however, during the year Pohnpei and Chuuk states' underfunded corrections divisions failed to provide nutritionally adequate meals to prisoners.

Each of the four state jails included a separate cell for female prisoners. Since women rarely were detained, these cells typically were used to separate disruptive male prisoners from the general prison population. There were no designated juvenile detention facilities; however, juvenile crime was rare, and the states typically

have decided against incarceration of juveniles. Pretrial detainees usually were held together with convicted prisoners. All four states used separate jail cells to house persons with mental illnesses but no criminal background. In February one mentally ill person killed another mentally ill person in the Yap State jail. The assailant was placed under maximum security at the jail, and one correctional officer was suspended for 30 days for negligence. The case was still under investigation at year's end.

The question of prison visits by human rights observers did not arise during the year.

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

*Role of the Police and Security Apparatus.*—Each state has a department of public safety composed of police, corrections, fire, and emergency response functions. The directors of public safety are state cabinet-level positions. There is a small national police force under the Department of Justice. Some municipalities also have small police forces. Many citizens prefer to rely on customary and traditional remedies to resolve criminal and civil matters.

Under measures introduced by the Chuuk State governor to reform the state's underqualified and politicized police force, applicants for the police force are reviewed by a selection panel and must meet certain criteria to be hired. Police training also was increased. There were fewer reports of police favoritism toward relatives and physical abuse by the Chuuk State police after the state established an internal affairs division to address police abuses, although these remained matters of concern.

*Arrest and Detention.*—Warrants are required for arrests, and detainees were promptly advised of the charges against them. Detainees must be brought before a judge for a hearing within 24 hours of arrest, and this requirement was generally observed in practice. Most arrested persons were released on bail, which usually was set at low levels except in cases involving flight risk. Detainees had prompt access to family members and lawyers. All defendants have the right to counsel; however, the public defender's office was underfunded, and not all defendants received adequate legal assistance in practice.

During the year the mayor of Udot in Chuuk State was convicted in two separate trials of violating a voter's civil rights, resisting arrest, and threats and other improper influence in official or political matters. He served approximately five months of a one-year prison sentence and was on parole at year's end. The charges stemmed from a 2002 incident in which supporters of the mayor, including local police, disarmed and briefly detained national government officials who had attempted to serve a search warrant on the mayor in connection with an investigation of his alleged misuse of public funds.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice. The President, with the advice and consent of the legislature, appoints the three justices of the Supreme Court. Each state also has a supreme court, and some municipalities have local courts. Some states have additional courts to deal with land disputes. The formal legal system coexists with traditional, mediation-based mechanisms for resolving disputes and dealing with offenders at the local level.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, although juveniles may have closed hearings. Judges conduct trials and render verdicts; there are no juries. Defendants enjoy a presumption of innocence and have the right to counsel, to question witnesses, to access government-held evidence, and to appeal convictions. There is a national public defender system with an office in each state. Despite these provisions cultural resistance to litigation and incarceration as methods of maintaining public order allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder have not gone to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels (see section 1.d.).

Delays in some judicial appointments and underfunding of the court system hampered the judiciary's ability to function efficiently. Shortages or unavailability of court personnel and services occasionally hampered the right to a speedy trial.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. The Supreme Court would hear lawsuits seeking damages

for, or cessation of, a human rights violation. There are no nonjudicial administrative remedies available.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution contains an express right to privacy that prohibits such actions, and the Government generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of “expression” but not specifically of “speech” or of “the press”; however, the Government generally respected each of these rights in practice.

Although there were no government restrictions, the number of independent media outlets was very small. There also was a lack of consistently reliable access to broadcast media. For example, the Government radio stations on Yap, Pohnpei, and Chuuk remained off the air much of the year, in Yap’s case due to typhoon-related damage and in the two other cases due to technical problems. Chuuk’s cable television station ceased operations due to an unreliable power supply and financial problems.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice.

*Societal Abuses and Discrimination.*—There were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There was no known Jewish community.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for freedom of movement within the country. It does not address foreign travel, emigration, or repatriation, but in practice none of these were restricted.

The law does not explicitly prohibit forced exile; however, statutes that prescribe punishments for crimes do not provide for the imposition of exile, and the Government did not employ it.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. Legislation introduced in Congress in November 2005 to establish a system for providing protection to refugees in accordance with the convention and protocol was still pending at year’s end. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government did not grant refugee status or asylum, and there were no requests for refugee status or asylum during the year. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The 14-member Congress is elected by popular vote from each state. Congress then chooses the President and vice President by majority vote from among its four at-large senators. Elections for Congress were last held in March 2005.

The elections were generally free and fair; however, there were serious discrepancies and evidence of fraud in two ballot boxes in Chuuk State. A court-ordered revote was held in one case, resulting in the incumbent’s defeat. In the second case, the director of elections determined that exclusion of the suspect ballot box’s results would not affect the outcome in that electoral district.

State governors, state legislators, and municipal governments are elected by direct popular vote. Individuals can freely declare their candidacy and stand for election. There are no restrictions on the formation of political groups; however, there have been no significant efforts to form organized political parties, and none exist. Political support generally was sought from family and allied clan groupings, as well as religious groups.

Cultural factors in the male-dominated society limited women's representation in government and politics. Women were well represented in the middle and lower ranks of government at both the federal and state level, and women held the federal cabinet-level positions of attorney general and public defender.

There was one woman in the 23-seat Pohnpei State legislature and no women in the other state legislatures or in the national legislature.

The country is a multicultural federation, and both the legislature and the Government included persons from various cultural backgrounds.

*Government Corruption and Transparency.*—Government corruption was a problem, particularly in Chuuk State. Following the 2004 convictions of the then speaker of Congress, one other member of Congress, and two former members on charges relating to misuse of government funds, the Attorney General's Office investigated and indicted other Chuuk politicians for corrupt practices, although one indicted member of Congress retained his seat in the March 2005 elections. The indicted member's trial in the Chuuk State supreme court was scheduled for December; however, the judge appointed to hear the case recused himself, and at year's end the chief justice had not yet appointed a new judge to handle the case.

There is no national law providing for public access to government information. Under rules in effect during the year, the speaker of Congress can declare any congressional documents confidential. State laws and practices varied. Legislative hearings and deliberations generally were open to the public. The Pohnpei State legislature's proceedings were televised, and Yap's were broadcast on FM radio. Information from other branches of government also was accessible; however, retrieval sometimes was complicated and delayed by the loss or mishandling of records and by the concern of lower level administrative personnel with verifying that release of the particular information requested was permissible. There were no reported cases of government denial of access to media; however, there were only a small number of media outlets, and their reporting resources were limited.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Although there were no official restrictions, no local groups concerned themselves exclusively with human rights. There were groups that addressed problems concerning the rights of women and children, and the Government cooperated with these groups.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law provide explicit protection against discrimination based on race, sex, or language. The Attorney General successfully prosecuted one civil rights case against a municipal mayor in Chuuk State.

*Women.*—Reports of spousal abuse, often severe, continued during the year. Although assault is a crime, there are no specific laws against domestic abuse, and there were no governmental or private facilities to shelter and support women in abusive situations. Effective prosecution of offenses was rare. In many cases victims decide against initiating legal charges because of family pressure, fear of further assault, or belief that the police will not involve themselves actively in what is seen as a private family problem.

Sexual assault, including rape, is a crime. Sexual assault involving a dangerous weapon or serious physical or psychological harm to the victim is punishable by up to nine years' imprisonment in Chuuk and 10 years' imprisonment in the other three states, or a fine of up to \$20,000 in Kosrae and \$10,000 in the other states. (The U.S. dollar is the national currency.) If neither of these factors is involved, the assault is punishable in all states by up to five years' imprisonment or a fine. However, few cases were reported or prosecuted. There is no specific law against spousal rape. According to police and women's groups, there were a number of reports of physical and sexual assaults against women, both citizens and foreigners, outside the family context. In this traditional society, unmarried women sometimes were considered to have invited such violence by living or traveling alone.

Within the traditional extended family unit, violence, abuse, and neglect directed against spouses or children were deemed offenses against the family, not just the individual victims, and were addressed by a complex system of familial sanctions. However, traditional methods of coping with family discord have been breaking

down with increasing urbanization, monetization of the economy, and greater emphasis on the nuclear family. No government agency, including the police, has succeeded in replacing the extended family system or in addressing the problem of family violence directly.

Prostitution is illegal and was not a major problem. The law does not prohibit sex tourism specifically, but it was not a problem. The law does not prohibit sexual harassment, which appeared to be pervasive, although seldom reported.

Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education or employment. Women received equal pay for equal work. There continued to be extensive societal discrimination against women, although women were active and increasingly successful in private business. There was an active national women's advisory council that lobbied the Government. Additionally, several small NGOs were interested in women's issues, particularly those associated with family violence and abuse. The Women's Interest Section of the Department of Health, Education and Social Affairs worked to protect and promote women's rights.

*Children.*—The Government was committed to children's welfare through its programs of health care and education; however, these programs were inadequate to meet the needs of the population, particularly in an environment in which the extended family was breaking down. Health officials and religious leaders ran peer-support and family-care groups to address factors that could contribute to youth suicides.

A compulsory education law requires all children to begin school at age six, but not all did so. A shortage of qualified teachers and lack of textbooks hampered progress. Education was free, and there was no difference between the education of boys and girls. Education levels differed among the states, but on average 75 percent of children finished eighth grade, 55 percent finished ninth grade, and 35 percent finished high school. Children may leave school when they reach the age of 14 or after completing the eighth grade, whichever comes first.

The Government administered an immunization program throughout the country and provided some vitamin supplements.

There were some anecdotal reports of child abuse and neglect, but no reliable statistics were available.

*Trafficking in Persons.*—National and state laws do not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The law prohibits discrimination in public service employment against persons with disabilities. Children with physical or mental disabilities, including learning disabilities, were provided with special education, including instruction at home if necessary; however, such classes were dependent on foreign funding. There were no reports of discrimination against persons with disabilities in employment, access to health care, or provision of other state services; however, persons with disabilities usually did not seek employment outside the home.

Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. Some private businesses provided special parking spaces and wheelchair ramps.

The national health services department was responsible for protecting the rights of persons with disabilities.

Due to the lack of facilities for treating mentally ill persons, some persons with mental illnesses but no criminal background were housed in jails. The authorities provided separate rooms in jails for persons suffering from mental illness, and the state health services departments provided medications to the patients. During the year a mentally ill person killed another mentally ill person in the Yap State jail (see section 1.c.).

*National/Racial/Ethnic Minorities.*—Each of the country's four states has a different language and culture. Traditionally the state of Yap had a caste-like social system with high-status villages, each of which had an affiliated low-status village. In the past those who came from low-status villages worked without pay for those with higher status. In exchange those with higher status offered care and protection to those subservient to them. The traditional hierarchical social system has been gradually breaking down, and capable people from low-status villages can rise to senior positions in society. Nonetheless, the traditional system continued to affect contemporary life, with individuals from low-status villages still likely to defer to those with higher status. Persons from low-status backgrounds tended to be less assertive in advocating for their communities' needs with the Government. As a result low-status communities sometimes continued to be underserved.

The national and state constitutions prohibit noncitizens from purchasing land, and a 2002 law limits the occupations that noncitizens may fill. The national Congress grants citizenship to non-Micronesians only in rare cases. There is no permanent residency status. However, for the most part noncitizens shared fully in the social and cultural life of the country.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the constitution citizens have the right to form or join associations, and national government employees by law may form associations to “present their views” to the Government without coercion, discrimination, or reprisals. For a variety of reasons, including the fact that most private-sector employment was in small-scale, family-owned businesses and citizens were not accustomed to collective bargaining, there were neither associations nor trade unions. Although foreign workers have the right to form unions, they have not done so.

*b. The Right To Organize and Bargain Collectively.*—No law deals specifically with trade unions or with the right to collective bargaining, and there were no reports of collective bargaining agreements during the year. Individual employers, the largest of which were the national and state governments, set wages. There is no specific right to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred. This prohibition does not mention specifically forced and compulsory labor by children, but there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—National and state laws do not establish a minimum age for employment of children. In practice there was no employment of children for wages; however, children often assisted their families in subsistence farming and in family-owned shops.

*e. Acceptable Conditions of Work.*—The four state governments have established minimum wage rates for government workers. Pohnpei had a minimum hourly wage rate of \$2.00 for government and \$1.35 for private-sector workers. The other three states have established minimum hourly rates only for government workers: \$1.25 for Chuuk, \$1.49 for Kosrae, and \$0.80 for Yap. The minimum hourly wage for employment with the national government was \$2.64. These minimum wage structures and the wages customarily paid to skilled workers were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40-hour workweek was standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace. The Department of Health has no enforcement capability, and working conditions varied in practice.

There is no law for either the public or private sector that permits workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Foreign workers were not subjected to abuse or deported without cause. They have the right to a hearing if facing deportation. Foreign garment factory workers who lost their jobs when their employing factory closed were repatriated by the employer.

Working conditions onboard some Taiwan- and People's Republic of China-owned fishing vessels operating in the country's waters were very poor. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary.

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## MONGOLIA

Mongolia, with a population of approximately 2.6 million, is a multiparty, parliamentary democracy. The constitution establishes a hybrid Presidential-parliamentary system of government. Observers noted minor irregularities in the 2005 Presidential elections. Parliament (the State Great Hural), with the agreement of the President, selects the Prime Minister, who is nominated by the majority party. In January a new “unity” coalition government replaced the coalition government formed in September 2004, and parliament confirmed M. Enkhbold of the Mongolian People's Revolutionary Party (MPRP) as prime minister. While civilian authorities generally maintained effective control of the security forces, there were a few instances in which individuals in the security forces committed abuses.

The Government generally respected the human rights of its citizens; however, the following human rights problems were noted: police abuse of prisoners and detainees; impunity; poor conditions at prisons and pretrial detention centers; arbitrary arrest, lengthy detention, and corruption within the judicial system; criminal defamation laws resulting in self-censorship by the press; continued refusal by one province to register Christian churches; sweeping secrecy laws and a lack of transparency; endemic domestic violence against women; international trafficking of persons; and some domestic cases of child prostitution.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, abuse by security forces likely caused some deaths during the year. In May the National Human Rights Commission (NHRC) reported that police abuse of suspects resulting in death was a persistent problem over the years, and it cited numerous examples. There often was a lag time in reporting and investigating cases, and examples of new deaths in police custody during the year were not readily available.

The June 2005 death of a man beaten in a detention facility remained officially under investigation at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, police (especially in rural areas) occasionally beat prisoners and detainees, and the use of unnecessary force—particularly to obtain confessions—in the arrest process was common.

In its annual report, the NHRC condemned persistent abuse of suspects, including some cases resulting in death (see section 1.a.). Among 1,338 detainees the NHRC surveyed at eight pretrial detention centers in 2005, over 70 percent said they had confessed under duress or actual force. In many credible cases, suspects were placed in cells with violent inmates whom investigators had instructed to coerce confessions. In 2005 at the end of a fact-finding visit conducted at the invitation of the Government, the UN special rapporteur on torture publicly expressed concern about the persistence of incidents of torture, particularly in police stations and pretrial detention facilities.

*Prison and Detention Center Conditions.*—Conditions in pretrial detention and prison facilities were poor. Insufficient food, heat, and medical care threatened the health and life of inmates. The NHRC annual report declared that no detention facility met the country's own standards and found little or no progress since a 2004 inspection revealed severe deficiencies. Overcrowding continued to be a problem. The number of prisoners in the central detention facility in Ulaanbaatar was sometimes 50 percent over intended capacity, resulting in many detainees having less than nine square feet of space each. However, in late December officials reported 698 detainees at the facility, only slightly over capacity, probably reflecting releases after the June amnesty (see section 1.d.).

Prison staff members, including guards, social workers, and medical staff, received human rights training. The Ministry of Justice and Home Affairs (MOJHA) Department for the Enforcement of Court Decisions monitored conditions in prisons and detention facilities, but new laws and procedures were not publicized widely.

Many inmates entered prison infected with tuberculosis or contracted it in prison. The Government's tuberculosis hospital provided treatment for a large number of prisoners and generally isolated infected persons from the general prison population. While the number of inmates who died from the disease declined significantly over the years, infection in prisons and detention facilities and poor treatment for the disease remained serious concerns.

Outside of Ulaanbaatar, juveniles between the ages of 14 and 18 who were charged with crimes were sometimes kept in the same detention centers as adult prisoners.

Improvements in detention and prison conditions outside the capital were minimal. At least two domestic and six foreign nongovernmental organizations (NGOs) worked to improve conditions in prisons and detention centers by providing clothing, food, books, English-language instruction, and vocational training in computers and trades.

The Government permitted prison visits by human rights monitors, foreign diplomats, and journalists.

*d. Arbitrary Arrest or Detention.*—The law provides that no person shall be searched, arrested, detained, or deprived of liberty except by specified procedures;

however, arbitrary arrest and detention remained problems. General public awareness of basic rights and judicial procedures, including rights with regard to arrest and detention procedures, was limited, especially in the countryside.

*Role of the Police and Security Apparatus.*—Security forces are under the jurisdiction of the Ministry of Defense (MOD), MOJHA, and the General Intelligence Agency (GIA). Military forces under the MOD are responsible for external security, and the MOD also handles civil defense, giving it a role in internal security. National police operate under the MOJHA, and during peacetime the national border security guard force is also under MOJHA control. The GIA, formerly the State Security Agency, is responsible for both internal security and foreign intelligence collection and operations. The GIA's civilian head has ministerial status and reports directly to the Prime Minister.

There was general agreement that corruption in law enforcement agencies was endemic, although the Government did take some limited steps against the problem. The NHRC annual report concurred with the 2005 judgment of the UN special rapporteur on torture that police who abused detainees operated in a climate of impunity (see section 1.c.). Laws and mechanisms to investigate police abuses were also inadequate. There were some efforts by the Government to improve training and professionalism of the police, but progress was slow.

*Arrest and Detention.*—Police may arrest persons suspected of a crime and hold them for up to 72 hours before a decision is made to prosecute or release them. Arrest without a warrant was fairly common. According to the NHRC, 919 out of 978 persons detained in the main pretrial detention center near Ulaanbaatar were arrested under the “pressing circumstances” exception to the requirement that a warrant should be obtained from a judge prior to arrest. Under the criminal code, a court order must be requested to continue holding a suspect after 24 hours. If a court order is not granted within 72 hours, the suspect must be released.

The maximum pretrial detention with a court order is 24 months; an additional six months are allowed for particularly serious crimes such as murder. Detainees may be released on bail with approval of a prosecutor.

A detainee has the right to a defense attorney during this period and during all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the Government must appoint an attorney. However, many detainees were not made aware of this right and did not assert it. There was a shortage of public-funded and pro bono attorneys for low-income defendants, particularly outside of Ulaanbaatar. The low quality of attorney training and the bureaucratic obstacles faced by attorneys and defendants were chronic problems.

According to an administrative regulation, if a person is wrongly charged with a crime, the Government must restore the person's rights and reputation and provide compensation; however, this regulation was rarely followed in practice.

A person forcibly abducted from France for questioning in connection with the 1998 killing of former infrastructure minister and Member of Parliament Sanjaasuren Zorig was released in February because of ill health, and he died in April. Before his release, he had been serving a jail sentence for a fraud conviction unrelated to the Zorig killing.

*Amnesty.*—In June parliament passed an amnesty law in conjunction with the 800th anniversary of the establishment of a Mongolian state. Under the amnesty, authorities released about 700 prisoners in July and exempted others from prosecution or imposition of punishment. Prisoners released under the law included women 55 years and older, men 60 years and older, children, prisoners with disabilities, and some prisoners with children.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice; however, corruption and outside influence were problems.

The judiciary consists of district, provincial, and separate constitutional and supreme courts. The 11-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. District courts primarily hear routine criminal and civil cases, while more serious cases, such as murder, rape, and grand larceny, are sent to the provincial courts. Provincial courts also serve as the appeals court for lower court decisions. The Constitutional Court, which is separate from criminal courts, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the MOJHA, nominates candidates for vacancies on the courts; the President has the power to approve or refuse such nominations. The council also is charged with protecting the rights of judges and providing for the independence of the judiciary. The military judicial system was abolished in 1993; since then, all military cases have been handled in civilian courts.



*Trial Procedures.*—According to law, all accused persons have the right to due process, legal defense, and a public trial by judge. Juries are not used. Closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases as provided by law. Defendants may question witnesses, present evidence, and appeal decisions. The law provides that defendants are innocent until proven guilty. There was a shortage of state-provided defense lawyers, and many defendants lacked adequate legal representation. There was a heavy reliance on confessions, many of which were coerced by police (see section 1.c.). Judges often relied on questionable confessions in convicting defendants.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Enforcement of court orders was a problem. Although victims of police abuse were able by law to sue for actual damages, the NHRC annual report noted that the many problems with the law made it useless in checking police abuse or compensating victims.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. However, the head of the GIA, with the knowledge and consent of the Prime Minister, was allowed to direct the monitoring and recording of telephone conversations. The extent of such monitoring was unknown. Police wiretaps must be approved by the prosecutor's office and were authorized for two weeks at a time.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, government interference with licensing and indirect intimidation of the press, particularly broadcast media, remained a concern.

A variety of newspapers and other publications represented both major political party and independent viewpoints. Due to transportation difficulties, unreliable postal service, and fluctuations in the amount of newsprint available, not all publications were available in rural areas. The media law bans censorship of public information and any legislation that would limit the freedom to publish and broadcast. The Government monitored all media for compliance with antiviolence, antipornography, anti-alcohol, and tax laws.

While there was no direct government censorship, the press alleged indirect censorship in the form of government and political party harassment, such as frequent libel lawsuits and tax audits. The law places the burden of proof on the defendant in libel and slander cases. An NGO study indicated that between 2001 and 2005 there were a total of 151 civil defamation suits and five criminal defamation cases filed against journalists by private individuals and officials. During the year there were two successful criminal defamation suits against journalists who had written articles suggesting the President had engaged in corrupt activities. The plaintiffs in both cases were other persons mentioned in the articles. A court imposed fines of \$2,600 (3 million tugrik) and \$1,700 (2.1 million tugrik), which were not collected after both journalists benefited from the amnesty law passed in June (see section 1.d.). Another journalist lost a civil defamation case filed by a bank after she wrote an article claiming that the President might own part of the bank. She was ordered to pay \$8,600 (10 million tugrik) in damages.

Officials as well as private citizens unhappy with news reports subjected journalists to physical intimidation and other threats. In some instances, representatives from print and electronic media covering protests alleged that police briefly detained them or scuffled with them to prevent coverage. Journalists objected to police efforts in May to forestall television news photographers from covering a police action to clear demonstrators from Ulaanbaatar's central square, and to police action during the arrest in late October of a prominent civil movement demonstrator on assault charges. As a result of all these problems, some media practiced self-censorship. However, other independent media outlets at times were strongly critical of the Government.

While the print media were relatively free of political interference, broadcast media were not. A lack of transparency during the tender process, as well as lack of a truly independent licensing authority, inhibited fair competition for broadcast frequency licenses and benefited those with political connections. At the provincial level, local government control of the licensing process similarly inhibited the development of independent television stations.

While there were several broadcast and cable television stations in Ulaanbaatar, Mongol TV remained the major source of television programming in rural areas. However, four additional VHF stations and several cable television providers made

inroads and provided alternatives. During the year additional television stations began to broadcast in rural areas.

The national council created by a 2005 law that shifted Mongol Radio and TV to “public” status began work during the year but was plagued by public splits and allegations that a majority of members were partisans of the MPRP, rather than truly independent. Under the new law, the main financial sources for the stations are license fees, state subsidies, and sponsorship.

Due to local government control over the licensing process, local entities reported difficulties in acquiring licenses for local radio stations. However, one independent radio station broadcast widely, and there were increasing numbers of small local FM stations.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice.

A variety of demonstrations took place on Sukhbaatar Square and at the nearby building housing parliament and the offices of the President and prime minister. Most of those staging the demonstrations had not filed applications for permits. Demonstrators frequently erected tents on the square and stayed for days. Police generally allowed such demonstrations to proceed unhindered but in some cases forcibly removed the protesters after demonstrators ignored police warnings to disperse. No serious injuries were reported as a result of these police actions.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

Religious groups were required to register with the MOJHA. Local assemblies have the authority to approve applications at the local level, while the MOJHA’s role is to issue the registration once local approval is obtained. Registration and re-registration were burdensome for all religious groups and could take years. The length and documentation requirements of the process discouraged some organizations from applying. Ulaanbaatar authorities approved 15 churches during the year; one approved in May had first applied in 2003. No churches were known to have been refused registration in Ulaanbaatar. Authorities in Tov aimag (province), near Ulaanbaatar, routinely denied registration to churches, and no churches were registered in that province.

The Kazakh Muslim minority, whose population of approximately 100,000 was primarily concentrated in the western part of the country, generally enjoyed freedom of religion. However, the Government monitored the Kazakh community closely for any activity that could be construed as “Kazakh political separatism” or “terrorism.”

Under the law, the Government may supervise and limit the number of clergy and places of worship for organized religions. The Government used the registration process as a mechanism to limit the number of places for religious worship; however, there were no reports that it limited the number of clergy during the year.

The law does not prohibit proselytizing, but it forbids the use of incentives, pressure, or “deceptive methods” to introduce religion. In addition, a Ministry of Education directive bans mixing foreign language or other training with religious instruction.

*Societal Abuses and Discrimination.*—There were no reports of anti-Semitic acts during the year. There was no identified Mongolian Jewish population, and the number of resident Jews was very small.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The country is not a party to the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol. The law does not provide asylum or refugee status, and the Government has not established a system for pro-

viding protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but it did not routinely grant refugee or asylum status.

Several hundred North Koreans reportedly entered the country from China, and the Government allowed them to be resettled elsewhere. The Government's concerns about the potential for large numbers of migrants to arrive from neighboring countries increased opposition to accession to the 1951 UN convention.

The Government continued talks with representatives of the UN High Commissioner for Refugees on refugee and asylum issues.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, and largely free and fair, elections held on the basis of universal suffrage. The law limits the President to two four-year terms; parliamentary and local elections are held separately, also for four-year terms.

The law provides that the majority party in parliament, in consultation with the President, shall appoint the Prime Minister. The demarcation of powers between the President and the Prime Minister has been the subject of several constitutional amendments and court challenges. Members of parliament may serve as cabinet ministers. There is no requirement that the Prime Minister or other ministers be a member of parliament.

*Elections and Political Participation.*—In the 2005 Presidential election won by N. Enkhbayar, observers found a variety of minor irregularities in the election process, but no major problems were cited. In a September parliamentary by-election, observers found some minor problems but no major irregularities. The campaign and balloting processes for the June 2004 parliamentary elections were marred by violations and inconsistencies. Two seats were disputed and resolved in court in 2005.

There were 20 registered political parties, including two new parties registered during the year; seven parties were represented in parliament.

Major changes enacted in late 2005 will affect the next parliamentary elections, slated for 2008. Under the changes, members of parliament will be elected from multi-member constituencies instead of individual constituencies. Each province and district of Ulaanbaatar will be a constituency, and voters will cast separate votes for two to four members of parliament who will represent the constituency. The new law also provides that citizens living abroad will be able to vote, although arrangements for accomplishing this had not yet been worked out.

There were no legal impediments to the participation of women or minorities in government and politics. There were five women in the 76-member parliament. No women were included in the cabinet or the Supreme Court. Women and women's organizations were vocal in local and national politics and actively sought greater female representation in government policymaking. The new parliamentary election law stipulates that at least 30 percent of candidates nominated in future general elections must be women.

There were three ethnic Kazakhs serving in parliament.

*Government Corruption and Transparency.*—Corruption was perceived to be a growing problem at both lower and upper levels of government. The NGO Transparency International reported a perception of rampant corruption in the country. Corruption was particularly severe in the police, the judiciary, customs, and other elements of government. In July parliament passed an anticorruption law that included provisions for a new anticorruption agency. The law went into force on November 1, and in late December, parliament approved the President's nominee to head the new agency. As well as providing additional investigatory capacity for corruption crimes, the new agency will oversee the filing of asset and income disclosure forms by all civil servants. This information on senior officials is to be published annually beginning in 2008.

Government and parliamentary decision making was not sufficiently transparent, and public legislative hearings were rare. The far-reaching State Secrets Law inhibited freedom of information, government transparency, and accountability. There were public calls to amend the law and implement the equivalent of a freedom of information act.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials generally were cooperative and responsive to their views.

With assistance from the UN Development Program, a local representative in each provincial assembly monitored human rights conditions, among other duties.

The National Commission on Human Rights consists of three senior civil servants nominated by the President, the Supreme Court, and parliament for terms of six years. The NCHR is responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. The NCHR reports directly to parliament. In its annual reports, the NCHR repeatedly criticized the Government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws related to human rights. The reports also faulted parliament and the courts for failing to protect human rights fully. In May a plenary session of parliament discussed the NCHR's report for the first time. In June parliament directed the Government to take measures to prevent human rights violations in criminal proceedings, including drafting amendments to the Civil Code and the Criminal Procedure Code to conform to the International Convention against Torture, and to eradicate violations of human rights reported by the NHRC. Parliament also budgeted money to build a new pretrial detention facility in Ulaanbaatar.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law states that "no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status," and that "men and women shall be equal in political, economic, social, cultural fields, and family." The Government generally enforced these provisions in practice.

*Women.*—Domestic violence against women was a serious problem. Rape and domestic abuse are illegal, and offenders can be prosecuted after formal charges have been filed. In 2005 a comprehensive law specifically dealing with domestic violence came into effect. As of August all 37 cases prosecuted under the law resulted in convictions. The law requires police to accept and file complaints, visit the site of the incidents, interrogate the offenders and witnesses, explain the law, impose administrative criminal penalties, bring victims to refuge, and transfer custody of the relatives if necessary. It outlines the role of social welfare organizations and NGOs and also provides for the following sanctions on offenders: expulsion from home or separate accommodations, prohibitions on the use of jointly owned property, prohibitions on meeting victims and on access to minors, compulsory training aimed at behavior modification, and compulsory treatment for alcoholism.

There were no reliable statistics regarding the extent of domestic abuse, but qualified observers believed that it affected as much as one-third of the female population. Virtually all of those who committed violent crimes in the home were men, and women typically were the victims. In recent years domestic abuse has become more violent, including increases in the number of murders. After many years of government and societal denial, there was increasing public and media discussion of domestic violence, including spousal and child abuse. However, the perception remained that domestic abuse was either a family issue or not a problem. In recent years economic and societal changes created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. Some statistics showed that more than 60 percent of family abuse cases were related to alcohol abuse. The high rate of alcohol abuse contributed to increased instances of family abuse and abandonment and added to the number of single-parent families, most of which were headed by women. Women were hesitant to ask authorities to prosecute cases of domestic abuse because of likely long-term detention of spouses and the resulting loss of household income.

The Family Law details rights and responsibilities regarding alimony and parents' rights, and it is intended to bring about timely dispute settlement and ameliorate the causes of some domestic violence. The National Center against Violence operated branches in two districts of Ulaanbaatar and eight provinces. There were four shelters for victims of domestic abuse, largely funded by foreign charitable organizations.

There is no law specifically prohibiting spousal rape. Rape, including spousal rape, remained a problem. During the year there were 314 cases of rape reported to authorities, down slightly from 320 cases in 2005; however, many rapes were not reported. NGOs stated that police procedures were stressful to traumatized rape victims and tended to discourage reporting of the crime. According to NGOs, police referred for prosecution a minority of cases, largely on the basis that there was insufficient evidence for prosecution.

Prostitution is legal. However, public solicitation for prostitution and organizing prostitution remained illegal. There were reports that some women worked in the

sex trade elsewhere in Asia and other countries; an unknown number of them were trafficked (see section 5, Trafficking).

There are no laws against sexual harassment. According to NGOs, there was a lack of awareness on what constitutes inappropriate behavior, making it difficult to gauge the actual extent of the problem.

The law provides men and women with equal rights in all areas. By law, women are to receive equal pay for equal work and have equal access to education. Women represented approximately half of the work force, and a significant number were the primary wage earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health, and the Government effectively enforced these provisions. Many women occupied midlevel positions in government and business, and many were involved in the creation and management of new trading and manufacturing businesses.

There was no separate government agency to oversee women's rights; however, there was a national council to coordinate policy and women's interests among ministries and NGOs, and the Ministry of Social Welfare and Labor had a Division for Women and Youth Issues. There were approximately 40 women's rights groups that concerned themselves with issues such as maternal and child health, domestic violence, and equal opportunity.

*Children.*—Increased societal stress on the family structure had adverse effects on many children. Although the Government was unable to keep pace with the educational, health, and social needs of this rapidly growing segment of the population, in principle it remained committed to children's rights and welfare. The Government provided children with free and compulsory public education through the age of 16; however, family economic needs and state budgetary troubles made it difficult for some children to attend school. In practice, female children over the age of 15 had better opportunities to complete their education than male children, because teenage males often were required to work at home, and schools generally were located far from homes (see section 6.d.). In addition, there continued to be a severe shortage of teachers and teaching materials at all educational levels.

There was growing awareness that child abuse, often associated with parental alcoholism, was a problem. In conjunction with efforts to counter violence against women, NGOs began to address the problem.

By year's end the national police documented 156 cases of suspected underage prostitution. In addition, there were some known or suspected cases of international trafficking of girls under age 18 (see section 5, Trafficking). In June Chinese police returned a 17-year-old boy who reported that he had been taken across the border and forced to steal.

Although society has a long tradition of raising children in a communal manner, societal and familial changes orphaned many children. The Government was more willing than in the past to admit the extent of the problem, but it lacked the resources to improve the welfare of children who became victims. NGOs continued to assist orphaned and abandoned children. Experts estimated that there were approximately 1,300 homeless children, of whom about 70 lived on the street; the remainder lived in shelters. Female street children, who accounted for one-third of all street children, sometimes faced sexual abuse. The Government established the National Committee for Children to address this and other child welfare problems. There were two government-funded but privately owned and administered shelters, one for children up to age three and the other for children ages three to 16. Foreign charities operated more than 40 other shelters.

*Trafficking in Persons.*—The law specifically prohibits trafficking in women and children; however, there was evidence that some females, including girls under 18, working in prostitution in other countries, were victims of trafficking rings. The country was both a source and transit point for trafficking. Most victims were trafficked to the People's Republic of China or Macau, to which citizens are able to travel without visas. However, cases in destinations such as South Korea, Japan, Malaysia, Israel, Turkey, Switzerland, and Hungary were alleged or confirmed.

During the year police investigated 12 cases of trafficking abroad involving 25 victims. While they did not refer most cases to prosecutors because of insufficient evidence or other problems, police did refer four cases for prosecution. At the end of the year, three of these cases remained under consideration by prosecutors, and one had been dropped due to lack of evidence. In January a court convicted a woman and sentenced her to more than 10 years in prison for trafficking to Macau; this was the first conviction won under the antitrafficking offense included in 2002 revisions to the criminal code.

Although most officials and NGOs found it difficult to estimate the extent of trafficking, increasing attention was focused on the problem. According to a study during the year, those most vulnerable to trafficking were between 19 and 35 years of age, with the highest risk associated with low-income and unemployed females. Many victims were lured abroad by offers to study or work, while others wittingly went abroad as sex workers but found themselves in coercive situations. Preventive steps to combat trafficking, such as increased law enforcement measures, were very limited. As a result, it was not difficult to traffic persons across the country's borders. Some NGO experts believed that members of the police sometimes were involved in trafficking young women and helping facilitate their movement across borders.

Protections for victims and witnesses were extremely limited, which discouraged them from coming forward. Furthermore, social stigma inhibited victims from telling their stories. The Government had limited resources and divergent priorities and provided no direct assistance for trafficking victims. NGOs offered support when possible, and the Government relied on NGOs to increase awareness and initiate prevention programs. During the year authorities began to implement the national action plan against trafficking and sexual exploitation of women and children, which included enhanced efforts by Mongolian diplomatic missions to combat the problem and assist victims.

*Persons With Disabilities.*—The labor law prohibits discrimination in employment and education against persons with disabilities. The law also requires the Government to provide benefits according to the nature and severity of the disability, which it did. The Law on Social Protection of the Disabled gives provincial governors and the Ulaanbaatar governor the responsibility to work with provincial councils and the Ulaanbaatar city council to develop and implement measures to protect persons with disabilities. However, NGOs claimed that the Government did little to implement such measures, and in practice most persons with disabilities could not find jobs. The law requires companies employing more than 50 persons to hire at least three persons with disabilities.

The Government provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. Persons injured in industrial accidents had the right to reemployment when ready to resume work, and the Government offered free retraining at a central technical school. There were several specialized schools for youth with disabilities, but these students also were free to attend regular schools. There is no law mandating access to buildings for persons with disabilities, which made it difficult for these persons to participate fully in public life. Persons with disabilities demonstrated for higher government subsidies. Government pensions for persons with disabilities were approximately \$23 (26,500 tugrik) per month. Some 30 NGOs participated in activities assisting approximately 40,000 persons with disabilities.

*Other Societal Abuses and Discrimination.*—There was no official discrimination against those with HIV/AIDS; however, some societal discrimination existed.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law entitles all workers to form or join unions and professional organizations of their choosing, and the Government respected this right in practice. However, some legal provisions restrict these rights for groups such as foreign workers, public servants, and workers without employment contracts.

Union officials estimated that union membership declined over the years to 220,000, which represented less than one-quarter of the workforce. Workers who were self-employed or who worked at small firms generally did not belong to unions. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

*b. The Right To Organize and Bargain Collectively.*—The law regulates relations among employers, employees, trade unions, and the Government. The Government's role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups were referred to intermediaries and arbitrators for reconciliation.

The law provides for the right to strike, and workers exercised this right in practice. If an employer fails to comply with a recommendation, employees may exercise their right to strike. The law protects worker rights to participate in trade union activities without discrimination. However, the Government does not allow interven-

tion in collective bargaining by third parties and prohibits third parties from organizing a strike. The International Labor Organization Committee of Experts described this as a “serious restriction on the free functioning of trade unions” and requested the Government to change it.

Persons employed in essential services, which the Government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the right to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law specifically prohibits forced or compulsory labor, and the Government generally enforced this provision. Although most prisoners were required to work as part of their sentences, they received monetary compensation to send to their families or use to buy food, books, and sanitary items. Prisoners in maximum security or serving custodial prison sentences of less than six months were excluded from compulsory labor.

Beginning in 2004, North Korean laborers were employed under contracts between the North Korean Ministry of Light Industry and private companies, with government approval, primarily in the construction and service industries. Approximately 200 North Korean workers brought in through official channels worked in the country during the year. The contract terms generally required that the laborers return to North Korea at the end of the contract. The Ministry of Social Welfare and Labor did not monitor the working or living conditions of these workers. Allegedly some North Korean workers were not free to leave their employment or complain if work conditions were unacceptable. These workers, who reportedly were monitored closely by “minders” from their government, did not routinely receive direct and full salary payments. In addition, possible pressure on family members in North Korea raised additional concerns that the labor of these workers was not fully voluntary.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under age 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Labor inspectors assigned to regional and local offices were responsible for enforcement of these prohibitions, as well as all other labor regulations. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited, due to the small number of labor inspectors and the growing number of independent enterprises.

Children worked informally in petty trade, scavenging in dumpsites, in unauthorized small-scale mining, and herding animals. Increasing alcoholism and parental abandonment made it necessary for many children to have an income to support themselves, their siblings, and sometimes their parents. Estimates placed the number of children in the labor force as high as 58,000.

In addition, due to economic pressures, many children, especially teenage boys in the countryside, dropped out of school before age 18 (see section 5). Children most often herded family livestock, but reports of children working in factories or coal mines continued.

The Government prohibits forced and compulsory labor by children and effectively enforced this prohibition.

*e. Acceptable Conditions of Work.*—The legal minimum wage established for the year was approximately \$46 (53,000 tugrik) per month. This minimum wage, which applied to both public and private sector workers and was enforced by the labor ministry, did not provide a decent standard of living for a worker and family.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. By law, overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited by law from working overtime. For those 16 and 17 years of age, the workweek is 36 hours, and overtime work is not allowed. These laws generally were enforced in practice.

There were increasing numbers of Chinese workers in low-wage construction jobs, who often lived under spare conditions, but generally enjoyed the same protections as citizens. However, due to various pressures and restrictions, a small number of North Korean workers in the construction and service industries may not have been able to speak out about working conditions (see section 6.c.).

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. However, the near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the mining, power, and construction sectors. Enforcement of occupational health and safety standards was inadequate. The labor monitoring unit employed only 73

inspectors to inspect a growing number of enterprises throughout the country. According to the law, workers have the right to remove themselves from dangerous work situations and still retain their jobs.

## NAURU

Nauru is a constitutional republic with a population of approximately 9,200. The most recent parliamentary elections, held in October 2004, were generally free and fair. There were no formal political parties. The unicameral Parliament elects one of its members to be the President, who is both chief of state and head of government. In October 2004 Parliament reelected President Ludwig Scotty. The civilian authorities generally maintained effective control of the security force.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. A few human rights problems were reported, including frequent judicial delays, some restrictions on the activities of certain religions, and social and economic marginalization of stranded foreign former mine workers until their repatriation in midyear. Despite the ostensible deactivation of Australia's refugee processing center in the country, a small number of asylum seekers remained held there in isolated, Spartan conditions.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions were austere but generally met international standards.

The Government affirmed it would permit visits by independent human rights observers, but none were reported. Prison visits by church groups and family members were permitted.

Since 2001 the country has hosted a refugee processing and detention center funded by Australia and operated by the International Organization for Migration (IOM). Australian human rights organizations and some politicians have repeatedly expressed concern about the detention center's isolation and austere conditions, and called for the asylum seekers to be removed from Nauru. Early in the year the facility was declared deactivated, and its two remaining asylum seekers, both Iraqi nationals, were moved to an administrative building outside the center. In August one of the two was moved to Australia, and in December a third country agreed to accept the second for resettlement. However, in September seven Burmese asylum seekers were transferred from a refugee detention facility on Australia's Christmas Island to Nauru for further processing, effectively re-opening the detention center (see section 2.d.).

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The country has no military force. The Ministry of Justice oversees the 109-member police force. Under a cooperative agreement, Australian Federal Police officers were seconded to the country's police force to facilitate organizational reforms and training and to increase police accountability, skills, professionalism, and community responsiveness. There were no reported cases of police corruption or impunity.

*Arrest and Detention.*—Arrests are made openly, based either on warrants issued by authorized officials or for proximate cause by a police officer witnessing a crime. Police may hold a person for no more than 24 hours without a hearing before a magistrate. There was a functioning bail system. Authorities confiscated the passports of some accused persons released on bail to prevent flight. The law provides for accused persons to have access to legal assistance, but in practice qualified assistance was not always readily available.



Judicial delays were a problem. The lack of qualified magistrates and judges, coupled with severe financial constraints, caused delays of up to two years, during which defendants were released from detention to await trial.

Human rights activists continued to assert that the detention by Australian authorities of asylum seekers in Nauru was in violation of both countries' constitutions. The courts of both countries have ruled that the detention arrangements are legal.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The Supreme Court is the highest court addressing constitutional issues; it is presided over by the chief justice. Parliament cannot overturn court decisions. Under the Appeals Act, the High Court of Australia may review criminal and civil cases, but this rarely was done. A resident magistrate presides over the district court, and also the family court as chairman of a three-member panel. Three lay magistrates handle simple cases; serious matters are given directly to the Supreme Court.

The constitution also provides for two quasi-courts: the Public Service Appeal Board and the Police Service Board. The chief justice presides over both boards.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Procedural safeguards are based on English common law. They include the presumption of innocence; the right to be informed promptly of charges; a guarantee of adequate time and facilities to prepare a defense; the right to confront witnesses, present evidence, and appeal convictions; the right to trial by jury; and a prohibition on double jeopardy and forced self-incrimination. Trials are public, defendants have the right to legal counsel, and a representative for the defense is appointed when required "in the interest of justice." Bail and traditional reconciliation mechanisms rather than the formal legal process were used in many cases—usually by choice but sometimes under communal pressure.

Stranded contract workers from Kiribati, Tuvalu, and the People's Republic of China (PRC) who formerly worked in the moribund mining sector did not have recourse to effective communal assistance and were disadvantaged in complaints against citizens. There were only two trained lawyers, and many persons were represented in court by "pleaders," trained paralegals certified by the Government.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of "expression," and the Government generally respected freedom of speech and of the press in practice.

Although there were no government restrictions, there were no independent media except for a sporadically published private newsletter highly critical of the Government.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion; however, the Government restricted this right in some cases. The Government continued to prevent members of the Church of Jesus Christ of Latter-day Saints (Mormons) and the Jehovah's Witnesses from practicing their religion freely and openly and from carrying out missionary work. Members of these religions were subject to arbitrary licensing and immigration requirements.

*Societal Abuses and Discrimination.*—The relationships among religions generally were amicable, although there was a degree of societal intolerance toward religions

other than established Christian denominations. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Neither the constitution nor law specifically provides for these rights, but the Government generally respected them in practice.

Neither the constitution nor law prohibits forced exile; however, the Government did not use it.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol; the country is a party to neither. Although the Government has not established a system for providing protection to refugees, under its 2001 agreement with Australia establishing refugee processing centers, the country undertook not to commit refoulement, the return of persons to a country where they feared prosecution. However, according to IOM statistics cited in testimony before an Australian Senate inquiry in June, 32 Afghan children registered as unaccompanied when brought to Nauru in 2001 for processing were subsequently returned to Afghanistan. Nine were still under 18 years of age at departure. The Government did not accept refugees for resettlement, nor did it grant refugee status or asylum. However, the Government cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

Beginning in 2001 the country hosted an Australian government processing center for persons seeking asylum in Australia who had been apprehended at sea while attempting to enter Australia illegally. These persons were granted visas and detained under national law while their status as refugees was determined and possible applications for asylum in Australia or elsewhere were adjudicated. They were held in facilities funded by Australia but administered by IOM officials. The UNHCR took a limited role, on “an exceptional basis,” in conducting refugee determinations of some applicants when the processing centers were first opened. In subsequent years the UNHCR also assisted in resettling some successful applicants in other countries, but it was not active during the year.

At the beginning of the year two Iraqi refugees deemed by Australia to be security risks remained in the country. In August one was transferred to Australia for psychiatric evaluation, and in December a third country agreed to accept the second of the two for resettlement. In September seven Burmese asylum seekers were sent to Nauru for further processing of their applications by Australia and remained there at year’s end. The Government had publicly urged Australian authorities to resolve the case of the remaining Iraqi national and stated that the new arrivals must be processed more expeditiously than past cases, or the Government would impose substantially higher, punitive visa fees.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Citizens 20 years and older, in compulsory voting, directly elect an 18-member unicameral parliament for a term of three years. Following general elections in October 2004, Parliament reelected Ludwig Scotty as President. Multiple candidates stood for all parliamentary seats in each of the country’s eight constituencies.

There are no legal impediments to participation in politics by women, but in general women traditionally have been less prominent in politics than men. There were no women in the 18-seat Parliament or the cabinet. Women held some senior civil service positions, including the head of the civil service and the Presidential counsel.

There were no members of minorities in Parliament or the cabinet.

*Government Corruption and Transparency.*—In recent years Parliament took corrective measures to combat corruption in government and in publicly owned corporations. Over prior decades loose controls on the enormous revenues generated by phosphate mining led to mismanagement and misappropriation of vast sums of public funds. With the decline of the mining sector and its near end after 2000, the country went from great wealth to de facto bankruptcy. Financial and regulatory crises, accompanied by continued corruption and severe national impoverishment, dominated national politics from the late 1990s. The 2004 elections were widely interpreted as a victory for reformists dedicated to addressing corruption, increasing

transparency, and addressing economic problems. During the year the Government continued its efforts to increase accountability and further reform the financial sector. Nonetheless, there were isolated reports of government corruption during the year.

There are no legal provisions providing for public access to government information, and the Government did not freely provide such access.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no government restrictions on establishing local human rights organizations, but no such groups have been formed. There were no reports that the Government sought to constrain the creation of such bodies. The Government remained highly defensive in response to accusations that it was violating the human rights of those persons held in the processing center. The Government worked harmoniously with the IOM, which co-managed the processing center with Australian authorities.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination on the basis of race, place of origin, color, creed, or sex, and the Government generally observed these provisions.

*Women.*—The Government kept no statistics on the incidence of physical and domestic abuse against women. However, credible reports indicated that sporadic abuse, often aggravated by alcohol use, occurred. Families normally sought to reconcile such problems informally and, if necessary, communally. The police and judiciary treated major incidents and unresolved family disputes seriously.

Spousal rape is not specifically a crime, but rape is a crime and police investigate and file charges if allegations of rape are made against a spouse. Prostitution is illegal and was not widespread. Some forms of sexual harassment are crimes, and sexual harassment was not a serious problem.

The law grants women the same freedoms and protections as men. The Government officially provides equal opportunities in education and employment, and women are free to own property and pursue private interests. However, in practice societal pressures and the country's impoverished economic circumstances often limited opportunities for women to exercise these rights fully. The Women's Affairs Office was responsible for promoting professional opportunities for women.

*Children.*—Government resources for education and health care for children were severely constrained by the country's economic crisis. Education is compulsory until age 16, but in practice not all school-age children attended school. The Asian Development Bank reported that in 2003, 83 percent of girls and 84 percent of boys of primary school age attended school. At the secondary school level, only 50 percent of eligible girls and 46 percent of boys attended school. More recently the Government declared that truancy was as high as 60 percent in some schools. Most children did not complete secondary school. Government health care was free, but facilities and services provided were minimal. Prior to their repatriation (see section 6.e.), foreign workers left unemployed and stranded by the virtual closure of the phosphate mines complained that health and educational services to their children were inferior to those provided to citizens.

Child abuse statistics were not compiled, and there were no reported cases of child abuse or child prostitution during the year. However, anecdotal evidence indicated that abuse occurred.

*Trafficking in Persons.*—The constitution and law do not prohibit trafficking in persons, but there were no reports of persons trafficked to, from, or within the country.

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities. Nonetheless, there was no reported discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. No legislation mandates services for persons with disabilities or access to public buildings. Department of Education teachers provided rudimentary schooling for a small group of students with disabilities, holding classes in a teacher's home as no classroom was available. The country's economic crisis has led to an overall deterioration in funding for health care facilities and services, including for persons with disabilities. There were no restrictions on the rights of persons with disabilities to vote or participate in civic affairs, nor was there specific government support to facilitate the exercise of these rights by persons with disabilities.

There was no government agency with specific responsibility for protecting the rights of persons with disabilities.

There are no formal mechanisms to protect persons with mental disabilities.

*National/Racial/Ethnic Minorities.*—A pattern of theft, property damage, and violence directed at the ethnic Chinese community continued during the year. Ethnic Chinese composed 5 to 8 percent of the population. Police attributed most attacks on ethnic Chinese to economic motivations and noted a general trend of theft-related attacks against the country's few private businesses, such as stores and restaurants.

Former mining industry workers from other Pacific islands (primarily Tuvalu and Kiribati) and the PRC, who were unemployed and stranded in the country, experienced discrimination. The foreign workers previously had been provided free housing as part of their contracts, and they continued to occupy this housing. However, it was no longer maintained by the mining company and had become derelict and badly overcrowded. Between July and October the workers from other Pacific islands and their families were repatriated to their home countries, but an estimated 130 to 150 Chinese workers remained at year's end (see section 6.e.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, nor does it have any formal trade unions. Historically, the transient nature of the mostly foreign workforce hampered efforts to organize trade unions.

*b. The Right To Organize and Bargain Collectively.*—The right to strike is not protected, prohibited, or limited by law. Although there were no legal impediments, collective bargaining did not take place. A tiny private sector, mostly family-run stores and restaurants, employed approximately 1 percent of salaried workers. Salaries, working hours, vacation periods, and other employment matters for government workers are nominally governed by public service regulations. However, as a consequence of the economic crisis, all civil servants, parliamentarians, and members of government were paid a common salary of approximately \$108 (A\$140) every other week.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred. Although the law does not specifically mention forced or compulsory labor by children, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age of employment at 17. The only two significant employers, the Government and the phosphate industry, honored this rule. Some children under 17 worked in small, family-owned businesses.

*e. Acceptable Conditions of Work.*—As an emergency measure, the Government decreed a single maximum public servant wage equal to approximately \$108 (A\$140) every two weeks, which did not provide a decent standard of living for a worker and family. The measure was valid for all civil servants, including parliamentarians and government ministers. This represented a major salary reduction for most workers and families. However, prior to the wage measure, public service salaries often went unpaid, frequently for months.

Approximately 460 foreign workers from other Pacific islands and the PRC formerly employed in the phosphate industry and approximately 1,100 of their family members remained in the country at the beginning of the year. Previously they and their families received free housing, utilities, medical treatment, and often a food allowance. Their former employer, the state-owned phosphate mining company, was virtually defunct and unable to meet unpaid wage claims. The Government paid the foreign workers a stipend of \$39 (A\$50) every other week, barely enough to survive. They continued to occupy company housing at no cost, but their circumstances were dire. After the Government of Taiwan agreed to finance payment of unpaid back wages for the workers from other Pacific islands, these workers and their families were repatriated to their home countries. An estimated 130 to 150 workers from the PRC did not receive back wages and remained in the country; at year's end the Government was seeking their repatriation by the PRC government.

By regulation the workweek in both the public and private sectors was 35 hours for office workers and 40 hours for manual laborers. Neither the law nor regulations stipulate a weekly rest period; however, most workers observed Saturdays and Sundays as holidays.

The Government sets some health and safety standards. The phosphate industry had a history of workplace health and safety requirements and compliance, but with the decline of the industry, enforcement of these regulations was lax. During the year a gradual revival of the industry was accompanied by accusations that

unfiltered dust discharge from the phosphate plant exposed workers and the surrounding communities to a significant health hazard. An arson attack on a plant conveyor belt was reportedly related to the dust issue. The Government did not act to eliminate the problem, citing high costs.

## NEW ZEALAND

New Zealand is a parliamentary democracy with a population of 4.2 million. Citizens periodically choose their representatives in free and fair multiparty elections. The 121-member Parliament is elected in a mixed-member, proportional representation system, with seven seats reserved for members of the native Maori population. The most recent elections were held in September 2005. The Labor Party won 50 parliamentary seats and formed a minority coalition government; Helen Clark remained prime minister. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. There were disproportionate societal problems for indigenous people.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

In the August 2004 police killing of a man who attacked his wife and police officers with a knife, the Independent Police Complaints Authority concluded that the officer acted lawfully and that the force used was justified under the circumstances.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected this prohibition in practice. During the year there were some complaints that individual members of the police committed abuses. The Independent Police Complaints Authority handled complaints of police abuse, ranging from use of abusive language to allegations of complicity in deaths.

On March 31, a jury found an assistant police commissioner and two former police officers not guilty of charges of rape. The three men were arrested in March 2005 for sexual offenses against two women in Rotorua dating back to 1986. Another woman made separate allegations of rape against the same three men; that case was scheduled to go to trial in 2007.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by human rights observers.

In the 12-month period ending June 30, there were seven serious assaults on staff by inmates and 18 assaults of inmates by other inmates. During the same period there were eight recorded unnatural deaths in custody, including six suicides.

Overcrowding was a problem during the year, but the situation improved compared with the previous year due to added prison capacity. For the 12-month period ending June 30, the prison population averaged 7,605, an average occupancy rate of approximately 98 percent. As of June 30, there were 7,210 male prisoners and 414 female prisoners, while prison capacity was 7,395 beds for male prisoners and 455 for female prisoners.

To alleviate overcrowding, during the year the Government continued expansion and new prison construction efforts, used double bunking at prisons, and housed prisoners in police and court cells. In June the Auckland Women's Corrections Facility opened, and its full 286-bed capacity was operational by year's end.

Juvenile detainees come under the jurisdiction of Child, Youth, and Family Services (CYFS) rather than the police. In October 2005, to relieve pressure on overcrowded facilities, CYFS completed a new youth justice facility, raising to 102 the number of beds available for juvenile pretrial detainees and juvenile offenders serving residential orders. As of December 20, a total of 673 juveniles spent a combined 2,036 nights in police cells during the year while waiting for a bed in a youth justice residence. Of these, 370 were later placed in a youth justice residence, 169 were released on bail, 133 were placed in the community, and one remained in a police cell.

On August 25, an adult detainee killed a 17-year-old juvenile detainee while both were being transported from court back to jail. The man who killed the juvenile

pleaded guilty to murder and was sentenced to life imprisonment with an 18-year non-parole period. At year's end several investigations and projects to improve procedures for separating juvenile and adult prisoners and detainees were ongoing. Following the August killing, the Public Prisons Service instituted a requirement that prison managers complete a risk assessment for all prisoner and detainee escorts, including escorts to and from court hearings, to address the risk of possible harm by a prisoner or detainee to self or others or risk to a prisoner or detainee from others. Previously such an assessment was required only in cases involving prisoners or detainees deemed at risk for self-harm.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The police commissioner, appointed by the governor general, is the chief executive of the police force and reports to the minister of police. A board of commissioners, consisting of the commissioner and two deputy commissioners, is responsible for high-level leadership and makes decisions on police strategy, governance, and performance management. The police are organized into 12 districts. There are three operational branches: general duties, criminal investigation, and traffic safety. Allegations of corruption or impunity are referred to the Independent Police Complaints Authority, which can refer cases directly to Parliament. The police generally did not have problems with corruption and impunity.

*Arrest and Detention.*—Police may arrest a suspect without a warrant if they have reasonable cause. Police also may request a warrant from a district court judge. Police may enter premises without a warrant to arrest a person if they reasonably suspect the person of committing a crime on the premises, or if they have found the person committing an offense and are in pursuit. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest.

After a suspect has been arrested and charged, police have the power to release the person on bail until the first court appearance. That bail comes to an end at the first court appearance and is distinct from court bail. Court bail is granted unless there is good reason to believe that the suspect would flee or is likely to be a danger to the community. Police bail is not normally granted for more serious offenses such as serious assault or burglary. Attorneys and families were granted prompt access to detainees.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The Supreme Court is the country's highest court of appeal. It is composed of the chief justice and four other judges appointed by the governor general. Below the Supreme Court is the Court of Appeal; it hears appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The Court of Appeal also hears appeals on decisions of the district courts in serious criminal matters. The High Court hears appeals from lower courts and reviews administrative actions. Remaining original jurisdiction rests with the 63 district courts. Special courts include the employment court, family court, youth court, Maori land court, Maori appellate court, and environment court. The country's military forces have their own court system, with a courts martial and a courts martial appeals court; appeals from the courts martial appeals court may be made to the Court of Appeal and the Supreme Court.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy the rights found in other common-law jurisdictions, including a presumption of innocence, a right to a jury trial, a right of appeal, and the right to counsel, to question witnesses, and to access government-held evidence.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, which includes access to the Human Rights Review Tribunal and other courts to bring lawsuits seeking damages and other remedies for alleged human rights abuses. There are also administrative remedies for alleged wrongs through the Human Rights Commission (HRC) and the Office of Human Rights Proceedings.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

*Societal Abuses and Discrimination.*—The Jewish community numbered approximately 10,000 persons. In August a Jewish synagogue in Christchurch was vandalized; derogatory language was spray painted on a walkway and swastikas were etched into a plaque. The case was under investigation at year's end.

The government-funded HRC actively promoted religious tolerance.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

There is no statutory authority for imposing a sentence of exile, and the Government did not practice forced exile.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government also provided protection to individuals who may not qualify under the definition of the 1951 Convention and the 1967 Protocol. Under its refugee quota, the Government resettles up to 750 UNHCR-approved refugees per year. In the 12-month period ending June 30, the Government approved 741 persons for refugee status.

During the year asylum seeker and former member of the Algerian Parliament Ahmed Zaoui continued to be the subject of a national security risk certificate issued by the Security Intelligence Service, which continued its review of the certificate at year's end. Zaoui was released from detention on bail by order of the Supreme Court in 2004.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Parliamentarians are elected under a mixed-member, proportional representation system. In the most recent general elections, held in September 2005, the Labor Party won 50 of 121 parliamentary seats and formed a minority government with Jim Anderton's Progressive Party (one seat) and support from the center-right New Zealand First (seven seats) and United Future (three seats) parties. The Labor Party also had a cooperation agreement with the Green Party (six seats). Three other political parties were represented in Parliament: the National Party (48 seats), Maori Party (four seats), and ACT party (two seats). Executive authority is vested in a 20-member cabinet led by the Prime Minister.

Women participated fully in political life. There were 39 women in the 121-seat Parliament. There were seven women (including the Prime Minister) on the executive council, which comprises 28 ministers (20 within the cabinet and eight outside the cabinet). The cabinet included five women. The Prime Minister, the speaker of the house, and the chief justice of the Supreme Court were women. There were

three women in the 25-seat Parliament of the dependent territory of the Cook Islands and three women in the 20-seat Parliament of the dependent territory of Niue. Seven seats in Parliament are reserved for persons of Maori ancestry. The number of Maori seats is adjusted every five years, based on the number of persons of Maori ancestry who register to vote on the Maori electoral roll.

There were 21 Maori in Parliament, including the seven reserved seats; three members of Pacific Island origin; and one member each of East and South Asian heritage. The cabinet included at least two members with Maori ancestry.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year.

The law provides for public access to government information, to be provided within 20 working days of a request. Information must be made available unless a good reason, such as concern for national security, exists for not doing so. The requester must be provided with an estimate of any fees before the information is provided.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, sex, disability, and national or ethnic origin, and the Government actively enforced it.

*Women.*—Violence against women affected all socioeconomic groups. According to a national survey of crime victims conducted in 2001 and released in 2003, an estimated 32 percent of Maori, 17 percent of persons of European ancestry, and 12 percent of Pacific Islanders reported violent abuse by a heterosexual partner at least once in their lifetime; these figures included both men and women. One in four of the women included in the survey reported experiencing violent behavior from a partner at least once. Assault by a male on a female is a crime punishable by up to two years' imprisonment. In the 12-month period ending June 30, there were 6,674 prosecutions involving assault by a male on a female. Of these prosecutions, 49 percent involved Maori men, 31 percent men of European ancestry, and 15 percent Pacific Islanders.

Although Maori women and children constituted less than 10 percent of the population, during the 12-month period ending June 30, 52 percent of the 24,968 women and children who used the National Collective of Independent Women's Refuges were Maori; 33 percent were of European ancestry, and 5 percent were Pacific Islanders.

In March 2005 the Government established the Task Force for Action on Violence within Families to coordinate a variety of government initiatives to eliminate family violence, including continuation of its Te Rito program, a national strategy to address all forms and degrees of domestic violence. In July the taskforce issued its first report, recommending a \$9.9 million (NZ\$14 million) national awareness campaign, enhanced power for police to enforce protection orders, a \$6.3 million (NZ\$9 million) funding increase for nongovernmental organizations (NGOs) dealing with family violence, and establishment of three dedicated family violence courts in the Wellington region and one in Auckland. Consistent with the task force recommendations, the Government provided funding in the 2006 budget for family violence prevention services and a public awareness ("social marketing") program.

The Government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services. From July 2005 through June, the Family Violence Intervention Program provided training for an additional 2,600 social benefits staff, bringing the total number of staff trained to 4,000. The program is designed to improve the Government's response to clients facing issues of family violence. The law penalizes rape, including spousal rape. In the period July 2005 through June, there were eight recorded cases of spousal rape and one conviction on that charge. There were two recorded cases of unlawful sexual connection with a spouse and one conviction. Rape crisis groups existed throughout the country and included centers focusing specifically on Maori and Pacific Islanders.

It is illegal to perform female genital mutilation (FGM) or to remove a child from the country to carry out the procedure; violations of the law are punishable by up to seven years in prison. The Government funded a national FGM education program.



Prostitution is legal. The Prostitution Reform Act sets a minimum age of 18 to work in the sex industry, gives prostitutes the same workplace protections as other industries, and provides for a licensing regime for brothels. The law also eliminates a client's defense of claiming ignorance that a person engaged in commercial sexual activity was under 18, and it extends culpability to any person who receives financial gain from such activity involving an underage person. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts. During the year there were no reports of abuse or of the involuntary detention of women involved in prostitution, and no reports of such persons having passports held until employer bonds were repaid.

The Prostitution Reform Act also established a statutory Prostitution Law Review Committee (PLRC) to review the act within three to five years of its enactment (by June 2008), including an assessment of the act's impact on the number of persons engaged in prostitution, and the nature and adequacy of resources available to assist persons in avoiding or leaving employment in the commercial sex industry. The Government also had an agreement with the United Future Party to review the act to "address problems associated with street soliciting, under age involvement and local authority control over brothel zoning." In April 2005 the PLRC published a baseline profile of the commercial sex industry as a basis for comparison in future years' reviews.

The law prohibits sexual harassment. The HRC published fact sheets on sexual harassment and made sexual harassment prevention training available to schools, businesses, and government departments on a regular basis. The Ministry of Women's Affairs addresses problems of discrimination and gender equality, and there is a minister of women's affairs in the cabinet. While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the Government acknowledged that a gender earnings gap persisted in practice. A unit dedicated to this issue within the Department of Labor administers a \$704,000 (NZ one million dollars) annual fund supporting employer and union initiatives to promote pay and employment equity. During the year women earned 87 percent of the average hourly earnings for men.

*Children.*—The law provides specific safeguards for children's rights and protection. The Government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. The Government provides 14 weeks of government-funded, paid parental leave to care for children born after December 2005 or adopted children under the age of six. The Government extended the paid leave benefit to self-employed parents beginning July 1. The Office of the Commissioner for Children played a key role in monitoring violence and abuse against children.

The law provides for compulsory, free, and universal education through age 16, and the Government effectively enforced the law. As of July on average 99 percent of children ages six to 16 were enrolled in formal education. There was equal access to education for boys and girls, with nearly 75 percent of girls and 50 percent of boys enrolling in university studies. The Government provided free health care to all children under age five. Child abuse continued to be of concern to the Government. The Government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse. For the period July 2005 through June, there were 20,833 applications to Family Court for guardianship and parenting orders under the Guardianship Act or Care of Children Act and 7,782 applications for protection orders under the Domestic Violence Act.

There were 630 prosecutions and 254 convictions involving assaults on children in the 12-month period ending June 30.

Commercial sexual exploitation of children remained a problem (see section 5, Trafficking).

The Department of Internal Affairs' Censorship Compliance Unit actively policed images of child sex abuse on the Internet and prosecuted offenders. The Government maintains extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to or from the country. No new confirmed cases of internationally trafficked persons have been brought to the attention of the authorities since 2001, although there was evidence that some women from Asia, and more recently the Czech Republic and Brazil, were working illegally in the country as prostitutes. Although prostitution has been decriminalized (see section 5, Women), it remains illegal for nonresidents to work in the commercial sex industry.

In December 2005 the UN's special rapporteur on human trafficking asserted in the press that although in many cases such groups as migrant workers, mail-order brides, foreign fishermen, and those in arranged marriages enter the country voluntarily, they could be at risk of losing their autonomy and becoming victims of trafficking.

Commercial sexual exploitation of children was a problem. A PLRC study completed in 2004 estimated that approximately 200 young persons under the age of 18 were working as prostitutes.

The Government has signed the relevant international instruments dealing with trafficking and has adopted tough domestic legislation to criminalize trafficking, with penalties of up to 20 years in prison and fines of up to \$352,000 (NZ\$500,000). Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison. Under the Prostitution Reform Act, it is illegal to use a person under 18 years of age in prostitution.

Two prosecutions begun previously were completed during the year. In the first case two women were convicted in Wellington of employing a 14-year-old and a 17-year-old girl in a brothel and were sentenced to community service. The brothel owner was sentenced to 300 hours, with her health considered as a mitigating factor, and the receptionist was sentenced to 180 hours. In the second case a man in Wellington was convicted of seeking commercial sex with a person under the age of 18, following a sting operation by police. He was sentenced to nine months' supervision and forfeiture of \$620 (NZ\$880); a mental disorder was considered as a mitigating factor in his case.

During the 12-month period ending June 30, two cases initiated against individuals for assisting a person under 18 to provide sexual services were dismissed due to insufficient evidence. At year's end a man faced charges in Christchurch for recruiting a 14-year-old girl and a 16-year-old girl to provide sexual services in his brothel. That case was scheduled to be heard in 2007.

The Department of Labor has primary responsibility for coordinating government efforts to combat trafficking in persons. Other agencies involved in antitrafficking efforts included the police; the HRC; the Department of Child, Youth, and Family; the Ministry of Foreign Affairs and Trade; the Ministry of Justice; and the Ministry of Health.

During the year the Government continued work on its national plan of action against trafficking in persons, begun in 2005, addressing the areas of prevention, protection, prosecution, and victim reintegration. There was strong coordination on antitrafficking matters between the Government and NGOs, and an extensive infrastructure of government and NGO assistance programs was available to victims of trafficking, including short-term sanctuary, witness protection, access to medical services, and safe repatriation.

The Government also had a national plan of action against the commercial exploitation of children developed in concert with NGOs, and operated programs to reintegrate children out of prostitution through vocational training and educational opportunities. The Government also worked to address trafficking in children by providing funding for NGO outreach programs in Auckland and Christchurch that provided accommodations and other support for young persons at risk for involvement in prostitution. In May the Government published the results of a 2005 progress review of the national action plan, which reported increased government funding for victim support and sustained funding for community outreach.

Shakti Migrant Services Trust, an antitrafficking NGO, reported abuses resulting from the immigration of Indian women for arranged marriages and provided services to abused women through four refuges located in three cities: Auckland, Christchurch, and Tauranga.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to places and facilities, and the provision of goods, services, and accommodation. Compliance with access laws varied. The Government is prohibited from discrimination on the basis of physical or mental disability, unless such discrimination can be "demonstrably justified." Of the 5,707 inquiries and complaints that the HRC received during the 12-month period ending June 30, it received more complaints of discrimination based on disability than for any other type of discrimination (21.1 percent of all inquiries and complaints). In its action plan for human rights released in February 2005, the HRC noted that persons with disabilities faced major barriers in obtaining and retaining employment and earning adequate income. The Government supported equal access for persons with disabilities to polling facilities, as well as their general participation in civic affairs. Following the 2005 general elections, the Ministry of Justice commissioned a survey that included questions directed at persons with disabilities about their experience with polling procedures. Sixty-one percent of persons with

disabilities who responded rated their experience as “excellent,” and 31 percent rated it as “very good.”

The Government's Office for Disabled Issues worked to protect and promote the rights of persons with disabilities. In addition, during the year both the HRC and the Mental Health Commission continued to address mental health issues in their antidiscrimination efforts.

*National/Racial/Ethnic Minorities.*—Pacific Islanders, who made up 6.5 percent of the population, experienced societal discrimination and as of June 30 accounted for approximately 10.4 percent of prison inmates and 28.7 percent of those serving community sentences. In July 2005 the Department of Corrections launched its Pacific Strategy 2005–08, designed to reduce the crime rate and recidivism among Pacific Islanders through the use of culturally based techniques. Asians, who as of June 30 made up 3.9 percent of the population, also reported discrimination.

*Indigenous People.*—Approximately 15 percent of the population claimed at least one ancestor from the country's indigenous Maori or Moriori minorities. The law prohibits discrimination against the indigenous population; however, there was a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households. During the year the special rapporteur on human rights and fundamental freedoms from the UN Commission on Human Rights (UNCHR) released a report to the UNCHR on his November 2005 visit to the country at the Government's invitation to obtain information on human rights related to treaty settlements and indigenous economic, social and cultural rights in general. The report was critical of the Government's handling of indigenous claims to land.

Maori continued to constitute half the prison population and 17 percent of persons serving community sentences. The Government addressed the problem of recidivism among Maori through Maori focus units and special cultural assessments of Maori offenders.

Government policy recognized a special role for indigenous people and their traditional values and customs, including cultural and environmental issues that affected commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people. A special tribunal established in 1975 continued to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

Legislation enacted in 2004 regulates ownership of the foreshore (the land between high and low tide) and the seabed. The law grants ownership of the foreshore and seabed to the state and provides for universal public access. It also established a mechanism to accommodate customary indigenous rights of land use, including preservation of existing fishing rights. This legislation was the focus of protests by Maori groups asserting customary title to the land and by non-Maori groups opposing such claims.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to form and join organizations of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Nearly all unionized workers were members of the Council of Trade Unions, a federation that included unions representing various trades and locations. A few small, independent labor unions also existed. Unions represented approximately 22 percent of all wage earners.

Labor organization was rudimentary in the territory of Tokelau (population 1,400) and in the Freely Associated State of Niue (population 2,200). In the more developed Associated State of the Cook Islands (population 21,000), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of national legislation. The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. Sworn police officers (which includes all uniformed and plainclothes police but excludes clerical and support staff) are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and to bargain collectively. Disputes that cannot be settled by negotiation between the police association and management are subject to compulsory, final-offer arbitration.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of workers to organize and contract collectively, and workers exercised this right in practice.

The Employment Relations Act governs industrial relations and promotes collective bargaining. In order to bargain collectively, unions must be registered, be gov-

erned by democratic rules, be independent, and have at least 15 members. Unions may not bargain collectively on social or political issues.

The number of strikes increased during the year. During the 12-month period ending June 30, 59 work stoppages ended and one was ongoing. This was the highest number of work stoppages since 1997.

There were no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and the Government generally enforced these provisions effectively; however, there were reports of commercial sexual exploitation of children (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Department of Labor inspectors effectively enforced a ban on the employment of children under the age of 15 in manufacturing, mining, and forestry. Children under age 16 may not work between the hours of 10 p.m. and 6 a.m. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

There were reports of children involved in the commercial sex industry (see section 5).

*e. Acceptable Conditions of Work.*—A 40-hour workweek is traditional. There are legal limits regarding hours worked. There is premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum three-week annual paid vacation and 11 paid public holidays. The minimum wage was approximately \$7.20 (NZ\$10.25). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage generally was adequate to provide a decent standard of living for a worker and family. There was a separate youth minimum wage of approximately \$5.75 (NZ\$8.20) for younger workers (ages 16 to 17). A majority of the work force earned more than the minimum wage.

Raising the minimum wage was a significant campaign issue during the September 2005 general election. Both the New Zealand First and the Green parties concluded agreements with the Government to continue annual increases in the minimum wage with a target of \$8.45 (NZ\$12.00) by the end of 2008, economic conditions permitting. Extensive laws and regulations govern health and safety issues. Employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others.

Workers have the legal right to strike over health and safety issues, as well as the right to withdraw from a dangerous work situation without jeopardy to continued employment. Department of Labor inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The Department of Labor normally investigated reports of unsafe or unhealthy working conditions within 24 hours of notification.

## PALAU

Palau is a constitutional republic with a population of approximately 20,900. The country is organized politically into 16 states. The President, the vice President, and members of the legislature (the Olbiil Era Kelulau) are elected for four-year terms. There were no political parties. In generally free and fair elections held in November 2004 President Tommy E. Remengesau, Jr. was reelected, and Elias Camsek Chin was elected vice President. The civilian authorities generally maintained effective control over the security forces.

The Government generally respected the human rights of its citizens. Problems were reported in a few areas, including government corruption, domestic violence, trafficking in persons, and discrimination against, and some abuse of, foreign workers.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Conditions in the country's sole prison, although primitive, generally met international standards, but overcrowding worsened during the year, aggravated by a growth in the inmate population as a result of increased convictions and mandatory sentences for drug-related offenses and other crimes. The few female prisoners were housed in separate cells but were permitted to mingle with male inmates during daylight hours.

No visits by independent human rights observers were requested or made during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The National Police, a force of approximately 160 officers within the Bureau of Public Safety, maintains internal security and performs both police and emergency response functions. Koror State and Peleliu State also have marine police ("rangers") who patrol their respective state waters. Typically law enforcement personnel receive training both locally and abroad. The police generally were considered effective. Police corruption and impunity were not major problems, and an internal affairs officer within the bureau investigates reports of police misconduct. There also is a special prosecutor with authority to investigate reports of misconduct by government employees.

*Arrest and Detention.*—The law requires warrants for arrests. Warrants are prepared by the Office of the Attorney General and signed by a judge. The law provides for a prompt judicial determination of the legality of detention, and this was observed in practice. Detainees were informed promptly of the charges against them and had prompt access to family members and lawyers. If a detainee could not afford a lawyer, the public defender or a court-appointed lawyer was available. There was a functioning system of bail.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The judiciary consists of the Supreme Court, the Land Court, and the Court of Common Pleas. The constitution also provides for a national court, but other courts absorbed its caseload and it was inactive. The President appoints judges to the Supreme Court from a list submitted by a judicial nominating commission. Appointments are for life.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Government has an independent special prosecutor and an independent public defender system.

Trials are public and are conducted by judges; there are no juries. Defendants enjoy a presumption of innocence and a right of appeal. They can question witnesses, present evidence on their own behalf, and access government-held evidence in their cases.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters for lawsuits involving allegations of human rights violations. Remedies were available and enforced.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

The Government required religious organizations to obtain charters as nonprofit organizations from the Office of the Attorney General. This process was not protracted, and the Government did not deny any groups charters during the year.

*Societal Abuses and Discrimination.*—There were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There was no known Jewish community.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government did not grant refugee status or asylum.

There were no cases during the year involving the issue of cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The legislature consists of two houses: the nine-member Senate and the 16-member House of Delegates. Legislators are elected by popular vote every four years: senators on a national basis, and delegates on a state basis. The President and vice President also are elected every four years, and there is no limit on the number of terms they may serve, except that the President may serve only two consecutive terms. Although there have been political parties in the past, there were none during the year. In November 2004 President Tommy E. Remengesau, Jr., was reelected, and Elias Camsek Chin was elected vice President. The Council of Chiefs, consisting of the highest traditional chiefs from each state, advises the President on traditional laws and customs.

There are no legal impediments to women's participation in government and politics. There were no women in the 25-member national legislature. There were women candidates in the 2004 general elections, but none were elected. Women constituted 14 percent of state legislators. There were two women serving as state governors during the year. Two of the three associate justices of the Supreme Court were women.

There were two members of minorities in the 16-member House of Delegates.

*Government Corruption and Transparency.*—Government corruption was a problem, which the Government took some steps to address.

The special prosecutor has authority to investigate allegations of corrupt practices. In May the governor of Ngiwal State was convicted of grand larceny, forgery, and other offenses for diverting over \$11,000 in state funds (the U.S. dollar is the national currency) to his personal use and for other misconduct. The special prosecutor had brought charges against him in June 2005. Following his conviction the legislature removed him from office. In June he was sentenced to nine years' imprisonment (later reduced to two and a half years) and began serving his sentence in July. He was also fined \$10,000 and ordered to pay \$23,000 in restitution.

The law provides for the right of citizens and noncitizens to examine government documents and observe official deliberations of any government agency, and the Government generally respected this provision in practice.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international groups concerned with human rights, including the Palau Red Cross Society and many church groups, generally operated

without government restriction. Government officials were cooperative and responsive to their views. During the year there were no known allegations or investigations by such groups of human rights abuses.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of sex, race, place of origin, language, social status, or clan affiliation, and the Government generally observed these provisions.

*Women.*—The Ministry of Health's Office of Victims of Crimes reported 89 incidents of domestic violence in fiscal year 2005 (October 1, 2004 to September 30, 2005, the latest statistics available), a continuation of an upward trend in domestic violence cases over the past few years. According to the Office of the Attorney General, the Ministry of Health, and women's groups, only a relatively small number of cases were reported to the authorities. Alcohol and drug abuse increasingly contributed to this problem. Although assault is a criminal offense, punishable by up to six months in jail or a fine of up to \$100, and the police responded when such cases were reported, women were reluctant to prosecute their spouses. The Government conducted public education efforts to combat domestic violence.

Rape, including spousal rape, is a crime punishable by a maximum of 25 years' imprisonment, and such crimes were uncommon. There was one conviction for rape during the year.

Prostitution is illegal, but it was a problem. There were reports of women being trafficked to the country from the People's Republic of China (PRC), Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes (see section 5, Trafficking). There was one conviction for trafficking for prostitution during the year.

Sex tourism is illegal and was not a problem. Sexual harassment is illegal and did not appear to be a major problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. There were no reported instances of unequal pay for equal work or sex-related job discrimination.

Local women's groups organized an annual women's conference that focused on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the President, vice President, ministers, and traditional chiefs, participated in the conference to discuss these issues. The 13th annual women's conference held in March continued to focus on these subjects.

*Children.*—The Government provided a well-funded system of public education for children. There was no difference in the treatment of girls and boys in educational opportunities or in the availability of scholarships to attend postsecondary education abroad. Education was free, universal, and mandatory from ages six to 17. Of the 94 percent of school-age children who attended school in 2005, 97 percent finished elementary school and 78 completed high school. Girls and boys received equal treatment in health care services.

The Office of Victims of Crimes reported 31 incidents of child abuse in fiscal year 2005, compared with 21 in fiscal year 2004 (the latest statistics available). The Office of the Attorney General has prosecuted such cases successfully. On November 1, a male nurse was sentenced to five years' imprisonment for molesting a 10-year-old patient. However, the sentence subsequently was reduced to one year, which he was serving at year's end.

Children's rights generally were respected, although there were isolated reports of child neglect. Commercial sexual exploitation of children was neither accepted within society nor practiced.

The annual women's conference (see section 5, Women) held in March included discussion of children's issues, such as education and drug abuse among youth.

*Trafficking in Persons.*—An antitrafficking law prohibits such practices, with penalties of up to 10 years' imprisonment and a fine of up to \$50,000 for exploiting or otherwise profiting from a trafficked person; up to 25 years' imprisonment and a fine of up to \$250,000 for trafficking involving force, fraud, or deception; and up to 50 years' imprisonment and a fine of up to \$500,000 for trafficking involving a child "by any means for the purpose of exploitation." There are also laws against slavery, fraud, and prostitution. There have been reports of women and some men being trafficked to the country from the PRC, Taiwan, and the Philippines to work in karaoke bars as hostesses and prostitutes, as domestics in private homes, and on construction sites.

In April two men from the PRC were convicted under the antitrafficking law of exploiting a trafficked person and attempted bribery. In August they were deported

to the PRC after paying a \$12,000 fine. The men had trafficked a PRC national woman into the country and subsequently tried to bribe immigration officers to allow them to proceed with the woman to Guam without proper visas. The trafficked woman also was deported to the PRC.

In August a local restaurant owner, his wife, and two PRC nationals were charged with trafficking in persons, exploiting trafficked persons, prostitution, money laundering, assault and battery, and other offenses after they allegedly forced two Filipina women into prostitution and threatened the women to keep them from notifying the authorities. The case was still pending at year's end.

The Divisions of Immigration and Labor and the Office of the Attorney General are involved in combating trafficking; however, the Government lacked the resources and expertise to address the problem in practice. There was no formalized assistance available for victims, and victims normally were detained, jailed, or deported if they committed a crime such as prostitution. No nongovernmental organizations specifically addressed trafficking.

*Persons With Disabilities.*—The law includes the Disabled Persons' Anti-Discrimination Act and the Programs and Services for Handicapped Children Act, which cover both persons with mental disabilities and persons with physical disabilities, and the Government enforced the provisions of these acts. No discrimination was reported against persons with disabilities in employment, education, access to health care, or the provision of other state services. The Government provides a monthly stipend of \$50 for persons with disabilities. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. The public schools have established special education programs to address problems encountered by persons with disabilities.

There were no government restrictions on the right of persons with disabilities to vote or participate in civic affairs. The Government agency Ngak Mak Tang ("Everyone Matters") has responsibility for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The law prohibits noncitizens from purchasing land or obtaining citizenship. A majority of citizens viewed negatively the rapid increase over the past several years in foreign workers, who, according to estimates during the year, constituted nearly 30 percent of the population and 46 percent of the work force. Foreign residents were subjected to some forms of discrimination and were targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Foreign residents made credible complaints that the authorities did not pursue or prosecute crimes against noncitizens with the same vigor as crimes against citizens.

Noncitizens are officially excluded from the minimum wage law (see section 6.e.). In addition some foreign nationals experienced generalized discrimination in employment, pay, housing, education, and access to social services, although the law prohibits such discrimination. While precise data was unavailable, there continued to be anecdotal reports of the abuse of foreign workers by employers (see section 6.e.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of all persons to assemble peacefully and to associate with others for any lawful purpose, including the right to join and organize labor unions. However, there were no active labor unions or other employee organizations; the majority of businesses were small-scale, family-run enterprises employing relatives and friends.

*b. The Right To Organize and Bargain Collectively.*—There is no law concerning trade union organization or collective bargaining. Wages in the cash economy were determined by market factors.

The law does not provide for the right to strike, and the Government has not addressed this issue.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits slavery or involuntary servitude except to punish crime. Although the law does not prohibit specifically forced or compulsory labor by children, there were no reports that such practices occurred.

Some foreign workers, particularly domestic helpers and unskilled laborers, reportedly were forced to accept jobs different from those for which they were recruited. Employers sometimes verbally threatened or withheld passports and return tickets of foreign workers desiring to leave unfavorable work situations.

In August a local restaurant owner, his wife, and two PRC nationals were charged with trafficking in persons and other offenses after allegedly forcing two Filipina employees into prostitution (see Section 5).



*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law states that the Government shall protect children from exploitation. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and other small-scale family enterprises.

By regulation no foreigner under age 21 may be admitted into the country for employment purposes, and the Government generally enforced this regulation effectively.

*e. Acceptable Conditions of Work.*—The law sets the minimum wage at \$2.50 per hour, but foreign workers are not included under the minimum wage law. It generally was assumed that legislators specifically exempted foreign contract workers from the minimum wage law to ensure a continued supply of low-cost labor in industries that the legislators often control. The national minimum wage provided a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers (usually foreigners) for commercial firms were paid only \$1.50 to \$2.00 per hour; however, foreign workers usually were provided, in addition to their wages, basic accommodations and food gratis or at nominal cost. Although these wages were low, the country continued to attract large numbers of foreign workers from the Philippines, Vietnam, and China. During the year there were more than 4,000 foreign nationals with work permits in the country; of these, 65 percent were from the Philippines, 7 percent from Vietnam, and 6 percent from the PRC.

There is no legislation concerning maximum hours of work, although most businesses are closed on either Saturday or Sunday. The Division of Labor has established some regulations regarding conditions of employment for nonresident workers. The division may inspect the conditions of the workplace and employer-provided housing on the specific complaint of the employees, but actual enforcement was sporadic. Working conditions varied in practice.

Although there are occupational and safety standards, no law specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no law protects workers who file complaints about such conditions. Anecdotal evidence suggested that noncitizens would likely lose their employment if they removed themselves from occupational situations that endangered health or safety. There were no reports to the Government of violations of occupational health or safety standards during the year.

Reports of mistreatment of foreign workers by their employers continued during the year. The foreign workers most likely to be abused were those who worked under contracts as domestic helpers, farmers, waitresses, beauticians, hostesses in karaoke bars and massage parlors, construction workers, and other semiskilled workers, the majority of whom were from the Philippines, Vietnam, and the PRC. The most commonly reported abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, and substandard food and housing. There have, at times, been complaints of physical abuse. In a number of instances local authorities took corrective action when alerted by social service and religious organizations. Nonetheless, foreign workers often were reluctant to seek legal redress for fear of losing their employment and, thus, permission to remain in the country.

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## PAPUA NEW GUINEA

Papua New Guinea is a federal multiparty parliamentary democracy with a population of approximately 6.1 million and more than 800 indigenous tribes. Citizens elect a unicameral parliament. The most recent general elections were held in 2002; there were localized instances of voter intimidation, violence, and influence peddling. A coalition government, led by Prime Minister Michael Somare, was formed following the election. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Human rights abuses included arbitrary or unlawful killings by police; police abuse of detainees, including of children; poor prison conditions; lengthy pretrial detention; infringement of citizens' privacy rights; government corruption; violence and discrimination against women and children; discrimination against persons with disabilities; and continuing intertribal violence.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, police killed a number of persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. However, public concern about police violence continued. On September 29, police reportedly shot four individuals suspected of armed robbery, killing one. On November 3, police reportedly killed one person in an exchange of gunfire at a Port Moresby hotel. The police members involved in the killings were suspended pending investigation of each case, but no results had been released at year's end.

Investigation continued of an October 2005 incident at the Porgera primary school in Enga Province in which police killed three persons and reportedly injured at least 20 others; however at year's end police had not sent the cases to the public prosecutor.

As modern weapons, including assault rifles, became more readily available, the number of deaths resulting from violent tribal conflicts continued to increase (see section 5).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, individual police members frequently beat and otherwise abused suspects during arrests, interrogations, and in pretrial detention. There were numerous press accounts of such abuses, particularly against young detainees.

In January correction officers at Buimo prison beat and sexually abused young male detainees by forcing them to have anal sex with each other. At year's end no action had been taken against the officers, and they continued to work at the prison. In October the nongovernmental organization (NGO) Human Rights Watch (HRW) reported continued widespread police abuse of children in custody, including severe beatings and sexual abuse.

*Prison and Detention Center Conditions.*—Prison conditions were poor, and the prison system suffered from serious underfunding. Neither prisons nor police detention centers had medical care facilities. In some police holding cells, detainees lacked bedding and sufficient food and water. Overcrowding in the prisons was a serious problem. During most of the year, 15 of the country's 17 jails were operational; however, some prisons remained closed because of life-threatening conditions. Some prisons and police stations in urban areas were seriously overcrowded. In rural areas infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding (see section 1.d.).

Male and female inmates usually were housed separately, but some rural prisons lacked separate facilities, and there were reports of assaults on female prisoners. There were no separate facilities for juvenile offenders; however, in some prisons juveniles were provided with separate sleeping quarters. HRW reported that juveniles routinely were held with adults in police lockups, placing them at risk of rape and other forms of violence. Pretrial detainees were not separated from convicted prisoners. HRW reported that 75 percent of all children were assaulted while in police custody.

Prison escapes were common, even from high-security installations. On September 6, at least 22 detainees reportedly escaped from the Lae police station jail.

The Government permitted prison visits by human rights observers.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—A commissioner who reports to the minister for internal security heads the country's national police force, the Royal Papua New Guinea Constabulary. Internal divisions related to clan rivalries and a serious lack of resources negatively impacted police effectiveness throughout the year. In October the National Executive Council suspended the commissioner who had replaced much of the police leadership in an effort to address corruption and inefficiency. During the year some police officials were suspended for involvement in corruption or other criminal activity.

Police shootings are investigated by the police department's Internal Affairs Office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police may challenge the coroner's finding in the National Court, with the assistance of the Public Solicitor's Office. Cases of accidental shootings of

bystanders by police during police operations are also investigated and reviewed by a coroner's court.

During the year the Government continued to negotiate with Australia the implementation of a scaled-down version of the Australian-sponsored Enhanced Cooperation Program, under which Australian federal police officers would work alongside the constabulary to improve police practices. The program was terminated in May 2005 when the Supreme Court ruled that immunity of Australian officers from prosecution in local courts, which had been a condition of the program, was unconstitutional.

*Arrest and Detention.*—Under the law, to make an arrest police must have reason to believe that a crime was committed, is in the course of being committed or will be committed. A warrant is not required, and police made the majority of arrests without one. Citizens may make arrests under the same standards as the police, but this was rare in practice. Police, prosecutors, and citizens may apply to a court for a warrant; however, police normally did so only if they believed it would assist them in carrying out an arrest.

Under the law, only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, the police or magistrates may grant bail. Arrested suspects have the right to legal counsel, be informed of the charges against them, and have their arrests subjected to judicial review; however, the Government did not always respect these rights. Access to counsel by detainees was not a problem during the year. There were reported instances of politicians directing or bribing police officials to arrest or intimidate individuals seen as political enemies or as possible whistle-blowers on corruption or misuse or theft of public assets.

Due to very limited police and judicial resources and a high crime rate, suspects often were held in pretrial detention for lengthy periods. Although pretrial detention is subject to strict judicial review through continuing pretrial consultations, the slow pace of police investigations and occasional political interference or police corruption frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of a shortage of judges and travel funds. Some detainees were held in jail for more than two years because of shortages of judges.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice. The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district (provincial) courts. There also are village courts headed by lay persons (generally local chiefs, known as “big-men”), who judge minor offenses under both customary and statutory law.

*Trial Procedures.*—The legal system is based on English common law. The law provides for due process, including a public trial, and the court system generally enforced these provisions. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to an attorney. The public solicitor's office provides legal counsel for those accused of “serious offenses” who are unable to afford counsel. Serious offenses are defined as charges for which a sentence of two years or more is the norm. Defendants and their attorneys may confront witnesses, present evidence, plead cases, and appeal convictions. The shortage of judges created delays in both the process of trials and the rendering of decisions (see section 1.d.). During the year development aid was provided for training and education of the judiciary. Since 2003, as part of an intensive effort by an intergovernmental juvenile justice working group, progress has been made in establishing seven juvenile courts. In addition, police established a unit to divert minors from the formal justice system and monitor their treatment by police.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. District courts could order “good behavior bonds,” commonly called “protection orders,” in addition to ordering that compensation be paid for violation of human rights. However, courts had difficulty in enforcing judgments. Additionally, many human rights matters were handled by village courts, which were largely unregulated. Village and district courts were often hesitant to interfere directly in domestic matters. Village courts regularly ordered compensation be paid to an abused spouse's family in cases of domestic abuse rather than issue a domestic court order.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions; however, there were instances of abuse. Police

raids and searches of illegal squatter settlements and the homes of suspected criminals often were marked by a high level of violence and property destruction. Police units operating in highland regions sometimes used intimidation and destruction of property to suppress tribal fighting (see section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. All newspapers included a variety of editorial viewpoints and reported on controversial topics. There was no evidence of officially sanctioned government censorship; however, newspaper editors complained of intimidation tactics aimed at influencing coverage.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution provides for freedom of assembly; however, the Government often limited this right in practice. Public demonstrations require police approval and 14 days' notice. In recent years police, asserting a fear of violence from unruly spectators, rarely gave approval. Police reportedly received no requests for such approval during the year. However, various groups ignored the legal notice requirements and held meetings and rallies throughout the year. Groups also issued challenges to the requirements, citing conflicts with the constitution. In February Greenpeace held a peaceful anti-illegal logging demonstration in downtown Port Moresby. On March 24, NGOs and concerned citizens marched against rape in Port Moresby. There were reports that police intimidated groups attempting to demonstrate during international conferences and events.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice. Associations wishing to open a bank account and conduct financial transactions must register with the Government. The process of registration was slowed by bureaucratic inefficiency, but there was no policy of denying registration. International affiliation of church and civic groups was permitted freely.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice. The Department of Education set aside one hour per week for religious instruction in the public schools. Religious representatives taught the lessons, and parents chose the class their children would attend. There were no classes for members of non-Christian religions, due in part to a lack of qualified instructors, and children whose parents did not wish them to attend the classes were excused.

*Societal Abuses and Discrimination.*—The relationship among religious groups in society was generally amicable. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice. The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—Although a party to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted enabling legislation and has not established a system for providing protection to refugees. In practice the Government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention or 1967 Protocol.

During the year the Government continued to provide protection with support from the UN High Commissioner for Refugees to approximately 2,700 persons residing at the East Awin refugee settlement who fled the Indonesian province of Papua (formerly Irian Jaya). Approximately 5,000 additional refugees lived in villages adjacent to the border with Indonesia.

Registered refugees residing in the East Awin refugee settlement were granted a residence permit that allowed them to travel freely within the country but not to travel abroad.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. Any citizen may stand for election; members of Parliament (MPs) must be at least 25 years of age. Because of the large number of candidates, some MPs have won an election with less than 10 percent of the total votes cast under the old "first past the post" system, which was replaced with a limited preferential voting (LPV) system after the last national election in 2002.

*Elections and Political Participation.*—The most recent general election was held in June 2002. Of the 109 seats in Parliament, 77 changed hands. Prime Minister Michael Somare formed a coalition government following the election. Fraud, voter intimidation, theft of ballot boxes, and violence, including rape and murder, marred the election in parts of the country. Due to widespread violence, the Electoral Commission of Papua New Guinea declared elections in six electorates of the Southern Highlands Province a failure. New elections in those districts, financed by Australia and accompanied by very little violence, were held successfully in 2003. All by-elections held after the 2002 national election were conducted using the LPV system.

Early in the year the Election Commission discarded all old electoral rolls and held large-scale registration drives to prepare new rolls. Many voters who claimed to have registered were turned away from the polls in provincial and district by-elections held in August. The government-operated National Research Institute reported allegations of bribery and interference in these by-elections.

The law provides that a losing candidate may dispute an election result by filing a petition with the National Court. Such petitions may question actions of the winning candidate and his supporters or allege malfeasance by the election officials. The procedure is fair but time consuming and expensive both to initiate and to defend.

There is no law limiting political participation by women, but the deeply rooted patriarchal culture impeded women's full participation in political life. There was one woman in the 109-seat Parliament, compared with two in the previous parliament. She served as minister of community development, the only cabinet position held by a woman. There were no female Supreme Court justices or provincial governors.

There were six minority (non-Melanesians) members in the Parliament. Of these, three were in the cabinet, and two were provincial governors.

*Government Corruption and Transparency.*—Corruption at all levels of government was a serious problem, primarily because clan-related obligations continued to undermine allegiance to constituents or to the country as a whole.

In March the minister for national planning and monitoring stepped down following referral to the public prosecutor for misconduct. Later he was reappointed to the cabinet. At year's end his case was being reviewed by the leadership tribunal. In August a leadership tribunal found a provincial governor guilty of misconduct in office but reinstated him. Another provincial governor was suspended in September, following referral by the ombudsman for alleged misuse of government funds. At year's end more than 50 government officials were under investigation by the ombudsman's office.

No law provides for public access to government information. The Government published frequent public notices in national newspapers and occasional reports on specific topics facing the Government; however, it generally was not responsive to individual requests, including media requests, for access to government information.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no official barriers to the formation of human rights groups. The Government cooperated with both domestic and international human rights NGOs but at times was slow in responding to their requests for information. The International and Community Rights Advocacy Forum, an umbrella group, concentrated on human rights and the environment during the year. The Government did not have a human rights ombudsman or commission.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides for equal protection under the law irrespective of race, tribe, place of origin, political opinion, color, creed, religion, or sex. Despite these constitutional and other legal provisions, women often faced discrimination. Geographic diversity prevented any one tribe or clan from dominating the country. Suc-

cessive governments, based on loose coalitions, have consistently avoided favoring any group. Skirmishes and conflicts tended to be based on disputes between clans over issues such as boundaries, land ownership, and injuries and insults suffered by one clan at the hands of another; they were not ethnically based.

*Women.*—Violence against women, including domestic violence and gang rape, was a serious and prevalent problem. In September Amnesty International issued a report highly critical of government efforts to address violence against women. Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, few victims pressed charges, and prosecutions were rare. Widespread sexual violence committed by police and their unresponsiveness to complaints of sexual or domestic violence served as barriers to reporting by both women and men. Traditional village mores, which served as deterrents against violence, were weakening and were largely absent when youths moved from their villages to larger towns or to the capital. Although rape is punishable by imprisonment and sentences were imposed on convicted assailants, few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat.

On July 18, a reserve police officer sexually assaulted a six-year-old girl in a Chinatown police station in Lae when her mother left her there while buying food. Following public protest, police arrested and charged the man. On August 8, HRW visited both Buimo prison and town police stations in Lae, but officials at each place claimed the man was detained in the other location. At year's end no officers had been prosecuted for the beatings and gang rape of women and girls arrested in the raid on the Three Mile Guest House in 2004. In January Madang provincial governor James Yali was sentenced to 12 years' imprisonment after being found guilty for the rape of his sister-in-law in 2005, but at year's end he remained free and serving as an MP and provincial governor, pending appeal.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was customary, an increasing number of women were charged with murdering one of their husband's other wives. According to HRW, 65 percent of women in prison had been convicted for attacking or killing another woman.

Prostitution is illegal; however, the laws were not enforced, and the practice was widespread. There were no reports of sex tourism during the year. Sexual harassment is not illegal, and it was a widespread problem.

The laws have provisions for extensive rights for women dealing with family, marriage, and property disputes. Some women have achieved senior positions in business, the professions, and the civil service; however, traditional discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. In May the Asia Development Bank issued a country gender assessment that described a society in which women continued to face severe inequalities in all spheres of life: social, cultural, economic, and political.

Village courts tended to impose jail terms on women found guilty of adultery while penalizing men lightly or not at all. By law a district court must endorse orders for imprisonment before the sentence is imposed, and circuit-riding National Court justices frequently annulled such village court sentences. Polygyny and the custom in many tribal cultures of paying a bride price tended to reinforce the view that women were property. In addition to the purchase of women as brides, women also sometimes were given as compensation to settle disputes between clans. The courts have ruled that such settlements denied the women their constitutional rights.

According to statistics published in the UN Children Fund's (UNICEF) human development report in 2005, women continued to lag behind men in literacy and education due to discrimination. Adult literacy was 64 percent; 57 percent of women were literate, compared with 71 percent of men. The maternal mortality rate was approximately 370 deaths per 100,000 live births, based on data for the period 1990–2004.

During the year the Ministry of Community Development was responsible for women's issues and had considerable influence over the Government's policy toward women.

*Children.*—Independent observers generally agreed that the Government did not dedicate significant resources to protecting the rights and welfare of children. Religious and secular NGOs operated programs to protect and develop youth and children. In the past children were well cared for within the family and under traditional clan and village controls; however, small-scale studies indicated that this situation has changed over the last decade, especially in areas where households have

become isolated from the extended family support system and depend on the cash economy for a livelihood.

Primary education was not free, compulsory, or universal. Substantial fees were charged and posed a significant barrier to children's education. According to a 2005 UNICEF report, the primary school enrollment rate was 79 percent for boys and 69 percent for girls, based on 2000–04 data. Many children did not progress further than primary school. Government-provided free medical care for citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas. Boys and girls had equal access to medical care, but many children did not have effective care. Many villages were geographically isolated, and malnutrition and infant mortality rates were very high. Nearly 70 of every 1,000 children born did not survive their first year.

Sexual abuse of children was believed to be frequent. There were cases of commercial sexual exploitation of children in urban areas, including children working in bars and nightclubs. HRW documented numerous instances of police abuse of children (see section 1.c.). Some children were forced to work long hours as domestic servants in private homes, often to repay a family debt to the "host" family.

The legal age for marriage is 18 for boys and 16 for girls. There is a lower legal marriage age (16 for boys and 14 for girls) with parental and court consent. However, customary and traditional practices allow marriage of children as young as age 12, and child marriage was common in many traditional, isolated rural communities. Child brides frequently were taken as additional wives or given as brides to pay family debts and often were used as domestic servants. Child brides were particularly vulnerable to domestic abuse.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons. There were reports of trafficking within the country. Custom requires the family of the groom to pay a "bride price" to the family of the bride. While marriages were usually consensual, women and female children were sometimes sold against their will. There were also reports of Asian women being trafficked into the country to work in the sex industry. Transactional sex was common and often involved the sexual exploitation of children.

The Government investigated allegations of corruption among officials dealing with passport issuance and immigration. The allegations primarily involved the illegal issuance of residence and work permits for Chinese or South Asian nationals migrating to the country. Nevertheless, there was concern that the country may have been used as a route for trafficking in persons to Australia.

*Persons With Disabilities.*—Persons with disabilities faced discrimination in education, training, and employment. Through the National Board for the Disabled, the Government provided funds to a number of NGOs that provided services to persons with disabilities. The Government provided free consultation and treatment for persons with mental disabilities; however, such services were rarely available outside major cities, and the Government did not provide other programs or services. Apart from the traditional clan and family system, services and health care for persons with disabilities did not exist in several provinces. No legislation mandates accessibility to buildings. Most persons with disabilities did not find training or work outside the family structure.

*National/Racial/Ethnic Minorities.*—Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement sometimes resulted in violent tribal conflict in the highland areas. In the last few years the number of deaths resulting from such conflicts has risen due to the availability of modern weapons. Tribal fighting continued in Western Highlands Province. The prevalence of high-powered small arms prevented police intervention.

On February 7, persons from a neighboring village reportedly burned down more than 80 houses in Bau Village in Madang Province. One person was reported hospitalized and two were reported missing in the incident. Police investigated the incident; however, at year's end the results of the investigation were not known.

*Other Societal Abuses and Discrimination.*—There were no reports of government discrimination against persons with HIV/AIDS; however, there was a strong societal stigma attached to HIV/AIDS infection that prevented individuals from seeking HIV/AIDS related services, and there were reports that companies have dismissed HIV-positive employees after learning of their condition.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form and join labor unions, subject to registration by the Department of Labor and Industrial Relations. The Government did not use registration to control unions; however, an unregis-

tered union has no legal standing and thus cannot operate effectively. An estimated half of the approximately 250,000 wage earners in the formal economy were organized and were members of approximately 50 trade unions. Most unions representing private-sector workers were associated with the PNG Trade Union Congress, which is affiliated with International Trade Union Confederation. The Public Employees Association represented an estimated 30,000 persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, it was enforced selectively. Unions were independent of the Government and of political parties.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the right to engage in collective bargaining and to join industrial organizations, and workers exercised these rights in practice. Under the law, the Government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. The International Labor Organization has criticized this law. The Department of Labor and Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage were set through negotiations between employers and employees or their respective industrial organizations.

The law provides for the right to strike, although the Government can and often does intervene in labor disputes to require arbitration before workers can legally strike. The law prohibits retaliation against strikers; however, it was not always enforced. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies or in pay disputes. These strikes were brief and ineffective. In May an estimated 1,000 teachers in the National Capital District went on strike for several days over a pay dispute.

At year's end no decision had been made regarding the legality of a December 2005 nurses' strike or the disciplinary actions taken against nurses who participated in the strike.

There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution forbids slavery and all forms of forced or compulsory labor, including that performed by children, and there were no reports that such practices occurred in the formal economy. Some children were obliged to work long hours as domestic servants in private homes (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law establishes the minimum working age as 16; for hazardous work, the minimum age is 18. However, children between the ages of 11 and 18 may be employed in a family business or enterprise provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture. Work by children between the ages of 11 and 16 must not interfere with school attendance. Some children under 18 worked in bars and nightclubs (see section 5).

*e. Acceptable Conditions of Work.*—The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. The national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. The minimum wage was \$12.75 (37.50 kina) per week, and although it was above the national per capita income, the minimum wage did not provide a decent standard of living for a worker and family who lived solely on the cash economy.

The law regulates minimum wage levels, allowances, rest periods, holiday leave, and overtime. Although the Department of Labor and Industrial Relations and the courts attempted to enforce the minimum wage law, enforcement was not effective. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas. The law provides for at least one rest period of 24 consecutive hours every week; however, enforcement was lax. Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor and Industrial Relations. The law requires that work sites be inspected on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions. Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations.

The law protects legal foreign workers. The few illegal foreign workers lacked full legal protection.



## PHILIPPINES

The Philippines, with a population of 87 million, is a democratic republic with an elected President, an elected bicameral legislature, and a multiparty system. The May 2004 national elections for President and both houses of congress continued to be a source of contention, with unsuccessful attempts in 2005 and during the year to impeach the President on grounds of alleged election fraud. Civilian authorities generally maintained effective control of the security forces; however, some elements of these security forces committed human rights abuses.

During the year there were a number of arbitrary, unlawful, and extrajudicial killings apparently by elements of the security services and of political killings, including killings of journalists, by a variety of actors. Many of these killings went unsolved and unpunished, contributing to a climate of impunity, despite intensified government efforts during the year to investigate and prosecute these cases. Members of the security services committed acts of physical and psychological abuse on suspects and detainees, and there were instances of torture. Arbitrary or warrantless arrests and detentions were common. Trials were delayed and procedures were prolonged. Prisoners awaiting trial and those already convicted were often held under primitive conditions. Corruption was a problem in all the institutions making up the criminal justice system, including police, prosecutorial, and judicial organs. During a brief "state of emergency" in February, there was some attempted interference in freedom of the press and in the right of assembly. In addition to the killings mentioned above, leftwing and human rights activists were often subject to harassment by local security forces. Problems such as violence against women and abuse of children, child prostitution, trafficking in persons, child labor, and ineffective enforcement of worker rights were common.

In addition to killing soldiers and police officers in armed encounters, the New People's Army (NPA, the military wing of the Communist Party) killed local government officials, and ordinary civilians, including through the use of landmines, and were suspected in many of the killings of leftwing activists. The NPA also used underage soldiers in combat roles. Terrorist groups committed bombings that caused civilian casualties, and these groups also used underage soldiers.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces and antigovernment insurgents committed a number of arbitrary and unlawful killings. The Commission on Human Rights (CHR) investigated 296 complaints of killings between January and November, compared with a total of 453 complaints of killings during 2005. The CHR suspected personnel from the Philippine National Police (PNP) and Armed Forces of the Philippines (AFP) in a number of the killings of leftist activists operating in rural areas that it investigated during the year. A number of allegations of summary executions by government security forces were referred to the non-governmental organization (NGO) Task Force Detainees of the Philippines (TFDP); TFDP was unable to investigate all of these allegations, but it did document the summary executions of 20 individuals by government forces through December.

On May 12, the Department of Interior and Local government formed "Task Force Usig" within the PNP to investigate the killings of activists and journalists (see section 2.a.). Through December, the task force recorded 142 killings since 2001; 68 of these led to cases filed in court, with one conviction so far, and the remainder still under investigation.

On August 20, President Arroyo created an independent commission headed by former supreme court justice Jose A. Melo to investigate patterns in the killings of journalists and leftist activists and to make policy and legislative recommendations for dealing with the problem. The commission completed its investigation in December and was expected to submit its report to the President in January 2007.

The following are examples of arbitrary and unlawful killings during the year:

On April 12, a gunman, subsequently identified as a police officer, shot and killed environmental activist Elpidio de la Victoria in Talisay City, Cebu. The police officer was allegedly acting as a hired gunman for a private businessman. On September 18, a trial court judge in Cebu convicted police officer Marcial Ocampo and sentenced him to 20 to 40 years in prison.

On May 29, three assailants on a motorcycle shot and killed Sotero Llamas, a former adviser of the Communist Party (CPP)-aligned National Democratic Front (NDF) in Tabaco City, Albay Province. Task Force Usig identified two suspects, an alleged former NPA commander and a discharged former Philippine Army member.

Witnesses were identified and murder charges were filed, although by year's end no arrests had been made.

On July 31, unidentified men in two vans fired on Constancio Claver, a doctor and provincial leader of Bayan Muna, and his wife Alice, local coordinator of the same group, in Tabuk, Kalinga Province, wounding Constancio and killing his wife. The PNP chief relieved the head of the Kalinga police from his post in order to create a climate of trust in the course of investigation. On September 22, the PNP Criminal Investigation Group filed charges of murder and three counts of frustrated murder against a Kalinga police officer, who was also the bodyguard and driver of the relieved police chief. At year's end, the suspect was in restrictive police custody and the case was with the local prosecutor for preliminary investigation.

On August 3, approximately 10 masked gunmen shot and killed United Methodist Church pastor Isaias Santa Rosa in Daraga, Albay. Santa Rosa was a member of a Bicol region leftist farmers' group. His family alleged that the gunmen tortured him and forced him to confess that he was a communist rebel. The police found another dead man at the site of the incident, later identified as an army military intelligence group corporal, whom Santa Rosa's family alleged was among the group of armed men. The police were still investigating the case as of the end of December.

Investigations of cases from 2004 and 2005, including killings of judges (see section 1.e.), were still ongoing:

In March 2005 gunmen killed a leader of Bayan Muna and a priest of the Aglipayan Church who were involved in supporting a strike by plantation workers in Tarlac Province; officials arrested a suspect in the case of the priest's killing. At year's end, a trial was underway in a Tarlac court, and the suspect was still detained.

The CHR has not released a final report of its investigation of the 2004 killing by security forces of seven persons during the strike of plantation workers in Tarlac Province.

There were no developments in the investigation of the March 2005 killing of Bayan Muna coordinator Felidito Dacut. Task Force Usig alleged that members of the CPP/NPA Eastern Visayas Regional Party Committee were possible suspects.

The killings of United Church of Christ in the Philippines pastors in May and August 2005 were still under investigation at year's end.

Two members of the Philippine Army were charged with murder for the October 2005 killing of Ricardo Ramos, a leader of the sugar workers' union at the Hacienda Luisita, Tarlac Province. The criminal case was under preliminary investigation by a local prosecutor, although it was on trial in a military court at year's end.

The trial in the case of the 2004 killing of Bayan Muna members Juvy Magsino and Leyma Fortu in Mindoro Oriental was ongoing in a Quezon City trial court at year's end. In 2004 the police arrested one suspect, allegedly a hired gun, on murder charges; another unidentified suspect was still at large.

On September 13, Task Force Usig filed charges against a former police officer in the 2004 killing of human rights activist Jacinto Manahan. At year's end, the case was still under preliminary investigation by the local prosecutor and the suspect had not been arrested.

In recent years, there have been deaths as a result of military hazing. There were no developments in the 2004 case of a PNP cadet who died allegedly from maltreatment during training. On February 3, the Sandiganbayan (antigraft court) dismissed criminal charges against five officials of the Philippine Merchant Marine Academy who were accused as accomplices in the 2001 death of a freshman cadet as a result of hazing.

Government forces killed a number of civilians during clashes with antigovernment forces and with the terrorist Abu Sayyaf Group (ASG) and the NPA (see section 1.g.).

The terrorist group ASG and the Rajah Solaiman Movement (RSM) continued to kill civilians in bombings throughout the year (see section 1.g.). In March ASG terrorists bombed a convenience store in Jolo City, killing five civilians and wounding 25 others. Authorities suspected the ASG of bombings in Mindanao during August 2005 that injured dozens of civilians. An Indonesian ranking member of the terrorist group Jemaah Islamiyah, an operative of the RSM, and an ASG member were sentenced to death in October 2005 for the 2005 Valentine's Day bombing in Manila, which killed four people. Indonesian authorities arrested an Al-Qaeda-linked suspect in two simultaneous February 2005 Mindanao bombings.

At year's end, the trial of five alleged Moro Islamic Liberation Front (MILF) members for the 2003 Davao airport and seaport bombing was underway.

Communist insurgents, mainly from the NPA, continued to kill political figures, military and police officers, and civilians, including suspected military and police informers. On June 13, NPA rebels killed nine soldiers of the 50th Infantry Battalion

and injured three others during an ambush in Ilocos Sur. In 2004 authorities arrested and charged 15 suspected NPA members for the killing of the police chief of Angat, Bulacan. There have been no known developments in the case since the arrests.

Vigilante groups are suspected of conducting summary killings of suspected criminals in two major cities and local officials appeared to condone and even encourage them. Through December, Kabataan Consortium, a group of human rights NGOs, documented 76 apparent vigilante killings in Davao City, Mindanao. In Cebu City in the Central Visayan Region, more than 70 persons were killed through December. The cities of Toledo and Carcar on Cebu island also saw apparent illegal killings. Most of the victims were suspected of involvement in criminal activities, and the killings appeared to have popular support. The authorities made no arrests in these cases. A court dismissed two cases filed in 2004 in Davao because the victims' relatives withdrew their complaints. In June 2005 the Office of the Ombudsman suspended four police officers in Davao for failing to solve extrajudicial killings in their jurisdiction; however, in July 2005 the court of appeals reinstated them.

*b. Disappearance.*—According to local human rights NGOs, government forces were responsible for disappearances. Through December the domestic NGO Families of Victims of Involuntary Disappearances (FIND) documented 72 victims of involuntary disappearance: 31 were found alive, four were found dead, and 37 remained missing; FIND suspected government forces in 33 cases, while unidentified armed men were suspected in the remaining 14 cases. Task Force "Usig" documented six cases of forced disappearance of activists since 2001. Only one case has been filed in court, but no arrests had been made at year's end.

On May 22, five supporters of former President Joseph Estrada were surreptitiously taken into custody, suspected of plotting rebellion. Initially, the Government denied any involvement in their disappearance, but on May 24 authorities admitted holding them and released them on May 27.

On June 26, unidentified gunmen in Bulacan Province abducted University of the Philippines (UP) student Karen Empeno, former UP student council officer Sherlyn Cadapan, and local citizen Manuel Merino. The three reportedly were blindfolded and forced to board a "jeepney" (small commercial passenger vehicle) at gunpoint. The leftist human rights group Karapatan alleged that the Philippine Army's 7th Infantry Division was responsible for the abduction. On July 19, the Supreme Court ordered the chief of AFP Northern Luzon Command, the commander of the 7th Infantry Division, and two other military officials to present the three victims to the Court of Appeals. However, these officials denied the AFP was holding them. At year's end, the three were still missing. The Melo Commission investigated the case; however, there were no publicly known developments regarding the investigation at year's end.

In August 2005 leftist political activists Armando Barquillo and Lirio de Castro were released a month after heavily armed men abducted them in Cavite City. They alleged that their abductors were military intelligence agents.

Efforts to locate three members of Bayan Muna reportedly abducted in Manila in 2004 by 10 armed men were unsuccessful. FIND claimed the Intelligence Service of the AFP was responsible.

Some victims' families complained that the courts and police failed to address adequately their complaints concerning disappearances in which security forces were suspected. Evidence of a kidnapping or killing is required in order to file charges. FIND and Amnesty International's Manila office continued to support the efforts of victims' families to press charges. In most cases, evidence and documentation were unavailable, and convictions were rare. Out of 16 court cases related to disappearances of concern to FIND, none had been resolved as of year's end. In May FIND filed a petition for a writ of habeas corpus against the suspected perpetrators in one case involving two victims, but as of year's end the court had not granted the petition. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity and undermined public confidence in the justice system.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits torture, and evidence obtained through its use is inadmissible in court; however, members of the security forces and police were alleged to have routinely abused and sometimes tortured suspects and detainees. The CHR provides the police with mandatory human rights training, and senior PNP officials appeared receptive to respecting the human rights of detainees; however, rank-and-file awareness of the rights of detainees remained inadequate.

The TFDP stated that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly in-

cluded striking detainees and threatening them with guns. The TFDP reported that arresting officers often carried out such beatings in the early stages of detention.

A human rights NGO, the Philippine Alliance of Human Rights Advocates, also reported that police used excessive force in apprehending suspects.

Within the AFP, the CHR continued to observe greater sensitivity to the need to prevent human rights violations. CHR is required to determine whether an officer being considered for promotion has a history of human rights violations (see section 4); however, a negative CHR finding does not preclude promotion. The CHR also vets PNP officers at the senior superintendent level. Nevertheless, abuses still occurred. Human rights activists complained of abuses by security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, some members of the AFP continued to beat ASG suspects.

The TFDP documented seven cases of torture involving 20 victims from January to December. The CHR investigated 11 cases of alleged torture during the year. The suspects in these cases mostly were members of PNP.

In April 2005 four farmers in Laak, Mindanao, accused the AFP of torturing them as suspected NPA collaborators. The CHR began an investigation but had not yet released any conclusion as of year's end.

*Prison and Detention Center Conditions.*—Prison conditions were rudimentary and sometimes harsh. Provincial jails and prisons were overcrowded, lacked basic infrastructure, and provided prisoners with an inadequate diet. Jails managed by the Bureau of Jail Management and Penology (BJMP) in metropolitan Manila usually operated at about 240 percent of designed capacity. An on-going jail decongestion program by BJMP resulted in the early release, using applicable laws, of more than 3,500 inmates. BJMP's establishment of new facilities for women inmates and its implementation of the new law on juvenile justice also contributed to the decrease in jail overcrowding from 2005.

Prison administrators budgeted a daily subsistence allowance of about \$0.78 (P40) per prisoner. Prison inmates often depended on their families for food because of the insufficient subsistence allowance and the need to bribe guards to receive food rations.

The slow judicial process exacerbated the problem of overcrowding. Some inmates took turns sleeping. Some prison wardens reportedly allowed wives or children to move in with inmates or stay in the prison compound because they could help feed the prisoners. Lack of potable water and poor ventilation continued to cause health problems in jails.

On May 16, President Arroyo signed the Juvenile Justice and Welfare Act, which, among other reforms, changed the age of criminal responsibility from nine to 15 years of age. Under the new law, children caught committing crimes are to be turned over to juvenile justice and welfare councils to be placed in programs supervised by local social welfare officers. The law also prohibits the detention of minors in jails while undergoing trial and exempts convicted minors from the death penalty.

There were reports of widespread corruption among prison guards. Guards sometimes demanded that prisoners pay to receive food, to use sanitary facilities, and to avoid beatings by other prisoners. Jail administrators reportedly delegated to senior inmates authority to maintain order. The CHR and TFDP reported that beatings by prison guards and other inmates were common but that prisoners, fearing retaliation, refused to lodge complaints. Corruption appeared to be a problem at higher levels of authority within the prison system as well. Favored inmates reportedly enjoyed access to prostitutes and drugs.

There were reports that guards abused prisoners. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Victims often were afraid to report incidents (see section 5). Some detainees at Bureau of Immigration detention centers reportedly gained release by making cash payments to guards.

Through December, the BJMP recorded 27 successful prison escapes involving 52 inmates; 16 were recaptured and 36 remained at large. Police blamed the escapes on lenient security and the poor quality of detention facilities.

On February 28, the CHR released a report on a March 2005 escape attempt during which three guards were killed and which ended in the deaths of 22 inmates. The CHR concluded that the authorities used excessive force, that inmates were summarily executed, and that inmates were maltreated after a police assault. The CHR report also recommended that the Department of Justice (DOJ) create a committee to investigate and determine the criminal liability of the police units; however, by year's end, the DOJ had not received a formal complaint from the CHR to investigate these police units.

According to regulations, male and female inmates are to be held in separate facilities and, in national prisons, overseen by guards of the same sex; however, there were anecdotal reports that these regulations were not uniformly enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children, in some instances they were held in facilities not fully segregated from adult male inmates (see section 5). Only 223 out of 1,100 jails managed by the BJMP and PNP had separate cells for minors, while 345 jails had separate cells for females. During the year the BJMP established two detention centers exclusively for women. Approximately 1,200 women inmates were transferred to these new facilities, located in Metro Manila and in Cebu City. More than 300 minor inmates were transferred to three youth centers in compliance with the new law on juvenile justice. In Bureau of Immigration detention facilities, male and female inmates are segregated by sex, but male guards oversaw both sexes.

International monitoring groups, including the International Committee of the Red Cross, were allowed free access to jails and prisons.

*d. Arbitrary Arrest or Detention.*—The law requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, in a number of cases, police arrested and detained citizens arbitrarily. Through December, the TFDP documented 35 cases of illegal arrest and detention involving 114 victims.

*Role of the Police and Security Apparatus.*—The Department of National Defense directs the AFP, which shares responsibility for counterterrorism and counterinsurgency operations with the PNP. The Department of Interior and Local government directs the PNP, which is responsible for enforcement of law and order and urban counterterrorism; however, governors, mayors, and other local officials have considerable influence. The 115,000-member PNP has deep-rooted institutional deficiencies and suffered from a widely held and accurate public perception that it was corrupt. The PNP's Internal Affairs Service remained largely ineffective. Members of the PNP were regularly accused of torture, of soliciting bribes, and of other illegal acts. Efforts were underway to reform the institution in part to counter a widespread impression of official impunity. From January to November, the PNP dismissed 89 policemen. Of the 2,859 administrative cases filed against PNP officers and personnel, 1,398 were resolved, 944 remained under preliminary investigation, 391 underwent summary hearings, and the remaining 126 were filed with the People's Law Enforcement Board, a body composed of local government officials and NGO representatives that receives complaints filed against members of the PNP in the regions. In 2005 the PNP initiated a Transformation Program aimed at systematic institutional reform.

*Arrest and Detention.*—Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence, the right to bail; however, only 6.5 percent of detainees were able to post bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, with the time given to file charges increasing with the seriousness of the crime. Lengthy pretrial detention remained a problem (see section 1.e.). In 2005 the courts released 67 detainees who had been held in jail for periods equal to or longer than the maximum prison terms they would have served if convicted. Through November only two detainees were released under this circumstance.

The NPA, as well as some Islamic separatist groups, were responsible for a number of arbitrary detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and other persons for "crimes against the people" (see section 1.e.).

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes venality resulted in impunity for some wealthy and influential offenders and contributed to widespread skepticism that the judicial process could ensure due process and equal justice. The Supreme Court continued efforts to ensure speedier trials and to sanction judicial malfeasance and was in the midst of a five-year program to increase judicial branch efficiency and raise public confidence in the judiciary.

In September 2005 a regional trial court judge was killed in her house in Natividad, Pangasinan. Police identified two suspects, but a judge dismissed the case and did not issue arrest warrants against the two for lack of probable cause. In January police arrested six suspects for the December 2005 murder of a Pasay City regional trial court judge; their trial was on-going at year's end. Trials in the 2004 killings of two judges were also underway at year's end, and prosecutors filed

charges in the third case. Ten cases of the killing of judges remained under investigation at year's end.

The national court system consists of four levels: local and regional trial courts; a national court of appeals divided into seventeen divisions; a 15-member Supreme Court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The Sandiganbayan, the Government's anticorruption court, hears criminal cases brought against senior officials. A Shari'a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces.

*Trial Procedures.*—The law provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, but poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the Public Attorney's Office (PAO), but their workload was large and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

According to the law, cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for the Court of Appeals; and three months for lower courts. However, these time limits are not mandatory, and, in effect, there were no time limits for trials.

Lengthy pretrial detention remained a problem. In 2005 the UN Development Program (UNDP) and the Supreme Court released a study that found that the average trial takes over three years. Trials take place in short sessions over time and as witnesses become available; these non-continuous sessions created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,152 trial court judgeships (including Shari'a courts), 628 (29 percent) were vacant, a small decline from 2005. Courts in Mindanao and other poorer provinces had higher vacancy rates than the national average. Shari'a court positions were particularly difficult to fill because of the requirement that applicants be members of both the Shari'a Bar and the Integrated Bar. All five Shari'a district court judgeships and 41 percent of circuit court judgeships remained vacant. Shari'a courts do not have criminal jurisdiction.

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people." The NPA executed some of these "defendants." The Moro Islamic Liberation Front also maintained similar "people's courts."

In the past, international and domestic NGOs criticized many court proceedings that resulted in death sentences, asserting that the judicial system did not ensure due process and legal representation. On June 24, the Government formally abolished the death penalty.

*Political Prisoners.*—Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners. Through December, the TFDP said that there were 233 political prisoners. Typically, there was no distinction in these lists between detainees and prisoners, and the majority of persons listed have not been convicted. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes and to continue to detain them after their sentences expired. The Government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners. The CPP/NPA demanded that their members under detention by the PNP or AFP be treated as political prisoners as one of the preconditions for resuming peace talks with the Government.

During the year, the Government did not release any persons whom NGOs claimed were political prisoners.

The Government permitted access to alleged political prisoners by international humanitarian organizations.

*Civil Judicial Procedures and Remedies.*—The judiciary is independent and impartial in civil matters. Complainants have access to local trial courts to seek damages for, or cessation of, human rights abuses. There are administrative remedies as well as judicial remedies for alleged wrongs; however, corruption is widespread in the judiciary, and cases were often dismissed. The Commission on Human Rights keeps a database of alleged human rights violators, including those in the AFP or PNP. The CHR also investigates cases of alleged human rights violations. However,

it has no prosecutorial power and can only refer cases with probable cause to local prosecutors.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law provides that a judge may issue search warrants on a finding of probable cause; however, while the Government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges declared evidence obtained illegally to be inadmissible.

The Government generally respected the privacy of its citizens; however, leaders of communist organizations and rural-based NGOs complained of what they described as a pattern of surveillance and harassment.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year. The law provides certain protections for squatters; eviction was often difficult, especially because politicians recognized squatters' voting power. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters targeted by displacement was limited, but the Government successfully completed a two-year program to relocate in new housing approximately 20,000 squatter families from what will be a new "Northrail" project from Manila to Northern Luzon.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Some citizen groups complained that the AFP, in confronting the terrorist ASG and NPA, illegally detained citizens, destroyed houses, displaced residents, and shelled villages. NGOs also accused the police of wrongful detention, excessive force, and extrajudicial killings (see section 1.c.).

On January 31, a clash between the AFP and NPA rebels in Santa Ignacia, Tarlac, resulted in at least 10 casualties; three of whom were civilians. The human rights group Karapatan alleged that the military was responsible for the civilian deaths. On May 18, AFP fire in an encounter with NPA rebels in Bulan, Sorsogon, allegedly killed a civilian.

On a number of occasions, ASG and RSM bombings killed and wounded civilians. On October 10, bombs in Makilala, North Cotabato, and in Tacurong, Sultan Kudarat, killed eight persons and wounded at least 30 others. On October 18, an explosion near a police camp in Jolo, Sulu, killed at least three persons. The authorities identified the ASG as responsible for these attacks. Throughout the year, clashes between the AFP, Jemaah Islamiyah, and ASG, mostly in the Zamboanga peninsula and Sulu archipelago, contributed to the displacement of civilians.

During the year, the NPA killed political activists, mayors, other civilians, and military and police personnel. The NPA also harassed businesses and burned buses to enforce the collection of "revolutionary taxes." On July 24, NPA personnel detonated two landmines on a highway in Surigao del Sur Province, seriously wounding five passengers in a jeepney and 10 pedestrians. Subsequently, a spokesman for the NDF said that the injuries to civilians were unfortunate but that the NPA will not give up its "legitimate right" to use landmines. The AFP reported that the NPA killed at least 191 AFP and PNP personnel from January to December. The NPA continued actively to recruit minors both as combatants and noncombatants (see section 5).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and, except for a few instances during a week-long imposition of a state of national emergency, the Government generally respected these rights in practice.

The Government owned several television and radio stations; however, most print and electronic media were privately owned. The media were active and expressed a wide variety of views without restriction. Broadcast and print media were free-wheeling and often criticized for lacking rigorous journalistic ethics. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level officials. Special interests often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions.

Journalists continued to be murdered. The National Union of Journalists of the Philippines (NUJP) recorded 12 journalists killed during the year. Task Force Usig classified two of these cases as work-related slayings. According to the task force, seven of more than 70 cases of journalist killings since 1986 resulted in convictions. On October 6, a Cebu City trial court convicted three men for the March 2005 murder of journalist Marlene Esperat. One suspect, a former AFP member who had turned state witness for the case, was acquitted for lack of evidence. On November 27, the same court dismissed a prosecutor's motion to reinstate the murder cases,

which were earlier dismissed by the Tacurong trial court, against two regional officials of the Department of Agriculture, who allegedly planned the killing.

On May 22, two gunmen shot and killed Fernando Batul, a radio commentator and former vice-mayor of Puerto Princesa City. The authorities arrested a police officer, and a murder case has been filed against the officer and another unidentified suspect.

The trial of the four suspects in the May 2005 killing of Philip Agustin, editor of a local newspaper in Dingalan, Aurora Province, was still on-going. In May the Mayor of Dingalan, charged as co-conspirator in the case, surrendered to the authorities.

On March 6, a regional trial court acquitted a former police officer in the 2004 killing of radio broadcaster Ely Binoya in Sarangani Province. The international NGO Reporters without Borders termed the court decision "unacceptable."

On July 28, suspects in the 2004 murder of Ilocos Norte radio commentator Roger Mariano were arraigned and a trial was underway in a Manila trial court. The two suspects, including a police officer, were detained in the Manila City Jail. Two other suspects remained at large as of end of November.

There were no developments with regard to the 2004 murders of a newspaper writer in Batangas and of radio commentator Edward Balida.

Human rights NGOs frequently criticized the Government for failing to protect journalists. The NUJP accused the police and the Government of failing adequately to investigate these killings and of subjecting journalists to harassment and surveillance. In some situations, it was difficult to discern if violence against journalists was carried out in retribution for their profession or if these journalists were the victims of random crime. According to a study released by the Center for Media Freedom and Responsibility (CMFR) in September 2005, most of the slain journalists were not professionally trained as journalists or formally accredited to any national media organization. CMFR listed 61 journalists killed since democracy was restored in 1986.

On February 24, President Arroyo imposed a state of national emergency and shortly thereafter the police occupied the premises of the opposition-leaning Daily Tribune. The police officers confiscated copies of the mock-up copy of the newspaper's next issue and photographs. On March 3, after the President lifted the state of national emergency, the police left the newspaper's office. The newspaper's publisher and two columnists were subsequently charged with incitement to sedition. At year's end, the case was in preliminary investigation with the DOJ. The three accused filed separate motions to dismiss the case against them and were awaiting DOJ's resolution. On May 3, the Supreme Court upheld the validity of the imposition of a state of national emergency, but ruled the raid on the newspaper an attack on press freedoms and hence illegal.

On October 17, a number of media groups accused the President's husband of seeking to muzzle the press through a series of libel suits. Over the last two years, 43 reporters, columnists, editors, publishers, and a subscription manager reportedly faced lawsuits filed by the President's husband over stories alleging corruption and electoral fraud by the President and her husband. A Manila trial court issued warrants of arrest on October 16 against nine of the accused in the libel cases, including a former opposition senator.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in peaceful expressions of views via the Internet, including by electronic mail. Internet access is widely available.

*Academic Freedom and Cultural Events.*—In June 2005 the intelligence service of the AFP released a presentation, "Know Your Enemy," listing some press unions and student organizations as "enemies of the state" or communist fronts. The Government did not otherwise interfere with academic freedom, and there were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and, except for a few instances during the brief imposition of a state of national emergency, the Government generally respected this right in practice. Although the law requires that groups request a permit to hold a rally, the Government at times followed an unwritten policy of allowing rallies to occur without requiring the filing of a request.

On February 24, President Arroyo declared a state of national emergency, and all rally permits were cancelled. The police dispersed rallies commemorating the 1986 "people's power" demonstrations, which culminated in the ouster of the Marcos regime, and those calling for the ouster of President Arroyo. The police detained UP



professor and newspaper columnist Randy David at one of the rallies; he was released after a few hours.

In September 2005, President Arroyo declared that the police and armed forces would no longer exercise “maximum tolerance” in dealing with protesters. The administration urged municipalities to enforce strictly the requirements that protests be staged in designated areas and only with government permits. In practice, there did not appear to be any notable change in the way the authorities dealt with demonstrators. On April 25, the Supreme Court declared the September 2005 policy unconstitutional and upheld the policy of maximum tolerance in dealing with rallies and public demonstrations. On May 3, while upholding the constitutionality of the February 24 declaration of a state of national emergency, the Supreme Court declared illegal the warrantless arrest of Randy David and other protesters during a rally and the dispersal of the rally. The court found that there was no proof that those detained committed acts that would constitute “lawless violence, invasion, or rebellion,” and that the security forces therefore had no legal authority to curtail the rights of due process, peaceable assembly, and free speech.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. Although Christianity, particularly Roman Catholicism, was the predominant religion, there is no state religion, and church and state are legally separate.

The Government’s campaign against the ASG terrorist group and RSM led some human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention. However, most observers believed that discrimination against Muslims was grounded in cultural differences, not religious beliefs or practices. There were some reports of Muslim discrimination against Christians in areas where Muslims were the majority.

Intermittent government efforts to integrate Muslims into political and economic society achieved only limited success. Many Muslims claimed that they continued to be underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national government institutions (see section 3). Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. The percentage of the population under the poverty level in the Autonomous Region in Muslim Mindanao (ARMM) was almost twice as high as the national average, with per capita income of \$309 (P15,760) per year.

The teaching of religious classes in public schools is permitted with the written consent of parents, provided that it is conducted at no cost to the Government.

*Societal Abuses and Discrimination.*—Historically, the Christian majority has marginalized Muslims. The national culture, with its emphasis on familial, tribal, and regional loyalties, created informal barriers whereby access to jobs or resources is provided first to those of one’s own family or group network. Muslims reported difficulty renting rooms or being hired for retail work if they used their real names or wore distinctive Muslim dress. As a result, some Muslims used Christian pseudonyms and did not wear distinctive dress when applying for housing or jobs.

An estimated 400 to 1,000 Jews lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Travel abroad was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by vulnerable workers to areas in which they face personal risk (see section 5).

The Government retained its formal yet ineffective ban on travel to Iraq to work. The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to persons the POEA certified as qualified for the jobs. Millions of citizens worked overseas and remitted money home. Such remittances accounted for approximately 11 percent of the gross national product.

Forced exile is illegal, and the Government did not use it.

*Internally Displaced Persons (IDPs).*—Clashes between the AFP and elements of MILF insurgents in Maguindanao Province during the period from June to August resulted in approximately 40,000 persons being displaced. In 2005 approximately 85,000 persons were displaced as a result of clashes in Sulu from February to April between the AFP and a faction of the Moro National Liberation Front aligned with

the ASG. According to the Department of Social Welfare and Development (DSWD), at year's end the total number of IDPs was 59,886 persons. Since 2004 DSWD has established 707 shelter units to resettle IDPs in other southern Mindanao regions and the ARMM. Other agencies, including UNDP, the Mindanao Emergency Relief Network, and the Red Cross provided food and essential items such as medicine, blankets, mosquito nets, and soap to IDPs.

*Protection of Refugees.*—The country is a party to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol; however, there is no comprehensive legislation that provides for granting refugee status or asylum. In practice the Government provided protection against refoulement, the return of persons to a country where they fear persecution, and granted refugee status or asylum. The refugee unit in the DOJ determined which asylum seekers qualify as refugees; such determinations in practice implemented many of the basic provisions of the 1951 Convention. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention or its 1967 Protocol. This was the case for some 1,500 Vietnamese asylum seekers who were found not to be refugees under the UNHCR-administered Comprehensive Plan of Action in the 1990s. Following the closure of the one remaining refugee camp on Palawan in 1997, the Government permitted these former asylum seekers to remain in the country. However, none in this group were granted legal status.

Subsequently the Government allowed processing for resettlement of this group, many of whom were resettled in the United States. An estimated 176 persons, most of whom married Philippine citizens, remained in legal limbo: ineligible for resettlement in other countries and not granted permanent asylum.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections that largely were free and fair and held on the basis of universal suffrage.

*Elections and Political Participation.*—In 2004 national elections were held for President, senators, representatives, provincial governors, and local government officials. Voter turnout was high, with approximately 74 percent of eligible voters participating; however, voting was marred by numerous irregularities. An election monitoring survey conducted by a consortium of three international NGOs concluded that an antiquated voting system, system error, and improper management of registration databases disenfranchised thousands of voters. Widespread reports indicated that local politicians and their supporters engaged in vote buying and that conditions did not ensure that balloting was secret. Observers also received reports of NPA activists imposing "permission to campaign" fees on local candidates.

The 2004 election marked the first time that overseas Filipinos were able to vote. Approximately 230,000 of 354,000 registered overseas voters, or 65 percent, actually voted, a small portion of the millions of Filipinos working overseas. The low rate of registration was attributed by election NGOs to lack of information about the procedures, inaccessible registration centers, strict employers who did not allow overseas workers to take a day off, and the requirement that voters execute an affidavit to return to the country to reside within three years.

The Commission on Elections did not allow first-time voters among squatters in communities of the urban poor to register for the elections unless they could prove that they were bona fide residents of their locale. NGOs estimated that this registration residence requirement deprived one million squatters of the right to vote. Among those who did register, vote buying was common and many residents accepted bribes to vote in a certain way or to act as "flying voters," voting in several precincts.

There were no restrictions in law or practice on participation by women and members of minorities in politics. Many women, including the President, held positions of leadership and authority. There were four women in the 24-seat Senate and 37 women in the 236-seat House of Representatives. There were two women in the 23-member Cabinet, five female associate justices on the 15-member Supreme Court, and 14 female governors.

Along with many other citizens, Muslims argued that electing senators from a nationwide list favored established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment, which many Muslims and members of other groups underrepresented in the national legislature favored. There were no Muslim cabinet members and no

Muslim senators. There were 12 Muslim members in the 236-seat House of Representatives, including some elected from Christian majority districts.

*Government Corruption and Transparency.*—A justifiable public perception of corruption in the judicial, executive, and legislative branches remained high. Both the Government and the private sector have established a number of anticorruption bodies, including an Ombudsman's Office and an anticorruption court. Cases were opened against mid-level officials in the Department of Public Works and Highways, the Bureau of Customs, and the Bureau of Internal Revenue. During the year, several elected figures, including the opposition mayors of Makati and Pasay City and administration mayors of Baguio and Santa Rosa City, Laguna Province, were suspended from their offices on corruption-related charges. In October the Court of Appeals issued a 60-day temporary restraining order on the suspension of the mayor of Makati. The mayors of Pasay, Baguio, and Santa Rosa remain suspended as of end of November.

The law provides for the right to information on matters of public concern, and the Supreme Court has affirmed this provision. However, denial of such information often occurred when the information related to an anomaly or irregularity in government transactions. Much government information was not available electronically and was difficult to retrieve.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A large and active group of human rights NGOs generally operated without government interference, investigating and publishing their findings on human rights cases. Most government officials were responsive to NGO views. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place.

On December 6, shortly before a planned regional summit hosted by the Government, a foreign labor rights activist was denied entry into the country and a security officer showed him a list of international human rights advocates who would not be allowed into the country.

The CHR is an independent agency mandated to protect and promote human rights. It is empowered to investigate all human rights violations and to monitor the Government's compliance with international human rights treaty obligations. The CHR has nonbinding authority to clear on military promotions. The commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately one-third of the country's 42,000 barangays (villages) had human rights action centers, which coordinated with CHR regional offices; however, the CHR's regional and subregional offices remained understaffed and underfunded. The CHR nationwide budget for the year was \$3.87 million (P197.38 million).

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

*Women.*—Violence against women, both in and out of the home, remained a serious problem. The 2004 Anti-Violence Against Women and their Children Act criminalizes physical, sexual, and psychological harm or abuse to women and their children committed by their spouses or partners. Through December the PNP reported 1,269 cases under the act and 1,892 other cases of wife battering and physical injuries under older laws. This number likely underreported significantly the level of violence against women in the country. A 2003 survey by the NGO Social Weather Station found that 12 percent of men admitted having physically harmed women (39 percent of these respondents indicated violence against their wives, 15 percent against their girlfriends, and 4 percent against their partners). Women in the same survey cited the following reasons for not reporting violence: embarrassment, not knowing how or to whom to report, belief that the violence was unimportant, and belief that nothing would be done.

The PNP and DSWD both maintained help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Approximately 7 to 8 percent of PNP officers were women. The PNP has a Women and Children's Unit to deal with these issues.

Rape continued to be a problem, with most cases going unreported. During the year, the PNP reported 685 rape cases. There were reports of rape and sexual abuse of women in police or protective custody—often women from marginalized groups,

such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes.

Spousal rape and abuse are also illegal, but enforcement was ineffective.

Prostitution is illegal but was a widespread problem. Many women suffered exposure to violence through their recruitment, often through deception, into prostitution (see section 5, Trafficking). Penalties for prostitution are light, but detained prostitutes were sometimes subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. From January to September, DSWD provided temporary shelter and counseling to 68 women who were victims of involuntary prostitution. Some local officials condoned a climate of impunity for those who exploited prostitutes. There were no convictions under the provision of the law criminalizing the act of engaging the services of a prostitute.

Sex tourism and trafficking in persons for sexual exploitation and forced labor were serious problems. An antitrafficking law outlaws a number of activities specifically related to trafficking and provides stiff penalties for convicted offenders (see section 5, Trafficking).

The law prohibits sexual harassment. However, sexual harassment in the workplace was thought to be widespread and underreported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most were economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry worked on three- to five-month contracts and were often reluctant to report sexual harassment for fear their contracts would not be renewed.

The law does not provide for divorce, although courts generally recognize the legality of divorces obtained in other countries if one of the parties is a foreign national. The Government recognizes religious annulment, but the process can be costly, which precludes annulment as an option for many women. Many lower-income couples simply separated informally without severing their marital ties. The family code provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of seven are placed in the care of the mother unless there is a court order to the contrary. Children over the age of seven normally also remained with the mother, although the father could dispute custody through the courts.

In law, but not always in practice, women have most of the rights and protections accorded to men. Women continued to face some discrimination in employment, despite the fact that more women than men have secondary and higher education degrees. Unemployment rates for women remained higher than for men.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 13 NGO leaders appointed by the President, acted as an oversight body whose goal is to press for effective implementation of programs benefiting women.

*Children.*—The Government devoted considerable resources to the education, welfare, and development of children. The Department of Education (DepEd) had the largest budget of any cabinet department: 12.3 percent of the national budget. Nevertheless, children faced serious problems.

Elementary and secondary education is free and is compulsory through age 11, but the quality of education remained poor due in part to inadequate resources. During the year according to DepEd figures, the estimated annual per pupil expenditure for basic education was \$115 (P5,875). The DepEd budget for this year was \$2.16 billion (P110 billion). The public school enrollment rate for 2005–06 was 74 percent, slightly down from 76 percent for the 2004–05 school year. According to UN Children's Fund (UNICEF) statistics, girls and boys attend school in approximately equal numbers.

According to government reports, 68.3 percent of children were well nourished, and 70 percent were fully immunized. The child mortality rate was 42 out of 1,000 children under age five. Most of the malnourished children were in villages in the southern provinces of Maguindanao, Lanao del Sur, and Tawi-Tawi. According to UNICEF data from 1996 to 2004, 28 percent of children under age five were moderately or severely underweight.

Child abuse remained a problem. DSWD offices served 6,234 victims of child abuse from January to September, of whom 70 percent were girls. Approximately 50 percent of the girls were victims of sexual abuse, while 5 percent (198 girls) were victims of sexual exploitation. The majority of the boys had been abandoned or neglected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued, and the Government continued to prosecute accused pedophiles vigorously. Some children also were victims of police abuse while in detention for committing minor crimes. In March 2005 the UP Center for Integra-

tive and Development Studies released a report highlighting child pornography as a significant problem in the country.

Child prostitution continued to be a serious problem (see section 5, Trafficking). During the year the Department of Labor and Employment (DOLE) ordered the closure of three establishments for allegedly prostituting minors. The trials for these cases were on-going at year's end.

During the year the NPA and ASG targeted children for recruitment as combatants and noncombatants. There were an estimated 2,000 child soldiers in the country. By mid-year, an International Labor Organization (ILO)-led program demobilized and reintegrated into society 300 children. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports that the NPA continued to use minors in combat. In a July 2004 report, the Council for Welfare of Children estimated that children constituted between 13 to 18 percent of armed rebel combatants. In the last several years, the AFP on numerous occasions captured or killed NPA fighters who turned out to be minors.

The ASG also recruited teenagers to fight and participate in its activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP stated that some Islamic schools in Mindanao served as fronts to indoctrinate children and that the ASG used children as couriers and spies.

According to UNICEF and ILO studies, approximately 2.4 million children were exposed to hazardous working environments, such as quarries, mines, and docksides (see section 6.d.). Since 1995, only four persons have been convicted of violating the child labor law.

The Government estimated that there were at least 22,000 street children nationwide, but UNICEF estimated that there were approximately 250,000 street children. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned and engaged in scavenging or begging.

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth relations officers to ensure that child suspects are treated appropriately. However, procedural safeguards were often ignored in practice. The BJMP stated that approximately 1,400 minors were held on "preventative detention" while their trials were ongoing, and only 72 of them actually were convicted and serving their sentences. Many child suspects were detained for extended periods without access to social workers and lawyers, and were not segregated from adult criminals. NGOs believed that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other ill treatment. There were also reports that many children detained in jails appeared to have been arrested without warrants.

In April Justice Secretary Raul Gonzalez ordered a nationwide review of cases of juvenile offenders. During the year government agencies and NGOs worked to segregate juvenile offenders, secure the release of minors wrongfully imprisoned, and transfer others to rehabilitation centers. DSWD ran 11 regional youth rehabilitation centers for juvenile offenders. There were three detention centers for children in Manila. On May 16, President Arroyo signed the Juvenile Justice and Welfare Act, which, among other reforms, changes the age of criminal responsibility from nine to 15 years of age. Under the new law children caught committing crimes are to be turned over to juvenile justice and welfare councils to be placed in diversion programs supervised by local social welfare officers. The law also prohibits the detention of minors in jails while undergoing trial and exempts convicted minors from the death penalty (see section 1.d.).

A number of NGOs actively promoted children's rights.

*Trafficking in Persons.*—Trafficking in persons is prohibited under a comprehensive 2003 antitrafficking law, which defines several activities related to trafficking in persons as illegal and imposes stiff penalties—up to life imprisonment—for convicted offenders. Nonetheless, trafficking remained a problem in the country. The country was a source, transit, and destination country for internationally trafficked persons for the purposes of sexual exploitation and forced labor. Internal trafficking remained a serious problem. NGOs and government agencies estimated that from 300,000 to 400,000 women and from 60,000 to 100,000 children were trafficked annually. The most serious problem appeared to be the trafficking of women across international borders for purposes of sexual exploitation. Organized criminal gangs typically trafficked persons from China through the country to other destinations, although occasionally the country was the final destination. Although the Government pursued trafficking-related cases under the antitrafficking law as well as other related laws, its efforts were hampered by slow processing times in the courts, resource constraints within law enforcement agencies, and corruption. In 2005 the

DOJ assigned an additional 10 prosecutors to handle the preliminary investigation and prosecution of trafficking cases at the national level, bringing the total to 14, in addition to other prosecutors in the regional trial courts. The principal investigative agencies were the National Bureau of Intelligence, the Bureau of Immigration, and the PNP's Criminal Investigation and Detection Group. The Government cooperated with international investigations of trafficking.

Both adults and children were trafficked domestically from poor, rural, areas in the southern and central parts of the country to major urban centers, especially Metro Manila and Cebu, but also increasingly to cities in Mindanao. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the poverty and violence in their home areas. Approximately 75 percent of the trafficking victims provided with temporary shelter and counseling by the NGO Visayan Forum Foundation were from Mindanao. The Visayan region was also a source of trafficking victims. Women and girls were far more at risk of becoming victims of trafficking than men and boys.

The Virilanie Foundation, a local child protection NGO, estimated that there were at least 20,000 child prostitutes in the country, most in the Metro Manila area. Other NGOs estimated that as many as 100,000 children were involved in the commercial sex industry. Most of these children were girls, and nearly all had dropped out of school. These children came from very poor families with unemployed or irregularly employed parents.

The Virilanie Foundation offered housing, training, and counseling services to child prostitutes. An ILO program resulted in more than 6,000 children being removed or prevented from engaging in the worst forms of child labor, including the commercial sex industry.

Traffickers targeted persons seeking overseas employment. Millions of Filipinos work overseas, about 10 percent of the population and 20 percent of the workforce. An estimated 10 percent of gross national product comes from these workers' remittances. Most recruits were females ages 13 to 30 from poor farming families. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns, promising a respectable and lucrative job.

In December 2005 five persons were convicted and sentenced to life imprisonment under the antitrafficking law, one of whom remained at large. Three other convicted persons received light sentences as a result of plea bargains. As of December, an estimated 71 trafficking in persons cases were pending or had trials underway, the DOJ was considering charges in another 85 cases.

In June 2005 the NGO International Justice Mission (IJM) and the DOJ filed criminal trafficking charges against a Manila police officer, the first public official to be charged under the antitrafficking law. In July 2005 DOLE ordered the permanent closure of a brothel owned by the police officer, allegedly employing minors. At year's end the criminal case against the police officer was ongoing.

In August 2005 Malaysian authorities rescued and expatriated four Filipino women who were allegedly victims of trafficking. The four were recruited in Davao del Norte Province to work as entertainers in Brunei but were taken instead to Malaysia. A case was filed under the antitrafficking law against the suspected traffickers at the municipal court in Carmen, Davao Del Norte. An arrest warrant was issued, but the accused eluded arrest and at year's end was still at large.

Victims faced exposure to sexually transmitted or other infectious diseases, and were vulnerable to beatings, sexual abuse, and humiliation.

There was anecdotal evidence that some lower-level officials such as customs officers, border guards, immigration officials, local police, or others received bribes from traffickers or otherwise facilitated trafficking. In August the DOJ launched an investigation into an alleged extortion racket among immigration officials in Cebu. Immigration officers allegedly accepted payments ranging from \$4,000 to \$12,000 (P200,000 to P600,000) in exchange for the entry of undocumented aliens from India, Pakistan, China, and Korea. The investigation remained ongoing at year's end.

On July 19, IJM and the PNP Criminal Investigation and Detection group rescued seven minors who were allegedly trafficked for prostitution in Manila. The case was filed in court; however, the three accused were yet to be arraigned as they remained at large at year's end.

The Government devoted significant resources to assist and protect victims. The concept of a trafficked person as a victim rather than a perpetrator was strong. The Government, in conjunction with NGO partners, assisted victims by providing temporary residency status and relief from deportation; shelter; and access to legal, medical, and psychological services. As of September, DSWD had provided temporary shelter and social services to 32 women and 83 juvenile victims of trafficking.

In 2005 DSWD provided services to 74 women victims of illegal recruitment, 141 victims of involuntary prostitution, and 112 victims of trafficking.

DSWD and many private groups have established shelters and rehabilitation centers. DSWD provided economic aid to victims, including residential care. Additional protective services included hot lines for reporting cases and the operation of 24-hour halfway houses in 13 regions of the country to assist victims. Although the Government provided some funding to domestic and foreign NGOs for services to victims, religious groups, multinational donor agencies, and private foundations typically funded most of the budgets for these NGOs.

The Government rarely deported or charged victims of trafficking with crimes; however, police sometimes charged alleged prostitutes with vagrancy. No reliable statistics indicating whether these individuals were victims of trafficking were available.

Victims may file civil suits or seek legal action against traffickers. Most victims who chose to do so filed charges of illegal recruitment. However, the Government lacked the resources to pursue these cases effectively. IJM, employing private Filipino investigators and prosecutors, coordinated with the Government in an effort to increase the number of pro bono prosecutions on behalf of victims of trafficking and commercial sexual exploitation. IJM gathered evidence against establishments that employ prostitutes and children, and shared this information with the National Bureau of Investigation and the PNP. IJM's private prosecutors then filed criminal cases for sexually abused women and children. Cases were prosecuted in coordination with DOJ prosecutors. As of December, IJM had filed 23 cases under the antitrafficking in persons law, 11 during the year.

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public information campaigns against trafficking. The Government supported programs to prevent trafficking, such as the promotion of women's participation in economic decision making and efforts to keep children in school. The Government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding remained limited.

*Persons With Disabilities.*—The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments and for the “rehabilitation, self-development, and self-reliance of disabled persons and their integration into the mainstream of society.” The DOLE's Bureau of Local Employment (BLE) maintained registers of persons with disabilities indicating their skills and abilities. BLE monitored private and public places of employment for violations of labor standards regarding persons with disabilities and also promoted the establishment of cooperatives and self-employment projects for persons with disabilities.

Estimates of the number of persons with disabilities in the country varied significantly. The National Council for the Welfare of Disabled Persons estimated that persons with disabilities make up 10 percent of the population. The 2000 census registered 992,000 persons with disabilities; 580,000 were registered with the Department of Health as of July. Advocates suspected the data were incomplete due to the social stigma attached to persons with disabilities. It was estimated that most persons with disabilities were younger than 65 years of age and lived at home with their families. Assisted living centers were understaffed and underfunded. DSWD operated two assisted living centers in Metro Manila, and five community-based vocational centers for persons with disabilities nationwide.

Advocates for persons with disabilities contended that equal-access laws were ineffective because implementing regulations were weak, funding was inadequate, and government programs were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities have been halting. Only one of Manila's light rail lines was wheelchair-accessible, and many stops had out-of-service elevators. Buses lacked wheelchair lifts, and there were reports of drivers who failed to stop for passengers in wheelchairs. A small number of sidewalks had wheelchair ramps, but garbage cans and street vendors often blocked access. Many of the sidewalk wheelchair ramps were crumbling or too steep. The situation was worse in many smaller cities and towns.

*Indigenous People.*—Indigenous people lived throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They accounted for approximately 14 percent of the national population, with over 60 percent of the total in Mindanao. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias pre-

vented their full integration into society. Indigenous children suffered from lack of health, education, and other basic services. NGOs estimated that up to 70 percent of indigenous youth leave or never attend school because of the discrimination they experienced.

Indigenous people suffered disproportionately from armed conflict, including displacement from their homes, because they often inhabit mountainous areas also favored by guerrillas. Their lands were often the sites of armed encounters, and various parties to the fighting recruited many indigenous people.

A National Commission on Indigenous People (NCIP), staffed by tribal members, implements constitutional provisions to protect indigenous people. During the year, NCIP had a budget of \$7.94 million (P405 million). At year's end, the NCIP had awarded Certificates of Ancestral Land and Ancestral Domain Titles covering over 2.75 million acres of land claimed by indigenous people in the country. It awarded such "ancestral domain lands" on the basis of communal ownership, stopping sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands, and assigns indigenous groups the responsibility to preserve their domains from environmentally inappropriate development. The Government was slow to implement the legislation, primarily because of opposition from mining and agribusiness interests, but some limited progress was made.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the Government. Unions have the right to form or join federations or other labor groups.

Through November the Bureau of Labor Relations reported 128 registered labor federations and more than 15,000 private sector unions, a slight decline from the number of unions registered in 2005. The 1.6 million union members represented 4.4 percent of the total workforce of 35.9 million. The number of firms using contractual labor, primarily large employers, continued to grow. There were 1,531 public sector unions, with a total membership of 291,343 or about 19 percent of the total public sector labor force.

The International Confederation of Free Trade Unions (ICFTU) alleged that a new union may be registered only if it represents at least 20 percent of workers in a bargaining unit and that the law requires 10 unions before a federation can be formed. The ICFTU had two complaints pending before the ILO regarding these requirements.

The ICFTU and other labor rights advocacy groups expressed alarm at killings, abductions, and other attacks on 19 labor leaders and supporters since September 2005 and urged the Government to greater efforts in investigating these attacks (see section 1.a.).

*b. The Right To Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively. The labor code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Approximately 5 percent of the work force was organized. Collective bargaining was practiced; however, it is subject to hindrance and union leaders may be subject to reprisal. International labor organizations noted that collective bargaining in the public sector is limited and that the right to strike is banned outright for public sector workers. Through November the number of workers covered by collective bargaining agreements declined to approximately 241,600 (approximately 11 percent of union members) from 296,000 in 2005. There are no special laws or exemptions from regular labor laws in SEZs.

Allegations of intimidation and discrimination in connection with union activities are grounds for review before the quasi-judicial National Labor Relations Commission (NLRC) as possible unfair labor practices. However, unions maintained that widespread ignorance of basic standards and rights was a major obstacle to union organization. Before disputes reach the NLRC, the DOLE provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. The DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

Subject to certain procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law, the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must have been exhausted. The DOLE secretary may intervene in



some labor disputes by assuming jurisdiction and mandating a settlement if the secretary decides that the industry involved in the strike is vital to national security. From January to November, DOLE reported that there were 12 strikes involving 1,415 workers; in 2005 there were 26 strikes involving approximately 8,000 workers.

On September 25 and 27, unions of two garment factories in the Cavite Economic Zone alleged that guards and local police illegally and violently dispersed their strikes. These strikes were launched after the management of the two companies refused to negotiate a collective bargaining agreement with the unions, despite DOLE's certification of the unions as exclusive bargaining agents. The unions filed with the CHR charges of illegal dispersal, physical injuries, and food blockade against the economic zone authority and the local police. The CHR investigation was on-going as of year's end.

Although the labor code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, there has never been a conviction under this provision.

Trade union officials reported that underpayment of the minimum wage and the use of contract employees to avoid the payment of required benefits were common practices, including in the government-designated SEZs, where tax benefits were used to encourage the growth of export industries. Dismissal or threatened dismissal of union members also was common. Labor groups alleged that companies in the SEZs have used frivolous lawsuits as a means of harassing union leaders.

Labor law applies uniformly throughout the country, including the SEZs; however, local political leaders and officials who govern the SEZs attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection created further obstacles to the enforcement of workers' rights to organize. DOLE can conduct inspections of local SEZ establishments, although local SEZ directors claimed authority to conduct their own inspections as part of the zones' privileges intended by congress. Hiring often was controlled tightly through SEZ labor centers. Union successes in organizing in the SEZs have been few and marginal. In the Subic SEZ, only one firm was unionized. Some mainstream unions declined to mount a major unionizing effort in the lower-wage SEZ industries, such as the garment industry. They considered it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young, mainly female, staff who worked on short-term contracts in the zones' many electronics and garment factories.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, including forced and compulsory labor by children; however, despite the Government's efforts, there were some reports of forced and compulsory labor, particularly by children, mainly in prostitution, drug trafficking, and other areas of the informal sector (see sections 5 and 6.d.). The legal minimum age for employment as a domestic worker is 15. However, an estimated 2.1 million children 17 years of age or younger, including 880,000 under 15, were employed. Some recruiters reportedly brought children to work in Manila or other cities under terms that involved a "loan" advanced to their parents that the children were obliged to repay through their work. The DOLE continued to address the problem of underage workers in family work settings with prosecutions and fines of violators (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the DOLE secretary but forbids the employment of persons less than 18 years of age in hazardous or dangerous work. However, child labor remained a common problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural areas—some as bonded laborers (see section 6.c.). The Government estimated that there were approximately four million working children, about half of whom were exposed to hazardous working environments, such as quarries and mines, docksides, and fishing boats, which are defined in the nation's laws as among the worst forms of child labor.

Most child labor occurred in the informal economy, often in family settings. The Government rarely sought to prosecute a poor family because it had a working child. Nevertheless, the Government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop other, safer options for children, return them to school, and offer families viable economic alter-

natives to child labor. Although the Government made attempts to devote more resources to child labor programs this year, resources remained inadequate.

The Government and NGOs implemented programs to prevent the engagement of children in exploitative child labor; they educated communities on child labor and provided counseling and other activities for children. The DOLE and the DepEd worked with NGOs, UNICEF, and the ILO International Program on the Elimination of Child Labor to assist children to return to school. The Government also imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. Between January and September, the DOLE continued its efforts to rescue exploited child workers, rescuing 201 minors in 44 different operations, compared with 63 operations involving 151 minors in 2005. The Employers Confederation of the Philippines pursued an active and highly visible program against child labor.

*e. Acceptable Conditions of Work.*—The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards set minimum wages, and the highest minimum wage rates were in the National Capital Region, where the minimum daily wage for nonagricultural workers was \$7 (P350). The lowest minimum wages were in the Autonomous Region in Muslim Mindanao, where the daily agricultural wage was \$4 (P200). The regional wage board orders covered all private sector workers except domestic servants and others employed in the personal service of another person. Boards exempted some employers because of factors such as business size, industry sector, export intensity, financial distress, and level of capitalization. These exemptions excluded substantial numbers of workers from coverage under the law. Reportedly 225 businesses in Metro Manila requested exemptions from the minimum wage order issued in July. However, as of the end of November, the wage board for Metro Manila had not yet granted any exemptions. As of December, the regional wage boards approved 366 out of 525 employer applications for exemptions from the minimum wage orders issued in 2005. The regional boards received an additional 287 applications for exemptions from the 2006 minimum wage orders; 46 of which were approved as of October. Unions have filed complaints about the minimum wage exemption policies.

Violation of minimum wage standards was common. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work. As of June, 16 percent of commercial establishments inspected by DOLE were out of compliance with the prevailing minimum wage. The DOLE acknowledged that the shortage of inspectors made the law difficult to enforce. In addition to fines, the Government also made use of administrative procedures and moral suasion to encourage employers to rectify violations voluntarily. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law, the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an eight-hour per day limit. The Government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates one day of rest each week. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE conducted only sporadic inspections to enforce limits on workweek hours. The DOLE's 208 labor inspectors made nearly 10,500 inspections by June to check on companies' compliance with general labor and working standards.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with too few inspectors nationwide, local authorities often must carry out enforcement. The DOLE continued a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The Government and several NGOs worked to protect the rights of the country's overseas citizens, most of whom were temporary or contract workers. The Government placed financial sanctions on and criminal charges against domestic recruiting agencies found guilty of unfair labor practices. Although the Philippine Overseas Employment Administration registered and supervised domestic recruiters' practices successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The Government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens.

## SAMOA

Samoa is a parliamentary democracy that incorporates traditional practices into its governmental system. The country has a population of approximately 177,000. Executive authority is vested in the head of state, Malietoa Tanumafili II, who holds the position for life. Parliament, elected by universal suffrage, is composed primarily of the heads of extended families, or matai. The most recent elections, held in March, were marred by charges of bribery. As a result of election challenges filed by losing candidates, the Supreme Court ordered 10 by-elections. The Human Rights Protection Party (HRPP) has dominated parliament as the majority party for the past six terms. The civilian authorities generally maintained effective control of the national police force.

The Government generally respected the human rights of its citizens. However, some human rights problems remained, including local limitations on religious freedom, discrimination against women and non-matai, and poor prison conditions.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings. In August the ombudsman's office reopened the investigation of a 2005 case in which police officer Tupou AINU'u was found not guilty of manslaughter in the death of a man in police custody. The investigation was ongoing at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions continued to deteriorate, especially for male inmates. Only basic provisions were provided with respect to food, water, and sanitation. Diplomatic observers reported that each concrete cell held approximately 15 inmates. Most of the cells had gravel floors, no toilets, poor ventilation, and almost no lighting. Meals were served through the cell bars. The Government made efforts to improve prison conditions, including constructing 10 new cells. Juveniles were not held in separate facilities; however, during the year the Government began construction on a new separate juvenile detention center.

The Government permitted visits by independent human rights observers; however, there were no known requests during the year. The Government permitted family members and church representatives to visit prisons every two weeks.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The country has a small national police force and no external defense force. Enforcement of rules and security within individual villages is vested in the fono (Council of Matai). Judgments by the fono usually involved fines or, more rarely, banishment from the village.

The police, prison guards, and firefighters all belong to one consolidated national service. A commissioner appointed to a three-year term heads this service. He is assisted by four assistant commissioners and reports to the minister of police. Corruption and impunity were not significant problems among the police; however, a lack of resources limited police effectiveness.

*Arrest and Detention.*—The Supreme Court issues arrest warrants based on sufficient evidence. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities generally respected this right in practice. Detainees are informed within 24 hours of the charges against them, or they are released. There was a functioning system of bail. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee is indigent, the Government provides a lawyer.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The judiciary consists of the district court, the Lands and Titles Court, the Supreme Court, and the Court of Appeal. The district court has jurisdiction over matters involving values less than \$4,000 (WST\$10,000) and criminal offenses with penalties less than five years. The Lands and Titles Court has jurisdiction over all lands and titles cases. The Supreme Court has jurisdiction over matters of more than \$4,000 (WST\$10,000) and criminal offenses with penalties of more than five years. The Court of Appeal is the highest court. It has appellate jurisdiction only and can review the rulings of any other court. It is composed of a panel of retired New Zealand judges and sits once a year for several weeks.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The accused person must be charged within 24 hours. A trial judge examines evidence and determines if there are grounds to proceed. Defendants have the presumption of innocence until proven guilty. Trials are public, and juries are used. Defendants have the right to be present and to timely consultation with an attorney, at public expense if required. Defendants may confront witnesses and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence, and defendants have the right to appeal a verdict.

Many civil and criminal matters were handled by village fono, which varied considerably in their decision-making styles and the number of matai involved in the decisions. The law recognizes the decisions of the fono and provides for limited appeal to the Lands and Titles Court and the Supreme Court. The nature and severity of the dispute determines which court receives an appeal. For all lands and titles appeals, the Lands and Titles Court first uses its own appellate court presided over by the President, after which appeals may be taken up to the Supreme Court and the Court of Appeal if necessary. For other civil and criminal disputes, appeals may be taken first to the Supreme Court and later to the Court of Appeal if necessary. According to a 2000 Supreme Court ruling, fono may not infringe upon villagers' freedom of religion, speech, assembly, or association (see section 2.c.).

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The Lands and Titles Court is an independent and impartial court that deals with civil matters, including human rights violations. The Lands and Titles Court hears disputes concerning the use or ownership of land and the use or ownership of a matai title. Within their jurisdictions, other courts can also provide independent and impartial means to redress human rights violations, as indicated above in this section.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. However, there is little or no privacy in villages, where there can be substantial societal pressure on residents to grant village officials access without a warrant.

In accordance with traditional law, village fono may impose a punishment of banishment (see section 2.d.).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. There were three television stations (one government-controlled) and three newspapers (also one government-controlled). The independent media were generally active and expressed a wide variety of views without restriction. The law stipulates imprisonment for any journalist who, despite court order, refuses to reveal a confidential source upon request from a member of the public. However, there has been no court case invoking this law.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expressions of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events. However, under a 1998 amendment to the Films Control Act, the official government censor is required to ban any film that might hinder stability and social order. During the year, the Government banned from public viewing one motion picture considered likely to promote interreligious strife.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. The constitution acknowledges an “independent state based on Christian principles and Samoan custom and traditions”; however, there is no official or state denomination. The law grants each person the right to change religion or belief and to worship or teach religion alone or with others, but in practice the matai often choose the religious denomination of their extended family. There were instances during the year where fono imposed restrictions on the introduction and practice of new religions and faiths. The courts ruled in several high-profile cases in which village fono attempted to limit religious observance to existing churches (primarily the Congregational Christian Church of Samoa, the Catholic Church, and the Methodist Church). Those negatively affected by such attempts were primarily the relatively new, fast-growing evangelical and interdenominational Christian movements. In such cases, the fono allowed village persons to travel outside their village to attend religious services (see Section 2.d.).

*Societal Abuses and Discrimination.*—There were no significant reports of societal religious discrimination or anti-Semitic acts. For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. However, traditional law governs villages, and village fono regularly banned citizens from village activities or banished citizens from the village for failing to conform to village laws or obey fono rulings. In some cases civil courts have overruled banishment orders. During the year one person was banished from his village for attempting to establish a new church, allegedly due to a lack of advance consultation with the fono. The person affected appealed to the Lands and Titles Court, which ruled in his favor.

The law prohibits exile, and the Government did not use it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government has not established a system for providing protection to refugees. The Government was prepared to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees, but the need did not arise during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The most recent elections were in March, but they were marred by charges of bribery. As a result of election challenges filed by losing candidates, the Supreme Court ordered 10 by-elections. By year's end, the by-elections had not all been conducted and not all results were finalized. The HRPP has dominated the political process, winning seven consecutive elections since 1982.

The law does not prohibit the formation of opposition parties, although none currently exist. In October the leader of the recognized opposition, the Samoa Democratic United Party (SDUP), resigned due to internal party conflict. His resignation, together with that of another SDUP member, reduced the SDUP below the eight members required for recognition as a party in parliament.

While the constitution gives all citizens above the age of 21 the right to vote and run for office, by social custom candidates for 47 of the 49 seats in the parliament are drawn from the approximately 25,000 chiefs. Matai are selected by family agreement; there is no age qualification. Although both men and women are permitted to become matai, 95 percent of matai were men. Matai controlled local government through the village fono, which were open to them alone.

During the year the number of women matai and women participating in politics increased, with three women seated in the 13-member cabinet, two women serving as heads of constitutional offices, four women as chief executive officers of government ministries, and two women as chief executive officers of government corporations. There were five women in the 49-member Parliament.

The political rights of citizens who are not of ethnic Samoan heritage are addressed by the reservation of two parliamentary seats for “at large” members of parliament (MP). One of the at large cabinet ministers was an at-large MP of mixed

European-Samoan heritage. Citizens of mixed European-Samoan or Chinese-Samoan heritage were well represented in the civil service.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year. During 2004 and 2005, charges were brought against several current and former employees of the Ministry of Health and the Department of Customs for theft of government funds, and the chief executive officer of the Ministry of Health was suspended. One senior officer from the Department of Customs was charged with theft as a public servant. At year's end the trial concerning the former chief executive officer of the Ministry of Health was pending.

The law provides for an ombudsman to investigate complaints against government agencies, officials, or employees, including allegations of corruption. The ombudsman may require the Government to provide information relating to a complaint.

Under the law, government information is subject to disclosure in civil proceedings involving the Government, unless the information is considered privileged or its disclosure would harm the public interest.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, sex, disability, language, or social status, and the Government generally respected this in practice. However, politics and culture reflected a heritage of matai privilege and power, and as such members of certain families had some advantages.

*Women.*—The law prohibits abuse of women, but common social attitudes tolerated their physical abuse within the home, and such abuse was common. Delay in adopting amendments to the current fono law prevented police from interfering in domestic violence. Domestic abuses typically went unreported due to social pressure and fear of reprisal. Village fono typically punished domestic violence offenders, but only if the abuse was considered extreme (i.e. visible signs of physical abuse). Village religious leaders were also permitted to intervene in domestic disputes. When police received complaints from abused women, the Government punished the offender, including by imprisonment. The Government did not keep statistics on domestic abuse cases but acknowledged the problem to be one of considerable concern.

Many cases of rape went unreported because common social attitudes discourage such reporting. Rape is illegal, although spousal rape is not illegal. In recent years authorities noted a considerable number of reported cases of rape, as women slowly became more forthcoming with police. Rape cases that reached the courts were treated seriously. Convicted offenders often received sentences of several years' imprisonment. During the year reporting of sexual crimes to the police reportedly improved.

Prostitution is illegal but was not a major problem. The law does not address sex tourism specifically; however, it was not a problem. The law prohibits sexual harassment; it was not a widespread problem but was believed to be underreported.

Women have equal rights under the constitution and statutory law, and the traditional subordinate role of women is changing, albeit slowly, particularly in the more conservative parts of society. The Ministry of Women, Community, and Social Development oversees and helps secure the rights of women. To integrate women into the economic mainstream, the Government sponsored numerous programs, including literacy programs and training programs for those who did not complete high school.

*Children.*—The Government made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministry of Women, Community, and Social Development in collaboration with the ministries of Education and Health. Education is compulsory through age 14; however, the Government did not enforce this law. Public education was not free, and students were required to pay some school fees. Boys and girls were treated equally and attended school in approximately equal percentages. Most children attended school through junior high school.

The Division for Women of the Ministry of Women, Community, and Social Development, carried out several programs for women and young people on a range of issues, including human rights. These issues were facilitated and taught in the context of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

The Government provided health care for children at public hospitals for minimal charge. The Ministry of Health and the Samoa Family Health Association undertook efforts to improve access to its services by women and children. Law and tradition prohibit severe abuse of children, but both tolerate corporal punishment. A recent rise in reported cases of child abuse appeared to be due to the rise to citizens' increased awareness of the need to report physical, emotional, and sexual abuse of children. The Government aggressively prosecuted such cases. There were no reports of commercial sexual exploitation of children.

The Ministry of Justice and Courts Administration, in collaboration with non-governmental organizations, carried out other educational activities address domestic violence and inappropriate behavior between adults and children, and to promote human rights awareness.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons. There were no reports that persons were trafficked to, from, or within the country during the year.

A transnational crimes unit monitored crimes related to trafficking in persons.

*Persons With Disabilities.*—There is no law pertaining specifically to the status of persons with disabilities or regarding accessibility for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of discrimination against persons with disabilities in the areas of employment, education, access to health care, or in the provision of other state services. Many public buildings were old, and only a few were accessible to persons with disabilities. Most new buildings provided better access, including ramps and elevators in most multistory buildings.

The Ministry of Women, Community, and Social Development has responsibility for protecting the rights of persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the private sector workforce was unionized. The Public Service Association (PSA) functioned as a union for all government workers, who comprised approximately 80 percent of the paid workforce, excluding the self-employed.

*b. The Right To Organize and Bargain Collectively.*—The law provides workers with the right to organize and bargain collectively, and workers exercised this right in practice. The PSA engages in collective bargaining on behalf of government workers, including bargaining on wages. Under the law, arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arise.

The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety, and workers have exercised this right. In September 2005 government doctors organized for more pay and better working conditions. The Attorney General and the Ministry of Health deemed the strike illegal and ordered the doctors to return to work. The doctors defied the order, and a government commission was formed and tasked with investigating the doctors' complaints. The commission's report was approved by the cabinet, but the doctors on strike rejected it. At year's end few of the doctors had returned to work.

Workers in the private sector have the right to strike, but there were no private sector strikes during the year. There are no special laws or exemptions from regular labor laws in the sole export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but matai frequently called upon persons, including minors, to work for their villages. Most persons did so willingly; however, the matai may compel those who do not (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—It is illegal to employ children under the age of 15 except in "safe and light work." The Ministry of Labor refers complaints of illegal child labor to the Attorney General for enforcement; however, no cases were prosecuted during the year. Children frequently were seen vending goods and food on Apia street corners. The Government has not made a definitive determination as to whether this practice violates the country's labor laws, which cover only persons who have a place of employment. Although the practice may constitute a violation of the law, local officials mostly tolerated it. There were no reports of compulsory labor by children; however, the law does not apply to service rendered to the matai or family members, some of whom required children to work for the village, primarily on village farms. The extent of this practice varied by village, but it generally did not significantly disrupt children's education.

*e. Acceptable Conditions of Work.*—The law establishes for the private sector a 40-hour workweek and an hourly minimum wage. In September 2005, the minimum wage was increased to \$0.72 (WST\$2.00) per hour, which did not provide a decent standard of living for a worker and family. An advisory commission to the minister of labor sets minimum wages. Wages in the private sector are determined by competitive demand for the required skills. Minimum wage rates were sufficient only when supplemented by subsistence farming and fishing.

The law also establishes certain rudimentary safety and health standards, which the Ministry of Commerce, Industry, and Labor is responsible for enforcing. However, independent observers reported that safety laws were not enforced strictly, except when accidents highlighted noncompliance. Many agricultural workers, among others, were inadequately protected from pesticides and other dangers to health. Government education and awareness programs addressed these concerns by providing appropriate training and equipment to agricultural workers for adequate protection from pesticides and other dangers to health. Safety laws do not apply to agricultural service rendered to the matai. While the law does not address specifically the right of workers to remove themselves from dangerous work situations, the commissioner of labor investigates such cases, without jeopardy to continued employment. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

The Occupational Safety Hazard Act includes provisions covering the safety and health of workers in both the private and public sectors. The act also covers persons who are not workers but who are lawfully on the premises or within the workplace during work hours. Workplace safety and health were monitored strictly by the Ministry of Commerce, Industry, and Labor through occupational safety hazard inspectors. Work accidents were investigated when reports were received.

## SINGAPORE

Singapore is a parliamentary republic in which the People's Action Party (PAP), in power since 1959, overwhelmingly dominates politics. The population was approximately 4.35 million, with foreign workers accounting for nearly one-fifth of the total. Opposition parties exist, and parliamentary elections take place at regular, constitutionally mandated intervals (most recently in May). The PAP holds 82 of 84 elected parliamentary seats and all ministerial positions. The civilian authorities generally maintained effective control of the security forces.

The Government has broad powers to limit citizens' rights and to handicap political opposition, which it used. Caning is an allowable punishment for numerous offenses. The following human rights problems were reported: preventive detention, executive influence over the judiciary, infringement of citizens' privacy rights, restriction of speech and press freedom and the practice of self-censorship by journalists, restriction of freedom of assembly and freedom of association, some restriction of freedom of religion, and some trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these prohibitions. On February 9, an inmate held in a courthouse cell claimed a policeman punched him twice when the inmate was found smoking and in possession of cigarettes and a lighter. The inmate was sent for a medical examination and filed charges against the policeman. The subordinate courts found the accused policeman guilty on March 29 and on April 4 sentenced him to four months in jail.

The penal code mandates caning, in addition to imprisonment, as punishment for approximately 30 offenses involving violence, such as rape and robbery, and for non-violent offenses such as vandalism, drug trafficking, and violation of immigration laws. Caning is discretionary for convictions on other charges involving the use of force, such as kidnapping or voluntarily causing grievous hurt. All women, men over age 50 or under age 16, and anyone determined medically unfit are exempt from punishment by caning. During the year 5,984 convicted persons were sentenced to caning. Approximately 95 percent of caning sentences were carried out.



*Prison and Detention Center Conditions.*—Prison conditions, while Spartan, generally met international standards.

The Government did not allow human rights monitors to visit prisons; however, diplomatic representatives were given consular access to citizens of their countries.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The police are responsible for routine security within the country and for border protection, including action against illegal immigrants. The Internal Security Act (ISA) authorizes the Internal Security Department in the Ministry of Home Affairs to counter perceived threats to the nation's security such as espionage, international terrorism, threats to racial and religious harmony, and subversion. The police force was well trained and highly disciplined. Corruption was not a problem, and the police effectively maintained internal law and order. The Corrupt Practices Investigation Bureau, an independent agency under the Prime Minister's Office, investigates all allegations of corruption including police corruption. Allegations of criminal offenses by police officers are investigated either by a police division other than the unit to which the accused are assigned or, in cases involving complaints of serious misconduct, by the Internal Investigation Division at police headquarters.

*Arrest and Detention.*—The law provides that, in most instances, arrests are to be carried out after issuance of an authorized warrant; however, some laws, such as the ISA, provide for arrests without warrants. Those arrested under warrants must be charged before a magistrate within 48 hours. The majority of those arrested were charged expeditiously and brought to trial. A functioning bail system exists, but no commercial bail bond services were available. Those who face criminal charges are allowed counsel; however, there was no access to counsel during an initial arrest and investigation before charges were filed. The Law Society administered a legal aid plan for those who could not afford to hire an attorney. In death penalty cases, the Supreme Court appoints two attorneys for defendants who are unable to afford their own counsel.

Some laws—the ISA, the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (the drug act), and the Undesirable Publications Act (UPA)—have provisions for arrest and detention without a warrant or judicial review. The ISA has been employed primarily against suspected security threats. In the past, these threats were Communist related; however, in recent years, the ISA has been employed against suspected terrorists. The CLA has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA gives broad discretion to the minister for home affairs, at the direction of the President, to order detention without filing charges if it is determined that a person poses a threat to national security. The initial detention may be for up to two years and may be renewed without limitation for additional periods of up to two years at a time. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead, detainees may make representations to an advisory board, headed by a Supreme Court justice, which reviews each detainee's case periodically and must make a recommendation to the President within three months of the initial detention. The President may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order, but he is not obligated to do so.

At year's end, 34 detainees were being held under the ISA as suspected terrorists. Of these detainees, 31 were suspected of belonging to the terrorist group Jemaah Islamiyah (JI), and three were suspected of membership in the Philippines-based Moro Islamic Liberation Front. In January Indonesian authorities arrested Mas Selamat Kastari, alleged leader of the Singapore branch of JI, and deported him to Singapore where he was detained under the ISA.

At year's end, 26 others were on restriction orders (ROs); this number included both released detainees and suspected terrorists who were never arrested. A person subject to an RO must seek official approval for a change of address or occupation, for overseas travel, or for participation in any public organization or activity.

The CLA comes up for renewal every five years. When Parliament renewed the CLA in 2004, it amended it to allow taking DNA samples. Under the CLA, the minister for home affairs may order preventive detention, with the concurrence of the public prosecutor, for an initial period of one year, and the President may extend

detention for additional periods of up to one year at a time. The minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of the order. The CLAC then reviews the case at a private hearing. CLAC rules require that detainees be notified of the grounds of their detention at least 10 days prior to this hearing, in which a detainee may represent himself or be represented by a lawyer. After the hearing, the committee makes a written recommendation to the President, who may cancel, confirm, or amend the detention order. However, persons detained under the CLA have recourse to the courts via an application for a writ of habeas corpus. Persons detained without trial under the CLA are entitled to counsel, but they may challenge the substantive basis for their detention only to the CLAC. The CLA is used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. At the end of 2005, 211 persons were detained under the provisions of the CLA; more recent statistics were not available. Persons who allege mistreatment while in detention may bring criminal charges against government officials alleged to have committed such acts.

Both the ISA and the CLA contain provisions that allow for modified forms of detention such as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, and, in the case of the ISA, restrictions on political activities and association.

The drug act permits detention without trial. Under the drug act, the director of the Central Narcotics Bureau (CNB) also may commit—without trial—suspected drug abusers to a drug rehabilitation center for a six-month period, which is extendable by a review committee of the institution for up to a maximum of three years. As of December 432 persons were held in drug rehabilitation centers. Under the Intoxicating Substances Act, the CNB director may order the treatment of a person believed to be an inhalant drug abuser for up to six months. Other sections of the drug act allow for capital punishment or incarceration of persons found guilty of narcotics trafficking offenses (see section 1.e.).

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence; however, in practice laws that limit judicial review permit restrictions on constitutional rights. Some judicial officials, especially supreme court judges, have ties to the ruling party and its leaders. The President appoints judges to the Supreme Court on the recommendation of the Prime Minister and in consultation with the chief justice. The President also appoints subordinate court judges on the recommendation of the chief justice. The term of appointment is determined by the Legal Service Commission, of which the chief justice is the chairman. Under the ISA and the CLA, the President and the minister for home affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review. These laws provide the Government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise are provided for in the constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics (see sections 2.a., 2.d., and 3). Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the Government and the judiciary and led to a perception that the judiciary reflected the views of the ruling party in politically sensitive cases. On February 10, the High Court declared opposition politician Chee Soon Juan bankrupt for failing to pay libel damages awarded to Senior Minister Goh Chok Tong and Minister Mentor Lee Kuan Yew in January 2005 for \$316,455 (\$500,000) for comments made by Chee in the 2001 election campaign. Following the bankruptcy hearing, Chee criticized the judiciary for “lack of independence and fairness,” and on February 15, the Attorney General’s Chambers (AGC) moved to have Chee found in contempt of court. Supreme Court Justice Lai dismissed defense claims that the AGC had no standing since the bankruptcy court should have taken any contempt action on February 10; Lai also dismissed defense arguments of fair comment and free speech, found Chee guilty, and sentenced him to one day in jail and a \$3,600 (\$6,000) fine. Chee refused to pay the fine and spent eight days in prison. Chee and his associates faced a variety of other charges during the year, which greatly handicapped their opposition political activities. In particular, on June 20, Chee’s attorney M. Ravi appeared before the Disciplinary Committee of Law Society to respond to a complaint a judge lodged against him regarding his behavior in a 2003 case. The disciplinary committee fined Ravi \$1,250 (\$2,000) and referred his case to the Court of Three Judges, the legal profession’s highest disciplinary body, which has the authority to suspend him from the practice of law. On October 27, the court suspended Ravi from practicing for one year.

The judicial system has two levels of courts: the Supreme Court, which includes the High Court and the Court of Appeal, and the subordinate courts. Subordinate court judges and magistrates as well as public prosecutors are civil servants whose specific assignments are determined by the Legal Service Commission, which can decide on job transfers to any of several legal service departments. The subordinate courts handle the great majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limits itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court. Supreme Court justices may choose to remain in office until the mandatory retirement age of 65, after which they may continue to serve at the Government's discretion for brief, renewable terms at full salary. In addition, the law provides for Islamic courts whose authority is limited to Islamic family law, which is applicable only to Muslims.

A two-tier military court system has jurisdiction over all military personnel, civilians in the service of the armed forces, and volunteers when they are ordered to report for service. The system handles approximately 450 cases each year. The Military Court of Appeal has the jurisdiction to examine an appeal from a person convicted by a subordinate military court. Trials are public, and the defendants have the right to be present. An accused individual also has the right to defense representation.

*Trial Procedures.*—The judicial system provides citizens with an efficient judicial process. In normal cases the criminal procedures code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Trials are public and heard by a judge; there are no jury trials. Defendants have the right to be present at their trials and to be represented by an attorney; the Law Society administers a criminal legal aid plan for those who cannot afford to hire an attorney. Defendants also have the right to question opposing witnesses, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right of appeal in most cases. Despite the general presumption of innocence, the drug act stipulates that a person who the prosecution proves has illegal narcotics in his possession, custody, or control shall be assumed to be aware of the substance and places the burden on the defendant to prove otherwise. The same law also stipulates that, if the amount of the narcotic is above set low limits, it is the defendant's burden to prove he did not have the drug for the purpose of trafficking. Convictions for narcotics trafficking offenses carry lengthy jail sentences or the death penalty, depending on the type and amount of the illegal substance. Persons charged with a capital offense under the drug act have the right to a public trial and to appeal conviction.

The constitution extends these rights to all citizens; however, persons detained under the ISA or CLA are not entitled to a public trial. In addition, proceedings of the advisory board under the ISA and CLA are not public (see section 1.d.).

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is no differentiation between civil and criminal judicial procedures. The subordinate courts handle the majority of civil cases. Access to the courts is open, and citizens and residents have the right to sue for infringement of human rights. However, there has been no known attempt to use legal action against the Government for human rights violations. In fact, despite their sometimes heavy-handed tactics against the opposition, the Government was careful to ensure that their actions were within the constitution and the law.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution does not address privacy rights; remedies for infringement of some aspects of privacy rights are available under statutory or common law. The Government generally respected the privacy of homes and families; however, it had a pervasive influence over civic and economic life and sometimes used its broad discretionary powers to infringe on these rights. To prevent housing segregation, the Government enforced ethnic ratios in publicly subsidized housing where the majority of citizens lived (see section 5). Normally the police must have a warrant issued by a court to conduct a search; however, they may search a person, home, or a property without a warrant if they decide that such a search is necessary to preserve evidence. The Government has wide-ranging discretionary powers under the ISA, CLA, the drug act, and UPA to conduct searches without a warrant if it determines that national security, public safety and order, or the public interest is at risk. Defendants may request judicial review of such searches.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, have extensive networks for gathering information and conducting surveillance and highly sophisticated capabilities to monitor telephone and other private conversations. No court warrants are required for such operations. The law permits government monitoring of Internet use. It was believed that the authorities routinely monitored telephone conversations and the use of the Internet. It was widely believed that the authorities routinely conducted surveillance on some opposition politicians and other government critics.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and freedom of expression but permits official restrictions on these rights, and in practice the Government significantly restricted freedom of speech and freedom of the press. Government intimidation and pressure to conform resulted in self-censorship among journalists; however, there was a moderate level of ongoing debate in newspapers and on the Internet on some public issues such as rising income inequality and the role of foreign workers in the country.

Under the ISA, the Government may restrict or place conditions on publications that incite violence, counsel disobedience to the law, have the potential to arouse tensions in the country's diverse population, or might threaten national interests, national security, or public order. While the ISA has not been invoked in recent years against political opponents of the Government, political opposition and criticism remained restricted by the Government's authority to define these powers broadly.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition, strict defamation and press laws and the Government's demonstrated willingness to respond vigorously to what it considered personal attacks on officials sometimes led journalists and editors to moderate or limit what was published.

In 2004 the Government relaxed provisions of the Public Entertainment and Meetings Act (PEMA), which requires a permit for virtually any form of public speech or entertainment (see section 2.b.). Citizens do not need a permit to speak at indoor public gatherings outside the hearing or view of nonparticipants, unless the topic refers to race or religion. Nevertheless, police continued to invoke the PEMA for minor public protests. In January the police warned a group of female high school students that their plan to sell t-shirts commemorating the 2005 "White Elephant" protest might violate the PEMA.

On November 23, opposition politician Chee Soon Juan and two supporters were convicted and fined for speaking in public without a permit (see sections 1.e., 2.d., and 3). Police testified that they observed Chee giving speeches rather than a sales talk for his Social Democratic Party newsletter. On November 23, in lieu of paying a \$3,268 (S\$5,000) fine, Chee began serving a five-week jail term.

Government restrictions limit the ability to speak freely at the Speakers' Corner in a public park. Prospective speakers must be citizens, must show their identification cards, and must register in advance with the police. While it was not necessary to declare speech topics in advance, government regulations governing the Speakers' Corner state that "the speech should not be religious in nature and should not have the potential to cause feelings of enmity, ill will, or hostility between different racial or religious groups."

On September 24, a journalist for the Epoch Times, a newspaper affiliated with the Falun Gong movement, was denied entry and asked to leave the country.

The Government strongly influenced both the print and electronic media. Two companies, Singapore Press Holdings Limited (SPH) and MediaCorp, own all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. MediaCorp is wholly owned by the Government investment company. SPH is a private holding company with close ties to the Government; the Government must approve (and can remove) the holders of SPH management shares, who have the power to appoint or dismiss all directors or staff. As a result, while newspapers printed a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and reporting of sensitive foreign relations issues usually closely reflected government policies and the opinions of government leaders. The Government sets formal and informal constraints on the media; for example, a visiting academic whose views on religion the Government considered unconventional was allowed to speak, but the media reportedly was restricted with regard to coverage of the speech. Columnists' opinions and letters to the editor expressed a moderate range of opinions on public issues. The international nongovernmental organization (NGO) Reporters Without Borders noted

strong government and ruling party influence over the media as well as continued censorship and self-censorship.

Government-linked companies and organizations operated all domestic broadcast television channels and almost all radio stations. Only one radio station, the BBC World Service, was completely independent of the Government. Some Malaysian and Indonesian television and radio programming could be received, but satellite dishes were banned, with few exceptions. Cable subscribers had access to seven foreign television news channels and many entertainment channels, including some with news programs; these were not censored.

The Media Development Authority (MDA), a statutory board under the Ministry of Information, Communications, and the Arts (MICA), continued to censor broadcast media, Internet sites, and all other media, including movies, video materials, computer games, and music. Banned publications consisted primarily of sexually oriented materials but also included some religious and political publications. Both MDA and MICA developed censorship standards with the help of a citizen advisory panel. The ISA, the UPA, and the Films Act allow the banning, seizure, censorship, or restriction of written, visual, or musical materials by these agencies if they determine that such materials threaten the stability of the state, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities. The MDA has the power to sanction broadcasters for airing what it believes to be inappropriate content. All content airing between 6 a.m. and 10 p.m. must be suitable for viewers of all ages.

A substantial number of foreign media operations were located within the country, and a wide range of international magazines and newspapers can be purchased uncensored. However, under the Newspaper and Printing Press Act (NPPA), the Government may limit the circulation of foreign publications that it determines interfere with domestic politics. The NPPA requires foreign publications that report on politics and current events in Southeast Asia, with circulation of 300 or more copies per issue, to register, post a \$126,582 (S\$200,000) bond, and name a person in the country to accept legal service. The Government has granted exemptions to 19 of the 24 publications to which these requirements could apply. On September 28, the Government banned the Far Eastern Economic Review (FEER) for failing to comply with the NPPA. Importation or possession of FEER for sale or distribution was an offense. Readers could access FEER through the Internet. Newspapers printed in Malaysia cannot be imported.

The Government may limit (or “gazette”) the circulation of publications. The Government also may ban the circulation of domestic and foreign publications under provisions of the ISA and the UPA. The Broadcasting Act empowers the minister for information, communication, and the arts to gazette or place formal restrictions on any foreign broadcaster deemed to be engaging in domestic politics. Once gazetted, a broadcaster can be required to obtain express permission from the minister to continue broadcasting in the country. The Government may impose restrictions on the number of households receiving a broadcaster’s programming, and a broadcaster can be fined up to \$63,291 (S\$100,000) for failing to comply.

Under the country’s defamation laws, some plaintiffs can easily win substantial judgments for damages and legal costs. Conviction on criminal defamation charges can result in a prison sentence of up to two years, a fine, or both. Threats of defamation actions often persuaded newspapers and others to apologize and pay damages for perceived slights. On August 22, Prime Minister Lee Hsien Loong and Minister Mentor Lee Kuan Yew sued FEER for defamation over an article that questioned whether the Government’s “squeaky-clean” reputation was deserved. In September 2005 a regional financial magazine, FinanceAsia, apologized to top national leaders for an article that described Temasek Holdings, the Government’s key state investment entity, as “the Lee family trust.” The magazine also agreed to pay undisclosed damages to Prime Minister Lee Hsien Loong, Senior Minister Goh Chok Tong, Minister Mentor Lee Kuan Yew, and Temasek and its board members.

Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. The unbroken success of government leaders’ suits in the last decade has fostered public caution about political speech, prompted a culture of self-censorship within the news media, and inhibited opposition politics. During the last decade, ruling party leaders have sued opposition politicians for defamation of individual government leaders on several occasions. In May Prime Minister Lee Hsien Loong and Minister Mentor Lee Kuan Yew sued the Singapore Democratic Party (SDP) executive committee and the publisher of its newsletter for allegedly defamatory comments about the Government’s handling of a 2005 corruption and mismanagement scandal affecting the National Kidney Foundation. The publisher and the en-

tire SDP executive committee, with the exception of executive committee members Chee Soon Juan and his sister, Chee Siok Chin, apologized publicly. The two Chees refused to apologize, and on September 13, the High Court found them guilty of defamation. The court had not set damages by year's end. Earlier the High Court convicted Chee Soon Juan for contempt of court for questioning the independence of the Singaporean judiciary in connection with his February 10 (see section 1.e.) bankruptcy hearing, which stemmed from an earlier defamation case.

*Internet Freedom.*—Although residents generally have unrestricted access to the Internet, the Government subjected all Internet content to the same rules and standards as traditional media. Using a framework of Web site licenses, the MDA also regulates access to material on the Internet. Internet service providers (ISPs) are required to ensure that content complies with the MDA's Internet code of conduct. The MDA also regulates Internet material by licensing the ISPs through which local users are required to route their Internet connections. The law permits government monitoring of Internet use, and the Government closely monitored Internet activities such as blogs and podcasts as sources of political dissent, including before the May election. On April 3, MICA prohibited the use of podcasts and videocasts as campaign tools during the election period. It is unclear whether this prohibition will remain in effect for future elections. Although there has been no shut down of blogs, on July 7, the state-owned newspaper *Today* eliminated a popular blogger's column after the Government complained that his comments on economic policy "distorted the truth." On July 22, another blogger received a warning after he posted cartoons mocking Jesus Christ on his online journal. The MDA was empowered to direct service providers to block access to Web sites that, in the Government's view, undermined public security, national defense, racial and religious harmony, and public morals. Although the MDA ordered ISPs to block 100 specific Web sites that the Government considered pornographic, in general the Government actually focused on blocking only a small number of sites.

Political and religious Web sites must register with the MDA.

In the past the Government has prosecuted persons for making allegedly racist remarks on the Internet.

*Academic Freedom and Cultural Events.*—All public institutions of higher education and political research have limited autonomy from the Government. Although faculty members are not technically government employees, in practice they were subject to potential government influence. Academics spoke and published widely and engaged in debate on social and political issues. However, they were aware that any public comments outside the classroom or in academic publications that ventured into prohibited areas—criticism of political leaders or sensitive social and economic policies, or comments that could disturb ethnic or religious harmony or that appeared to advocate partisan political views—could subject them to sanctions. Publications by local academics and members of research institutions rarely deviated substantially from government views.

The Films Act bans political advertising using films or videos as well as films directed towards any political purpose. The act does not apply to any film sponsored by the Government, and the act allows the MICA minister to exempt any film from the act. On August 5, the MDA withdrew the entertainment license of a play 30 hours before it was set to open, citing its purported negative portrayal of Muslims. In March 2005 under government pressure a local filmmaker withdrew his film *Singapore Rebel*, about opposition leader Chee Soon Juan, from the Singapore International Film Festival. Police questioned the filmmaker about his film in March 2006 and in May and August 2005. Authorities claimed his film violated the Films Act, which prohibits films "directed towards any domestic political end." In August the police closed the case with a warning. Other restrictions tightly control the types of campaign materials that can be distributed by or about candidates and parties during an election.

A list of banned films was available on the MDA Web site. Certain films that have been barred from general release may be allowed limited showings, either censored or uncensored, with a special rating. In practice censorship standards have been significantly relaxed in recent years for live theater performances. Plays with overtly sexual or antiruling party themes have been permitted.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution provides citizens the right to peaceful assembly but permits Parliament to impose restrictions "it considers necessary or expedient" in the interest of security, public order, or morality; in practice the Government restricted this right. Public assemblies of five or more persons, including political meetings and rallies, require police permission; however, in 2004 the Government relaxed rules so that citizens no longer need permits for some indoor speaking events (see section 2.a.).

Spontaneous public gatherings or demonstrations were virtually unknown. On July 15, nine persons associated with Falun Gong were charged with illegal assembly for gathering without a permit in October 2005. On August 18, one foreign member of the Falun Gong was asked to leave Singapore after prosecutors dropped a public nuisance charge against her for protests outside the Chinese embassy in July.

The Government closely monitored political gatherings regardless of the number of persons present. During the International Monetary Fund and World Bank Joint Annual Meetings held in Singapore September 19–20, the Government did not authorize any public demonstrations. Accredited NGOs were allowed to protest in the lobby of the conference hall. On September 9, immigration officials asked three activists from People for the Ethical Treatment of Animals to leave the country for having planned to stage a public protest. On September 12, the Government announced it would bar 27 individuals representing eight NGOs from entering the country to attend the conference. They were deemed a threat to security and public order. The decision was amended on September 15 to permit 22 of the 27 to enter the country. On September 16, police prevented Chee Soon Juan from carrying out a protest march.

Plain-clothed police officers often monitored political gatherings. In July 2005 the police attended and videotaped a book launch by opposition figure Chee Soon Juan. After his presentation, the police questioned Chee and seized a video of protests by Hong Kong residents that was playing in the background. The police claimed that Chee did not have a certificate for public display of the video. Persons who wished to speak at a public function, excluding functions provided by or under the auspices of the Government, needed to obtain a public entertainment license from the police; however, regulations exempt some cultural events (such as Chinese operas or lion dances), requiring seven days' advance notice to the police in lieu of a permit.

In August the Government approved a gay and lesbian festival that included movie showings, book signings, and theater performances. In July 2005 the police had denied a permit for the fourth annual gay and lesbian beach festival, after having approved the festival in prior years.

*Freedom of Association.*—Most associations, societies, clubs, religious groups, and other organizations with more than 10 members are required to register with the Government under the Societies Act. The Government denied registration to groups that it believed were likely to have been formed for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order. The Government has absolute discretion in applying criteria to register or dissolve societies. During the year the Registry of Societies received 336 registration applications of which two were denied. The Government prohibits organized political activities except by groups registered as political parties or political organizations. This prohibition limits opposition activities and contributes to restricting the scope of unofficial political expression and action (see section 3). The prohibition affected the PAP less because of its long domination of the Government and its overwhelming parliamentary majority; the PAP traditionally was able to use nonpolitical organizations such as residential committees and neighborhood groups for political purposes far more extensively than opposition political parties were. Political parties and organizations are subject to strict financial regulations, including a ban on receiving foreign donations. Due to laws regulating the formation of publicly active organizations, there were few NGOs apart from nonpolitical organizations such as religious groups, ethnically oriented organizations, and providers of welfare services.

*c. Freedom of Religion.*—The constitution provides for freedom of religion; however, the Government restricted this right in some circumstances. The constitution provides that every citizen or person in the country has the right to profess, practice, or propagate his religious belief so long as such activities do not breach any other laws relating to public order, public health, or morality.

All religious groups were subject to government scrutiny. These groups must be registered under the Societies Act. The Maintenance of Religious Harmony Act (MRHA) gives the Government the power to restrain leaders and members of religious groups and institutions from carrying out political activities, "exciting disaffection against" the Government, creating "ill will" between religious groups, or carrying out subversive activities. Violation of a restraining order issued under the MRHA is a criminal offense. The act also prohibits judicial review of its enforcement or of any possible denial of rights arising from its implementation.

The Government played an active but limited role in religious affairs. It did not tolerate speech or actions, including those of a religious nature, that it interpreted as adversely affecting racial and religious harmony. In June MDA officials visited an Islamic bookstore and asked the owner to remove radical Islamic literature, which he did immediately. The Government may issue restraining orders barring

participation in activities adversely affecting religious harmony. The Presidential Council for Religious Harmony reviews such orders and makes recommendations to the President on whether to confirm, cancel, or alter a restraining order. The Presidential Council for Minority Rights examines all pending legislation to ensure it is not disadvantageous to a particular group, reports to the Government on matters that affect any racial or religious community, and investigates complaints. The Government maintains a relationship with the Muslim community through the Islamic Religious Council (MUS, which was established under the Administration of Muslim Law Act. The MUS advises the Government on the Muslim community's concerns, drafts a weekly approved sermon, maintains regulatory authority over Muslim religious matters, and oversees a fund financed by voluntary payroll deductions and used for mosque-building and social and educational purposes.

Under the Societies Act, the Government deregistered and banned meetings of Jehovah's Witnesses in 1972 and in 1982 dissolved the Unification Church. While the Government did not outlaw the profession or propagation of the beliefs of Jehovah's Witnesses and does not arrest members merely for being believers, the result of deregistration was to make meetings of Jehovah's Witnesses illegal. The community numbered approximately 2,000 in the country, and members of Jehovah's Witnesses continued to refuse to perform national military service. The Government also banned all written materials published by the Jehovah's Witnesses' publishing affiliates, the International Bible Students Association and the Watch Tower Bible and Tract Society. A person in possession of banned literature can be fined up to \$1,140 (S\$2,000), and for holding a meeting, the fine can be as high as \$2,280 (S\$4,000). In August one member of Jehovah's Witnesses was charged with three counts of importation of banned literature. He was convicted on two counts and fined \$3,420 (S\$6,000). In 2004 the authorities briefly detained 11 persons for attempting to bring Jehovah's Witnesses' publications into the country. One individual received a warning.

Missionaries, with the exception of members of Jehovah's Witnesses and representatives of the Unification Church, were permitted to work, publish, and distribute religious texts. However, while the Government did not prohibit evangelical activities, in practice it discouraged activities that could upset intercommunal relations, such as unsolicited public proselytizing.

*Societal Abuses and Discrimination.*—There were no significant reports of societal religious discrimination or of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides citizens the right to move freely throughout the country; however, while the Government generally respected this right in practice, it limited this right in a few respects. For example, citizens' choice of where to live sometimes was limited by the Government's legal requirement for ethnic balance in publicly subsidized housing, in which the great majority of citizens lived (see section 5). The Government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The Government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA a person's movement may be restricted (see section 1.d.). According to official press releases, at year's end there were 26 suspected terrorists subject to such restrictions. Opposition politician Chee Soon Juan (see sections 1.e., 2.a., and 3), considered bankrupt under the terms of the Bankruptcy Act, was prevented from leaving the country in April. On May 7, opposition politician James Gomez was stopped from leaving the country and questioned for eight hours regarding a complaint filed against him by the Election Department; on May 13, his passport was returned and permission to travel was granted.

The law prohibits forced exile, and the country did not employ it.

The right of voluntary repatriation was extended to holders of national passports. The Government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of the law allows for the loss of citizenship by citizens who resided outside the country for more than 10 consecutive years, but it was not known to have been used.

Men are required to serve 24 months of national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens with national service reserve obligations are required to advise the Ministry of Defense if they plan to travel abroad. Boys age 13 to 16.5 years are issued passports that are valid for five years but are required to obtain exit permits for trips longer than three months. From the age of 16.5 until the age of enlistment, male citizens are granted one-year passports and



are required to apply for exit permits for travel that exceeds three months. A bond of \$47,468 (S\$75,000) is needed for exit permits of two years or more for both age groups.

The law stipulates that former members of the Communist Party of Malaya (CPM) residing outside the country must apply to the Government to be allowed to return. They must renounce communism, sever all organizational ties with the CPM, and pledge not to engage in activities prejudicial to the country's internal security. In addition, the law requires them to submit to an interview by the Internal Security Department and to accept any restrictive conditions imposed on them.

*Protection of Refugees.*—The country is not a party to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. In practice the Government provides protection against refoulement, the return of persons to a country where they feared persecution, but does not grant refugee or asylum status.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens the right to change their government peacefully. Opposition parties can contest elections, and the voting and vote-counting systems are fair and free from tampering; however, the PAP, which has held power continuously and overwhelmingly for more than four decades, has used the Government's extensive powers to place formidable obstacles in the path of political opponents.

*Elections and Political Participation.*—Following the May 6 elections, the PAP (having captured 66.6 percent of the vote) held 82 of 84 elected seats; the opposition Singapore Democratic Alliance (13.1 percent) and the Workers' Party (16.3 percent) each held one seat. The opposition continued to criticize what it described as PAP abuse of its incumbency advantages to handicap opposition parties. The PAP maintained its political dominance in part by developing voter support through effective administration and its record in bringing economic prosperity to the country, and in part by manipulating the electoral framework, intimidating organized political opposition, and circumscribing the bounds of legitimate political discourse and action. The belief that the Government might directly or indirectly harm the employment prospects of opposition supporters inhibited opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to seriously challenge the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and absence of persuasive alternative policies.

The country has a parliamentary system in which the majority party in Parliament has the authority to constitute the Government, which is headed by a prime minister. The parliamentary term is for no more than five years after the first sitting of Parliament following a general election. Parliament may be dissolved early by Presidential proclamation, which normally follows a request by the Prime Minister. Elections must be held within three months of Parliament's dissolution. The constitution allows a parliamentary committee to select and the President to appoint nominated members of parliament (MPs) to serve 2<sup>o</sup>-year terms without facing election. A constitutional amendment requires at least three opposition MPs. Therefore, if fewer than three are elected, the Government will appoint a "nonconstituency MP," who is the opposition candidate who obtains the highest share of the vote without winning a seat. Nonconstituency MPs and nominated MPs can participate in parliamentary debate and can vote on some, but not all, types of legislation.

The PAP has an extensive grassroots system and a carefully selected, highly disciplined membership. The establishment of government-organized and predominantly publicly funded Community Development Councils (CDCs) has further strengthened the PAP's position. The CDCs promote community development and cohesion and provide welfare and other assistance services. The PAP dominates the CDCs even in opposition-held constituencies and has threatened to withdraw publicly funded benefits.

The PAP completely controlled key positions in and out of government, influenced the press and courts, and limited opposition political activities. Often the means were fully consistent with the law and the normal prerogatives of the Government, but the overall effect (and many argued the ultimate purpose) was to disadvantage and weaken political opposition. Since 1988 the PAP changed all but nine single-seat constituencies into group representational constituencies (GRCs) of five to six parliamentary seats, in which the party with a plurality wins all of the seats. According to the constitution, such changes are permitted to ensure ethnic minority representation in Parliament; each GRC candidate list must contain at least one Malay, Indian, or other ethnic minority candidate. These changes made it more difficult for opposition parties, all of which had very limited memberships, to fill multi-member candidate lists.

Although political parties legally were free to organize, they operated under the same limitations that applied to all organizations, and the authorities imposed strict regulations on their constitutions, fundraising, and accountability (see section 2.b.). There were 24 registered political parties in the country; however, only six of these were active. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing blocks or to establish community foundations. In addition, government influence extended in varying degrees to academic, community service, and other NGOs.

The Films Act bans political films and recorded televised programs, which further puts opposition parties at a disadvantage since they received less coverage in the government-influenced press and media. A filmmaker was investigated for a film about opposition leader Chee Soon Juan that allegedly violated the Films Act (see section 2.a.). The ban, which ostensibly exists to prevent the sensationalist or emotional effect that video or film productions could have on political issues, applies to the PAP as well as to the opposition parties. The law regulates the use of the Internet by political parties and others for political purposes during election campaigns (see section 2.a.).

The threat of civil libel or slander suits, which government leaders have often used against political opponents and critics and consistently won, had a stifling effect on the full expression of political opinion and disadvantaged the political opposition (see section 2.a.). Large judgments in libel suits can lead to bankruptcy, and, under the law, bankrupt persons are ineligible to sit in Parliament. The law also provides for criminal defamation offenses.

In the past, the Government used parliamentary censure or the threat of censure to humiliate or intimidate opposition leaders.

The duties of the President are largely ceremonial. Nonetheless, the President has significant budget oversight powers, as well as some powers over civil service appointments and internal security affairs. The law provides for a popularly elected President to be elected for a six-year term from among candidates who are approved by a constitutionally prescribed committee selected by the Government. In August 2005 the committee decided that the PAP-endorsed incumbent, President S.R. Nathan, was the only qualified candidate out of four applicants. The election was cancelled and Nathan was inaugurated for a second term in September 2005. The Government placed significant obstacles in the way of opposition political figures' Presidential candidacies. For example, opposition members were much less likely to satisfy the requirement that candidates have experience in managing the financial affairs of a large institution, since many of the country's large institutions were government run or linked to the Government.

Voting is compulsory, and 95 percent of eligible voters voted. There is no legal bar to the participation of women in political life; women held 17 of the 84 elected parliamentary seats compared with 10 in the previous parliament. As of October there were three female ministers of state, although none of cabinet rank. Three of the 14 Supreme Court justices were women.

There are no restrictions in law or practice against minorities voting or participating in politics; they actively participated in the political process and were well represented throughout the Government, except in some sensitive military positions. Malays made up approximately 14 percent of the general population and hold approximately the same percentage of elected seats in Parliament. Indians made up approximately 9 percent of the general population and held approximately 11 percent of the elected seats in Parliament. Minority representation in Parliament is, in part, the result of a legal requirement that candidate slates in every multiseat constituency have at least one minority representative. There was one ethnic Malay minister and three ethnic Indian ministers. Three of the 14 members of the Supreme Court were ethnic Indian; there were no Malays on the court.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year, and the Government actively prosecutes officials involved in corruption.

There are no laws that specifically provide for public access to government information; however, significant amounts of information were available on government Web sites.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. NGOs were subject to registration under the Societies Act (see section 2.b.).

Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions.

There is a Presidential Council on Minority Rights that monitors pending legislation for anything possibly disadvantageous to minorities (see section 5).

The Government permitted international human rights organizations to observe human rights-related court cases.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the Government generally respected these provisions in practice; there is no explicit provision granting equal rights for women and minorities. Mindful of the country's history of intercommunal tension, the Government took measures to ensure racial, ethnic, religious, and cultural non-discrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or gender. Men do not have the right to seek alimony from their wives in cases of divorce or separation.

*Women.*—The law criminalizes domestic violence and sexual or physical harassment; however, violence or abuse against women occurred. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse ceased aggressive behavior. The number of court orders for protection against violent family members has increased in recent years, in part because the definition of violence includes intimidation, continual harassment, or restraint against one's will. The law prescribes mandatory caning and a minimum imprisonment of two years for conviction on any charge of "outraging modesty" that caused the victim fear of death or injury. The press gave prominent coverage to instances of abuse or violence against women. There were several organizations that provided assistance to abused women. The Association of Women for Action and Research ran a hot line that offered counseling and legal advice. The Family Protection and Welfare Service, an office of the Ministry of Community Development, Youth, and Sports, documented physical and psychological abuse and provided counseling and other support services to abused women. The Star Shelter accepted children, women, and men and can accommodate up to 30 persons. The Government reported that, in 2005, 284 men applied for personal protection orders against their wives compared to 1,627 applications from women against their husbands. The Government enforced the law against rape, which provides for imprisonment of up to 20 years and caning for offenders. Under the law rape can be committed only by a man, and spousal rape is not a crime; however, husbands who force their wives to have intercourse can be prosecuted for other offenses, such as assault. During the year 10 persons were prosecuted for rape; including cases from 2005 there were eight convictions, seven persons awaiting trial, and one case of a discharge not amounting to acquittal. The Ministry of Education and the police both carried out programs aimed at preventing rape.

Prostitution itself is not illegal; however, public solicitation, living on the earnings of a prostitute, and maintaining a brothel are illegal. The authorities periodically carried out crackdowns on solicitation for prostitution and arrested and deported foreign prostitutes, particularly when their activities took place outside informally designated red light areas. In practice police unofficially tolerated and monitored a limited number of brothels; prostitutes (the great majority of whom were foreign and working illegally) in such establishments were required to undergo periodic health checks and carry a health card.

There are no specific laws prohibiting stalking or sexual harassment; however, the Miscellaneous Offenses Act and laws prohibiting insults to modesty were used successfully to prosecute these offenses. Sexual harassment was not considered a significant problem.

As of 2004 women accounted for 55 percent of civil service employees. They enjoyed the same legal rights as men, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the right to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part, Muslim marriage law falls under the administration of the Muslim Law Act, which empowers the Shari'a (Islamic law) court to oversee such matters. The laws allow Muslim men to practice polygyny, although requests to take additional spouses may be refused by the Registry of Muslim Marriages, which solicits the views of an existing wife or wives and reviews the financial capability of the husband. During the year, there were 44 applications for polygynous marriage, and 13 applications were approved. Both men and women have the right to initiate divorce proceedings; however, in practice women faced significant difficulties that often pre-

vented them from pursuing proceedings. This included the lack of financial resources to obtain legal counsel.

During the year women constituted 43 percent of the labor force and were well represented in many professions. The percentage of women between ages of 30 and 54 in the workforce increased from 60.3 percent in 2000 to 66.4 percent in 2005. However, they held few leadership positions in the private sector and no ministerial positions in the Government. Women were overrepresented in low-wage jobs such as clerks and secretaries; although some women held senior corporate leadership positions. Salaries for women ranged upwards from 62 percent of men's salaries depending on the occupational grouping. In some occupations women earned more than their male counterparts. Observers noted that the wage differential was smaller in professional jobs and that wage disparities could be attributed in part to differences in average educational levels and work experience.

*Children.*—The Government demonstrated a strong commitment to children's rights and welfare through well-funded systems of public education and medical care, and access was equal for all children. Six years of public (or government-recognized private) education is compulsory for all children. Virtually 100 percent of children were enrolled through grade 6, and the dropout rate for secondary school was low. The Children and Young Persons Act created a juvenile court system and established protective services for orphaned, abused, and "troubled" children, and those with disabilities. The Ministry of Community Development, Youth, and Sports (MCYS) worked closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operated most of the homes for children, while the Government funded from 50 to 100 percent of living expenses and overhead, as well as expenses for special schooling, health care, and supervisory needs.

Some child prostitution occurred. During the year 60 female prostitutes under the age of 18 were arrested, compared with 48 in 2005. In 2004, 35 of the more than 5,239 foreign women arrested for prostitution were believed to be under the age of 18. There is no legal prohibition on commercial sex with "consenting" partners ages 16 and 17. The law criminalizes consensual sex between a minor female (under 16) and a male and prescribes punishment for the male participant of up to five years in prison and a fine of up to \$6,329 (S\$10,000). The authorities have the power to detain persons under the age of 21 who are believed to be engaged in prostitution, as well as to prosecute those who organize or profit from prostitution, who bring women or girls to the country for prostitution, or who coerce or deceive women or girls into prostitution. In March the MCYS funded a leaflet campaign by a local women's group to fight sex tourism.

The MCYS sponsored activities promoting children's causes, including family stability. The ministry and several NGOs focused on keeping fathers involved in their children's lives and on preventing child abuse.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons occurred.

The three major laws that govern trafficking and prostitution are the Women's Charter, the Children and Young Persons' Act, and the penal code. Trafficking in women and children, regardless of whether it is related to prostitution, is punishable by up to five years' imprisonment, a \$6,329 (S\$10,000) fine, and caning. Traffickers could be prosecuted under provisions governing kidnapping, abduction, slavery, and forced labor, which carry maximum punishments of 10 years' imprisonment and a fine. Convicted traffickers could be found guilty of violating more than one law. There was no specific campaign to combat or prevent the use of fraud or coercion to recruit foreign women as prostitutes, although some persons were prosecuted and punished for crimes involving such acts.

There were no reports of any official involvement in trafficking in persons.

In practice successful investigation and prosecution of trafficking in persons required that victims remain in or return to the country to testify. Victims were urged by police to remain in the country until a case was prosecuted, and generally they did; some abused domestics who left were brought back to testify. Victims did not receive government assistance during this period or at other times and sometimes were not granted permission for alternative employment and were dependent on support from their embassy. Laws prohibiting the harboring, aiding, or abetting of illegal immigrants could hamper assistance to trafficking victims by putting NGOs in the position of harboring a victim who has no legal status; however, the authorities did not appear to investigate or prosecute such assistance. The authorities notified embassies of the arrest of nationals, including for prostitution-related offenses, and allowed consular access. Prostitutes rarely contacted embassies voluntarily, unless detained for solicitation or immigration offenses during police sweeps. However,

victims of crimes, including domestics alleging abuse, sometimes requested and received assistance from their embassies.

*Persons With Disabilities.*—The Government maintained a comprehensive code on barrier-free accessibility; this established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no legislation addressing equal opportunities for persons with disabilities in education or employment; however, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. The Government also ran vigorous campaigns to raise public awareness of issues confronting persons with disabilities and the services available to them. A tax deduction of up to \$63,291 (S\$100,000) was available to employers to defray building modifications to benefit employees with disabilities. Informal provisions in education have permitted university matriculation for the visually impaired, the hearing impaired, and for students with other physical disabilities. There were 21 special education schools that enrolled more than 4,800 students. Currently, one out of every six primary schools and one out of every seven secondary schools are equipped with full-handicap facilities. The Government provided funds for six childcare centers to take in 60 children with special needs.

The Government allowed a tax deduction of up to \$1,898 (S\$3,500) per individual for families caring for a sibling, spouse, or child with a disability. Mental and physical disabilities were treated in the same way. Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

*National/Racial/Ethnic Minorities.*—Ethnic Malays constituted approximately 14 percent of the population. The constitution acknowledges them as the indigenous people of the country and charges the Government to support and to promote their political, educational, religious, economic, social, cultural, and language interests. The Government took steps to encourage greater educational achievement among Malay students as a key to economic advancement. However, ethnic Malays have not yet reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays remained underrepresented at senior corporate levels and, some assert, in certain sectors of the Government and the military. This reflected their historically lower educational and economic levels, but some argued that it also was a result of employment discrimination. The Government has issued guidelines that call for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as “Chinese speaker” or “physically strong” remains acceptable. These guidelines were generally followed.

The Presidential Council on Minority Rights examined all pending bills to ensure that they were not disadvantageous to a particular group. It also reported to the Government on matters that affected any racial or religious community and investigated complaints.

The Government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens live and own their own units. The policy was designed to prevent ethnic or racial ghettos and to achieve an ethnic mix more or less in proportion to that of society at large. When a housing development was at or near the limit for a particular ethnic group, it could be difficult for owners to sell their apartments and force them to sell to a person of an underrepresented group, potentially at a price below market value.

*Other Societal Abuses and Discrimination.*—Some individuals with HIV/AIDS claimed that they were socially marginalized and faced employment discrimination if they revealed they were suffering from the disease. The Government discouraged discrimination, supported initiatives that countered misperceptions about HIV/AIDS, and praised employers that welcomed workers with HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution provides all citizens the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act and by labor and education laws and regulations. Under these laws any group of 10 or more persons is required to register with the Government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel or government employees. The Amalgamated Union of Public Employees was declared exempt from these provisions, and its scope of represen-

tation was expanded over the years to cover all public sector employees except the most senior civil servants.

The Trade Unions Act restricts the right of trade unions to elect their officers and whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, the minister of manpower could grant exemptions. The Trade Unions Act limits the objectives on which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. In 2004 the national labor force was made up of approximately 2.18 million workers, nearly 420,000 of whom were represented by 68 unions. Almost all of the unions (which represented virtually all of the union members) were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the Government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC's secretary general, Lim Boon Heng, a PAP MP, was a member of the cabinet as minister in the Prime Minister's Office. Young PAP MPs with no union experience were often elected to leadership positions in the NTUC or a member union. The NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. While the NTUC is financially independent of the PAP, the two shared a common ideology and worked closely with management in support of nonconfrontational labor relations. The NTUC is free to associate regionally and internationally.

*b. The Right To Organize and Bargain Collectively.*—Collective bargaining was a normal part of labor-management relations in the industrial sector. Collective agreements must be certified by the tripartite Industrial Arbitration Court (IAC) before going into effect. The IAC could refuse certification at its discretion on the ground of public interest. Transfers and layoffs were excluded from the scope of collective bargaining. However, in practice employers consulted with unions on both issues, and the Tripartite Panel on Retrenched Workers issued guidelines calling for early notification to unions of layoffs. Agreements between management and labor were renewed every two to three years, although wage increases were negotiated annually. The National Wages Council (NWC), a group composed of labor, management, and government representatives, issues yearly guidelines on raises and bonus pay that serve as the starting point for bargaining agreements. Subject to negotiation in each enterprise, up to 10 percent of salaries were considered “variable” each month, allowing companies to eliminate that portion of pay if there were financial problems.

Workers in “essential services” are required to give 14 days’ notice to an employer before striking, and there is a prohibition on strikes by workers in the water, gas, and electricity sectors. Other workers have the legal right to strike but rarely did so. There were no specific laws that prohibited retaliation against strikers. The law provides that before striking, unionized workers must vote in favor of the strike by secret ballot.

Most disagreements were resolved through informal consultations with the Ministry of Manpower. If conciliation fails, the disputing parties usually submit their case to the IAC, which is composed of representatives from labor and management, and chaired by a judge. In limited situations, the law provides for compulsory arbitration, which has not been used since 1980. Besides these labor dispute mechanisms and the close working relationship and shared views among labor, management, and the Government, the maintenance of labor peace has been a product of high economic growth rates, regular wage increases, and a high degree of job mobility in a virtual full-employment economy.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government enforced the Employment Act, which prohibits employment of children under the age of 12. Restrictions on the employment of children between the ages of 12 and 16 are rigorous and fully enforced. Children under the age of 14 generally are prohibited from employment in the industrial sector. Exceptions include family enterprises; children may work in a business in which only members of the same family are employed. A child of 12 or older may be employed in light work, subject to medical clearance. Employers must notify the commissioner of labor within 30 days of hiring a child between the ages of 14 and 16 and attach a medical certification of the child's fitness for employment. The incidence of children in permanent employment was low, and abuses were almost nonexistent.

Ministry of Manpower regulations prohibit night employment of children and restrict industrial work for children between the ages of 14 and 16 to no more than seven hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The minister of manpower effectively enforced these laws and regulations.

*e. Acceptable Conditions of Work.*—There are no laws or regulations on minimum wages or unemployment compensation; however, the NWC monitored the economy and made annual recommendations to the Government concerning wage guidelines. The NWC urged companies to adopt a monthly variable component in computing wages. The labor market generally offered good working conditions and relatively high wages, which provided a decent standard of living for a worker and family.

The Employment Act sets the standard legal workweek at 44 hours and provides for one rest day each week.

The Ministry of Manpower effectively enforced laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. While workers have the right under the Employment Act to remove themselves from a dangerous work situation, their right to continued employment depended upon an investigation of the circumstances by the Ministry of Manpower.

Because of a domestic labor shortage, approximately 600,000 foreign workers were employed legally, constituting approximately 30 percent of the total work force. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Foreign workers faced no legal wage discrimination; however, they were concentrated in low-wage, low-skill jobs and were often required to work long hours. Most foreign construction workers live on worksites in substandard conditions. From April 2005 to April 2006, the Ministry of Manpower fined 13 employers between \$126 (S\$200) to \$1,265 (S\$2,000) each for failing ministry checks on workers' quarters. The number of employers who failed checks rose sharply during this period, with 506 of 766 employers receiving warnings. Only 105 contractors were warned in 2004.

Although the great majority of the approximately 150,000 maids (mainly from the Philippines, Indonesia, and Sri Lanka) worked under clearly outlined contracts, their low wages, dependence on their employers for food and lodging, and relative isolation made them vulnerable to mistreatment and abuse. The authorities fined or imprisoned employers who abused maids. On February 7, the district court sentenced a housewife to two weeks in jail for ordering her maid to stand on a ledge to hang laundry, leading to her fall and subsequent death. On March 29, the district court convicted a man of molesting his maid in 2005. On April 19, a woman who assaulted her maid in 2003 was sentenced to one month in jail. Debate on how to prevent abuse of maids was ongoing. In February the Ministry of Manpower launched a demerit points system which penalizes employment agencies for violating government regulations. The accumulated points are shown on the ministry's Web site to help potential employers identify errant agencies. Agencies with too many demerits face license suspension. The Ministry of Manpower sets the minimum age for maids at 23 and requires all maids to show that they had eight years of formal education before allowing them to enter. All new maids and new employers of maids must undergo mandatory training on maids' rights and responsibilities. Maids must take a written entrance exam that covers topics such as safety and English comprehension.

Most maids worked six days per week from early morning until late in the evening. Effective November 1, the Ministry of Manpower requires an employer to deposit a maid's salary directly into her bank account if she requests it. It also regularly distributes pamphlets in four different languages alerting maids to their rights. On September 15, the Employment Agencies Singapore, a nongovernment agency that accredits the country's approximately 500 maid agencies, implemented a new standard employment contract for maids that provides a compulsory day off each month or cash compensation. On July 21, the international NGO Human Rights Watch (HRW) had criticized the standard contract as inadequate since there was no government requirement that maids receive one day off a month.

Maids often had to set aside most or all of their wages for the first several months of employment to reimburse their placement agents. Work permits for low-wage foreign workers could be cancelled if a worker applied to marry or married a citizen or permanent resident.

The Employment Act protects foreign workers such as the many employed in the construction industry; however, domestic servants are not covered by the act and

are not eligible for limited free legal assistance from the Government. However, the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the ministry provided free advisory and mediation services to foreign workers experiencing problems with employers. The Government allowed complainants to seek legal redress and operated a hot line for maids. In December a migrant workers advocacy group and a telephone company established a help line to advise migrant workers in distress.

## SOLOMON ISLANDS

The Solomon Islands is a multiparty parliamentary democracy with a population of approximately 538,000. Citizens elect a single-chamber parliament of 50 members. Executive authority is vested in the Prime Minister, who is elected by a majority vote of parliament, and his cabinet. A new parliament was elected in April with Snyder Rini as prime minister. However, rioting broke out in the capital city of Honiara calling for his resignation, and soon after parliament elected Manasseh Sogavare as prime minister. Between 1998 and 2003, conflict between two of the main ethnic groups in the country—the Malaitans and the Guadalcanalese—led to a serious deterioration in the human rights situation. In 2003 the Regional Assistance Mission for Solomon Islands (RAMSI), a multinational police-centered force organized by Australia, arrived in the country at the Government's invitation to assist in restoring law and order and rebuilding the country's institutions. While law and order was largely restored, rioting occurred following the formation of a new government after the April elections. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Human rights problems included lengthy pre-trial detention, government corruption, and violence and discrimination against women and minorities.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed unlawful or arbitrary killings.

Since 2003 RAMSI investigated, arrested, and brought to trial a number of police officers and militants who allegedly committed murder and other criminal acts (see sections 1.c. and 1.d.). At year's end prosecutions continued. Arrests included senior political figures, one of whom was a former cabinet minister charged with, among other things, being an accomplice to murder. While he was released on bail earlier in the year, authorities arrested him on charges relating to the April rioting. He remained in custody awaiting trial on the earlier charges at year's end.

Edmund Sae, a former police sergeant arrested for murder in the 2003 killing of retired police commissioner Sir Frederick Soaki, and who subsequently escaped from custody, remained at large at year's end.

In December 2004 an Australian Federal Police officer attached to RAMSI was shot and killed while on patrol in Honiara. Police arrested four suspects and charged them with murder in the case; the trial for two of the suspects began in October.

In October 2005 a Honiara court convicted three former members of the Guadalcanal Liberation Front for the 2003 murders of six members of the Melanesian Brotherhood, an Anglican religious order, and sentenced them to life imprisonment. In August the court tried a fourth suspect, a juvenile, separately, convicted him of murder, and sentenced him to life imprisonment. In March 2005 a court convicted former Guadalcanal Liberation Front leader Harold Ke'ke and two codefendants for the 2002 murder of cabinet minister Father Augustine Geve and sentenced them to life imprisonment. Ke'ke stood trial on 14 additional counts of murder during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no confirmed reports of such practices by the police during the year. There were a few allegations by detainees that they were mistreated by police during questioning.

Since its arrival in 2003, RAMSI apprehended and charged persons allegedly responsible for human rights abuses and other criminal acts. More than 240 persons,



including approximately 40 police officers, Ke'ke, and other militants, were arrested. Authorities lodged more than 600 charges against them. Many of those arrested were tried and convicted in 2005, while others were awaiting trial at year's end. Authorities made more arrests following the riots in April.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers, including the International Committee of the Red Cross (ICRC). The ICRC also facilitated visits by family members of some prisoners.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—A commissioner who reports to the minister of police heads the Royal Solomon Islands Police (RSIP) force of approximately 1,050 members. This force is supported by 250 RAMSI officers, who serve in line positions and in logistical and finance support. During the year an Australian police official served as commissioner on a contract funded by the Australian government. However, on December 22, authorities declared him an “undesirable immigrant” while he was out of the country and did not allow him to return. At year's end the police commissioner position remained vacant. There were 43 police stations open throughout the country.

While the police were more effective under RAMSI, the RSIP continued to be weak in investigation and reporting. The police service has an inspection unit to monitor police discipline and performance.

*Arrest and Detention.*—The law provides for a judicial determination of the legality of arrests. Detainees generally were informed promptly of the charges against them. Detainees have the right to counsel. The public solicitor's office provided legal assistance to indigent defendants. Detainees had prompt access to family members and to counsel. Officials found to have violated civil liberties were subject to fines and jail sentences. There was a functioning system of bail. However, delays in adjudication of the large number of cases before the courts resulted in lengthy pretrial detention for some prisoners.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The judicial system consists of the High Court, the Court of Appeals, and magistrate's courts. RAMSI expanded the public solicitor's staff to 16, of whom 10 were foreign nationals. The number of public prosecutors increased to 12, including eight foreign nationals. During the year three magistrate's courtrooms were upgraded, and a children's court was introduced.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trial procedures normally operated in accordance with British common law, with a presumption of innocence, access to attorneys, and the right to access government-held evidence, confront witnesses, and appeal convictions. Judges conduct trials and render verdicts; there are no juries. Accused persons are entitled to counsel.

Backlogs in the investigation and prosecution of cases remained a problem at year's end (see section 1.d.), but all persons in custody prior to September had initial trial dates assigned.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters; local courts and magistrate's courts have civil jurisdiction. In addition, the constitution provides that any person whose rights or freedoms have been contravened may apply directly to the High Court for redress.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals were allowed to criticize the Government publicly and privately without reprisal. The Government did not attempt to impede criticism.

There were three independent newspapers, one daily and two weekly. One independent television station broadcast for four hours per day. One government-sponsored and two independent radio stations operated during the year. The independent media were active and expressed a wide variety of views without restrictions.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly, and the Government generally respected this right in practice. Demonstrators must obtain permits, which the Government generally granted.

*Freedom of Association.*—The constitution provides for freedom of association, but at times the Government restricted this right. The Government has outlawed the principal militant groups. Other groups associated freely, and a good governance oversight group, the Civil Society Network, continued to raise issues of concern with the Government.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice.

The public school curriculum included a 30-minute daily class of religious instruction, the content of which was agreed upon by the Christian churches; students whose parents did not wish them to attend the class were excused. However, the Government did not subsidize church schools that did not align their curriculums with governmental criteria. Although non-Christian religions theoretically can be taught in the schools, there was no such instruction in practice.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not use it. Native-born citizens may not be deprived of citizenship on any grounds.

*Protection of Refugees.*—Although party to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not established a system for providing protection to refugees. However, the Government cooperated with the Office of the UN High Commissioner for Refugees and the Red Cross in assisting refugees and asylum seekers and did not return persons to a country where they feared persecution.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for persons 18 years of age and older.

*Elections and Political Participation.*—The April national parliamentary elections were regarded as generally free and fair, although there was evidence of vote buying. Changes of government occurred on several occasions since independence, due to the resignation of the Prime Minister or parliamentary votes of no confidence. On April 18, rioting broke out in Honiara immediately following the election of Snyder Rini as prime minister. Rini resigned on April 26. Parliament elected Manasseh Sogavare as prime minister on May 4.

Male dominance in government limited the role of women. There were no women in the 50-member parliament. Four women served as permanent secretaries in the Government.

There were two minority (non-Melanesian) members in parliament, neither of whom were in the cabinet.

*Government Corruption and Transparency.*—Government corruption and impunity in both the executive and legislative branches continued to be problems. While there was progress made at lower levels of government as over 140 RAMSI officials worked directly with government counterparts, the auditor general released a report on corruption in October that was very critical of the Government. In May Prime Minister Sogavare appointed Charles Dausabea and Nelson Ne'e to the cabinet. Both had been arrested in April and were awaiting trial at year's end for their roles in the April riots. On September 21, Prime Minister Sogavare appointed Julian Moti to be attorney general. The Australian government sought Moti on child sex charges, and the Solomon Islands police commissioner arrested Moti on October 10

for illegally entering the country. Moti was facing possible extradition to Australia at year's end.

During the year corruption-related charges were lodged against a number of current and former government officials. On October 18, authorities charged the immigration minister with multiple offenses related to Moti's illegal entry but later cleared him of all charges. At year's end trials were pending for a number of other officials charged with corruption.

In 2004 and 2005 a former East Honiara member of parliament and a former cabinet minister charged with official corruption involving the granting of certificates of naturalization to Chinese nationals were both acquitted due to lack of sufficient evidence. The Government appealed the cases to the High Court; the appeal had not been heard at year's end.

No law provides for public access to government information. In practice the Government generally was responsive to inquiries from the media during the year.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The constitution provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. While the ombudsman's office has potentially far-ranging powers, it was limited by a shortage of resources. It organized occasional workshops and undertook a few tours during the year.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides that no person—regardless of race, place of origin, political opinion, color, creed, or disability—shall be treated in a discriminatory manner with respect to access to public places. The constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remained the victims of discrimination in this male-dominated society. Unemployment was high, and there were limited job opportunities for persons with disabilities.

*Women.*—Although statistics were unavailable, incidents of domestic violence appeared to be common. The law does not address domestic violence; however, there are provisions against common assault and rape. In the rare cases of domestic abuse that were reported, victims often dropped charges before the court appearance, or the case was settled out of court. The magistrate's courts dealt with physical abuse of women as with any other assault, although prosecutions were rare. In part due to the breakdown in law and order and the lack of an effective, functioning police force after June 2000, women and teenage girls in particular were vulnerable to abuse, including rape. Following RAMSI's arrival, rape charges were brought against a number of persons. As part of a new police curriculum, officers received specialized training on how to work with victims of rape.

Violence against women, including rape and domestic abuse, remained a serious problem. Among the reasons cited for the failure to report many incidents of abuse were pressure from male relatives, fear of reprisals, feelings of shame, and cultural taboos on discussion of such matters. In May 2005 the police established a sexual assault unit, staffed mostly by female officers, to combat the problem. The unit was well received by the public; women felt more comfortable reporting abuses. Approximately 300 cases of sexual assault were reported during the year. Nongovernmental organizations (NGOs) conducted awareness campaigns on family violence during the year. There were two church-run facilities for abused women and an NGO-supported family center that provided counseling, legal assistance, and other support services for women.

Prostitution is illegal, but the statutes were not enforced. There is no law specifically against sex tourism, although such offenses could be prosecuted under laws against prostitution. There were some press reports of sex tourism during the year, but no specific cases were reported to the police.

Sexual harassment is not prohibited by law and was a problem.

The law accords women equal legal rights, including the right to own property. However, women were limited to customary family roles, and this situation prevented women from taking more active roles in economic and political life. A shortage of jobs also inhibited the entry of women into the work force. The majority of women were illiterate; this was attributed in large part to cultural barriers. The Na-

tional Council of Women and other NGOs attempted to make women more aware of their legal rights, including voting rights, through seminars, workshops, and other activities. The Government's Women's Development Division also addressed women's issues.

*Children.*—Within the limits of its resources, the Government was committed to the welfare and protection of children. During the year major foreign assistance continued to bolster the educational system. Approximately 50 classrooms were added to existing primary schools, and 30 classrooms were added to existing high schools. Education was not compulsory, and the high cost of school fees severely limited attendance at secondary and higher institutions. A higher percentage of boys than girls attended school. Most children at the primary school level, where fees were eliminated in 2005, attended school. All medical care for children was free; however, the lack of resources seriously reduced the quality and availability of medical care.

The law grants children the same general rights and protections as adults, and there are laws designed to protect children from sexual abuse, child labor, and neglect. Children generally were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services, although some cases of child abuse were reported. Virtually no children were homeless or abandoned. Both boys and girls may legally marry at age 15, and the law permits marriage at age 14 with parental and village consent. However, marriage at such young ages did not appear to be common.

Several hundred children (generally boys) under the age of 18 were active combatants during the ethnic conflict or assisted in militants' camps. Many of these underage militants joined criminal gangs immediately following the conflict, but most returned to their villages and reentered civil society.

*Trafficking in Persons.*—Although the law does not prohibit trafficking in persons, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There is no law or national policy on persons with disabilities, and no legislation mandates access to buildings for such individuals. Their protection and care is left to the extended family and NGOs. With high unemployment countrywide and few jobs available in the formal sector, most persons with disabilities, particularly those in rural areas, did not find work outside of the family structure.

The Ministry of Home Affairs is responsible for protecting the rights of persons with disabilities.

The country had one educational facility for children with disabilities, which was supported almost entirely by the Red Cross. An education unit at the College of Higher Education, staffed by Australian volunteers, trained teachers in the education of persons with disabilities. Such training was compulsory for all student teachers at the college. Persons with mental disabilities were cared for within the family structure; there were very limited government facilities for such persons. The Kilufi Hospital in Malaita operated a 10-bed ward for the treatment of psychiatric patients.

*National/Racial/Ethnic Minorities.*—The country is composed of more than 27 islands with approximately 70 language groups. In the precolonial era these groups existed in a state of continual warfare with one another, and even today many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Over the past century, and particularly since World War II, many persons from the poor, heavily populated island of Malaita settled on Guadalcanal, the island on which the capital of Honiara is located. The tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in 1998, when Guadalcanalese militants began a campaign of threats and intimidation against Malaitans on Guadalcanal. Civilians were the victims of abuse by both sides. The presence of RAMSI greatly reduced ethnic tension between Malaitans and Guadalcanalese, although underlying problems between the two groups remained to be addressed, including issues related to jobs and land rights.

There was societal discrimination against ethnic Chinese. The April 18–19 riots were directed almost exclusively against Chinese business interests. The Chinatown section of Honiara was burned down during the rioting. No deaths were reported in the rioting, but several ethnic Chinese were injured. Australians were also targets of discrimination and threats of violence.

*Other Societal Abuses and Discrimination.*—Same-sex relationships are illegal, and persons engaged in same-sex relationships were often the subject of societal discrimination. While there were fewer than 200 confirmed HIV/AIDS cases, there were reports that HIV-positive individuals were often disowned by their families.

### Section 6. Worker Rights

*a. The Right of Association.*—The constitution implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights, and workers exercised them in practice. Only about 10 percent of the population participated in the formal sector of the economy. According to the chief of trade unions, approximately 55 percent of employees in the public sector and 25 percent of those in the private sector were organized.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the right to organize and to bargain collectively, and unions exercised these rights. Wages and conditions of employment were determined by collective bargaining, usually at the level of individual firms. Disputes between labor and management that cannot be settled between the two sides are referred to the Trade Disputes Panel (TDP) for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

The law permits strikes. Private sector disputes usually were referred quickly to the TDP for arbitration, either before or during a strike. In practice the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating.

During most of the year the lengthy standoff continued between the National Union of Workers and the Russell Islands Plantation Estate, and the TDP had the dispute under review. In addition, in March approximately 160 Solomon Islands Ports Authority employees went on strike when negotiations with management over a backlog of claims ended in a deadlock. The strike ended after the dispute was referred to the TDP.

The law protects workers against antiunion activity, and there were no areas where union activity was officially discouraged.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred, except as part of a court sentence or order.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law forbids labor by children under the age of 12, except light agricultural or domestic work performed in the company of parents. Children under age 15 are barred from work in industry or on ships; those under age 18 may not work underground or in mines. The commissioner of labor is responsible for enforcing child labor laws, but few resources were devoted to investigating child labor cases. Given low wages and high unemployment, there was little incentive to employ child labor.

*e. Acceptable Conditions of Work.*—The minimum wage rate is \$0.20 (SI\$1.50) per hour for all workers except those in the fishing and agricultural sectors, who receive \$0.17 (SI\$1.25). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to six days per week. There are provisions for maternity leave and for premium pay for overtime and holiday work.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The commissioner of labor, the public prosecutor, and the police are responsible for enforcing labor laws; however, they usually reacted to complaints rather than routinely monitoring adherence to the law. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear. Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

## THAILAND

Thailand is a constitutional monarchy, with a population of more than 65 million. The King is revered and exerts strong informal influence. On September 19, in a

bloodless coup d'état, military coup leaders overthrew the Government of Prime Minister Thaksin Shinawatra, which had won reelection in February 2005 in an election viewed as generally free and fair but marred by widespread vote buying. The coup leaders repealed the constitution, abolished parliament, declared martial law, and issued several decrees limiting civil liberties. On October 1, the military coup leaders, taking the name the Council for National Security (CNS), promulgated an interim constitution and established an interim government.

Following the September 19 coup, the CNS imposed some limits on freedom of speech, freedom of the press, and freedom of assembly. Prior to the coup, the Government generally respected the human rights of its citizens; however, there were significant problems, some of which continued under the interim government. During the year security forces continued to use excessive force against criminal suspects and committed or were connected to dozens of extrajudicial, arbitrary, and unlawful killings. Reports of disappearances in the southern provinces, in many cases after the missing allegedly had been questioned by security officials, continued. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. The use of defamation suits and, in some cases, charges of sedition encouraged self-censorship by the media and nongovernmental organizations (NGOs). Human rights workers, particularly those focusing on disappearances and the violence in the South, experienced government harassment. The country continued to be a source, transit, and destination for trafficking in women and children for a variety of purposes, including indentured servitude, forced labor, and prostitution. Members of hill tribes without proper documentation continued to face restrictions on their movement, could not own land, and were not protected by labor laws.

Violence by ethnic Malay separatist insurgents in the southern part of the country against symbols and representatives of government authority as well as against civilians resulted in hundreds of killings in the provinces of Narathiwat, Yala, Pattani, and Songkhla. The Thaksin government imposed an emergency decree for these provinces in July 2005 giving the police and civilian authorities significant powers to restrict certain basic rights and delegating certain internal security powers to the armed forces; the Emergency Decree also provides security forces broad immunity from prosecution. A separate martial law was decreed in September after the military coup, which provided a broader range of powers to the military alone.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of politically motivated killings by the Government or its agents; however, security forces continued to use excessive, lethal force against criminal suspects and committed or were connected to numerous extrajudicial, arbitrary, and unlawful killings, including killings by security force personnel acting in a private capacity.

On March 27, gunmen in a pickup truck shot and killed Saharat Suramit, a land rights and forest encroachment issues activist from Sisaket. No suspects were detained and the case remains open.

On May 27, gunmen in a pick-up truck shot and killed former Thai Rak Thai (TRT) member of parliament (MP) Kobkul Nopamornbodee. A police bodyguard who was with her in the vehicle survived the shooting. Authorities arrested five of the alleged gunmen, including a subdistrict chief from Petchaburi. The sixth suspect, Sa-ngad Phumpheng, committed suicide before he could be apprehended. A former senator, Napintorn Srisunpang, was charged with planning the attack. He surrendered to police and was released on bail. The charges against Jamron Omthong and Suppharit Omthong were dismissed. Anont Phanrat, Winyu Ratanawannee, and Anantasak Srisawas were charged, and at year's end their cases were pending trial. Public prosecutors were considering whether to prosecute Napintorn Srisunpang.

On August 17, Mr. Charan Iamphaibun, a leading activist for the Democrat Party in Prachinburi was shot and killed while in bed at his residence. No arrests were made, and at year's end the investigation was ongoing.

On October 20, unknown persons shot and killed Muhammad Dunai Tanyeen, a village headman and human rights activist in Narathiwat. He had actively assisted some of the 58 defendants in the 2004 Tak Bai case, in which 78 Muslim detainees died of asphyxiation (see sections 1.e and 1.g.). On October 3, he helped organize a meeting between a group called the Network for the Affected Population in Relation to Southern Violence and the newly appointed regional army commander. No arrests were made, and at year's end an investigation was ongoing.

On December 31, unknown persons conducted a series of bomb attacks at eight locations in Bangkok and Nonthaburi. Three persons were killed and 32 injured.

Bombings and targeted attacks occurred on an almost daily basis in the four southernmost provinces, resulting in deaths and injuries. Separatist violence directed against government and religious representatives, including teachers, monks, as well as district and municipal officials occurred throughout the year (see section 1.g.).

There were no developments with regard to the alleged October 2005 suicides of three Karen detainees.

There were no developments with regard to the August 2005 killing of Satopa Yushoh or the 2004 killings at Krue Se mosque; there were developments with regard to the September 2005 mob-killing of two marines and the 2004 killing of Ilmin Nehlae (see section 1.g.).

On November 2, the interim prime minister apologized for the 2004 deaths of 85 Muslims (78 of whom were asphyxiated while under detention) following a violent demonstration at Tak Bai. On November 6, the interim government announced that it would drop all charges against the demonstrators.

A November CNS white paper cited the 2003 extrajudicial killing of approximately 1,300 suspected drug traffickers during the Thaksin government's "War on Drugs" campaign as one of justifications for the September 19 coup. On December 14, the Ministry of Justice's Department for Special Investigations opened four investigations of possible extrajudicial killings associated with the 2003 War on Drugs.

Procedures for investigating suspicious deaths, including deaths occurring in police custody, required that the prosecutor, a forensic pathologist, and a local administrator participate in the investigation and that family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrests.

According to the Ministry of Interior's Investigation and Legal Affairs Bureau, during the first six months of the year, 534 persons died in prison or police custody, 20 due to the actions of police officers. During all of 2005, 1,139 persons died in prison or police custody, 63 due to the actions of police officers. Authorities attributed most of these deaths to natural causes. Following an investigation into the 2003 death of a detainee at the Kanchanaburi police station, the provincial public prosecutor charged a police corporal with murder. In 2005 the provincial court dismissed the case due to lack of sufficient evidence. No appeal was filed.

The two gunmen charged in the 2004 killing of environmental activist Charoen Wataksorn confessed to the shooting but reportedly did not implicate in their confession three others suspected of planning the murder. During the year both men died in prison, prison officials attributed their deaths to natural causes. Some human rights groups requested an independent examination of the bodies, but none was granted. At year's end the trial of the other three suspects continued.

There were developments in the investigations of some of the 2005 campaign period killings of political activists. Five gunmen and the alleged planner, a Mahachon Party candidate, were arrested for the murder of Thiwa Phakpuppha, a TRT Party activist in Ayutthaya Province. Charges against the Mahachon Party candidate were later dropped; the trials of the five alleged gunmen were ongoing at year's end. The alleged planner and gunman also were arrested for the killing of Worayut Wutthaphanit, a candidate for the Nong-ri Tambon Administration Organization chairmanship. The gunman pleaded guilty, while the alleged planner maintained his innocence. At year's end the trial was ongoing. There were no developments with regard to other 2005 campaign period killings.

There were no developments with regard to the 2005 killings of journalists Phruttiphong Marohabut in February, Kiat Saetang also in February, Manop Ratanajaroongporn in June, and Santi Lamaneenil in November (see section 2.a.).

The investigation into the 2004 killing of Rapin Ruankaew, a Pattani provincial court judge, led to the arrest of one suspect, Abdunlo Pasi. At year's end his trial was ongoing. At year's end suspected accomplices Abdun Kama, Bueraheng Mama, and Unnungwa Kaso were at large.

In September 2005 a former village headman and four subordinates were sentenced to death for the 2003 killings of six Burmese migrant workers in Mae Sot. The defendants appealed the sentence, and at year's end the case remained pending in the appellate court.

According to the Thailand Mine Action Center, through August 31, four persons were reported injured by landmines. These incidents were attributed to recent conflicts on the Burmese border.

*b. Disappearance.*—NGOs expressed great concern over reported disappearances in the southern provinces. In many cases the missing persons allegedly disappeared after being questioned by security officials. Estimates of the number of disappeared

varied widely but appeared to be more than 50, mostly Muslim men (see section 1.g.). On November 2, on the same occasion when he apologized for the Tak Bai deaths (see section 1.a.), the interim prime minister said he would investigate cases in which the Government was suspected in the disappearance of alleged insurgents.

On January 12, four of the five police officers charged in the 2004 robbery and abduction of Muslim attorney and human rights activist, Somchai Neelapaijit, were acquitted due to lack of evidence. The fifth accused, Police Major Ngern Thongsuk, was convicted of coercion for his role in forcing Somchai into a car. Thongsuk was released on bail pending an appeal. There were allegations that witnesses in the case were intimidated. Somchai's wife and some NGO representatives who were monitoring the trial also were threatened. Human rights organizations and legal advocacy groups expressed serious concerns over inadequate and improper investigative procedures, inadequate protection of witnesses, and irregularities in the prosecution's handling of the case. On October 31, CNS head and army commander General Sonthi Boonyaratkalin said publicly that a close aide of deposed prime minister Thaksin may have been involved in Somchai's disappearance. On November 3, the Attorney General's Office announced that it had received evidence confirming Somchai's death. It also announced that it was preparing to issue arrest warrants for several suspects. Activists involved in the case expressed concern that arrest warrants not be issued until the prosecutors had a case suitable to bring to trial.

Following an investigation into the alleged 2004 abduction by five police officers of Sukip-li Asae in Narathiwat, the Narathiwat Provincial Court determined that the accusation was unfounded and dropped all charges against the officers.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Prior to the September 19 coup d'état, the constitution prohibited such practices; however, NGOs and legal organizations continued to report that members of the police occasionally tortured and beat suspects to obtain confessions. On September 19, the military coup leaders revoked the constitution and decreed martial law. Legal experts maintained that the interim constitution incorporates by reference all of the protections contained in the 1997 constitution and specific laws pertaining to prohibition of torture and other cruel, inhuman, or degrading treatment remain in force. During the period of martial law, there were no confirmed reports of torture or other cruel, inhuman or degrading treatment. During the year there were newspaper reports of numerous cases in which citizens accused police of using brutality, threatening false charges, and extorting bribes. Investigations were undertaken in most of the cases, including several in which the accused police officers were suspended pending the results of internal investigations.

On April 17, Sakhon Khamto was detained by police for allegedly kidnapping a newborn infant from Lop Buri Hospital. While in police custody, Sakhon confessed to the kidnapping; however, on April 18, after witnesses failed to positively identify her, Sakhon was released. She immediately retracted her confession and filed a suit against the police claiming that she was beaten and forced to confess. On April 22, an unrelated individual in another part of the country was apprehended with the kidnapped child. Sakhon filed a complaint against the police and sought the assistance of the National Human Rights Commission (NHRC). The NHRC assisted the investigation, but Sakhon was unable to positively identify the officer who abused her.

An investigation was opened into the complaint that in October 2005, a police officer in Tak Province forced his way into a home, threatened and beat an older woman, and tried to rape an 18-year-old Burmese migrant worker. At year's end no arrests had been made.

The five persons represented by lawyer Somchai Neelapaijit (see section 1.b.) in a 2004 alleged police torture case dropped the charges filed against the police officers involved.

At year's end Police Major Kriangsak Thipchoi, suspended for his part in a 2004 case involving the claim by a married couple that they were beaten and robbed while under detention for 102 days without charge at the Lumpini police station in Bangkok, was being investigated by the National Counter-Corruption Commission (NCCC) for "abusing authority."

*Prison and Detention Center Conditions.*—Prison conditions were poor and overcrowded. The prison population of approximately 149,000 inmates was held in 135 prisons and detention centers designed for 110,000 prisoners. Sleeping accommodations were insufficient. Medical care was inadequate, and communicable diseases were widespread in some prisons. The corrections department employed 17 full-time doctors, 306 full-time nurses, and eight full-time dentists. There were also a small number of part-time doctors to supplement the permanent medical staff. Prisoners who are seriously ill may be transferred to provincial or state hospitals.



Prison authorities sometimes used solitary confinement of not more than three months to punish male prisoners who consistently violated prison rules or regulations. They also used heavy leg irons to control prisoners who were deemed escape risks and for prisoners serving life sentences or facing the death penalty.

On September 14, prisoners in the Nakhon Si Thammarat provincial prison rioted and briefly took over the prison. The prisoners demanded that five wardens be removed and investigated for alleged physical abuse and theft of prisoner's personal items. Corrections department authorities agreed to remove and investigate the five. The protest ended peacefully after approximately eight hours.

Approximately 27 percent of the total prison population were pretrial detainees, who were not segregated from the general prison population. Men, women, and children often were held together in police station cells pending indictment. During the year the Government opened 12 new juvenile detention centers, and separate facilities for juvenile offenders were available in all of the country's 76 provinces; but in some locations juveniles were detained with adults.

Conditions in Bangkok's Suan Phlu immigration detention center met minimum international standards; however, conditions in nine provincial detention centers remained poor. Immigration detention facilities were administered by the Immigration Police Bureau, which reported to the Office of the Prime Minister and were not subject to many of the regulations that governed the regular prison system. There were credible reports that guards physically abused detainees in some detention centers. Overcrowding and a lack of basic medical care continued to be serious problems.

Access to prisons was not restricted, and the Government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC).

*d. Arbitrary Arrest or Detention.*—Prior to the September 19 coup d'état, the constitution prohibited arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. On September 19, the military coup leaders revoked the constitution and decreed martial law. During the period of martial law, four former high-level government officials were detained without formal charges. All four were released on October 1, on the same day that the interim constitution was promulgated. On November 28, the Government announced it would lift martial law in 41 of the country's 76 provinces as well as in some districts of the remaining provinces. By year's end, however, the Government had not submitted the decree lifting martial law to the palace for the king's signature, required for the decree to come into effect.

The emergency decree covering the southern provinces grants authorities the power to detain suspects for up to 30 days without charge, and make searches and arrests without warrants.

*Role of the Police and Security Apparatus.*—The Royal Thai Police (RTP) is under the direct supervision of the Prime Minister and a 20-member police commission. The RTP consisted of approximately 213,000 officers in 10 geographic regions. The police commissioner-general is appointed by the Prime Minister and subject to cabinet and royal approval. The border patrol police have special authority and responsibility in border areas to combat insurgent or separatist movements. Following the September 19 coup d'état, the military coup leaders declared martial law, which gave the military authority over civilian institutions including the police, regarding the maintenance of public order.

Corruption remained widespread among police officers. Police officials suggested that low pay made them susceptible to bribes. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. Complaints of police abuse can be filed directly with the superior of the accused police officer, the Office of Inspector General, or the police commissioner-general. The NHRC, the Law Society of Thailand, the NCCC, and the Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsmen. When the police department receives a petition, an internal investigation committee first takes up the matter and may temporarily suspend the officer during the investigation. Various administrative penalties exist, and serious cases can be referred to the criminal court. The Police Department reported that as of August, 255 officers were charged with criminal offenses during the year. Of these 97 were charged with murder or attempted murder. Through August the NHRC received 68 complaints of police abuse compared to 132 such complaints in 2005.

Some police officers were involved in facilitating prostitution and trafficking in women and children (see section 5). On August 25, a police lieutenant colonel from Doi Luang police station in Chiang Rai was arrested and charged with trafficking nine Burmese laborers.

*Arrest and Detention.*—In practice the system for issuing arrest warrants was subject to misuse by police officers who provided false evidence to courts to obtain arrest warrants. By law persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that local police often ignored this and conducted interrogations without providing access to an attorney. Lawyers working in the southern provinces reported that under the emergency decree they were denied adequate access to detained clients. Foreign prisoners sometimes were pressured to sign confessions without the benefit of a competent translator.

Under normal conditions the law requires the police to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest, with extensions of up to three days permitted. Police may seek court permission to hold suspects for additional periods (up to a maximum of six months for the most serious offenses) to conduct investigations. Laws and regulations place offenses for which the maximum penalty is less than three years under the jurisdiction of the district courts, which have different procedures. In these cases, police are required to submit cases to public prosecutors within 72 hours of arrest. Lawyers reported that police rarely brought cases to court within the 48-hour period. According to the Law Society of Thailand, pretrial detention of criminal suspects for up to 60 days was common. As in previous years, several Burmese activists were arrested and held, generally on immigration violation charges.

Under martial law, the military had the authority to detain persons without charge for a maximum of seven days. Following the September 19 coup, the coup leaders detained a number of former government officials and TRT party loyalists. Most of these persons were held for several hours and then released. Four high-ranking former government officials, the former deputy prime minister Chidchai Wannasatht, the former secretary general to the Prime Minister Prommin Lertsuridej, the former minister in the Prime Minister's Office Newin Chidchob, and the former minister of natural resources and the environment, Yongyuth Tiyapairat, were detained on September 19 and released on October 1.

The law provides defendants the right to bail, and the Government generally respected this right. However, some human rights groups reported that police frequently did not inform detained suspects of their right to bail or refused to recommend bail after a request for bail was submitted.

The emergency decree in effect in Yala, Narathiwat, and Pattani provinces, plus parts of Songkhla, allowed authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of these 30 days, authorities could begin holding suspects under normal criminal law. Unlike martial law, these detentions required the consent of a court of law. According to the Government, 454 persons were arrested under these provisions as of April and 66 cases had gone to court. It is unclear whether any persons were detained in the South under the auspices of martial law alone.

*Amnesty.*—In June, in honor of the 60th anniversary of the king's coronation, the Government released approximately 25,000 prisoners. The freed prisoners were non-violent offenders.

*e. Denial of Fair Public Trial.*—Prior to the September 19 coup, the constitution provided for an independent judiciary. Following the coup, the coup leaders repealed the constitution and issued a decree announcing that all courts with the exception of the Constitutional Court would continue to operate as normal. While the judiciary generally was regarded as independent, it was subject to corruption and outside influences. According to human rights groups, the lack of progress in several high-profile cases involving alleged abuse by the police and military diminished the public's trust in the justice system and discouraged some victims of human rights abuses (or their families) from seeking justice.

The civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and the Supreme Court. Prior to the coup, there was an independent Constitutional Court. On September 19, the coup leaders dissolved the Constitutional Court and on October 1, established a Constitutional Tribunal composed of justices from the Supreme Administrative Court and the Supreme Court of Justice. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. Islamic (Shari'a) courts hear only civil cases concerning members of the Muslim minority. The law provides for access to courts or administrative bodies to seek redress, and the Government generally respected this right.

*Trial Procedures.*—There is no trial by jury. A single judge decides trials for misdemeanors; two or more judges are required for more serious cases. Court proce-

dures enacted in 2004 somewhat alleviated delays; however, a large backlog of cases remained, and trials still could go on for months or even years. While most trials are public, the court may order a closed trial, particularly in cases involving national security, the royal family, children, or sexual abuse. Under the 1997 constitution, justices nominated to the Supreme Administrative Court had to be confirmed by the Senate; under the interim constitution procedures are undefined. All other judges are career civil servants whose appointments are not subject to parliamentary review.

The law provides for the presumption of innocence. In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provided free legal advice to the poor, but indigent defendants were not provided with counsel at public expense automatically. The court was required to appoint an attorney in cases where the defendant was a minor and in cases where possible punishment was imprisonment. Most free legal aid came from private groups, including the Law Society of Thailand and the Thai Women Lawyers Association. There is no discovery process, so lawyers and defendants do not have access to evidence prior to the trial.

Several NGOs expressed concern over the lack of adequate protection for witnesses, particularly in cases involving alleged wrongdoing by the police. In 2003 the Government created the Office of Witness Protection in the Ministry of Justice. The office had limited resources and primarily played a coordinating role. In most cases, actual witness protection was provided by the police. Witnesses, lawyers, and activists involved in cases of alleged police abuse report that protection was inadequate and they were intimidated by the police sent to provide protection.

Although no police or military personnel were prosecuted in relation to the death of 78 Muslim detainees following violent demonstrations in Tak Bai in 2004 (see section 1.g.), the Government charged 99 demonstrators with offenses including obstruction of government officials, assembling to breach the peace, and refusing to disperse when ordered. A trial for 57 defendants began in April; the proceedings were delayed by the failure of key prosecution witnesses (including high-ranking police and military officers) to appear in court. The Government took no action against these witnesses. On November 3, the Government announced that it had dropped all charges against the protesters due to a lack of sufficient evidence.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The law provides for access to courts and administrative bodies to seek redress in civil matters, and the Government generally respected this right.

*f. Arbitrary Interference With Privacy, Family, Home or Correspondence.*—Prior to the September 19 coup, the constitution prohibited such actions with some exceptions, and the Government generally respected these prohibitions in practice. With a few exceptions, including crimes in progress, police are required to obtain a warrant from a court prior to conducting a search. The law provides standardized procedures for issuing warrants. Following the coup, the coup leaders repealed the constitution and decreed martial law. During the period of martial law, the military has the authority to conduct searches without a warrant, although there were no reports that this authority was used.

The Emergency Decree covering the southern provinces also allows authorities to make searches and arrests without warrants. The Law Society of Thailand received multiple complaints from persons in the South claiming that security forces abused this authority; however, the Emergency Decree provides security forces broad immunity from prosecution. At year's end both the Emergency Decree and martial law were in force in the southernmost provinces. The Government maintained that both were needed since the Emergency Decree pertained to the police and civilian authorities while martial law pertained to the military.

Reports of police conducting warrantless searches for narcotics in villages in the northern provinces declined. Warrantless searches are permitted in cases in which there is reasonable suspicion and an urgent search is deemed necessary.

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

In late June National Human Rights Commissioner Vasant Panich reported that he and his family were under intense surveillance by the Government. Commissioner Vasant closely monitored cases of human rights violations in the South and worked on the case of missing human rights lawyer Somchai Neelaphaijit (see section 1.b.). Between June 27 and 28, Vasant reported being followed and receiving multiple phone calls from unidentified persons. Vasant claimed that the type of surveillance he was under closely resembled that experienced by Somchai prior to his

disappearance in 2004. Concerns that Vasant was being targeted for abduction were widely publicized, and Vasant reported that the surveillance diminished.

During the year Angkhana Neelaphajit, the wife of Somchai Neelaphajit, reported receiving numerous threats. Angkhana was a co-plaintiff in the case against police for the abduction of her husband and an outspoken critic of forced disappearances. Angkhana reported regularly receiving threatening telephone calls and being followed. On January 12, she reported that her car was broken into and searched while parked at the criminal court building where she was attending the reading of the verdict against police officers charged with abducting Somchai (see section 1.b.). In early November she reported increased surveillance and threats following statements by the Government and the CNS that it had evidence linking a former Thaksin aide to the disappearance of Somchai.

Members of indigenous hill tribes continued to face forced evictions and relocation. Due to lack of proof of citizenship and land ownership, they were forced to move from areas they had cultivated for decades. Conflicts occurred when the land on which they lived was converted to forest conservation areas. Court hearings in the case of the 2004 raid on Palong Pang Daeng Village and the arrest of 48 persons were scheduled to begin in 2007.

In 2004 the Government embarked on a "New Model of Forested Villages" project covering approximately 10,866 villages in 70 provinces. Under this project land that tribal villagers had cultivated for more than a hundred years was declared state land, and the indigenous hill tribes became illegal trespassers and faced forcible eviction and other penalties. During the year the project was abandoned due to public discontent and lack of budgetary resources.

A land committee was established under the National Poverty Reduction Program to deal with land disputes in areas affected by the 2004 tsunami. By June, according to the Asian Coalition for Housing Rights, 13 communities had resolved conflicts and received long-term land tenure. An additional 76 communities continued efforts to resolve land disputes.

In 2005 the Government ordered Burmese refugees with Office of the UN High Commissioner for Refugees (UNHCR) documentation who were working in cities (the "urban Burmese") to relocate to refugee camps on the Burma border. According to the UNHCR, more than 1,800 registered refugees transferred to camps during the year, while 340 failed to report for transfer. Those who remained in cities risked arrest and deportation (see section 2.d.).

*g. Use of Excessive Force and Other Abuses in Internal Conflict.*—The internal conflict in the Muslim-majority southernmost provinces continued throughout the year. An emergency decree in effect for these provinces (Narathiwat, Pattani, Yala, and portions of Songkhla) gave the police and civilian authorities significant powers to restrict certain basic rights and delegated certain internal security powers to the armed forces. Martial law decreed in September after the military coup gives a broader range of power to the military alone. There were reports of abuses by security forces; however, the emergency decree provides security forces broad immunity from prosecution. Insurgents carried out bombings and targeted attacks on an almost daily basis resulting in death and injuries.

The interim government made a number of conciliatory gestures towards southern Malay-Muslims, including repeated statements that it was prepared to talk with separatists and that it intends to lift the emergency decree in January 2007 and apologize for the Tak Bai killings. Government forces were blamed for the disappearances of more than 50 persons in the South.

In August 2005 unknown attackers shot and killed Satopa Yushoh, an imam in Narathiwat Province. Before dying, Satopa reportedly said he was shot by government soldiers. At year's end there were no developments in this case.

In 2004 elements of the police and military killed more than 100 persons while repelling multiple attacks in Yala, Pattani, and Narathiwat provinces by unnamed separatist Muslim men. Of this total, 32 were killed at Krue Se mosque in Pattani, when security forces stormed the mosque after a nine-hour standoff. According to an official independent commission report on the Krue Se mosque incident, the commander on the scene ordered the raid after failed negotiations and the deaths of three soldiers. Civilian authorities in Bangkok, including the deputy prime minister in charge of security, claimed that the raid was conducted without their approval. The commission concluded that force was used when negotiations would have been more appropriate and that the level of force employed was excessive.

In 2004 Iimin Nehlae reportedly was shot and killed while under control of paramilitary rangers. Five paramilitary soldiers were charged with murder. At year's end the case was being prosecuted in the Yala Provincial Court and all five defendants were free on bail.

Also in 2004, 78 Muslim detainees being transported to an army camp after a violent demonstration in Tak Bai, Narathiwat Province, died from asphyxiation after police and military forces stacked them horizontally onto truck beds for transport. An independent commission reported that three senior security officials, including the Fourth Army commanding general, failed to properly perform their duty and responsibility to monitor their subordinates in transporting detainees in a humane manner. The commission stated that seven persons remained missing. The Government directed the Ministry of Defense to conduct a disciplinary investigation of the three senior officers, and it also directed the police to conduct a criminal investigation. Three generals were placed in inactive status, but no police or military personnel were prosecuted for these actions. Although the Government paid some compensation to the victims' families, the Law Society of Thailand filed a suit on behalf of the families demanding approximately \$3.39 million (127 million baht) in compensation from various national- and provincial-level agencies including the military and the police. On November 2, the interim prime minister traveled to the South and offered a public apology for abuses at the hands of security officers. On November 7, the Government offered the families a total of \$1.12 million (42 million baht) in compensation for dropping the outstanding civil suit.

In February 2005 Prime Minister Thaksin established the 50-member National Reconciliation Commission (NRC) to build "peace and reconciliation" in the South. In April 2005 the NRC released a report on the Tak Bai incident, which reached conclusions similar to those of the independent commission. In April 2005 the NRC released a report on the Krue Se mosque incident. The majority of commission members felt that the military had handled the matter poorly and had not exhausted all possible peaceful solutions before raiding the mosque. Other commissioners felt that it was impossible to tell whether the force had in fact been excessive.

In June the NRC released its final report and recommendations. The NRC determined that the violence in the South stemmed from economic and cultural factors, as well as from "unconstrained abuses of administrative power" and "injustices arising from the existing judicial process and administrative system." The NRC further determined that religion was not the cause of violence but that it was used as a justification by some militants to "legitimize their violent methods." The report offered a wide range of recommendations for the Government to address the problems in the South and promote reconciliation including: passage of an act that would create administrative mechanisms to unify government strategy and strengthen civil society; establishing an unarmed community security force composed of civilians, military, and police; engaging in dialogue with militants; and encouraging the Government to "deal decisively with state officials against whom abuse-of-power complaints have been made." The Thaksin government acknowledged receipt of the report, but took no actions specifically to address NRC recommendations. On November 1, the interim government reestablished the Southern Border Province Administration Center, which had been dissolved under the Thaksin government, to coordinate government actions in the South and serve as a mechanism through which the local population can file complaints about government misconduct. The interim prime minister also pledged to use the NRC report as the basic guideline for government action in the South.

Separatist violence continued throughout the year. The separatists frequently targeted government and religious representatives, including teachers, monks, as well as district and municipal officials. Among the most notable incidents were: the June 15 coordinated bombing of 40 separate locations including government offices and police stations; the occurrence of over 100 violent incidents across the region on the night and early morning of August 1–2, including a large explosion along a rail line which killed three police officers; and the bombing of 22 bank branches on August 31. Continued violence against teachers and a spate of more than 10 school arsons in early November also forced the closing of 944 schools in the South on November 27 (see section 5). These schools reopened in early December. Among the most notable acts of violence were the assassination of a government primary school teacher while he was teaching class on July 24 and the shooting and burning of another teacher in front of his students on November 24. Bombings and targeted killings, sometimes in public areas, resulted in death and injury on an almost daily basis.

While the insurgents typically targeted "figures of authority," the instances of attacks on civilians increased. On September 16, coordinated explosions in the shopping areas of Hat Yai City in Songkhla Province killed four and injured 59. Mid-November witnessed the shooting deaths of over 30 civilians.

During the year the Government began supporting civilian defense volunteers from villages in the South. Volunteers received basic training and some received weapons. Over the course of the year, militants increasingly targeted these civilian volunteers. For example, on August 28, a defense volunteer in Sungai Padi District,

Narathiwat, was shot multiple times, his head was nearly severed, and his ears were cut off.

In September 2005 ethnic Malay villagers in Narathiwat Province tortured and killed two marines whom they believed had been involved in the murder of two civilians. A total of 34 persons were initially arrested in connection with the killing, although a number subsequently were released. Prosecutors plan to bring charges against 30 suspects, some of whom remain in police custody. The case has yet to come to trial.

As of September, 24 families from the southern provinces filed official complaints alleging that members of their families (all young men between the ages of 20 and 22) were abducted. At least 23 of these families have accepted monetary compensation from the Government of approximately \$2,700 (100,000 baht). The Central Institute of Forensic Science obtained court authority to exhume roughly 400 unidentified bodies from cemeteries in the South, and the Government collected DNA samples from members of the families who had filed complaints. Due to budgetary constraints and provincial governors' reluctance to allow remains to be transported across provincial borders to a central forensics facility, the work of identifying the bodies has yet to begin. The NHRC and other human rights organizations expressed confidence that, if this effort moves forward, more families in the South will come forward to report disappearances.

On May 29, Wae-halem Kuwaekama was abducted in Joh Airong District, Narathiwat. According to villagers, soldiers frequently harassed Wae-halem and warned him that his name was on a list of suspected insurgents. Several weeks before his disappearance, Wae-halem and several other villagers were detained for 12 days at the army interrogation center in Bo Thong District, Pattani. No charges were ever filed. Following his disappearance, Wae-halem's family filed a missing persons report with the police. They also filed a complaint with the Independent Commission on Justice and Civil Liberties for the Southern Border Provinces, an independent governmental agency that reports directly to the Prime Minister. At year's end Wae-halem's whereabouts remained unknown.

At year's end no charges had been filed against police personnel in the case of four Muslim men acquitted of charges of alleged membership in a terrorist organization who claimed that police had beaten them while they were in custody.

In 2004 five suspects in a raid on a Narathiwat military camp alleged that police beat and administered electric shocks to them in order to obtain confessions. The suspects filed a formal complaint with the Ministry of Justice through their lawyer, Somchai Neelapaichjit, who subsequently disappeared and was presumed dead (see section 1.b.). Police opened an internal investigation but the five dropped their complaint.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Prior to September 19, the constitution, with some exceptions, provided for freedom of speech and of the press. While individuals could criticize the Government publicly and privately without official reprisal, there were incidents in which the Government limited freedom of speech. The Government consistently pressured the media, particularly the broadcast media, to limit dissenting views through threats of libel suits and other means. The Government and its allies owned all the major broadcast media, and large shares of the newspaper sector. The Government shut down community radio stations and Web sites critical of the ruling party, although these stations were able to reopen. The courts continued to issue rulings that helped protect press freedoms. Following the coup d'état, the constitutional provisions regarding the rights of freedom of speech and freedom of the press were suspended, and in practice these rights were limited, particularly in the immediate aftermath of the coup. Legal experts opined that the interim constitution incorporates by reference the legal protections contained in the 1997 constitution.

By law the Government may restrict freedom of speech and freedom of the press to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent criticism of the royal family and insults to Buddhism. The law permits police to close newspapers or printing presses in times of war or national emergency, but only with a court order. The law allows police to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals. The Government could restrict print or broadcast media by specific legislation in times of crisis and did so through the Emergency Decree imposed in July 2005. The decree empowered the Government "to prohibit publication and distribution of news and information that may cause the people to panic or with an intention to distort information." The

Emergency Decree also authorized the Government to censor newspapers and ban publications, although these powers were not used.

On September 20, the military coup leaders ordered the Ministry of Information and Communication Technology (ICT) to “censor, prevent, block, and destroy dissemination” of information carried on the telecommunications networks that contained “articles, messages, verbal speech, or any other discourse” that could undermine the coup leaders. On the same day, the coup leaders issued an announcement that sought “cooperation from the mass media—(in) joint efforts to disseminate factual and constructive news and information.” During the remainder of the year, print and broadcast media nonetheless reported news critical of the interim government and CNS and continued to report the statements and activities of the former prime minister.

Prior to September 19, print media criticism of political parties, public figures, and the Government was common and vigorous. Journalists generally were free to comment on government activities without fear of official reprisal; however, the print media routinely practiced self-censorship, particularly with regard to the monarchy and national security. The Government and its allies exerted strong pressure on the print media. According to NGOs, including the Thai Journalists Association (TJA), the Government controlled the media through direct ownership, the threat of withdrawing financial support and advertisements, constraints on the flow of information, and pressure on journalists and activists.

Libel suits were used to encourage self-censorship. In October 2005 the Prime Minister filed a series of six civil and criminal libel suits against the Phujatkarn newspaper; its owner, Sondhi Limthongkul, an outspoken critic of the Government; and his associates. The lawsuits were withdrawn in December 2005, following disapproving remarks by the king.

In 2004 the Shin Corporation, owned by the then prime minister’s family, filed a libel suit against media activist Supinya Kangnarong. On March 15, the Criminal Court acquitted Supinya, and the Shin Corporation withdrew a civil case against her on May 11.

Some of the country’s largest advertisers were state owned and newspaper editors reported that these companies threatened to withdraw lucrative advertising contracts if a newspaper did not soften its antigovernment editorial tone.

Journalists also expressed concern about government public relations tools presented to the public as neutral media outlets. On September 4, the TJA issued a statement denouncing “phony” print and Internet media, which failed to identify themselves as government controlled. The TJA claimed they were designed to discredit the conventional media.

Prior to the September 19th coup, the Government and its allies owned large stakes in many prominent newspapers.

State entities and government allies controlled and owned almost all radio and television stations. The Government owned and controlled 524 officially registered “regular” AM and FM stations, while the military and police services retained ownership of 230 radio stations, ostensibly for national security purposes. Other owners of national broadcast media included the Government’s Public Relations Department (PRD). Almost all of the stations were leased to commercial companies.

Radio stations must renew their licenses every year, and radio signals were broadcast via government transmitters. Stations are required by law to broadcast 30-minute government-produced newscasts twice daily. The country’s estimated 2,000 to 3,000 community radio stations operated under somewhat different regulations. Because broadcast regulations restrict radio frequencies to government entities, these stations technically operated outside the law, but most were allowed to continue broadcasting provided they registered with the Government. In the last two years, the Government closed 17 community radio stations including 92.25, a station critical of the Government, for violating rules on antenna height or signal strength. During the year, 92.25 was allowed to operate with a shorter antenna.

Until January Prime Minister Thaksin’s family controlled the Shin Corporation which owned iTV, the country’s only independent nonstate-owned broadcast television station.

The appointment of a National Broadcast Commission tasked with reallocating all broadcast frequencies and regulating the broadcast media remained in limbo. During the year the selection committee again selected 14 individuals, and the courts again rejected the nominees.

Self-censorship in the broadcast media was evident even before the coup. Producers and reporters who criticized the Government faced political or economic repercussions, such as reassignment to other duties in a publication, termination of a broadcast program, loss of advertising, politically motivated libel suits, or removal from a role in the production or presentation of a broadcast program. There were

credible reports that the political opposition had difficulty getting broadcast time due to fears of offending the Government. On August 20, broadcast journalists at a TJA seminar admitted they employed self-censorship to ensure they remained on air and avoided government harassment.

In the days following the September 19 coup d'etat, broadcast media, particularly television, was closely monitored. On the night of the coup, armed soldiers deployed to television and radio stations throughout Bangkok. All regular television programming ceased, and all broadcast stations aired programming from the army-owned and operated Channel 5. By mid-morning on September 20 these stations had returned to "regular" programming, mostly light entertainment and informational shows. Newscasts continued to air at their regularly scheduled times, and reports included factual, although positively slanted, news of the coup. Soldiers in the stations reportedly requested news producers not to air negative reports on the coup. Armed troops remained deployed at the stations for several weeks. The privately operated United Broadcasting Corporation (UBC) cable network blocked CNN and BBC on the night of the coup. For the next few weeks, UBC continued to occasionally block the signal when those networks aired images of former prime minister Thaksin.

The ICT also banned radio programs with call-in formats and asked television programs not to broadcast text-messages from viewers on screen. Programming gradually returned to normal over the subsequent weeks.

Soon after the coup, the local branches of the PRD asked hundreds of community radio stations in the North and Northeast to cease broadcasting. An army representative explained that the stations were too difficult to monitor to ensure that they were not broadcasting pro-Thaksin information. Within two weeks, most of these stations had permission to resume operating.

At year's end there was no resolution of the following cases of journalists killed in 2005: the February killing of Phruttiphong Marohabut, a cameraman for iTV, in Pattani Province; the February killing of Kiat Saetang, editor of the Hat Yai Post, in Pattani Province; the June killing of Manop Ratanajaroongporn, in Phang Nga Province; and the November killing of Santi Lammaneenil, owner of the Pattaya Post and freelance reporter. All were believed to have been killed for their politically sensitive reporting.

On February 6, the Special Police Branch wrote to all print media asking them not to reprint or publish excerpts from the book *The King Never Smiles*, written by Paul Handley and published overseas. Imports were also banned.

*Internet Freedom.*—Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by electronic mail; however, there were some limitations. The ICT cyber inspection team is responsible for censorship. Prior to the September 19 coup, most banned Web sites featured pornography or offered illegal products. The Government distributed a blacklist of approximately 4,000 Web sites, both domestic and foreign, to government and private Internet service providers (ISPs). Compliance by the ISPs in blocking routine access to these Web sites was universal.

Following the coup many popular Web sites banned political topics in their chat rooms. Anticoup political messages and blogs continued on other Web sites. ICT blocked two local Web sites explicitly critical of the coup. BBC reported that parts of its Web site, which featured commentary on the possible role of the King, also were blocked.

In response to persistent violence in the South, the Government continued to block Web sites viewed as threatening to national security. In 2004 authorities blocked access to the Pattani United Liberation Organization Web site, which advocated Muslim separatist ideas and violence. Internet providers enforced the ban, informing their customers that they had blocked access to the Web site.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom, either before or after the coup.

Cultural events may be censored, usually for reasons of public decency. Under the 1930 Film Act, theater owners and broadcasters must submit films they plan to show to the film censorship board for review. The board may ban a film if offending portions are not deleted. Reasons for censoring films include violating moral or cultural norms and disturbing the public order or national security. Theater owners and broadcasters frequently censored films themselves before submitting them to the board. According to the board, no films have been banned since 2003.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Prior to September 19, the constitution provided for freedom of assembly and association, and the Government generally respected these rights in practice. Following the September 19 coup d'etat, the coup leaders repealed the constitution and decreed mar-



tial law. On September 20, the coup leaders prohibited gatherings of more than five persons for political purposes. On September 21, the coup leaders issued a decree prohibiting all political gatherings or political activities by political parties. A similar decree on September 24 prohibited all political gatherings or activities of local and provincial government officials. Although there were no credible reports of reprisals by the authorities for violation of these decrees, many NGOs and civil liberty advocacy groups expressed concern that they inhibited individuals from exercising their rights of assembly and association. On November 9, the National Legislative Assembly voted to lift the decree prohibiting gatherings of more than five persons for political purposes. The restriction was formally lifted on December 27.

The Emergency Decree for the southern provinces allows the Government to limit freedom of assembly, but this provision was not used during the year.

Between January and April, the People's Alliance for Democracy (PAD—a coalition of NGOs) staged a series of massive antigovernment demonstrations in Bangkok and other cities around the country. The demonstrations, some drawing as many as 100,000 to 200,000 participants, were peaceful. Although demonstrators in Bangkok did not always possess the proper permits for some of the actions they staged, the authorities consistently allowed demonstrations to proceed without incident. On April 23, PAD was forced to cancel a seminar in Udon Thani after a pro-Thaksin group of several hundred people began pelting PAD organizers with stones and other objects.

On August 19, a small group of protesters shouting anti-Thaksin slogans at an event attended by Prime Minister Thaksin in a Bangkok shopping mall were restrained and some were reportedly beaten by plainclothes security guards. On August 21, a small group of protesters shouting anti-Thaksin slogans outside another shopping mall were beaten by two men while police officers stood by watching. Television cameras filming the demonstration captured the attack and police inaction. Three demonstrators were injured in the assault. The two men later surrendered to police and were charged with assault.

*Freedom of Association.*—Both before and after the September 19 coup, the laws provided for and the authorities generally respected the right to freedom of association. On September 21, the coup leaders announced a suspension on the registration and formation of new political parties.

*c. Freedom of Religion.*—Prior to the September 19 coup d'etat, the constitution provided for freedom of religion, and the Government generally respected this right in practice; however, it restricted the activities of some groups. The constitution required that the monarch be a Buddhist. The state religion in effect is Theravada Buddhism; however, it is not designated as such. Following the September 19 coup d'etat, there were no credible reports of additional restrictions placed on religious freedom.

The Government played an active role in religious affairs. Under the Religious Organizations Act, a new religion can be registered if a national census shows that it has at least 5,000 adherents, represents a recognizably unique theology, and is not politically active. To register, a religious organization also is required to be accepted into one of the five officially recognized ecclesiastical groups: Buddhist, Muslim, Catholic (which includes four Protestant sub-groups), Brahmin-Hindu, and Sikh. Since 1984 the Government has not recognized any new religious groups. Government registration conferred some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Unregistered religious organizations did not receive these benefits but operated freely in practice.

The repealed 1997 constitution required the Government “to patronize and protect Buddhism and other religions.” The Government subsidized activities of the three largest religious communities (Buddhist, Islamic, and Christian).

The 1962 Sangha Act specifically prohibits the defamation or insult of Buddhism and the Buddhist clergy. The penal code prohibits the insult or disturbance of religious places or services of all of the recognized religions in the country. Followers of the Santi Asoke sect of Buddhism were unable to legally refer to themselves as Buddhists because of theological disagreements with the sangha council, but they were able to practice their faith without restriction.

The Government stationed troops to protect religious practitioners and structures in communities where the potential for violence existed and provided armed escort for Buddhist monks where necessary.

Religious instruction is required in public schools at both the primary and secondary education levels.

In the past, traditional Islamic pondok schools were not required to register with the Government and had no government oversight or funding. Following the out-

break of violence in the southern provinces, registration with the Government was made mandatory. By July the Government had registered 372 pondok schools in the provinces of Yala, Pattani, and Narathiwat. Observers estimated that as many as 1,000 pondok schools operated in the South.

Muslims, who represented between 5 and 10 percent of the population nationwide and constituted the majority in four of the five southernmost provinces, experienced some economic discrimination. The Government attempted to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities. However, these efforts were often resisted amid charges of forced assimilation. Muslims outside of the southern provinces were much better integrated into society.

Government officials reportedly continued to monitor Falun Gong members. The Falun Gong's long-pending application for official registration was denied in October 2005. The Falun Gong group's application to the police to print and distribute a weekly magazine was still pending at year's end. In December 2005 eight Falun Gong practitioners were arrested following a week of peaceful protests outside the Chinese embassy. Three were released later that month, and the remaining five were released in January.

*Societal Abuses and Discrimination.*—Violence committed by suspected Islamic militants in the southern provinces of Narathiwat, Pattani, Songkhla, and Yala affected the ability of some Buddhists in this predominantly Muslim region to undertake the full range of their traditional religious practices. Buddhist monks and temples have been targeted for attack. A number of monks reported that they no longer were able to travel freely through southern communities. Monks also claimed that, due to fear of being targeted by militants, laypersons sometimes declined to assist them in their daily activities. During the year one Buddhist layperson and one Muslim layperson were beheaded, compared with nine in 2005.

Many persons presumed that the killing of Buddhist civilians was intended to increase interfaith tensions. While the level of tension between local Muslim and Buddhist communities was heightened, it did not result in open communal conflict (see section 5). During the year a number of Buddhist families were displaced and sought shelter in Buddhist temples (see section 2.d.).

A group of Hmong refugees sheltered in Thailand complained of desecration of Hmong graves. According to wat authorities, the Wat Tham Krabok monastery provided a portion of its private land to the refugees for use as a cemetery. The cemetery expanded beyond the land allocated and decomposing remains reportedly contaminated ground water. The monastery contracted with a Buddhist organization to disinter the remains outside the allocated area and relocate them to a more suitable site, pending cremation. Approximately 800 bodies were removed in the fall of 2005.

The indigenous Jewish community is small, and there were no reports of anti-Semitic incidents.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Prior to the September 19 coup d'état, the constitution provided for the right of citizens to change their residence or workplace, and the authorities generally respected this right in practice; however, there were some exceptions. Following the September 19 coup, there were no credible reports of additional restrictions placed on freedom of movement. Longstanding written restrictions remained in effect on the travel and domicile of certain Vietnamese and Chinese resident aliens. A large number of these persons and their descendants received full citizenship in recent years (see section 5).

Other longtime noncitizen residents, including hundreds of thousands of ethnic Shan and tens of thousands of members of other tribes, were required to seek permission from local authorities or the army for foreign and domestic travel. Registered resident aliens moved freely within the country.

Members of hill tribes who have not been granted citizenship were issued color coded identity cards which reflect restrictions on their freedom of movement as well as other restrictions. The cards often prohibit travel outside their province or district without permission from the district head. Offenders are subject to heavy fines and jail terms. Persons with no card may not travel at all (see section 5).

Migrant workers may only work in certain provinces. The Government continued to offer illegal migrants the opportunity to be legally registered. Registration must be renewed each year. As of August, more than 746,000 migrants had registered, three-fourths of them from Burma. In August the Government announced an agreement with the Government of Burma to allow Burmese migrants working in Thailand the opportunity to apply for temporary passports at select Burmese border

crossings. Burmese possessing these temporary passports would be able to legally re-enter Thailand and work. The travel document would not be valid for travel to third countries. Similar agreements are in place with the Governments of Laos and Cambodia. On November 7, the Government of Burma announced the opening of three new offices to issue these temporary passports in the Burmese border towns of Myawaddy, Kawthong, and Tachilek.

The law prohibits forced exile, and the Government did not practice it. Following the September 19 coup d'état, there were no reports of forced exile. Former prime minister Thaksin remained outside of the country. The CNS stated that he should not consider returning to the country before martial law has been lifted.

*Internally Displaced Persons (IDPs).*—In November insurgent violence caused approximately 55 Buddhist families from two villages in Yala Province to seek shelter in a Buddhist temple. At year's end they remained displaced.

*Protection of Refugees.*—The country is not a signatory to the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol and the law does not provide for granting asylum or refugee status; however, the Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees. Late in the year cooperation with UNHCR deteriorated as the authorities detained increasing numbers of Hmong, North Korean, and Burmese Rohingya asylum seekers and refugees.

During the year asylum seekers of many nationalities, the large majority of whom were Burmese, received temporary protection. The Government continued to allow the UNHCR to monitor the conditions of the approximately 150,000 Burmese refugees living in nine camps along the Burmese border but prohibited the UNHCR from maintaining a permanent presence in the border camps. NGOs provided basic needs assistance in the camps.

In 2005 provincial admission boards (PAB) were established, with UNHCR participation, to replace UNHCR in determining refugee status for Burmese nationals. UNHCR continued its refugee status determination process for all other nationalities. During the year the PABs formally admitted more than 26,000 refugees into camps. Many of these previously lived in the camps without formal permission. The Government agreed to permit third-country resettlement of camp refugees, and there was some resettlement from the camps during the year.

The Government allowed NGOs to provide food, medical services, housing, and other services to Burmese refugees who may have valid refugee claims but who reside outside the camps. Government officials periodically arrested Burmese outside designated camps as illegal aliens. Those arrested generally were taken to the border and released without being turned over to Burmese authorities.

In March 2005 the authorities ordered urban Burmese refugees (see section 1.f.) to relocate to refugee camps near the border or face arrest and deportation and loss of their chance for third-country resettlement for being in the country illegally. According to the UNHCR, more than 1,800 transferred to camps during the year, while 340 did not. NGOs protested that difficult conditions in the camps would be exacerbated by the influx of new refugees and that Burmese journalists and activists from urban areas would be unable to continue their work. Many in this group departed for resettlement in third countries.

In addition to the urban Burmese refugees, UNHCR reported that it registered more than 11,000 additional Burmese asylum seekers outside of camp settings. Under government policy, they must first transfer to holding centers in the camps before the PABs will consider their cases. Some have transferred to the camps, but very few have been screened by the PABs.

During the year the Government permitted NGOs to expand occupational training and income generation programs in the camps.

The Government adopted a tougher approach to resolve the situation of the approximately 7,500 Hmong who congregated in Huay Nam Khao, Phetchabun Province, some of whom appeared to have valid refugee claims. The Government reserved the right to repatriate the group to Laos and has not granted the UNHCR permission to interview them to determine their refugee status out of concern that allowing status determination would attract more Hmong from Laos to enter the country to seek asylum. In November 2005 27 Hmong from this group, including 26 minors, were picked up by local authorities and irregularly deported to Laos. At year's end the Lao government continued to deny knowledge of the whereabouts of these individuals.

In June approximately 230 Hmong fled Laos attempting to join the Huay Nam Khao group. They were arrested by Thai authorities and placed in separate detention facilities spread out across Phetchabun Province. On August 15, authorities transported 31 members of this group to a remote area of the Laos border and re-

portedly left them on the border with several days supply of food. On November 15, following formal Lao government agreement to repatriate Hmong, a group of 53 Hmong were deported to Laos. None had received access to UNHCR or other screening of their asylum claims. Their status and whereabouts were unclear. On November 17, a group of 152 Hmong, many with UNHCR refugee status, was arrested in Bangkok and taken to the border city of Nong Khai. There they faced the risk of deportation, or refoulement for those with UNHCR refugee status. In response to pleas on behalf of the group by UNHCR, NGOs, and foreign governments the return of this group was temporarily halted.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

Prior to September 19, the constitution provided citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage. On September 19, after seizing control of the Government in a military coup d'état, the ruling coup leaders repealed the constitution, abolished both houses of the parliament, and deposed the Prime Minister and his cabinet. National elections scheduled for October 15 were cancelled. The interim constitution, promulgated on October 1, sets the framework for the adoption of a new constitution with elections to follow.

*Elections and Political Participation.*—In February 2005 national elections, then prime minister Thaksin Shinawatra's TRT Party won an absolute majority of 377 seats in the 500-seat lower house of parliament and formed a government without entering into a coalition. On February 24, amid massive antigovernment street demonstrations and growing calls for his resignation, Thaksin dissolved the lower house of parliament and called for elections to be held on April 2. The three main opposition political parties boycotted the snap elections.

The April 2 election and subsequent by-elections did not result in a full lower house. Election laws required candidates running unopposed to garner the votes of at least 20 percent of the electoral base in their constituency. TRT candidates running unopposed in at least 13 constituencies were unable to reach the 20 percent threshold. As such, the lower house was unable to convene an opening session or elect a new prime minister.

On May 8, the Constitutional Court ruled that the April 2 election was unconstitutional. The court also ruled that the results of that election were null and void and that new elections must be held for the lower house. The decisions were based on the court's finding that the election was set too soon after parliament's dissolution and that the positioning of the voting booths at the polling stations violated voter confidentiality.

In the wake of the court ruling, one election commissioner resigned, but three remained in office. On July 25, the courts convicted the remaining three electoral commissioners on charges that they violated election laws in ways that favored the ruling TRT Party.

Meanwhile, the national election process for the 200-seat upper house of parliament (Senate) held on April 19 generally was viewed as free and fair; however, it was marred by widespread reports of vote-buying, a recurrent problem, especially in the northeast of the country. A spate of election-day attacks in Narathiwat and Yala provinces targeted several polling stations and vehicles transporting ballots. Four persons were killed and over 20 were injured. Senators-elect were unable to assume their posts because only 180 were confirmed by the election commission before it ceased functioning.

On October 1, following the September 19 coup d'état, the ruling coup leaders promulgated an interim constitution and appointed retired general Surayud Chulanot to serve as prime minister of an interim government. The interim constitution did not provide citizens the right to change their government peacefully; however, it did establish a process by which a new constitution would be drafted and submitted to a public referendum.

Prior to its dissolution in February, there were 52 women in the 500-member House of Representatives. There were 21 women in the outgoing 200-member Senate. Prior to the September 19 coup d'état there was one woman in the 38-member caretaker cabinet. Women hold two cabinet positions in the interim government: minister attached to the Prime Minister's Office and minister of culture. Although half of civil service employees were women, women held only 15 percent of senior positions.

Few members of ethnic minorities held positions of authority in national politics. Muslims from the South held significant elected positions, although they continued to be underrepresented in appointed local and provincial government positions. There were eight Muslim and two Christian outgoing senators and 24 Muslim and

six Christian members of the House of Representatives prior to its dissolution. One MP was a hill tribesman. General Sonthi Boonyaratkalin, chairman of the Council for National Security, is a Muslim, as is Interior Minister Aree Wongyaya.

From 1992 through 2005, there were six national multiparty elections, which transferred power to successive governments through peaceful, democratic processes. Voting was compulsory.

*Government Corruption and Transparency.*—Corruption in the executive branch was widely acknowledged by the public and was cited by the coup makers as one of the principal justifications for the September 19 coup d'état. Prior to the September 19 coup, the NCCC was moribund as new commissioners had not been appointed to replace the commissioners who resigned in May 2005. The commission continued administrative functions, but investigations could not be concluded until new commissioners were appointed.

Anticorruption efforts under the Thaksin government were also hampered by a 2004 court ruling against the procedures used in appointing the auditor-general, Khunying Jaruvan Maintaka. Jaruvan was out of office from July 2004 through February, when she was able to return to her position as auditor-general after the King refused to approve the appointment of a new candidate and efforts to replace Jaruvan were abandoned.

Following the September 19 coup d'état, the coup leaders took several actions aimed at enhancing efforts to investigate corruption under the ousted government. On September 20, the coup leaders placed full authority to audit all public agencies under auditor-general Jaruvan by dissolving both the State Audit Commission and the supervisory board of the Office of the Auditor-General. On September 22, the coup leaders appointed nine new NCCC commissioners. On September 24, the coup leaders established the Assets Examination Committee (AEC) that was specifically charged with investigating cases of alleged corruption in the Thaksin government. The AEC included Auditor-General Jaruvan, the secretary general of the NCCC, and several other prominent figures.

There were a number of high-profile allegations of corruption during the year. The controversial \$1.9 billion sale of Shin Corporation, which was owned by Prime Minister Thaksin's family, was under investigation for the allegedly illegal foreign ownership structure arranged to facilitate the sale. Investigations also continued into various allegations of corruption involving construction and procurement at Bangkok's new international airport.

Prior to the September 19 coup d'état, the constitution provided access to public information. If a government agency denied a citizen's request for information, a petition could be made to the official information commission. In 2005 more than 90 percent of the petitions were approved. Requests for public information could be denied for reasons of national security, law enforcement, and public safety. Following the September 19 coup, laws providing access to public information remained in force. There were no reports of government agencies denying citizens' requests for information.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases.

However, NGOs that dealt with sensitive political issues, such as the Burmese democracy movement and opposition to government-sponsored development projects, faced periodic harassment. Human rights workers focusing on disappearances and the violence in southern Thailand were particularly vulnerable to government harassment. Very few NGOs were accorded tax-exempt status, which sometimes hampered the ability of domestic human rights organizations to secure adequate funding.

Angkhana Neelaphajit, the wife of Somchai Neelaphajit, reported regularly receiving threatening phone calls and being followed (see sections 1.b. and 1.f.).

In late June National Human Rights Commissioner Vasant Panich reported that he and his family were under surveillance by government agents (see section 1.f.).

On September 15, a human rights advocate who worked as a researcher for the NRC and other human rights organizations, was stopped while driving on the Pattani-Narathiwat highway and searched by two armed men who refused to present identification. The human rights advocate claimed the men accused him of assisting separatist insurgents by investigating and exposing human rights abuses by government officials. On September 17, he fled his home in Pattani after receiving scores of threatening phone calls and being followed for several days by unmarked cars. In September 2005 this same individual was shot and injured while

riding his motorcycle in Pattani Province. He reported he was targeted because of his human rights activities.

On October 20, Muhammad Dunai Tanyeen, a human rights defender in Narathiwat was shot and killed near his home (see section 1.a.). Muhammad Dunai worked to assist villagers affected by the violence in the South and had actively assisted some of the 58 defendants in the Tak Bai case (see sections 1.e. and 1.g.).

Some members of the domestic NGO Assembly of the Poor reported that the Government threatened to file charges of treason and otherwise intimidated them because of their activities. The threat of arrest hindered their work.

Government officials met and cooperated with visitors from the ICRC and the Office of the UN High Commissioner for Human Rights throughout the year. In June the foreign minister attended the 33rd Session of the Organization of the Islamic Conference (OIC) in Baku, Azerbaijan, as an observer. At that meeting, the OIC resolved to continue efforts with the Government to seek just solutions to the problems of Muslims in southern Thailand.

In 2004 the UN Commission on Human Rights special rapporteur on extrajudicial, summary or arbitrary killings requested permission to visit the country following the October incident in Tak Bai (see section 1.g.). Although the country provided a detailed response to the inquiry by the special rapporteur, the visit did not take place. In August and November 2005, the special rapporteur again requested permission to visit, but the visit did not take place.

The NHRC was active during the year. As an independent government entity, it submitted an annual evaluation of the human rights situation, proposed policies and recommendations for amending laws to the National Assembly, promoted measures to educate citizens on human rights, and investigated human rights abuses. Modest staffing and resources, as well as the lack of power to prosecute or to punish violators, hampered the NHRC's ability to carry out its mandate. According to NHRC commissioners, the Government rarely responded to NHRC proposals or recommendations. In a May 2005 report on the Tak Bai incident, the NHRC concluded that officials had violated the human rights of the Tak Bai detainees and called on the Government to compensate victims and their families and to review its southern policy. The NHRC publicly appealed to the Prime Minister to do away with the emergency decree.

In February 2005 the Prime Minister established the 50-member National Reconciliation Commission to build "peace and reconciliation" in the South. In June the NRC released its final report and recommendations. The Government acknowledged receipt of the report, but did not take any actions specifically to address NRC recommendations. The interim prime minister pledged to use the NRC report as the basic guideline for government action in the South (see section 1.g.).

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

Prior to the September 19 coup d'etat, the constitution provided for equal treatment without respect to race, gender, religion, disability, language, or social status; however, in practice, some discrimination existed, and government enforcement of equal protection statutes was uneven. Following the September 19 coup d'etat, specific laws pertaining to the provision of equal treatment without respect to race, gender, religion, disability, language, or social status were unaffected and there were no credible reports of increased discrimination based on these factors. The interim constitution contained provisions that provided for basic human rights, although equal rights and protections against societal abuses were not specifically addressed.

*Women.*—Domestic violence against women was a significant problem, and there were no specific laws addressing the problem. A few domestic violence crimes were prosecuted under provisions for assault or violence against a person. Domestic violence often went unreported, and the police often were reluctant to pursue reports of domestic violence. Reliable statistics on rates of domestic violence were difficult to obtain, but in November 2005 the public health minister noted that the number of reported cases of abuse had increased from five per day in 2002 to 28 per day in 2005. Approximately half of these cases involved sexual abuse. It was unclear whether the increase reflected an increase in violence or an increased public awareness of the problem and an increased willingness on the part of battered women to report it to authorities. Also in November 2005 the World Health Organization released findings of a study that showed 41 percent of women in Bangkok and 47 percent of women in rural areas had experienced physical or sexual abuse by an intimate partner. NGO-supported programs included emergency hot lines, temporary shelters, counseling services, and a television program to increase awareness of domestic violence, HIV/AIDS, and other issues involving women. The Government's

“one-stop” crisis centers, located in state-run hospitals, continued to care for abused women and children but faced budget difficulties.

Rape is illegal. Through November the police reported 5,060 rape cases nationwide, including five cases where the victim was killed. Suspects were arrested in 2,047 of these cases, including four of the cases resulting in the victim's death. There were 4,693 reported rapes in 2005. There are no provisions for prosecuting spousal rape. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of female police officers in metropolitan Bangkok and in three other provinces. The law specifies a range of penalties for rape or forcible sexual assault, depending on the age of the victim, the degree of assault, and the physical and mental condition of the victim after the assault. The minimum penalty is from four to 20 years' imprisonment and a fine of \$200 to \$1,000 (8,000 to 40,000 baht). If firearms or explosives are used, or if it is a gang rape, the penalty increases to 15 to 20 years' imprisonment and a fine of \$750 to \$1,000 (30,000 to 40,000 baht). Life imprisonment or execution is possible for cases in which the victim is injured or killed. A sentence of four to 20 years' imprisonment and a fine ranging from \$200 to \$1,000 (8,000 to 40,000 baht) is imposed for statutory rape of a child less than 15 years of age. If the victim is less than 13, the jail term ranges from seven years' to life imprisonment. The law also provides that any individual convicted for a second time for the same criminal offense within two years is liable to increased penalties for recidivism. Victims of sexual abuse were eligible to receive state financial aid of up to \$750 (30,000 baht).

Prostitution is illegal, although it is practiced openly throughout the country. Local officials with commercial interest often protected prostitution (see sections 1.d. and 5, Trafficking). Trafficking in women and children for prostitution was a serious problem (see section 5, Trafficking). Government and NGO estimates of the number of women and children engaged in prostitution varied widely. Ministry of Social Development and Human Security figures estimated there were 57,500 prostitutes working in the country. However, NGOs reported between 200,000 and 300,000 prostitutes. The illegal nature of the work and the high incidence of part-time prostitutes made precise numbers difficult to assess. In 2000 the Commission on Women's Affairs estimated that approximately 20 percent of prostitutes were children. There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. Most prostitutes were not kept under physical constraint, but a large number worked under debt bondage (see section 5, Trafficking). The law forbids child prostitution and subjects customers who patronize child prostitutes to criminal sanctions (see section 5, Children). NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem (see section 5, Trafficking).

The law makes sexual harassment illegal but covers only persons working in the formal sector. NGOs claimed that the legal definition of harassment was vague and prosecution of harassment claims difficult. Between July 2005 and August 2006, the civil service commission's sexual harassment and bullying hot line recorded approximately 250 cases. All complaints were investigated, but prosecution or disciplinary action was rarely sought because most callers only wanted to seek consultations. Some complaints may have been settled out of court.

The law provides for the equality of all citizens; however, some inequalities in the law remained. For example, a man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband publicly has acknowledged another woman as his wife.

Women had equal access to higher education, and more than half of university graduates were women. However, police and military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. According to the national statistics office, in 2005, women constituted 46 percent of the labor force and held an increasing share of professional positions. Women composed 58 percent of professional workers and 51 percent of technical workers but only 29 percent of administrators and managers. Women were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and women were concentrated in lower-paying jobs. In practice women received lower pay for equal work in virtually all sectors of the economy.

The National Human Rights Commission Act specifies that at least one-third of the members of the NHRC be women; during the year, five of the 11 commissioners

were women. The Women and Constitution Network, a league of more than 50 women's organizations, advocated legal reforms to address inequities in the treatment of women. The organization actively campaigned for gender-equality clauses in legislation and for strengthening a proposed law on domestic violence.

*Children.*—Prior to the September 19 coup d'etat, the constitution provided children equal protection under the law. Following the September 19 coup d'etat, the constitution was repealed but laws pertaining to equal protection for children were unaffected. Education is compulsory for nine years, and school tuition is free for 12 years. In general girls and boys attended primary and secondary schools in equal numbers. An estimated 96 percent of children completed grade six, 80 percent completed grade nine, and 79 percent completed grade 12. Girls are prohibited by religious practice from enrolling in religious schools restricted to Buddhist monks or novices. During the year violence in the southern provinces, and particularly violence aimed at public school teachers, sporadically forced the temporary closure of public schools and disrupted the educational process in those areas (see section 1. g.).

Children were tried in the same courts as adults and detained with adults in some regions of the country. There were 94 Juvenile Observation and Protection Centers for underage offenders, with at least one such facility located in each of the country's 76 provinces.

The law provides for the protection of children from abuse, and laws on rape and abandonment carry harsher penalties if the victim is a child. A nationwide, government-sponsored poll of high school students found that 5 percent of boys and 3 percent of girls had encountered sexual harassment. During the year police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse difficult. The law is designed to protect witnesses, victims, and offenders under the age of 18, and procedures with a judge's consent allow children to testify on videotape in private surroundings in the presence of a psychologist, psychiatrist, or other social worker. However, many judges declined to use videotaped testimony, citing technical problems and the inability to question accusers and defendants directly in court. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Trafficking in children, including for commercial sexual exploitation, remained a serious problem (see section 5, Trafficking). Pedophilia continued, both by citizens and by foreign sex tourists. The Government, university researchers, and NGOs estimated that there were as many as 30,000 to 40,000 prostitutes less than 18 years of age, not including foreign migrants. The Prostitution Prevention and Suppression Act makes child prostitution illegal and provides for criminal punishment for those who use prostitutes under age 18. Parents who allow a child to enter into prostitution also are punishable. During the year there were a few arrests and no prosecutions of parents who allowed a child to enter into prostitution. Custom and tradition made it rare for children to accuse their parents in court proceedings.

Child labor remained a problem (see section 6.d.).

There were believed to be approximately 20,000 street children in major urban centers. The children were referred to government-provided shelters, but many, especially foreign migrants, reportedly avoided the shelters due to fear of being detained and expelled from the country. Approximately 280 street children were repatriated to Laos, Cambodia, and Burma during the year. According to the Government, citizen street children were sent to their home provinces and placed in occupational training centers.

Street children were often left out of national reports on child labor issues, and national statistics on street children often included only citizens.

Street children were often exploited by organized gangs as beggars or to sell flowers or other items. Many of these children were forced to turn over their daily earnings to the gang and were paid less than a dollar (34 baht) a day. There were reports of street children who were bought, rented, or forcibly "borrowed" from their parents or guardians in order to beg alongside women on sidewalks and overpasses. This was particularly true in areas of the capital frequented by tourists. Working conditions for these children were poor, leaving them exposed to the elements for long periods of time and open to further exploitation.

There were many local NGOs that worked to promote children's rights. Employers' organizations, such as the Employers' Confederation of Thailand, also were involved in child labor issues. These organizations received good working support from the Government.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was a source, transit, and destination for trafficking in women and children



for a variety of purposes, including indentured servitude, forced labor, and prostitution. Some local officials, immigration officers, and police reportedly either were involved in trafficking directly or took bribes to ignore it. Penalties vary according to the age of the victim and the method of trafficking. In general the law provides for imprisonment of a year to life and fines of \$50 to \$1,000 (2,000 to 40,000 baht). For offenses against children between 15 and 18 years of age, the potential punishment is three to 15 years of imprisonment and a fine of \$150 to \$1,000 (6,000 to 40,000 baht). For offenses against children under 15 years of age, the penalty ranges from five to 20 years' imprisonment and a fine of \$250 to \$1,000 (10,000 to 40,000 baht). If the offense is committed with deceit, threat, physical assault, immoral influence, or other mental coercion, the sentences and fines may be increased by one-third.

In general the Government cooperated with governments of other countries in the investigation of transnational crimes, including trafficking. The country has signed bilateral antitrafficking memorandums of understanding (MOUs) with Cambodia and Laos. Receiving countries generally initiated trafficking case investigations. The Government continued to investigate rings associated with smuggling female citizens abroad. The Ministry of Foreign Affairs assisted 270 Thai women and girls, most victims of sexual exploitation, to return from abroad in 2005 (down from 316 in 2004). The police reported that 146 trafficking in persons cases were filed in the judicial system during 2005, representing an increase from 134 cases in 2004. The convictions from the 2004 cases included a March 2005 85-year sentence to a Cambodian woman for procuring women and underage girls for prostitution.

The law allows for extradition of citizens; however, no citizens were extradited for trafficking-related offenses. Requesting-country nationals charged with trafficking-related crimes, including pedophilia, were extradited to Japan, Australia, Germany, and the United States.

Some portion (thought by the UN, NGOs, and the Government to be a minority) of the estimated 200,000 to 300,000 sex industry workers in the country were either underage or in involuntary servitude or debt bondage. Women and children (particularly girls) tended to be the most frequent trafficking victims. Anecdotal evidence suggested that the trafficking of men, women, and children into such fields as commercial fisheries or sweatshop work was significant. Young migrant women and girls, particularly from Laos, were found employed in indentured servitude. NGOs assisted some victims to obtain back wages from abusive employers.

Within the country women were trafficked from the impoverished Northeast and the North to Bangkok for sexual exploitation. However, internal trafficking of women appeared to be on the decline, due to prevention programs and better economic opportunities. Women also were trafficked to Japan, Malaysia, Singapore, Bahrain, Australia, South Africa, Europe, and the United States chiefly for sexual exploitation but also for sweatshop labor. Men were trafficked into the country for commercial fisheries and farm, industrial, and construction labor. Prosecution of traffickers of men was complicated by the lack of coverage in the law.

Women and men were trafficked from Burma, Cambodia, the People's Republic of China (PRC), and Laos for labor and sexual exploitation. Boys and girls were trafficked chiefly from Burma and Cambodia primarily for sexual exploitation and to work in begging gangs. The Government screened trafficking victims from Cambodia and Burma through cooperation between the police and the International Organization for Migration (IOM). Law enforcement officials identified victims of trafficking and referred them to one of six regional government shelters.

Entire families occasionally were trafficked for labor in sweatshops. Underage boys reportedly were brought into the country for specialized work in which small size was an advantage. According to domestic NGOs, girls between the ages of 12 and 18 continued to be trafficked from Burma, southern PRC, and Laos to work in the commercial sex industry. Social workers noted that young girls were prized because clients believed that they were free of sexually transmitted diseases. Persons trafficked from the PRC often were in transit to other countries, although women and girls from Yunnan Province generally were destined for brothels in the North. Victims of trafficking were often lured into the country or for transit to other countries, with promises of restaurant or household work and then were pressured or physically forced into prostitution.

The lack of citizenship status for some hill tribe women and children was a strong risk factor for becoming victims of trafficking. Although members of this group were not a large percentage of trafficking victims, they continued to be found in disproportionately large numbers in situations entailing severe forms of trafficking. In April the Government repatriated 10 hill tribe women lacking citizenship who had been trafficked to Malaysia for prostitution in 2004. The women were repatriated after providing documentation of their prior residency or birth in the country.

Trafficking within the country and from neighboring countries into the country tended to be carried out by loosely organized small groups that often had close ties in the source communities. Burmese, Laotian, Cambodian, and Thai individuals were involved in labor trafficking along the border. Informal chains of acquaintance often were used to recruit victims. In some cases, the traffickers themselves were former victims, particularly where the sex industry was the destination.

The trafficking of Thai prostitutes abroad, and that of PRC nationals using the country as a transit point, was done by sophisticated and well-financed international criminal syndicates that sometimes cooperated with each other.

The majority of prostitutes were not kept under physical constraint, but a large number worked in debt bondage. Brothel procurers reportedly advanced parents a substantial sum against their child's future earnings. The child was then obligated to work in a brothel to repay the loan.

Because foreign women frequently were unable to speak the language and were considered illegal immigrants, they were particularly vulnerable to physical abuse and exploitation. Some women were lured into the country with promises of jobs as waitresses or domestic helpers but ended up working as prostitutes. Reports of labor trafficking were also received from Burmese migrant workers who were ostensibly offered jobs in the food processing industry, but were later induced or forcibly transported to work on fishing vessels. In September police raided a shrimp processing factory in Samut Sakhon and found more than 100 Burmese workers who had been held on the premises against their will.

Illegal immigrants had no rights to legal counsel or health care if arrested. In 2004 a series of MOUs among government agencies and between the Government and domestic NGOs provided some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The agreements stated that the training of police officers would include instructions to treat such persons as victims of human trafficking rather than as illegal immigrant workers. Instead of being deported, they would become the responsibility of the public welfare department. However, implementation of the MOUs has been erratic, due to insufficient training of law enforcement officials and their unfamiliarity with the law.

Official corruption facilitating the most severe forms of trafficking in persons was generally at the low- and mid-levels. Police personnel were poorly paid and were accustomed to taking bribes to supplement their income. There was no evidence that high-level officials benefited from or protected the practice. Compromised local police protected brothels and other sex venues, as well as factories, from surprise raids. Officials found complicit in any part of the illegal economy rarely were prosecuted but instead were moved to positions thought to limit opportunities for future corruption.

Several NGOs, both local and international, and government agencies worked with trafficking victims. The Government worked with the International Labor Organization's International Program on the Elimination of Child Labor (ILO-IPEC) to implement antitrafficking projects to reduce the incidence of trafficking of children for labor and sexual exploitation. However, funds for fighting trafficking or aiding its victims were limited.

In general victims awaiting repatriation were brought to government-run shelters or, in the case of noncitizens, to NGO-run shelters. The repatriation process took up to six months. Between October 2005 and September 2006, the main government shelter in Bangkok received 390 women and children from neighboring countries and 164 citizens, including women found in voluntary prostitution and domestic abuse cases. There were no reliable statistics on how many of these persons were victims of trafficking. The Government provided food, medical care, and limited psychological counseling.

Trafficking victims received some legal assistance from NGOs and Department of Welfare officials, and they generally were informed of the option of pursuing legal action against the trafficking perpetrators. Relatively few opted to do so; language barriers, illiteracy, distrust of government officials, the lengthy legal processes, and fear of the traffickers played a role. Trafficked victims residing illegally in the country were not allowed to obtain employment while awaiting repatriation, even if they were involved in legal proceedings against the trafficker.

The Government continued cooperative arrangements with NGOs and local industries, especially the hotel industry, to encourage youths (particularly girls) to find employment outside of the sex industry and other exploitative work. Vocational training programs aimed at high school students also received funding. Although the vocational training was not intended explicitly for trafficking prevention, the practical effect was to increase the range of choices for recent school graduates.

*Persons With Disabilities.*—Prior to the September 19 coup d'état, the constitution mandated access to public buildings for persons with disabilities, but laws imple-

menting the provisions were never fully enacted. In July 2005 a law was enacted providing that newly constructed buildings have facilities for persons with disabilities. Activists continued to work to amend laws that allow employment discrimination against persons with disabilities. Persons with disabilities were legally precluded from working as police officers and as persons providing medicinal massages, although the Ministry of Health stated that it welcomed the registration of persons with disabilities as medical masseurs.

Persons with disabilities who register with the Government are entitled to free medical examinations, wheelchairs, and crutches. As of August, 568,927 persons had registered as disabled. The Government provided five-year, interest-free small business loans for persons with disabilities. As of September, approximately 5,600 loans have been granted.

During the year approximately 238,000 children with disabilities attended school. The Government reported that 13,286 students were enrolled in the 43 special schools for students with disabilities; the remaining students were enrolled in regular public schools. The Ministry of Education reported that there were 76 centers nationwide offering special education programs for preschool-age children. Nationwide, there were nine government-operated and 12 NGO-operated training centers for persons with disabilities. In addition there were eight private associations providing occasional trainings for persons with disabilities. There were reports of schools turning away students with disabilities. In April 2005 the minister of education received a petition requesting that the Government guarantee educational opportunities for persons with disabilities. A 2002 report by the National Statistics Office said that 23 percent of registered persons with disabilities had graduated from junior high school.

Many persons with disabilities who found employment were subjected to wage discrimination. The law requires private firms to hire one person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision has never been enforced. Government officials estimated that between 20 and 30 percent of firms disregarded the law. Some state enterprises had discriminatory hiring policies.

*National/Racial/Ethnic Minorities.*—Former belligerents in the Chinese civil war and their descendants, who have been in the country since the end of the civil war, and children of Vietnamese immigrants, who resided in five northeastern provinces, lived under laws and regulations that could restrict their movement, residence, education, and occupation (see section 2.d.). During the year approximately 2,300 of the Vietnamese and their descendants and 1,000 Chinese and some of their descendants were granted full citizenship.

Violence in the South exacerbated social prejudices against Muslims; however, there were no outbreaks of communal violence between the Buddhist and Muslim communities. Many Muslims complained of societal discrimination both by Buddhist citizens and by the central government. Many Muslims complained that Thai-language newspapers present a negative image of Muslims and of their communities, associating them with terrorists.

Insurgent groups in the South spread propaganda against Buddhists in the form of threatening pamphlets and flyers. There were also reports that some religious schools in the South preached hatred for non-Muslims, as well as for Muslims who cooperated with the Government and security forces (see section 2.c.).

*Indigenous People.*—Members of hill tribes without proper documentation continued to face restrictions on their movement, could not own land, and were not protected by labor laws, including minimum wage requirements. Freedom of movement was often dependent on their residency status, which was identifiable by the color of their identity cards (see section 2.d.). Citizenship is not automatically granted to children born to persons living illegally or without status in the country. Lack of citizenship makes hill tribe persons vulnerable to abuses and exploitation, such as trafficking (see section 5, Trafficking). They sometimes were denied adequate education and health care. Those residing in national parks or wildlife sanctuaries were subject to eviction (see section 1.f.). As noncitizen residents, they also were barred from participating in the political process (see section 3).

In recent years regulations eased the requirements to establish citizenship by allowing a wider range of evidence, including testimony from references and empowering local officials to decide cases. According to the Registration Administration Bureau of the Ministry of Interior, roughly 60 percent of potentially eligible candidates have received citizenship under the regulations. Although the Government was supportive of efforts to register citizens and to educate eligible hill tribe persons about their rights, activists reported that widespread corruption and inefficiency at all lev-

els, including among highland village headmen and government officials, contributed to a backlog of pending citizenship applications.

Hill tribe members continued to face societal discrimination arising in part from the belief that they were involved in drug trafficking and environmental degradation. Hill tribes occasionally were subjected to indiscriminate searches of villages for illegal drugs (see section 1.f.).

*Other Societal Abuses and Discrimination.*—HIV/AIDS was estimated to have infected approximately 1.5 percent of the population. During the year the Government took measures to improve its support of persons with HIV/AIDS. The Government aggressively implemented a program to provide anti-retroviral drugs and, as of September, more than 80,000 HIV/AIDS sufferers were receiving such drugs. The Government provided funds to HIV/AIDS support groups and continued public debate at the highest levels of political leadership. Societal discrimination against persons with AIDS most often was found in the form of a psychological stigma associated with rejection by family, friends, and the community. There were reports that some employers refused to hire persons who tested positive following employer-mandated blood screening.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Prior to the September 19 coup d'etat, the constitution allowed all private sector workers to form and join trade unions of their choosing without prior authorization. Laws pertaining to private sector workers rights to form and join trade unions were unaffected by the coup and its aftermath; however, the law provides inadequate protection to workers who participate in union activities. The law prohibits antiunion actions by employers; however, it also requires that union officials be full-time employees of the company, which makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions. Union leaders and academic observers reported that employers often discriminated against workers seeking to organize unions. The law does not protect workers from employer reprisal for union activities prior to the registration of the union, and employers could exploit this loophole to defeat efforts at union organization. During the year employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of unions. Trade union leaders can be dismissed for any reason, provided severance payment is made. In such circumstances the law does not provide for reinstatement. The labor court reinstated employees in some cases where dismissal resulted from union activity and was illegal. However, because the reinstatement process was lengthy and cost prohibitive for the employee, most cases were settled out of court through severance payments to the employee. There were no punitive sanctions for employers.

Union officials must be full-time employees of the company or state enterprise. This prohibition against permanent union staff limited the ability of unions to organize and be politically active. The Labor Relations Act allows only two outside government-licensed advisors to a union, and the Ministry of Labor often blocked the registration of labor advisors whom it deemed too activist. Union leaders and outside observers complained this interfered with the ability to train union members and develop expertise in collective bargaining, and led to rapid turnover in union leaders.

Less than 4 percent of the total work force but nearly 11 percent of industrial workers and more than 50 percent of state enterprise workers were unionized. Cultural traditions, unfamiliarity with the concept of industrial relations, efforts by the Government and the private sector to diminish union cohesiveness, and the sizeable agricultural and informal sectors (where unions are not permitted) were cited as reasons for low rates of labor organization.

State enterprise employees can join organizations of workers in the private sector, but only at the level of confederations. This restriction effectively divided the trade union movement along state enterprise and private sector lines. However, unofficial contacts at the union level between public and private sector workers continued, and the Government did not interfere with these relationships. Unions in state-owned enterprises generally operated independently of the Government and other organizations. Internal conflicts, corruption, and a lack of leadership weakened the labor movement.

Civil servants including public school teachers are prohibited from forming or registering a union. They are allowed to form and register only as associations, which have no right to bargain collectively.

Noncitizen migrant workers, whether registered or illegally present, did not have the right to form unions or serve as union officials; however, registered migrants may be members of unions organized and led by citizens. The Ministry of Labor required foreign workers to renew their temporary work status annually. About three-

fourths of these foreign workers were from Burma (see section 2.d.). Few, if any, of the registered migrants joined unions. During the year a substantial number of migrant workers worked in factories near border crossing points, where labor laws were routinely violated and few inspections were attempted to verify compliance with the law.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the right of citizen private-sector workers to organize and bargain collectively; however, the Government's efforts to protect this right were weak. The law defines the mechanisms for collective bargaining and for government-assisted conciliation and arbitration in cases under dispute. In practice genuine collective bargaining occurred only in a small fraction of workplaces, and in most instances, it continued to be characterized by a lack of sophistication on the part of worker groups and autocratic attitudes on the part of employers. Wage increases for most workers came as a result of increases in the minimum wage rather than as a result of collective bargaining. The process of setting minimum wages locally through provincial tripartite wage committees may further limit union influence; many of these provincial committees excluded labor representatives and placed factory managers on the wage committees to represent worker interests. The minimum wage increase in the year again did not keep pace with inflation. The Government sets wages for state enterprise employees under the State Enterprise Labor Relations Act (SELRA) (see section 6.e.). Wages for civil servants are determined by the Ministry of Finance.

The Government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision and did not do so during the year. Labor law also forbids strikes in "essential services," which are defined much more broadly than in the ILO criteria, and include sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law also prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. Employers are legally permitted to hire workers to replace strikers. SELRA provides public sector employees in state enterprises the same rights to organize as exist in the private sector. SELRA prohibits lockouts by employers and strikes by state enterprise workers. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and to have a strike approved by 50 percent of unionists. During the year there were three legal strikes involving 348 workers, and there were six lockouts involving 803 workers.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector; however, there was documented abuse in the system, including evidence that awards to workers were ignored or not paid in full. Issues of collective labor relations are adjudicated through the Tripartite Labor Relations Committee, and are subject to review by the labor courts. Workers could also seek redress through the NHRC and the Parliamentary Committee on Labor and Social Welfare, although this committee ceased functioning during the year. The law authorizes the Ministry of Labor to refer any private sector labor dispute for voluntary arbitration by a government-appointed group other than the Labor Relations Committee. Although the legal authority seldom was used, the ILO viewed this provision as acceptable only in defined essential services. Redress of grievances for state enterprise workers is handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders unjustly dismissed were awarded only back wages with no punitive sanctions against the employer. This limited any disincentive for employers to fire union organizers and activists.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs), in which wages and working conditions often were better than national norms. However, union leaders alleged that employers' associations were organized to cooperate in discouraging union organization. Unions existed in the automobile and petroleum production facilities located in EPZs.

In recent years labor brokerage firms have used a "contract labor system" under which workers sign an annual contract. Contract laborers are not covered under the Labor Relations Act or the Labor Protection Act. These workers lacked the ability to bargain collectively over wage and benefit issues. Although they may perform the same work as direct-hire workers they were paid less and received fewer, or no, benefits.

Attempts by registered migrant workers to carry out work stoppages to demand minimum and back wages, along with better working conditions, often led to deportations, resulting from apparent collusion between factory owners and local govern-

ment immigration officials. There continued to be credible reports of NGO personnel being assaulted while trying to assist migrant workers.

*c. Prohibition of Forced or Compulsory Labor.*—Prior to the September 19 coup d'etat, the constitution prohibited forced or compulsory labor, including by children, except in the case of national emergency, war, or martial law; however, the Government was unable to enforce these provisions effectively in the large informal sector. Following the September 19 coup d'etat, laws pertaining to prohibition of forced or compulsory labor were unaffected, and there were no reports that the Government engaged in or tolerated forced or compulsory labor. During the year there continued to be reports of sweatshops in which employers prevented workers, primarily foreign migrants, from leaving the premises. There were no estimates of the number of such sweatshops, but the large number of migrants from Burma, Cambodia, and Laos created opportunities for such abuse. NGOs and the ILO reported that thousands of underage boys and girls were brought into the country for labor on farms or in sweatshops, and very young children were used to work in street begging gangs.

Problems encountered by Thai citizens working overseas highlighted the problem of exploitative labor supply agencies that charged heavy and illegal recruitment fees often equal to all of a worker's first and second year earnings. In many cases recruited workers did not receive the terms they were promised and incurred significant debt.

Forced and compulsory labor by children occurred (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—In general sufficient legal protections exist for children in the formal economic sector. The Labor Protection Act is the primary law regulating employment of children under the age of 18. Employment of children under 15 is prohibited. However, the law does not cover the agricultural and informal sectors, including domestic work, which employ the majority of persons in the workforce, including many child workers. The law allows for issuance of ministerial regulations to address sectors not covered in the law, and since 2004 regulations increased protections for child workers in domestic and agricultural sector work. The minimum working age is coordinated with the mandatory national educational requirement. On February 28, as part of its strategy to strengthen child labor laws and enforcement procedures, the Government approved the appointment of the National Committee on Eliminating the Worst Forms of Child Labor.

Child labor remained a problem, particularly in small-scale industry and agricultural sectors. Contradictory surveys by various government agencies, which largely ignored foreign children and those in illegal industries, made estimating the scope of the phenomenon difficult. According to a study funded by the Ministry of Labor and the ILO, child labor abuse of citizens was declining and citizen children made up less than 1 percent of the workforce. Abuse of underage migrant workers, especially from Burma, however, was widespread and continuing to increase.

The law permits the employment of children between the ages of 15 and 18 only in "light work," where the lifting of heavy loads and exposure to toxic materials or dangerous equipment or situations is limited. The law prohibits employment of children at night (from 10 p.m. to 6 a.m.) or in places in which alcohol is served. It was estimated that approximately one million children worked on family farms. NGOs reported that 2 to 4 percent of children between the ages of six to 14 worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws. Most underage workers in urban areas worked in the service sector, primarily in gasoline stations, small-scale industry, and restaurants. Child labor was less evident in larger export-oriented factories. A police raid in September discovered 18 migrant workers under the age of 16 working in a shrimp processing factory south of Bangkok. NGOs also reported extensive child labor in garment factories along the Burmese border, in Mae Sot Province. However, there was no comprehensive survey of child labor throughout the country, since NGOs often did not have access to shop-house factories. NGOs reported child domestic workers were predominantly migrants from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation. Minimum wage and age provisions of the Labor Protection Act do not apply to domestic workers, some of whom were believed to be less than 15 years of age; however, recently issued regulations extended protections to children in the domestic and agricultural sectors. Thus far any effects of these regulations have not been measured.

The worst forms of child labor occurred in the country. Children (usually foreign) were exploited in street selling, begging, and prostitution in urban areas, sometimes in a system of debt bondage. Some were sold or otherwise trafficked by parents or other relatives. The Government implemented guidelines in cooperation with the IOM to improve the screening of trafficking victims among child beggars and street

vendors from Cambodia or Burma (see section 5). A 2004 ILO study noted that drug merchants in Bangkok used male children as delivery boys. Narcotics sellers preferred children because they were undemanding and were not charged as adults if arrested. Instead they were sent to police-run correctional homes.

The Ministry of Labor is the primary agency charged with enforcing child labor laws and policies. During the year there were 2,354 labor inspection officers, including labor ministry officials and policemen who registered as labor inspection officers. Enforcement of child labor laws was not rigorous, and only 736 of the registered inspection officers routinely performed inspections. There were 36,062 inspections at 31,173 establishments in 2005. Inspectors usually responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. Their inclination when dealing with violators was to negotiate promises of better future behavior rather than seek prosecution and punishment. The legal requirement for a warrant hampered inspection of private homes to monitor the welfare of child domestic workers. In 2005 child labor inspections and investigations were performed in 543 firms; eight of the workplaces inspected revealed serious violations, such as employing underage workers.

In 2004 the Government registered 79,200 migrant children 15 years of age and younger, the first time minors had been given temporary residence permits under migrant labor policy. Government officials stated the new measure would permit foreign children access to the public school system. NGOs reported that this new provision was implemented only if the employer of the migrant parent provided evidence regarding the parent's status to school authorities. In most cases the employer did not do so.

*e. Acceptable Conditions of Work.*—The minimum wage ranged from \$3.75 to \$4.94 (140 baht to 184 baht) per day, depending on the cost of living in various provinces. The minimum wage was set by provincial wage committees that sometimes included only employer representatives. This wage was not adequate to provide a decent standard of living for a worker and family. The official poverty rate was 83 cents (31 baht) per day, which permitted survival only in areas where subsistence agriculture was possible. The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, nationwide, academics estimated one-third of formal sector workers received less than the minimum wage, especially those in rural provinces. Despite encouragement of employees to report violations to labor inspectors, the enforcement of minimum wage laws was mixed. Many labor laws, including the minimum wage law, do not apply to undocumented workers, primarily hill tribe members and illegal aliens. An estimated one to two million unskilled and semiskilled migrant workers worked for wages that were approximately one-half the minimum wage.

The Government mandated a uniform workweek of 48 hours, with a limit on overtime of 35 hours per week. Employees engaged in "dangerous" work, such as in the chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 35 hours per week and are not permitted overtime. The petrochemical industry is excluded from these regulations. There were reported incidents of employees forced to work overtime, with punishments and dismissals for workers who refused.

Working conditions varied widely. The official rate of injury from industrial accidents remained relatively constant over the last 10 years at 4.5 percent of the total work force. The Ministry of Labor stated that the average annual rate of work-related deaths was 15 per 100,000 workers. However, these rates applied only to industrial sector workers; the rate of incidents occurring in the larger informal and agricultural sectors, and among migrant workers, was thought to be higher. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. The approximately 50,000 young migrant women employed in textile factories along the Burma border, had limited and substandard medical options, and many suffered from stress-related disorders and complications resulting from abortions. In medium-sized and large factories, government health and safety standards often were applied, but enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the Labor Protection Act include expanded protection for pregnant workers by prohibiting them from working on night shifts, overtime, holidays, or working with dangerous machinery or on boats. Despite the act's prohibition on dismissing pregnant workers regardless of their nationalities, there were reports of employers of migrant women firing those who became pregnant.

The Ministry of Labor promulgates health and safety regulations regarding conditions of work; however, the inspection department enforced these standards ineffectively, due to a lack of human and financial resources. There is no law affording job protection to employees who remove themselves from dangerous work situations.

Redress for workers injured in industrial accidents was rarely timely or sufficient. Few court decisions were handed down against management or owners involved in workplace disasters.

Despite the new registration process, migrant workers, especially from Burma, remained especially vulnerable to poor working conditions due to a lack of labor rights. According to Amnesty International, they were routinely paid well below the minimum wage, worked long hours in unhealthy conditions, and were at risk of arbitrary arrest and deportation. An ILO report during the year indicated that 35 to 50 percent of migrant workers in the agriculture, fishing, and manufacturing sectors had their identification and registration papers held by employers, which limited the workers' freedom of movement. In addition, 60 percent of domestic workers surveyed said they were not allowed to leave their work premises, while 82 percent said they worked more than 12 hours a day.

Enforcement of workplace laws and regulations is the responsibility of the Ministry of Labor's Department of Labor Protection and Welfare. The department has fewer than 700 fulltime inspectors to monitor more than 340,000 workplaces. Although the department has undertaken initiatives to hire additional inspectors and to deputize local government officials, the shortage of human and other resources significantly impeded effective enforcement of labor laws.

## TONGA

The Kingdom of Tonga is a constitutional monarchy with a population of approximately 110,000. Political life is dominated by the King, the nobility, and a few prominent commoners. In September King Taufa'ahau Tupou IV died and was succeeded by his eldest son, King Siaosi Tupou V. The most recent election for "people's representative" seats in Parliament, held in March 2005, was deemed generally free and fair. There were several nascent political parties. The civilian authorities generally maintained effective control of the security forces.

The country's human rights record remained deficient. Citizens lacked the ability to change their government. However, in March the King appointed a non-noble as prime minister, and in October a parliamentary national committee formed in 2005 to explore the possibility of expanding political rights issued a report recommending an all-elected parliament, with 17 "people's representatives" and nine nobles' representatives. There were allegations of police and defense force abuses of some persons arrested under a state of emergency decree following a major riot in the capital of Nuku'alofa on November 16, which occurred after initially peaceful political demonstrations turned violent. There was also severe, temporary detention center overcrowding as a result of the post-riot arrests. A member of Parliament (MP) was charged with sedition when exercising his right to free speech. Government corruption was a problem, and discrimination against women continued.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, in December an employee of a local non-governmental organization (NGO) issued a report alleging abuse by the Tonga Defense Services (TDS) and police of some of the persons arrested following rioting in Nuku'alofa on November 16 (see section 2.b.). The NGO's board later disavowed the report, citing differences with the author's methodology and conclusions and his failure to clear the report prior to release. The Tonga Evangelical Union also wrote a letter to the Prime Minister expressing concern over reports of abuses, including violence towards underage detainees. The Government stated it would investigate the charges. There were also reports of gratuitous violence used during more routine arrests, detentions, and other encounters with the TDS and police.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. Unlike in 2005, there were no reports that prisoners were collectively punished after the misbehavior or escape of individual inmates.

Prior to the November 16 riot, no NGOs attempted to monitor prison or detention center conditions. However, following the arrests of more than 900 riot suspects and allegations of overcrowding and mistreatment of detainees, in early December the



Tonga Red Cross visited the Nuku'alofa prison and local police jails where the suspects were held. The Red Cross reported overcrowding and unhygienic conditions in the detention facilities.

Also in December a report issued by an employee of a local NGO, later disavowed by the NGO, alleged inhumane conditions for pretrial detainees following the large number of arrests through year's end in connection with the riot. According to the report the main detention center—the Nuku'alofa police station—had seven cells designed to hold up to 16 persons each, but at times there were up to four times that many detained in a cell. The report also noted detainee complaints of inadequate food, toilets, and washing facilities. There were allegations that some detainees were left handcuffed for several days. Some juveniles at the facility reportedly were held together with adults.

Church representatives and family members were permitted to visit prisoners.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Human rights lawyers claimed that the arrests of suspected November 16 rioters were illegal. They argued that special arrest powers granted under the post-riot state of emergency decree could only apply prospectively, not retroactively to participation in the rioting.

*Role of the Police and Security Apparatus.*—The security apparatus consists of the TDS and a police force. The minister of defense controls the TDS force, which is responsible for external security. The police are normally responsible for internal security, but under the state of emergency declared following the November riot, the TDS also shared domestic security duties with the police.

The minister of police and prisons directs the police force of approximately 470 persons. Incidents of bribe taking and other forms of corruption in the police force reportedly occurred. Reports of corruption and other public complaints were referred to a specific police office that conducts internal investigations and, if necessary, convenes a police tribunal. Entry-level police training included training on corruption and transparency.

The police force was unable to respond adequately to the large-scale rioting on November 16 (see section 2.c.). Following the riot the Government declared a state of emergency and deployed the TDS to assist the police in maintaining internal security and in locating and arresting persons suspected of participating in the violence. The state of emergency was still in effect at year's end.

*Arrest and Detention.*—The law provides for the right to judicial determination of the legality of arrest, and this was observed in practice prior to the state of emergency declaration. Under normal circumstances police have the right to arrest detainees without a warrant, but detainees must be brought before a local magistrate within 24 hours. Under the state of emergency the period can extend to 48 hours. Following the November 16 riot in Nuku'alofa, some detainees were held for several days without seeing a magistrate.

In most cases magistrates set bail. The law permits unlimited access by counsel and family members to detained persons. However, some persons detained after the November rioting reportedly were not allowed to contact an attorney or family members.

*Amnesty.*—The King has the power to grant amnesty, but unlike in 2005, he did not use it during the year.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice. The judiciary tended to provide citizens with a fair and efficient judicial process. The highest-ranking judges historically have been foreign nationals. Judges hold office “during good behavior” and otherwise cannot be dismissed during their terms.

The court system consists of the Court of Appeal, the Supreme Court (which has original jurisdiction over all major cases), the police magistrate's court, a general court, a TDS court-martial, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeal is the highest court. The king's privy council presides over cases relating to disputes over titles of nobility and estate boundaries.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law applies to all citizens without exception. A court may not summon anyone without providing a written indictment stating the charges. Trials are public, and defendants have the option to request a seven-member jury. Defendants are presumed innocent, may question witnesses against them, and have access to government-held evidence. Lawyers have free access to defendants. Defendants have the right to be present at their trials

and to consult with an attorney in a timely manner. Public defenders are not provided, but local lawyers occasionally take pro bono cases. Defendants have the right of appeal.

The TDS and the police force both have tribunals. These tribunals cannot try civilians.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Any violation of a human right provided for in the law can be addressed in the courts. There are no nonjudicial administrative remedies in such matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice. However, under the state of emergency, police and TDS personnel entered homes without search warrants and searched for stolen goods and suspects in the weeks following the November 16 riot.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, but the Government did not always respect these rights in practice. In May it took legal action against a prodemocracy MP for veiled criticism of the King and in November it forced the closure of a private television broadcaster critical of government.

Individuals generally were free to criticize the Government without reprisal. However, in May leading prodemocracy MP Akilisi Pohiva was charged with sedition after his organization displayed banners quoting biblical scripture in a public park. The Government interpreted the banners as a criticism of King Taufa'ahau Tupou IV. Members of the prodemocracy movement saw this charge as an attempt to intimidate them. The Government later dropped the charges.

In March 2005 Piveni Piukala, a former employee of the monopoly power company partially owned by King Siaosi Tupou V, made public allegations of excessively high salaries and other problems within the company. In June 2005 he was arrested for allegedly having illegally retrieved information from the company's computers. At year's end he remained free on bail awaiting trial.

The independent media were active and expressed a wide variety of views, generally without restriction. However, the number of local independent media outlets was limited.

The Overseas Broadcasting Network (OBN), one of only two private television stations in the country, provided generous airtime to prodemocracy leaders in the weeks prior to the November 16 riot. Days before November 16, the Government prevented the station from broadcasting. The Government alleged that OBN did not have a lease on its station land or a valid broadcast license. Both issues had been in litigation. Prodemocracy activists believed that OBN was shut down to stop political speech critical of government.

Government-controlled media outlets were criticized for exercising self-censorship. While there was little editorializing in the government-owned media, opposition opinion in the form of letters to the editor, along with government statements and letters, appeared regularly. From time to time the national media carried comments, including some by prominent citizens, critical of government practices and policies. Under Tonga Broadcasting Commission (TBC) guidelines, religious programming on Radio Tonga must be confined "within the limits of the mainstream Christian tradition" (see section 2.c.).

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Lack of infrastructure limited access to a certain extent, but there were Internet cafes available in the larger towns in all three of the country's island groups.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

On June 1, approximately 1,000 civil servants and prodemocracy activists marched through the capital and presented a petition to the royal family demanding immediate political reforms. The Government permitted the march, but police ar-

rested 32 participants for allegedly refusing to comply with police instructions. Two of the accused were found guilty of obstructing a government servant and disorderly behavior in public. The convictions were upheld on appeal. The remaining 30 individuals were released pending a hearing, which had not yet been held at year's end.

On November 16, large gatherings of proreform and antireform demonstrators in downtown Nuku'alofa verbally confronted each other and urged Parliament to back their respective views (see section 3). After Parliament did not meet to vote on a particular reform plan, violence broke out. Several thousand rioters roamed through the city's downtown business district. Numerous buildings were attacked, looted, and burned. Government buildings, businesses associated with the royal family and government officials, and Chinese- and Indian-owned shops were particular targets. Seven persons died after apparently becoming trapped in a burning building. Since the building's owners reported that all their employees were accounted for, the authorities believed some or all of the victims may have been participants in the riot, but this was not confirmed by year's end. In November and December the authorities arrested over 900 persons on charges connected to the riot; their cases were pending at year's end. An employee of a local NGO and the head of the Tonga Evangelical Union alleged that TDS and police officers mistreated some of those arrested; the Government denied the charges (see section 1.c.).

The law permits political parties to register under an "incorporated societies" statute. Since 2002 four parties have been registered (see section 3).

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice. However, the dominant Christian religion shows its influence in a constitutional provision that Sunday, the Sabbath, is to be "kept holy" and that no business can be conducted "except according to law." Although an exception was made for bakeries, hotels, resorts, and restaurants that are part of the tourism industry, the Sabbath day prohibition was otherwise enforced strictly for all businesses, regardless of the business owner's religion.

TBC guidelines require that religious programming on Radio Tonga be confined "within the limits of the mainstream Christian tradition." The TBC did not allow members of the Baha'i Faith to discuss the tenets of their religion or refer to the founder, Baha'ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter-day Saints (Mormons) to discuss its founder, Joseph Smith, or the Book of Mormon by name. However, members of the Baha'i Faith used a privately owned radio station for program activities and the announcement of functions, and Mormons and members of some other faiths were permitted to use Radio Tonga for the announcement of church activities. A government-owned newspaper occasionally carried news articles about Baha'i activities or events, as well as those of other faiths.

*Societal Abuses and Discrimination.*—The relationships among religions generally were amicable. There were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There was no known resident Jewish community.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and prior to the declaration of a state of emergency in November, the Government generally respected them in practice. Under the state of emergency the Government restricted free movement in and around the Government and central business district of the capital. In December the magistrate's court issued a restraining order under the country's bail act that prohibited 81 named suspects in the rioting from departing the country.

The law does not prohibit forced exile, but the Government did not employ it in practice.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. No persons were known to have applied for refugee status or temporary protection.

The Government was not approached during the year by the Office of the UN High Commissioner for Refugees or other humanitarian organizations to assist with refugees or asylum seekers.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

Citizens do not have the ability to change their leaders or system of government. The King and 33 hereditary nobles dominated political life. They asserted authority largely through control of substantial landholdings and their dominant numbers in Parliament. While the constitution allows the monarch broad powers, many of which do not require Parliament's endorsement, at times the King permitted Parliament to operate without his guidance. The King appoints the Prime Minister. He also appoints and presides over the privy council (called the cabinet when the King or regent is not presiding), which makes major policy decisions. The cabinet is composed of as many as 13 ministers and two governors; it includes nobles and commoners, all serving at the king's pleasure. In March the King appointed a commoner as prime minister, the first such appointment since the late 1800s. This followed a move in 2005 in which the current prime minister and another of the nine elected "people's representatives" were appointed to the cabinet—the first time elected "people's representatives" served as cabinet ministers.

The unicameral Parliament consists of the cabinet members, nine nobles elected by their peers, and nine representatives elected by the general population. The King appoints the speaker from among the representatives of the nobles. Cabinet members and nobles often voted as a bloc.

*Elections and Political Participation.*—Only citizens 21 years or older and resident in the country may vote. March 2005 elections for the Parliament's nine "people's representatives" were deemed to be generally free and fair and resulted in a strong showing for prodemocracy candidates. Subsequent by-elections also resulted in the election of prodemocracy candidates.

Nobles and cabinet members associated with the royal family have traditionally dominated the Parliament and government. For several decades there has been a building democracy movement and since 2005 three proreform political parties have been registered.

Prodemocracy groups staged demonstrations in September 2005 and in June and presented petitions to the king's representative that called for constitutional changes, including a popularly elected parliament. The King did not specifically respond to these petitions. In October 2005 Parliament commissioned the National Committee on Political Reform (NCPR) to ask citizens around the nation and abroad for recommendations about necessary political changes. The committee met with groups of citizens throughout the country and expatriate groups in New Zealand, Australia, and the United States. In late August the committee presented a report of its findings to the King, and on October 3, it presented its report to Parliament. The report recommended an elected parliament, with an increase from nine to 17 in the number of MPs elected by the general public; the 33 nobles would continue to elect nine MPs from among their number. The Prime Minister would be selected by the King from and would select cabinet members from among the 26 elected MPs. In response to the report the cabinet suggested the formation of a tripartite committee to review the NCPR's recommendations as well as an alternative proposal for more limited reforms made by the Prime Minister.

On November 16, citing security concerns due to proreform and antireform demonstrations in front of Parliament House, the Parliament did not meet to vote and thus took no action on reform recommendations. The large proreform demonstration subsequently degenerated into a group of several thousand rioters who attacked, looted and burned numerous buildings in the central business district (see Section 2.b.). In a last-minute meeting with prodemocracy leaders aimed at calming the crowds outside his office, the Prime Minister agreed to support a reform plan for a 30-member parliament with 21 representatives elected by the general populace and nine representatives elected by the nobles, to be implemented beginning with elections in January 2008. The agreement came too late to head off the riot. Under the constitution any agreement on reforms would have to be passed by Parliament and approved by the King before it could go into effect, and Parliament took no further action on reform proposals by year's end. In a speech on November 22 to close Parliament, the King affirmed that political reform should continue and requested that all political factions work to negotiate terms of a compromise reform plan before the next opening of Parliament in May 2007.

There was one woman in the 34-member Parliament. A woman may become queen, but the constitution forbids a woman to inherit other noble titles or become a chief. There was one female government minister. Women held several other significant government posts, including that of ambassador and permanent representative to the UN.

There was no minority participation in government.

*Government Corruption and Transparency.*—There were reports of government corruption during the year. Officials working in the main port reportedly took bribes in exchange for not charging the full amount of port and duty tax. In January the speaker of Parliament was convicted of evading customs duties and bribery of a customs officer and stripped of his position as well as his chiefly rank and title. He also was fined \$9,780 (T\$20,000).

In addition government preferences appeared to benefit unfairly businesses associated with members of the royal family.

At year's end the Government was considering a controversial measure that would close down a number of bonded warehouses at the port in an effort to fight corruption.

The law does not specifically allow for public access to government information, and such access was a problem, especially when the Government deemed the information sensitive.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues. Government officials were somewhat cooperative and responsive to their views. Claims of mistreatment of detainees in the wake of the November riot led to ad hoc investigations by several domestic NGOs (see section 1.c.). There were no restrictions on operations by international human rights groups. After the post-riot allegations of mistreatment of detainees, two UN agencies requested information from the Government and asked to visit the country to conduct further investigations. These requests were pending at year's end.

Government offices include a commission on public relations that investigates and seeks to resolve complaints about the Government.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law confirms the special status of members of the royal family and the nobility. While social, cultural, and economic facilities were available to all citizens regardless of race and religion, members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status.

*Women.*—Domestic violence against women seldom was publicized; however, according to local women's groups, it was very common. Domestic violence can be prosecuted under laws against physical assault, but in practice prosecutions were very rare. When abuse was reported to the police, victims were often encouraged to return to their homes. There were shelters for abused and troubled women, and the Free Wesleyan Church operated a hot line for women in trouble.

Rape is punishable by up to 15 years' imprisonment. The law does not recognize spousal rape. The incidence of rape appeared to be infrequent, although there were no reliable statistics. There was one conviction for indecent assault on a minor during the year.

Under a Ministry of Health policy, a woman is not permitted to undergo a tubal ligation at a public hospital without the consent of her husband or, in his absence, her male next-of-kin.

Prostitution is not illegal, but activities such as soliciting in a public place, procuring, operating a brothel, and trading in women are criminal offenses. During the year there was an increase in prostitution for men from foreign fishing vessels, especially among women under the age of 18. Sexual harassment is not a crime, but physical sexual assault could be prosecuted as indecent assault. Sexual harassment sometimes occurred, but it was not a major problem.

Inheritance laws, especially those concerned with land, discriminate against women. Women can lease land, but inheritance rights pass through the male heirs. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter. If there are no male relatives, a widow is entitled to remain on her husband's land as long as she does not remarry or engage in sexual intercourse. In August the cabinet asked the Ministry of Lands to consider amendments to the country's land laws to allow women to inherit registered land allotments in the absence of a male heir. The inheritance would then continue to the woman's first male descendant. The proposal was a subject of considerable national debate during the year; it was still under consideration by the ministry at year's end.

The Office of Women within the Prime Minister's Office is responsible for facilitation of development projects for women. During the year the office assisted women's groups in setting up work programs.

Women who rose to positions of leadership usually had links with the nobility. Some female commoners held senior leadership positions in business.

The nongovernmental Center for Women and Children focused on domestic abuse and improving the economic and social conditions of women and offered counseling to women in crisis. Several religiously affiliated women's groups also advocated for women's legal rights.

*Children.*—The Government was committed to children's rights and welfare, and it provided some funding for children's welfare. Education is compulsory from ages six to 14. Education was available for all children through high school, and almost all children attended school. Education was free at the primary level, but students were required to pay school fees at the secondary level.

The Government provided free basic medical care to children.

There were some reports of child abuse. There was one conviction for indecent assault on a minor (see section 5, Women).

There were reports that workers on foreign fishing vessels solicited underage girls for prostitution (see section 5, Women).

*Trafficking in Persons.*—While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There are no mandated provisions for services for persons with disabilities. The Tonga Red Cross Society operated a school for children with disabilities and conducted occasional home visits. There were complaints of discrimination in employment, education, and provision of other government services. The queen ran a center providing accommodation and meals for adults with disabilities. There were no programs to ensure access to buildings for persons with disabilities.

There were no restrictions on the right of persons with disabilities to vote or participate in civic affairs. There was no specific government agency with responsibility for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—According to the Ministry of Labor, ownership and operation of food retail stores in the country has been legally restricted to citizens since 1978. Despite this policy the retail sector in many towns has become increasingly dominated by foreigners, particularly Chinese nationals. The Immigration Department of the Ministry of Foreign Affairs attempted to enforce the restrictions in an effort to curb growing illegal immigration. Although some foreigners left as a result of the policy, others moved to nonrestricted sectors of the economy. There were reports of crime and societal discrimination targeted at members of the Chinese minority. Chinese- and Indian-owned shops were among the buildings targeted by rioters in Nuku'alofa on November 16 (see section 2.b.).

*Other Societal Abuses and Discrimination.*—Persons who engaged in openly homosexual behavior faced societal discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers gained the right to form unions under the 1964 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no official unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act; however, they had no formal bargaining rights under the act. The Public Servants Association acted as a de facto union representing all government employees during the six-week, nationwide civil servants' strike for a wage increase in 2005.

*b. The Right To Organize and Bargain Collectively.*—The law permits collective bargaining, but there were no implementing regulations. In 2005 the Government and public sector employees engaged in collective bargaining to resolve a strike by civil servants for higher wages. The Government ultimately granted a wage increase.

The Trade Unions Act provides workers with the right to strike, but implementing regulations were never formulated. There were no strikes during the year.

Labor laws apply in all sectors of the economy, including the two small export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred among citizens. In March three Bangladeshi nationals alleged that after they came to the country in August 2005 to work for a local business they were obliged to work long hours and were not paid their promised salaries. One of the men alleged that the company chairman's wife assaulted him after he contacted a

lawyer for assistance. The company denied the charges and claimed that the men's salaries had been sent directly to their families in Bangladesh. At year's end the assault charge was still pending, but the plaintiffs were not actively pursuing the case.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although there is no legislation prohibiting child labor, the practice did not exist in the wage economy.

There were reports of underage girls involved in prostitution (see section 5).

*e. Acceptable Conditions of Work.*—There is no minimum wage law, although there are government guidelines for wage levels. According to the Asian Development Bank, in 2005, 23 percent of 16 communities surveyed earned less than \$14 (T\$29) per person per week, which did not provide a decent standard of living for a worker and family. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The ministry enforced laws and regulations in the wage sector of the economy, particularly on the main island of Tongatapu, but enforcement in the agricultural sector and on the outer islands was less consistent.

Few industries exposed workers to significant danger, and industrial accidents were rare. The Government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

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## TUVALU

Tuvalu is a parliamentary democracy and British Commonwealth member with a population of approximately 11,000. In August citizens elected a 15-member unicameral parliament in generally free and fair elections. There were no formal political parties. Following the elections a loose coalition of eight members of Parliament formed a new government and selected Apisai Ielemia as prime minister. The civilian authorities generally maintained effective control of the police, the only security force.

The Government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of addressing individual instances of abuse. However, there were a few areas of concern. Nongovernmental organizations (NGOs) and members of the public alleged that certain members of government were corrupt. Traditional customs and social patterns led to and perpetuated religious and social discrimination, including discrimination against women.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed them.

Local hereditary elders exercise discretionary traditional punishment and disciplinary authority. This includes the right to inflict corporal punishment for infringement of customary rules, which can be at odds with the national law. However, during the year there were no reports of such corporal punishment.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by local church representatives. At least one independent international human rights observer also visited prison facilities during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The Office of the Prime Minister oversees the country's only security force, the 73-member national police service. Most police were stationed on Funafuti Island, with one regular and one auxiliary officer serving on each of the other islands. The police generally were regarded as professional and effective, although women's rights advocates criticized them for failing to take the issue of domestic violence seriously enough.

Senior officers investigate allegations of police abuse on a case-by-case basis, and the police commissioner reviews any proposed punishment. Corruption and impunity were not significant problems.

*Arrest and Detention.*—The constitution and law permit arrests without warrants if a police officer witnesses the commission of an unlawful act or has “reasonable suspicion” that an offense is about to be committed. Police estimated that approximately 80 percent of arrests were of this type. The police may hold a person arrested without a warrant for no more than 24 hours without a hearing before a magistrate. When a court issues an arrest warrant, the maximum permissible detention time before a hearing must be held is stated on the warrant and normally is one to two weeks.

There was a functioning system of bail. Arrested persons generally were promptly informed of the charges against them, although bureaucratic delays sometimes occurred (see section 1.e.). Detainees had prompt access to family members and to the people’s lawyer (public defender); the country had no attorneys in private practice.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

There is a two-tier judicial system. Higher courts include the High Court, the Court of Appeal, and the Sovereign in Council (Privy Council) in the United Kingdom. Lower courts consist of senior and resident magistrates, the island courts, and the land court. A nonresident expatriate chief justice appointed by the governor general presides over the High Court, which generally sits twice a year.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right.

Judges conduct trials and render verdicts; there are no juries. The accused must be informed of the nature of the offenses with which they are charged and provided the time and facilities required to prepare a defense. The public defender expressed concern that on occasion bureaucratic delays resulted in several months passing before an accused was informed of the charges. The law provides for a presumption of innocence and the right to confront witnesses, present evidence, and appeal convictions. Procedural safeguards are based on British common law. The services of the independent public defender are available to all citizens without charge.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, but the Government occasionally limited these rights in practice.

Citizens were free to criticize the Government publicly or privately without reprisal, and there were no reports that the Government sought to impede such criticism.

There were no private, independent media. The Tuvalu Media Corporation (TMC), a public corporation, controlled the country’s sole radio station and a monthly newsletter. Local news, information, and music were broadcast five and a half hours per day. The remaining radio programming consisted of rebroadcasts of BBC programs. There was no television. Videotapes circulated freely and were widely available; however, pornography in all forms is illegal. Following previous criticism of government influence and self-censorship at the TMC, human rights activists reported that the TMC’s limited coverage of political and human rights issues, including coverage critical of the Government, increased somewhat during the year. Following his August election new Prime Minister Apisai Ielemia called for a freer media, and after some initial differences regarding their relationship with the new government, the media reported less government interference.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. However, the relative lack of telecommunications infrastructure, especially beyond the capital island of Funafuti, and relatively high costs restricted public access to and use of the Internet.



*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the High Court has held that traditional village authorities may restrict this right in certain circumstances.

The constitution also states that the laws are to be based on Christian principles. Despite official tolerance, religious homogeneity (more than 90 percent of citizens are members of the Church of Tuvalu, a Congregationalist denomination) and traditional structures of communal life posed practical barriers to the introduction and spread of other religious beliefs. The law requires churches to register, and they must have a minimum of 50 members to do so.

In December 2005 the Tuvalu Brethren Church appealed an October 2005 ruling by the High Court that the constitution permits local traditional authorities to restrict the constitutional right to religious freedom in defense of traditional mores. In May 2005 the Brethren Church had filed a complaint against the traditional island council of Nanumaga after the council banned the introduction of new religions to that island and ordered church members to stop further proselytizing.

In April the Nanumaga council passed a further resolution banning all new churches and threatening local council workers with dismissal if they worshipped with the Brethren Church. In June the council dismissed without proper notice five council workers who were Brethren Church members. At year's end the Court of Appeal had not yet met to consider the case.

In January the council of elders on Funafuti Island issued a resolution prohibiting the establishment or practice of "any new religion" not already established on the island and specifically prohibiting the construction of a Brethren church. In June the High Court issued a temporary injunction prohibiting any actions against the Brethren Church and its missionary work on Funafuti. The court briefly considered the case at its October session but then adjourned until 2007.

*Societal Abuses and Discrimination.*—There was a degree of societal intolerance toward religions other than established Christian denominations, particularly on the outer islands. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The constitution prohibits forced exile, and the Government did not practice it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government has not established a system for providing protection to refugees. The Government did not grant refugee status or asylum. The Government maintained its general cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations, but the issue of assisting refugees and asylum seekers did not arise during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—Citizens freely and directly elect a 15-member unicameral parliament with a normal term of four years. Each of the country's eight main islands is administered by a six-person council, also elected by universal suffrage to four-year terms. The minimum voting age is 18 years.

The most recent general elections, held in August, were generally free and fair. An eight-member majority of the newly elected Parliament selected Apisai Ielemia, a former opposition parliamentarian, as prime minister, replacing Maatia Toafa.

There were no formal political parties; however, Parliament has tended to divide between an ad hoc faction with at least the necessary eight votes to form a government and an informal opposition faction.

Participation by women in government and politics was limited, largely due to traditional perceptions of women's role in society. There were no female members

of Parliament or cabinet ministers. Two women ran for election to Parliament in August but both lost.

There were no members of minorities in the legislature or the cabinet.

*Government Corruption and Transparency.*—Laws against corruption are weak. There was a widespread public perception that the Government lacked transparency and accountability, that public funds sometimes were mismanaged, and that government officials benefited unfairly from their positions, particularly in regard to overseas travel and related payments and benefits. The electoral defeat of the previous government in August was attributed in part to the introduction of new, increased travel benefits for government officials at a time of economic hardship. As one of its first acts, the newly elected government banned overseas travel by government officials other than in exceptional cases.

The law provides for annual, public ministerial reports, but publication was spotty and often nonexistent. The Auditor General's Office, responsible for providing government oversight, was underfunded and lacked serious parliamentary support. Consequently it had inadequate staff and resources.

There is no law providing for public access to government information. In practice the Government was only somewhat cooperative in responding to individual requests for such information.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no local NGOs concerned entirely with human rights, although there were no known barriers to their establishment. Some human rights advocates, such as the Tuvalu National Council of Women, operated under the aegis of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The people's lawyer, who served as a public defender, also monitored sentencing, equality before the law, and human rights issues in general. This institution, which at times has been critical of the Government, nonetheless was supported by the Government, which frequently sought its advice. The few other local organizations involved in human rights issues generally operated without government restriction, investigating and publishing their findings on human rights cases. However, opportunities to publicize such information locally were severely limited due to the lack of local print and electronic media. Government officials were somewhat cooperative and responsive to local organizations' views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, color, and place of origin, and the Government generally enforced these prohibitions. The Tuvalu National Council of Women has urged the Government to amend the law to specifically prohibit discrimination on the basis of gender, but no action was taken on this proposal during the year.

*Women.*—Reports of violence against women were rare. Women's rights observers reported, however, that it was not possible to estimate accurately the incidence of domestic violence, due to a lack of data. They criticized the police for seeking to address violence against women using traditional and customary methods of reconciliation rather than criminal prosecution. The law does not address domestic violence specifically. Acts of domestic violence are prosecuted under the assault provisions of the penal code. The maximum penalty for common assault is six months' imprisonment, and for assault with actual bodily harm, it is five years. Domestic violence was not a source of broad societal debate. However, the Women's Department of the Ministry of Home Affairs sponsored a well-received national radio discussion on violence against women, in which the police encouraged women to report domestic violence. The police practiced a "no drop" policy under which they cannot drop charges in cases of domestic violence. There were no shelters or hot lines for abused women. Rape is a crime punishable by a minimum sentence of five years' imprisonment, but spousal rape is not included in the legal definition of this offense.

Prostitution and sex tourism are illegal and were not problems. The law does not prohibit sexual harassment specifically but prohibits indecent behavior, which includes lewd touching. Sexual harassment was not a significant problem.

Although the constitution provides that its bill of rights provisions apply to all regardless of "race, place of origin, political opinions, color, religious beliefs or lack of religious beliefs, or sex," its provision on freedom from discrimination omits a specific reference to discrimination based on gender. Women's rights advocates have cited this contradiction as denying women full constitutional rights and freedoms. In January 2005, as part of its decision in a child custody case, the High Court stated that the omission of gender as a ground of discrimination in the constitution was deliberate and there is no constitutional protection against gender discrimination.

The court also stated that although the country ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the lack of implementing legislation meant that CEDAW has no effect on the treatment of women under national law.

The law generally treats men and women equally, but there remained some areas in which the law contributed to an unequal status for women. For example, the land inheritance rights of the Tuvalu Lands Code are based in part on customary practices. If survivors cannot agree on the settlement of an estate, the law specifically provides for sons to inherit a greater share of property than daughters, although the law allows appeal of such property distributions. In addition the Native Lands Ordinance states that after the age of two any illegitimate child, if accepted by the father, shall reside with him or his relations.

In practice women held a subordinate societal position, constrained both by law in some areas and by traditional customary practices. Nonetheless, women increasingly held positions in the health and education sectors and were more active politically. In the wage economy, men held most higher-paying positions, while women held the clear majority of lower-paying clerical and retail positions.

*Children.*—Government funding for children's welfare was reasonable within the context of its total available resources. Education was free, compulsory, and universal for children through age 13. Primary school enrollment rates were 87 percent for boys and 88 percent for girls, according to the Asian Development Bank. However, only about one-third of secondary-school-age children (ages 15 to 19) attended school. The attendance rate for girls at the secondary school level was approximately 10 percent higher than that for boys and approximately 40 percent higher in the last two years of secondary school. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men and computer or other business training for women. The Government provided free medical care for children through age 18.

The Government did not compile child abuse statistics, and there were no reported cases of child abuse or child prostitution during the year. However, anecdotal evidence indicated that child abuse occurred. Corporal punishment, in the form of strokes of a cane or paddle, was common in schools.

*Trafficking in Persons.*—The law prohibits procurement of persons within and across borders for purposes of prostitution. It does not mention or prohibit trafficking specifically, but there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—Neither the constitution nor the law prohibits discrimination on the basis of physical or mental disability. There were no known reports of discrimination against persons with disabilities in employment, education, or the provision of other state services, nor were there restrictions on the right of persons with disabilities to vote or participate in civic affairs. However, supplementary state services to address the special needs of persons with disabilities were very limited. There are no mandated accessibility provisions for persons with disabilities.

There was no government agency with specific responsibility for protecting the rights of persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses were members of professional associations that did not have union status. The only registered trade union, the Tuvalu Seamen's Union, had approximately 1,100 members, who worked on foreign merchant vessels.

*b. The Right To Organize and Bargain Collectively.*—The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice the few individual private sector employers set their own wage scales. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes.

The law provides for the right to strike, but no strike has ever taken place.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under age 14 from working in the formal labor market. The law also prohibits children under age 15 from industrial employment or work on any ship and stipulates that children under age 18 are not allowed to enter into formal contracts, including work contracts. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

*e. Acceptable Conditions of Work.*—The minimum wage, set by the Government, was barely sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public sector was \$99 (A\$130), regardless of sex and age. In most cases the private sector adopted the same minimum wage rate.

The Ministry of Labor may specify the days and hours of work for workers in various industries. The law sets the workday at eight hours. The majority of workers were outside the wage economy, which was primarily on the main island.

The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor is responsible for the enforcement of these regulations, but in practice it provided only minimum enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.

## VANUATU

Vanuatu is a multiparty parliamentary democracy with a population of approximately 218,000. The constitution provides for parliamentary elections based on universal suffrage every four years. The 52-member Parliament elects the Prime Minister as the head of government. An electoral college composed of the members of Parliament (MPs) and the chairmen of the country's six provincial government councils elects the President as the head of state for a five-year term. The President's powers are largely ceremonial. The Council of Chiefs provides recommendations on matters relating to custom and traditional practices. The most recent elections, held in July 2004, were considered generally free and fair. Prime Minister Han Lini's government, a seven-party coalition, enjoyed relative political stability during the year, surviving a vote of no confidence in March. The civilian authorities generally maintained effective control of the security forces; however, police officials on occasion have acted peremptorily or at the direction of senior politicians.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. These included poor prison conditions, arrests without warrants, an extremely slow judicial process, government corruption, and violence and discrimination against women.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Conditions were poor at the small, dilapidated prisons. Security at all facilities was poor, and there were frequent prisoner escapes. In December 2005 the Government released 52 prisoners, citing poor prison sanitation and overcrowding as the reasons for the release. In October a new temporary prison was opened in Luganville, which helped to reduce overcrowding and improve sanitation. Pretrial detainees usually were held in the police lockup rather than the prison. Persons deemed mentally unfit to stand trial were held with the general prison population. At least one juvenile was held together with adults.

Over the year the Government began a modernization program to replace outdated prisons. An amended Vanuatu Correction Services Act took effect in August, creating a new Department of Correctional Services. In October and November, over 30 newly hired and trained civilian correctional and probation officers replaced police wardens in all facilities.

The Government permitted prison visits by independent human rights observers, although there were no requests for visits during the year.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The commissioner of police heads the police force of approximately 500 officers, including a police maritime wing, and the paramilitary Vanuatu Mobile Force (VMF). A new commissioner of police assumed command of the police force in September. Police effectiveness was hampered by a lack of resources and by internal rivalries. The Police College Recruitment Office conducted interviews for 60 new officer positions in October, marking the first recruitment of new officers in seven years. Corruption and impunity were not major problems; however, there were some instances of corruption, and there have been some instances in which police have acted without proper authorization at the behest of politicians.

*Arrest and Detention.*—A warrant issued by a court is required for an arrest; however, police made a small number of arrests without warrants during the year. The constitutional provision that suspects must be informed of the charges against them generally was observed in practice.

A system of bail operated effectively; however, some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency. Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years could pass before a case is brought to trial. Detainees were allowed prompt access to counsel and family members. A public defender's office provides counsel to indigent defendants.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

Magistrates' courts deal with most routine legal matters. Island courts are present at the local level, with limited jurisdiction in civil and criminal matters. The Supreme Court, an intermediate-level court, has unlimited jurisdiction over criminal and civil matters and considers appeals from the magistrates' courts. The President appoints the chief justice of the Supreme Court after consultation with the Prime Minister and the leader of the opposition; the three other justices are appointed by the President on the advice of the Judicial Services Commission. The Appeals Court is the highest appellate court. It comprises at least three judges, including at least two judges from the Supreme Court, and often includes senior judges from other common-law countries in the region. Judges cannot be removed without cause.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judiciary was relatively weak and inefficient, and some defendants spent extended periods in pretrial detention as a result (see section 1.d.). The judicial system is derived from British common law. Judges conduct trials and render verdicts; there are no juries. The courts uphold constitutional provisions for a fair public trial; a presumption of innocence until guilt is proven; a prohibition against double jeopardy; a right to judicial determination of the validity of arrest or detention; a right to question witnesses; and a right of appeal to a higher court.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters; however, police were reluctant to enforce domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The Government controlled the country's one AM and one FM radio station and a limited-service television station that broadcast only to the capital of Port Vila and the second-largest city, Luganville. Access to international news and information also was available through private subscription satellite television service. There was one independent daily newspaper and one independent weekly newspaper. During the year most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, at times some individual politicians and their supporters have attempted to intimidate the media, although with no apparent effect. In March

members of a police rugby team allegedly assaulted a reporter during a rugby match. The day after his newspaper published a report of this incident, seven police officers arrested and briefly held Marc-Neil Jones, editor of the Daily Post newspaper, allegedly in retaliation for criticism of the behavior of the police rugby team. The police commissioner suspended one officer involved in the assault, and this suspension was lifted in December. The officers involved in the arrest were required to issue an apology, which was reportedly never delivered.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government provided some financial assistance for the construction of churches affiliated with member denominations of the Vanuatu Christian Council, provided grants to church-operated schools, and paid teachers' salaries at church-operated schools in existence since the country's independence. These benefits were not available to non-Christian religious organizations. Government schools also scheduled weekly religious education classes conducted by representatives of Council churches. Students whose parents did not wish them to attend the classes were excused. Non-Christian religions were not permitted to give religious instruction in public schools.

*Societal Abuses and Discrimination.*—The country's Jewish community was limited to a few expatriates, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The law does not address forced exile, but the Government did not employ it.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice, the Government did not provide protection against refoulement, the return of persons to a country where they feared persecution. The Government did not grant refugee status or asylum. The Government had no association with the Office of the UN High Commissioner for Refugees.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—National parliamentary elections were last held in July 2004 and were considered generally free and fair. During the year no further action was taken against alleged participants in the burning of several ballot boxes on the island of Tanna during the elections. Parliamentary majorities have been unstable, with frequent motions for votes of no confidence in the Government.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were two women in the 52-member Parliament. There was one woman in the cabinet.

There were at least two members of minorities (non-Melanesians) in Parliament, one of whom was in the cabinet.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year. The law provides for the appointment of public servants on the basis of merit; however, in practice political interference at times has hampered the effective operation of the civil service. The Court of Appeal found several officials from the Vanuatu Maritime Authority not guilty in a 2005 case involving criminal conspiracy for alleged mishandling the awarding of licenses and contracts.

No law provides for public access to government information. In practice governmental response to requests for information from the media was inconsistent.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The President appoints a government ombudsman to a five-year term in consultation with other political leaders. The law requires that the Public Service Commission, not the ombudsman, appoint members of the ombudsman's staff and authorizes the presence of legal counsel during interviews with the ombudsman. Since its establishment, the ombudsman's office has issued a number of reports critical of government institutions and officials. However, the ombudsman did not have adequate resources. The ombudsman did not have independent power to prosecute, and the results of its investigations may not be used as evidence in court proceedings.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, place of origin, religious or traditional beliefs, political opinion, language, or sex; however, women remained victims of discrimination in the tradition-based society.

*Women.*—Violence against women, particularly domestic violence, was common, although no accurate statistics existed. There are no specific laws against domestic violence; courts occasionally prosecuted offenders using common law assault as a basis for prosecution. Under a 2002 revision of the civil procedure rules, magistrates have the authority to issue domestic violence protection orders. However, most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse. Although rape is a crime, with a maximum penalty of life imprisonment, spousal rape is not cited specifically in the law, and police frequently were reluctant to intervene in what were considered domestic matters. There were no government programs to address domestic violence, and media attention to the abuse was limited. Churches and other NGOs ran facilities for abused women. NGOs such as the National Council of Women and the Vanuatu Women's Center also played an important role in educating the public about domestic violence, but did not have sufficient funding to fully implement its programs.

Prostitution is illegal and was not regarded as a serious problem. Although there is no law against sex tourism, no incidents were reported. Sexual harassment is not illegal and was a problem.

While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. The majority of women entered into marriage through "bride-price payment," a practice that encouraged men to view women as property. Women also were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement and help from the NGO Vanuatu Women in Politics.

On November 27, the National Parliament ratified the optional protocol to the UN Convention on the Elimination of All Forms of Discrimination against Women.

*Children.*—Access to education was limited, and school attendance was not compulsory. Less than 35 percent of all children advanced beyond elementary school due to a shortage of schools and teachers beyond grade six. Boys tended to receive more education than girls. Although attendance rates were similar in the early primary grades (approximately 79 percent for boys and 78 percent for girls), fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate. Medical services were free, and there was an immunization program; however, the Government had few resources for medical care, particularly in outlying provinces where there were no hospitals.

Child abuse was not believed to be extensive; however, the Government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years, but no statistics were available. Children generally were protected within the traditional extended family system. Members of the extended family played an active role in a child's development. Virtually no children were homeless or abandoned.

The legal age for marriage is 21, although boys between 18 and 21 and girls between 16 and 21 may marry with parental permission. In practice, in rural areas and some outer islands, some children married at younger ages.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There was no governmental or national policy on persons with disabilities and no legislation mandating access to buildings for them. There were no special programs to assist persons with disabilities. Their protection and care was left to the traditional extended family and to NGOs. Due to high rates of unemployment, there were few jobs available for persons with disabilities. Persons with mental illness generally did not receive specialized care; they usually were attended by members of their extended families.

*National/Racial/Ethnic Minorities.*—Most of the population is Melanesian. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although prime real estate was increasingly leased to others. Within the limits of this system of land tenure, there generally were no reports of discrimination against ethnic minorities; however, only indigenous farmers can legally grow kava, a native herb, for export.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides all workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 25,000 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,000. The two existing trade unions, the Vanuatu Teacher's Union and the Vanuatu National Worker's Union, were independent of the Government. They were grouped under an umbrella organization, the Vanuatu Council of Trade Unions (VCTU). The high percentage of the population still engaged in subsistence agriculture and fishing precluded extensive union activity. Unions require government permission to affiliate with international labor federations. The Government has not denied any union such permission.

*b. The Right To Organize and Bargain Collectively.*—Unions exercised the right to organize and bargain collectively. They negotiated wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the minister of home affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the Magistrate's Court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without arbitration.

In August 2005 employees of Air Vanuatu held a one-day strike to protest proposed layoffs. Police refused to issue a demonstration permit to the National Workers Union, which sought to march in support of the Air Vanuatu workers. In September 2005 the airline dismissed 26 employees, and the National Workers Union later alleged that police and VMF members threatened union members who were picketing. According to the union, the picketers were warned that they would lose their jobs if they did not stop their protest and return to work. Air Vanuatu denied the union's allegations and asserted that the authorities were brought in only to ensure normal operations at the airport.

In March frustration over the Government's inaction in these and other industrial disputes led 58 unionists with the National Workers Union to stage actions at Air Vanuatu, Eric Wong store, Vanuatu Abattoir Ltd., and Unelco. The unionists were subsequently charged with unlawful assembly, unlawful imprisonment, and attempted arson. In September the unionists were found guilty of unlawful imprisonment and attempted arson.

Complaints of antiunion discrimination are referred to the Department of Labor. During the year there were reports made by unionists of employer violations of ratified International Labor Organization (ILO) conventions, although all investigations were ongoing as of year's end.

While the law does not require union recognition, it prohibits antiunion discrimination once a union is recognized. The law prohibits retaliation for legal strikes. In the case of private-sector employees, complaints of violations are referred to the Department of Labor for conciliation and arbitration. In the public sector, the Public Service Commission handles complaints of violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers. The Government ratified the eight core ILO conventions in August.

There are no export processing zones.



*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under age 12 from working outside family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age was restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Department of Labor effectively enforced these laws.

*e. Acceptable Conditions of Work.*—The Department of Labor effectively enforced a legislated minimum wage. In September 2005 Parliament set the minimum wage at approximately \$189 (20,000 vatu) per month, a substantial increase from the \$151 (16,000 vatu) rate in place since 1995. The minimum wage did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing incomes through subsistence farming. Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that included at least one 24-hour rest period.

The Employment Act, enforced by the Department of Labor, includes provisions for safety standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Department of Labor could not enforce the law fully. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

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## VIETNAM

The Socialist Republic of Vietnam is an authoritarian state ruled by the Communist Party of Vietnam (CPV). Its population is approximately 84.1 million. The CPV's constitutionally mandated primacy and the continued occupancy of all key government positions by party members allowed it to set national policy. However, the CPV continued to reduce its formal involvement in government operations and allowed the Government to exercise significant discretion in implementing policy. There were no other legal political parties. The most recent National Assembly elections, held in 2002, were neither free nor fair, since all candidates were chosen by the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitored the country's popular organizations. The civilian authorities generally maintained effective control of the security forces.

The Government's human rights record remained unsatisfactory. Some government officials, particularly at the local level, continued to commit abuses despite a concerted push by central authorities to address abuse concerns, especially of religious freedom. Citizens could not change their government, and political opposition movements were officially prohibited and some activists arrested, although several nascent opposition organizations were not completely suppressed. The Government sought to reinforce its controls over the press and the Internet. In a few instances, police abused suspects during arrest, detention, and interrogation. Prison conditions were often severe but generally did not threaten the lives of prisoners. Security forces generally operated with impunity, and there was one credible report of an extrajudicial killing by security forces. Individuals were arbitrarily detained for political activities. Persons were denied the right to fair and expeditious trials. The Government limited citizens' privacy rights and freedom of speech, press, assembly, movement, and association. The Government maintained its prohibition of independent human rights organizations. Violence and discrimination against women persisted, as did limited child prostitution and trafficking in women and children, although the Government intensified its efforts to combat trafficking. Some ethnic minority groups suffered societal discrimination. The Government continued to limit workers' rights, especially to organize independently.

The Government's economic reforms and the rising standard of living continued to reduce CPV and government control over, and intrusion into, daily life. The Government also continued to forge greater links with the outside world, with a corresponding change in attitude toward human rights. The Government released its sole remaining prisoner recognized as having been incarcerated for reasons connected to his faith, as well as all but two of those widely regarded as political prisoners. Conditions for most religious believers were markedly improved from pre-

vious years; in particular, hundreds of Protestant congregations were legalized throughout the country.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, there was one credible report of an extrajudicial killing by security forces. According to persons in the Central Highlands, in mid-July Y Ngo Adrong, an ethnic Jarai, was arrested in Ea Hleo District in Dak Lak Province, reportedly for using a cellular telephone to communicate with members of the ethnic minority community abroad. Subsequently, police announced that Adrong hanged himself in his prison cell, although bruises on his torso strongly suggested that he died from a beating. Police reportedly refused to allow unfettered access to the body and paid approximately \$1,000 (15 million VND) in compensation to the family.

There were no developments in identifying and punishing police members responsible for the 2004 killings of protesters in the Central Highlands.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits physical abuse; however, police sometimes physically mistreated suspects while arresting them or holding them in custody.

In June commune-employed security officers detained and beat two Protestants belonging to an unregistered house church in Thanh Hoa Province. In July commune officers beat two women of the same group after they attempted to visit the home used by the congregation as a place of worship. The provincial security department reportedly investigated the incidents. In September two commune security officers received administrative punishment from the commune leadership in connection with the June incident (see section 2.c.).

There were credible reports that in July a member of an ethnic minority died under suspicious circumstances while in police custody in the Central Highlands province of Dak Lak (see section 1.a.). There was no apparent official investigation, and local police reportedly sought to suppress information on the incident.

In August in Ho Chi Minh City, at least one political activist reported that police beat him about the head and neck while interrogating him about his activities.

In September police struck and manhandled political activist Pham Hong Son as they detained him following his visit to the Hanoi residence of dissident Hoang Minh Chinh. After several hours of interrogation, police released Son without charge.

On November 2, political dissident Bui Kim Thanh was involuntarily committed to the national mental hospital in Dong Nai Province. Thanh, a member of the Democratic Party of Vietnam (DPV), was responsible for providing legal support and organizing individuals with land disputes in the south against the Government. The Government refused foreign observers' requests to meet with Thanh or discuss her case with police or hospital officials.

There was no discernable official follow-up in the September 2005 beating of two ethnic Dzao Protestants in the Central Highlands province of Kon Tum.

Unlike in previous years, there were no credible reports that ethnic minority Protestants were forced to perform acts against their religious beliefs.

*Prison and Detention Center Conditions.*—Prison conditions could be severe but generally did not threaten the lives of prisoners. Overcrowding, insufficient diet, and poor sanitation reportedly remained serious problems in many prisons. Prisoners had access to basic health care, with additional medical services available at district- or provincial-level hospitals. Prisoners generally were required to work but received no wages (see section 6.c.). Diplomatic observers reported Spartan but generally acceptable conditions. Prisoners reportedly were sometimes moved to solitary confinement, where they were deprived of reading and writing materials, for periods of up to several months.

The Government did not permit the International Committee of the Red Cross or nongovernmental organizations (NGOs) to visit prisons. Diplomatic observers were permitted to visit at least two prisons in the southern area of the country.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government continued to arrest and detain citizens for their political activities.

*Role of the Police and Security Apparatus.*—Internal security primarily is the responsibility of the Ministry of Public Security (MPS); however, in some remote areas the military is the primary government agency and provides public safety functions,

including maintaining public order in the event of civil unrest. The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintains a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or likely to engage, in unauthorized political activities, but this system became less pervasive in its intrusion into most citizens' daily lives.

Police organizations exist at the provincial, district, and local levels and are subject to the authority of the people's committees at each level. The police were generally effective at maintaining political stability and public order, but police capacities, especially investigative, were very low. Police training and resources were inadequate. Corruption was a significant problem among the police force at all levels, and most police officers acted with impunity. Internal police oversight structures existed but were subject to political influence. The reported punishment of two commune-level security officers in Thanh Hoa Province for abusing a detainee was unprecedented (see section 1.c.).

*Arrest and Detention.*—The criminal procedure code outlines the process by which individuals are taken into custody and treated until they are brought before a court or other tribunal for judgment. The Supreme People's Procuracy (the public prosecutor) issues arrest warrants, generally at the request of police; however, police may make an arrest without a warrant on the basis of a complaint filed by any person. The procuracy issues retroactive warrants in such cases. The procuracy must issue a decision to initiate a formal criminal investigation of a detainee within nine days; otherwise, police must release the suspect. In the past this requirement was often circumvented, but during the year most detainees apparently were promptly informed of the charges against them.

The investigative period may last from three months for "less serious" offenses (punishable by up to three years' imprisonment) to 16 months for "exceptionally serious" offenses (punishable by more than 15 years' imprisonment or capital punishment), or 20 months for national security cases. The code further permits the procuracy to request additional two-month periods of detention after an investigation to consider whether to prosecute a detainee or ask the police to investigate further. There was no functioning bail system or equivalent system of conditional release. Time spent in pretrial detention counts toward time served upon conviction and sentencing.

Although legal counsel is a constitutional right for all persons accused of crimes, a scarcity of trained lawyers made prompt detainee access to an attorney rare. In general only persons formally charged with capital crimes were assigned lawyers.

By law detainees are permitted access to lawyers from the time of their detention, but bureaucratic delays frequently limited initial detainee contacts with their attorneys. In national security cases, authorities can delay defense lawyers' access to clients until after an investigation has ended and the suspect has been formally charged with a crime. Lawyers must be informed of and allowed to attend interrogations of their clients. They must also be given access to case files and be permitted to make copies of documents. Attorneys were generally able to exercise these privileges. However, in the case of an interrogation, a defendant first must request the presence of a lawyer, and it was not clear whether authorities always advised defendants of this privilege.

Police generally informed family of detainees' whereabouts; however, family members were allowed to visit a detainee only with the permission of the investigator. Prior to a formal indictment, detainees also have the right to notify family members. A number of detainees held for investigation of purported national security violations were reportedly denied family visits or access to legal counsel.

Courts may sentence persons to administrative detention of up to five years after completion of a sentence. In addition, police or mass organizations can propose that one of five "administrative measures" be imposed by people's committee chairpersons at district and provincial levels without a trial. The measures include terms ranging from six to 24 months in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses, such as committing petty theft or "humiliating other persons." Chairpersons may also impose terms of "administrative probation," which generally was some form of restriction on movement and travel. In December the Government announced a plan to abolish Decree 31, the directive authorizing administrative detention, but at year's end the decree remained in force.

Arbitrary detentions, particularly for political activists, remained a problem. In February police officers detained Do Nam Hai and Nguyen Khac Toan after they entered an Internet cafe in Hanoi. They were released after a six-hour interrogation.

At year's end Truong Quoc Huy remained in detention after he was rearrested in August on charges related to his continued political activism, including an accu-

sation of “attempting to undermine national unity.” In October 2005 police in Ho Chi Minh City detained Huy, his two brothers—Truong Quoc Tuan and Truong Quoc Nghia—and his girlfriend Lisa Pham on charges of attempting to overthrow the Government. The police released Nghia almost immediately and Tuan two weeks later. Pham, a legal permanent resident of another country, and Huy remained in custody until July. Police believed that Pham and Huy had been participating in a Web chat forum called “the voice of people in Vietnam and abroad.” The arrestees also may have sought to distribute antigovernment flyers in Ho Chi Minh City. The content of the documents and Web chats was unknown. Police reportedly first downgraded the charges to “propagandizing against the Government” and then released Pham and Huy without pressing charges.

In December at least 10 and as many as 16 other political and social activists reportedly were detained, including Vu Hoang Hai and Nguyen Ngoc Quan, who were arrested for activities to “overthrow the people’s government.” Hai, Quan, and an unknown number of others remained in detention at year’s end.

In September Pham Hong Son was briefly detained and reportedly struck by police (see section 1.c.).

There were some reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority individuals for communicating with the ethnic minority community abroad during the year.

A lack of transparency and information made it impossible to calculate percentages of pretrial detainees in the overall prison population or their average length of detention.

Prominent political dissidents Pham Hong Son and Nguyen Khac Toan, who were amnestied during the year, were subject to administrative detention in the form of official restrictions on their movements (see section 2.d.). Occasionally they were confined to their homes, but both individuals were allowed some movement within Hanoi, including visits to other dissidents.

Catholic priest Nguyen Van Ly, amnestied in February 2005, remained under administrative probation. However, he was able to travel within the country with the prior approval of Thua Thien Hue provincial officials. Senior leaders of the Unified Buddhist Church of Vietnam (UBCV) remained under “pagoda arrest,” although the Government denied that such orders existed, but they were allowed some movement within the country. For example, in July UBCV General Secretary Thich Quang Do left his pagoda to meet with diplomats. In September UBCV leaders were able to travel to Ho Chi Minh City without restriction to visit the ailing church patriarch Thich Huyen Quang. Other religious and political activists were subject to varying degrees of informal detention in their residences (see sections 2.c. and 2.d.).

*Amnesty.*—During the year the central government and provincial councils amnestied 5,851 prisoners in two groups. In addition, 12,516 provincial inmates had their sentences reduced. Several high-profile prisoners benefited from these amnesties, including political and religious activists such as Nguyen Khac Toan, Pham Hong Son, Do Van My, and Ma Van Bay.

*e. Denial of Fair Public Trial.*—The law provides for the independence of judges and lay assessors; however, in practice the CPV controlled the courts at all levels by retaining effective executive power to appoint judges. Most, if not all, judges were members of the Communist Party and were chosen at least in part for their political reliability. As in past years, the entire judicial system was strongly distorted by political influence, endemic corruption, and inefficiency. CPV influence was particularly notable in high-profile cases and others in which a person was charged with challenging or harming the CPV or the state.

The judiciary consists of the Supreme People’s Court (SPC); the provincial and district people’s courts; military tribunals; administrative, economic, and labor courts; and other tribunals established by law. Each district has a people’s court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province also has a people’s court, which serves as the appellate forum for district court cases as well as court of first instance for other cases. The SPC, which reports to the National Assembly, is the highest court of appeal and review. Administrative courts adjudicate complaints by citizens about official abuse and corruption. There are also special committees to help resolve local disputes.

There was a shortage of trained lawyers and judges, and there was no independent bar association. Low judicial salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad only in countries with communist legal traditions.

Government training programs to address the problem of inadequately trained judges and other court officials were underway. Foreign governments and the UN Development Program provided assistance; however, the lack of openness in the

criminal judicial process and the continuing lack of independence of the judiciary hampered progress.

Courts of first instance at district and provincial levels include judges and lay assessors, but provincial appeals courts and the SPC are composed of judges only. People's councils appoint lay assessors from a pool of candidates suggested by the VFF. Lay assessors are required to have "high moral standards," but legal training is not necessary.

Military tribunals, although funded by the Ministry of National Defense (MND), operate under the same rules as other courts. The MND is represented on the judicial selection panels, and the head of the military tribunal system is the deputy head of the SPC. Military tribunal judges and assessors are military personnel, chosen jointly by the SPC and the MND but supervised by the SPC. The law gives military courts jurisdiction over all criminal cases involving military entities, including military-owned enterprises. The military has the option of using the administrative, economic, or labor courts for civil cases.

*Trial Procedures.*—Trials generally were open to the public, but in sensitive cases judges closed trials or strictly limited attendance. Defendants have the right to be present and have a lawyer, although not necessarily the lawyer of their choice, and this right was generally upheld in practice. Defendants unable to afford a lawyer were generally provided one only in cases with possible sentences of life imprisonment or capital punishment. The defendant or the defense lawyer has the right to cross-examine witnesses; however, there were credible reports of cases in which neither defendants nor their lawyers were allowed to access government evidence in advance of the trial, cross-examine witnesses, or challenge statements. Lawyers often had little time before trials to examine evidence against their clients. Although the constitution provides that citizens are innocent until proven guilty, in the past some lawyers complained that judges generally presumed guilt. Convicted persons have the right to appeal. Courts did not publish their proceedings.

In the past there were credible reports that defense lawyers were pressured not to take as clients religious or democracy activists facing trial; however, there were no such reports during the year.

The public prosecutor brings charges against an accused and serves as prosecutor during trials. According to the criminal procedures code, courtroom procedures were to continue the change from an "investigative" system, in which the judge leads the questioning, to an "adversarial" system, in which prosecutors and defense lawyers advocate for their respective sides. The change was intended to provide more protections for defendants and prevent judges from coercing defendants into confessing guilt; however, the extent to which this change was implemented in practice remained unclear.

*Political Prisoners and Detainees.*—There were no reliable estimates of the number of political prisoners. The Government held at least two political detainees at year's end but claimed that it did not hold any political prisoners. In the past such persons were usually convicted of violating national security laws or general criminal laws.

At year's end nine Cao Dai church members sentenced in July 2005 to between three and 13 years in prison remained incarcerated. They reportedly were convicted of disseminating literature against the Government during a 2004 Association of South East Asian Nations conference in Phnom Penh. Cambodian police arrested the group and expelled them to Vietnam, where they reportedly were arrested for possession of "hostile documents."

Journalist Nguyen Vu Binh, convicted in 2003 of "espionage," and former policeman Phan Van Ban, convicted in 1985 for participating in an organization that called for political change, remained in prison. As with the general prison population, the Government did not allow humanitarian organizations access to these political prisoners.

*Civil Judicial Procedures and Remedies.*—There is no clear or effective mechanism for pursuing a civil action to redress or remedy abuses by authorities. Civil suits are heard by "administrative" courts, civil courts, and criminal courts, which all follow the same procedures as in criminal cases and are adjudicated by members of the same body of judges and lay assessors. All three levels were subject to the same problems of corruption, lack of independence, and inexperience. Officials reported that, in theory, a citizen seeking to press a complaint is required first to petition the officer accused of committing a human rights violation for permission to refer the complaint to the administrative courts. If a petition is refused, the citizen may refer it to the officer's superior. If the officer or his superior agrees to allow the complaint to be heard, the matter is taken up by the administrative courts. If the administrative courts agree that the case should be pursued, it is referred either

to the civil courts for suits involving physical injury seeking redress of less than 20 percent of health care costs resulting from the alleged abuse, or to the criminal courts for redress of more than 20 percent of such costs. In practice this elaborate system of referral and permission ensured that citizens had little effective recourse to civil or criminal judicial procedures to remedy human rights abuses, and few legal experts had experience with the system.

*Property Restitution.*—By law citizens must be compensated when they are resettled to make way for infrastructure projects, but there were widespread complaints, including from the National Assembly, that compensation was not fair or was delayed.

Beginning in midsummer in Ho Chi Minh City, disgruntled groups from the Mekong Delta and the Ho Chi Minh City region conducted a steady stream of small, peaceful protests over disputes related to land expropriation and land compensation by the state. Police generally did not interfere with the protesters, who positioned themselves in front of government buildings in downtown Ho Chi Minh City (see section 2.b.).

Some members of ethnic minorities in the Central and Northwest Highlands continued to complain that they had not received proper compensation for past seizures of their land, which was given to government-owned coffee and rubber plantations (see section 1.f.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law provides for the right to privacy of home and correspondence; however, the Government restricted this right significantly. Household registration and block warden systems existed for the surveillance of all citizens but usually did not intrude on most citizens. Authorities focused on persons whom they regarded as having dissenting views or suspected of being involved in unauthorized political or religious activities.

Forced entry into homes is not permitted without orders from the public prosecutor; however, security forces seldom followed these procedures but instead asked permission to enter homes, with an implied threat for failure to cooperate. Some individuals refused to cooperate with such “requests.” In urban areas police generally left when faced with noncompliance.

Government authorities opened and censored targeted persons’ mail, confiscated packages and letters, and monitored telephone conversations, e-mail, and facsimile transmissions. The Government cut the telephone lines and interrupted the cellular telephone service of a number of religious and political activists and their family members (see section 5).

The Government sought to tighten control of the Internet with a regulation that requires Internet agents, such as cybercafes, to register the personal information of their customers and store records of Internet sites visited by customers. The Government also monitored e-mail, searched for sensitive key words, and regulated Internet content (see section 2.a.).

The Government did not have an official policy of forced resettlement. However, the Government resettled some citizens to make way for infrastructure projects, and there were widespread reports that compensation was either not fair or was not paid in a timely manner. Some resettled individuals reportedly returned to their ancestral villages in Son La and Dien Bien provinces after being forced to move during the year (see section 1.e.).

Membership in the CPV remained a prerequisite to career advancement for all government and government-linked organizations and businesses (see section 3). However, economic diversification made membership in the CPV and CPV-controlled mass organizations less essential to financial and social advancement.

The Government continued to implement a family planning policy that urged families to have no more than two children, but the policy emphasized exhortation rather than coercion. The Government can deny promotions and salary increases to government employees with more than two children, but it was unclear if this policy was enforced. Government officials expressed growing concern that family planning efforts were failing.

Democracy activist Nguyen Dan Que, released from prison in February 2005, remained subject to government surveillance and low-level harassment. Other political dissidents had their writings, computers, and electronics seized and their landline and cellular telephone services cut. Local officials harassed some family members of political or religious activists. In September the wife and extended family of dissident Pham Hong Son had their telephone lines cut soon after his release.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government significantly restricted these freedoms, particularly with respect to political speech and social commentary. Both the constitution and the criminal code include broad national security and antidefamation provisions that the Government used to restrict such freedoms. The criminal code defines the crimes of “sabotaging the infrastructure of Socialism,” “sowing divisions between religious and nonreligious people,” and “conducting propaganda against the Socialist Republic of Vietnam” as serious offenses against national security. The code also expressly forbids “taking advantage of democratic freedoms and rights to violate the interests of the state and social organizations.”

The CPV, the Government, and the party-controlled mass organizations controlled all print, broadcast, and electronic media. The Government exercised oversight through the Ministry of Culture and Information (MOCI) and supplemented its control through pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship by the domestic media.

In October the MOCI issued formal decisions suspending the publication of two newspapers for one month. The ministry wrote in the decisions that the two newspapers, *Cong Ly* (Justice) and *Thoi Dai* (Era), had published false reports of alleged problems with newly issued polymer dong currency notes. The ministry noted that the reporting violated certain articles of the press law and that the newspapers had failed to comply with official instructions on how to cover the issue.

The following day, in a similar but reportedly unrelated development, the MOCI revoked the operating license of *Kinh Doanh va San Pham* (Business and Product) magazine. The ministry declared that the magazine had failed to follow directives laid out in its licensing agreements. It reported that despite repeated warnings, the magazine had continued to publish articles that created a “negative social impact.”

The law requires journalists to pay monetary damages to individuals or organizations harmed as a result of their reporting, even if the reports are true. Independent observers noted that the law served to limit investigative reporting. Several media outlets continued to test the limits of government press restrictions by publishing articles that criticized actions by CPV and government officials. During the year there were press reports about topics that generally were considered sensitive, such as the prosecution on corruption charges of high-ranking CPV and government officials. Nonetheless, the freedom to criticize the CPV and its senior leadership remained restricted. Occasional criticism of officials and official associations appeared in local press.

The law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. In general citizens freely exercised this right, but the Government considered any overt political criticism stemming from such commentary a crime. Attempts to organize those with complaints to facilitate action are considered proscribed political activities. Senior government and party leaders traveled to many provinces reportedly to try to resolve citizen complaints. Corruption related to land use was widely publicized in the press.

The Government continued to prohibit speech that questioned the role of the CPV, criticized individual government leaders, promoted pluralism or multiparty democracy, or questioned policies on sensitive matters such as human rights or the border agreement with China. The line between what constituted private speech and public speech in those areas continued to be arbitrary. In February and March, in the lead-up to the 10th party congress, newspapers and other media outlets carried a series of articles ostensibly written by private citizens that together constituted an unprecedented discussion of the CPV’s role in society. Independent observers generally concluded that the articles represented varying opinions within factions of the Government rather than independent criticism. The range of opinions ran the gamut from strong support of the status quo to guarded advocacy of a multiparty approach. Some observers dismissed this nascent political “debate” as staged. The media discussion ceased following the conclusion of the congress; however, there were echoes of some of the ideas expressed by the media in indirect National Assembly discussion of the CPV during its May session.

In August and September police detained a foreign citizen and six other political activists affiliated with the People’s Democracy Party of Vietnam (PDPV), which reportedly advocated peaceful political change and opposed the country’s single-party rule. Other activists belonging to a second peaceful political activist organization—the 8406 Bloc—also faced harassment and detention. At year’s end four members of the 8406 Bloc were in detention. Bui Kim Thanh, a land rights activist affiliated with the DPV, was involuntarily committed to a mental institution (see section 1.c.). At least seven and possibly another eight activists of the PDPV and the Union of

Workers and Farmers also reportedly were under detention. Other prominent political activists, such as Do Nam Hai and Pham Hong Son, faced harassment, repeated police questioning sessions, and administrative measures taken against them in response to their political activities.

Democracy activist Nguyen Dan Que, released in February 2005, remained subject to government surveillance and low-level harassment. Political activist Tran Khue also remained subject to surveillance and episodic harassment, such as the cutting of his telephone and Internet lines.

In a Web chat forum in May hosted by Tienphong Online, frank discussions on sexuality and persons with HIV/AIDS were not censored, although these were normally taboo subjects. In a July Web chat with a senior foreign diplomat at the same online agency, editors censored major portions of the diplomat's comments on human rights and religious freedom, although his comment that "we believe that Vietnam can achieve more prosperity and advancement by giving more room for political activities" remained posted.

Some persons who expressed alternative opinions on religious or political issues were not allowed to travel abroad (see section 2.d.).

Published reports on high-level government corruption and mismanagement have become more frequent and prominent in recent years. In March and April the press extensively reported a corruption story involving Project Management Unit 18 (PMU-18), a government office handling large infrastructure projects, some with substantial foreign contributions (see section 3).

Foreign journalists must be approved by the Foreign Ministry's press center, and they must be based in Hanoi. The number of foreign staff allowed was limited, and local staff who worked for foreign media also were required to be registered with the ministry. It was difficult for foreign media outlets to hire local photographers and receive approval for their accreditation. In November two ethnic Vietnamese journalists with foreign citizenship were arbitrarily refused visas to travel to cover the Asia-Pacific Economic Cooperation (APEC) summit. Police and government officials also reportedly prevented political and social activists from meeting with foreign journalists who traveled to Ho Chi Minh City to cover the visit of a foreign leader. The press center monitored journalists' activities and decided on a case-by-case basis whether to approve requests for interviews, photographs, filming, or travel, which must be submitted five days in advance. By law foreign journalists are required to address all questions to government agencies through the Foreign Ministry, although it appeared that this procedure often was ignored in practice. Foreign journalists generally received visas valid for six months.

The Government generally required religious publishing to be done through a government-owned religious publishing house; however, some religious groups were able to copy their own materials or import them, subject to government approval (see section 2.c.). There were reports that the Government relaxed restrictions somewhat on the printing and importation of some religious texts, including in some ethnic minority languages. However, in a few cases unauthorized religious materials were confiscated and the owners either fined or arrested.

Foreign-language editions of some banned books were sold openly by street peddlers. Foreign-language periodicals were widely available in cities; however, the Government occasionally censored articles about the country and sometimes delayed the availability of a foreign periodical because of sensitive articles. The Government generally did not limit access to international radio, except to Radio Free Asia (RFA) and the Far East Broadcasting Corporation, which it continued to jam periodically.

The law limits access to satellite television to top officials, foreigners, luxury hotels, and the press, but it was not enforced uniformly, and an increasing number of persons in urban and some rural areas had access to television programs via home satellite equipment or cable. Cable television, including foreign-origin channels, was available to subscribers living in urban areas, although the Government periodically blocked many subscribers from receiving certain news channels, including CNN and the BBC. When service was not blocked, it was usually subject to a 30-minute delay. Satellite dishes picking up pirated satellite signals from Thailand and the Philippines were increasingly common.

*Internet Freedom.*—The Government allowed access to the Internet through a limited number of Internet Service Providers (ISPs), all of which were state-owned joint stock companies. The Government forbids direct access to the Internet through foreign ISPs, requires domestic ISPs to store information transmitted on the Internet for at least 15 days, and also requires ISPs to provide technical assistance and workspace to public security agents to allow them to monitor Internet activities. The Government also requires Internet agents, such as cybercafes, to register the per-



sonal information of their customers, store records of Internet sites visited by customers for 30 days, and cooperate with public security officials.

In July the Ministry of Post and Telematics instructed all ISPs to install in their Internet kiosks new control software designed to record information on users and their Internet behavior and send the information to the ISPs' servers to be stored for a year. The software also contained an identification system that allows ISPs to identify the user and what the user does during an Internet session. To use Internet kiosks, customers must provide personal details to acquire a username and password, granted and controlled by the ISP. Customers then can use the acquired username and password to browse the Internet. Alternatively, a customer can provide a personal national identity card to gain Internet access. It was not clear how fully these provisions were being followed in practice, and many cybercafes did not register the personal details of their clients. At least some home asymmetric digital subscriber line (ADSL) Internet subscribers had all Internet usage monitored by the newly installed software and hardware system.

On January 6, the CPV-controlled *Nhan Dan* daily newspaper carried a commentary rejecting a Reporters Without Borders' characterization of Vietnam and 14 other countries as "enemies of the Internet" and its allegations about the impeded development of the Internet in the country. The newspaper cited the robust development of the Internet, including the CPV's guidelines on Internet application and the Government's approval of an Internet development plan for the period 2001–05. The newspaper also reported that the country had registered an Internet growth rate of 20 percent annually since 2001, with more than eight million users, or one-tenth of the total population. "While recognizing the benefits of the Internet, the Party and State of Vietnam are also aware of the dark side of this global information network and have adopted proper measures to minimize the movement of negative information into the country," the newspaper stated, adding it was "necessary that all countries in the world, not only Vietnam, take measures to safeguard their traditional cultural values."

On March 11, police raided a cybercafe and arrested an Internet user in Hanoi while he was taking part in a discussion forum on democracy. The individual's status was not known at year's end.

The Government used firewalls to block Web sites that it deemed politically or culturally inappropriate, including sites operated by exile groups abroad. The Government occasionally restricted access to the RFA and Voice of America Web sites during the year, as well as sites operated by overseas dissident groups. Local press occasionally wrote stories based on RFA broadcasts.

The Government required owners of domestic Web sites, including those operated by foreign entities, to register their sites with the Government and submit their Web site content to the Government for approval.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom, and foreign field researchers often were questioned and monitored. However, the Government continued to permit a more open flow of information, including in the university system, than in previous years. Local librarians increasingly were being trained in professional skills and international standards that supported wider international library and information exchanges and research. Foreign academic professionals temporarily working at universities in the country were allowed to discuss nonpolitical issues widely and freely in classes, but government observers regularly attended classes taught by both foreigners and citizens. Security officials occasionally questioned persons who attended programs on diplomatic premises or used diplomatic research facilities. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the Government.

The Government controlled art exhibits, music, and other cultural activities; however, it generally allowed artists broader latitude than in past years to choose the themes for their works. Many artists obtained permission to exhibit their works abroad and received passports to attend the exhibits and export permits to send their works out of the country. Additionally, a number of foreign embassies and consulates were able to conduct a wider variety of cultural activities than in the past.

From June to November, two state-run institutions—the Vietnam Museum of Ethnology and the Vietnam Revolutionary Museum—showed a groundbreaking exhibit called "Hanoi Life under the Subsidy Economy, 1975–1986," which included taped interviews of poets and journalists criticizing failed economic policies and censorship of artistic works during that period, a marked departure from any exhibit previously on display to the general public.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The right of assembly is restricted by law, and the Government restricted and monitored

all forms of public protest or gathering. Persons wishing to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. In general the Government did not permit demonstrations that could be seen as having a political purpose. Persons routinely gathered in informal groups without government interference; however, the Government restricted the right of some unregistered religious groups to gather in worship.

As in previous years, there were reports from the Northwest Highlands and Central Highlands that officials prevented meetings of some Protestant believers or dispersed those meetings when they occurred (see section 2.c.). In the Central Highlands province of Dak Lak, as many as 100 congregations affiliated with the Southern Evangelical Church of Vietnam (SECV) were not permitted to gather to worship.

During the year peaceful small protests of farmers demanding redress for land rights issues frequently took place in front of government buildings in Hanoi. Police monitored these protests but did not disrupt them.

During the summer groups from the Mekong Delta and the Ho Chi Minh City region conducted small protests over land disputes. Police generally did not interfere with the protesters—mainly elderly women—who positioned themselves in front of government buildings in downtown Ho Chi Minh City. Police cordoned off the protesters from passersby and sought, sometimes by means of intimidation, to minimize protesters' contact with legal and political activists. In September a senior police official met with protesters and declared that the Government and police would carefully examine their cases, but he cautioned that protesters could not carry signs that had "down with corrupt government" and that authorities would show "no mercy" with those who took advantage of the land disputes to work against the Government. The protests stopped soon thereafter, but there was no indication that the Government resolved the underlying grievances.

*Freedom of Association.*—The Government restricted freedom of association. Opposition political parties were not permitted. The Government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF. However, some entities, particularly unregistered religious groups, were able to operate outside of this framework with little or no government interference (see section 2.c.).

On June 6, several political dissidents led by Hoang Minh Chinh in Hanoi and Tran Khue in Ho Chi Minh City announced the formation of a new political group, the Democratic Party of Vietnam. In response, police occasionally harassed its members. It was not clear how large or active the party was after its formation, but independent observers generally characterized the organization as "a group of idealists" rather than an activist group.

In April a larger group of political activists largely based in the southern and central regions of the country formed the 8406 Bloc, which calls for the creation of a multiparty state. The 8406 Bloc claimed at least 2,000 supporters inside the country, although this claim was impossible to verify. At least four members of the 8406 Bloc were detained, and others faced severe harassment for their peaceful political activities. Authorities also arrested at least five members of another activist group, the People's Democratic Party of Vietnam (PDP-VN), and a related group, the United Workers' Farmers' Union. Members of the PDP-VN were advocating for the elimination of Article 4 of the constitution, which legally codifies Communist Party supremacy.

*c. Freedom of Religion.*—Although the constitution and government decrees provide for freedom of worship, the Government restricted religious freedom to a significant degree. However, during the year the Government continued to relax restrictions, and participation in religious activities continued to grow significantly.

In June commune-employed security officers detained and beat two Protestants belonging to an unregistered house church in Thanh Hoa Province. The incident resulted partly from a familial dispute involving members of the church and neighborhood leaders. However, in July commune officers beat two women of the same group after they attempted to visit the home used by the congregation as a place of worship. In all instances the provincial security department reportedly conducted investigations into alleged official abuse. In September two commune security officers received administrative punishment from the commune leadership in connection with the June incident (see section 1.c.).

Hong Thien Hanh, leader of the small To Dinh Tan Chieu Minh Cao Dai religious group in Tien Giang Province, remained in prison serving an eight-year sentence after being convicted in 2005 on charges of engaging in illegal religious activities and defrauding his followers. Some independent Cao Dai confirmed the Government's fraud allegations against Hanh.

By year's end most churches affiliated with the government-recognized SECV in the Central Highlands were able to operate, although the process of according the congregations full legalization remained slow. At least 29 Protestant churches affiliated with the government-recognized Evangelical Church of Vietnam North were granted registration in the Northwest Highlands during the year as part of a pilot program to accelerate registrations in the region. Two small Buddhist groups, a Danang-based Protestant organization, and two Protestant house church organizations based in Ho Chi Minh City received national-level registration. Registrations for the Baha'i Faith and additional Protestant house church organizations awaited registration at year's end. Congregations belonging to previously recognized faiths were able to register their activities and places of worship.

The 2005 government framework on religion maintained overall government control of religious organizations and kept in place significant limitations on education, medical, and charitable work by religious groups. The Government continued to use the recognition and registration processes to monitor and limit the activities of church organizations. The Government officially recognized Buddhist, Roman Catholic, Protestant, Hoa Hao, Cao Dai, and Muslim religious organizations. To obtain recognition a group must obtain government approval of its charter and leadership. Official approval is required for the registration of new congregations and places of worship, ordination of clerics, establishment of religious teaching institutions, and entry of students into those institutions. Officially recognized religious organizations were able to operate with increasing ease throughout most of the country, and followers of these religious bodies were usually able to worship without government harassment even if their local congregation was not registered.

The law mandates that the Government act in a time-bound and transparent fashion, but the approval process for recognition and registration could be slow and nontransparent. Some local authorities continued to demand that even recognized religious organizations provide lists of all members of subcongregations as a precondition to registration, although this requirement is not codified in the legal framework on religion. Some registered congregations in the northern region and the Northwest Highlands complained that officials used such lists to keep unlisted members from participating in services. Annual activities by congregations also must be registered with authorities, and activities not on the accepted annual calendar require separate government approval.

In addition to officially recognized religious denominations, numerous nonrecognized denominations operated in the country, including independent Buddhists, Baptists, Mennonites, Jehovah's Witnesses, Mormons, the Baha'i Faith, independent Cao Dai and Hoa Hao groups, and ethnic Cham Hindus. Some nonrecognized Protestant groups received what appeared to be local official recognition of their organizations. In addition to the three Protestant groups that received national registration, a fourth group affiliated with the Mennonites had its registration pending in other provinces.

As in past years, official oversight of recognized religions and their registered subcongregations, as well as problems faced by followers of nonrecognized religions or unregistered subcongregations of recognized religions, varied widely from locality to locality, often as a result of ignorance of national policy or varying local interpretations of the policy's intent. In general, central-level efforts to coordinate proper implementation of the Government's religious framework reduced the frequency and intensity of religious freedom violations. Nevertheless, activities of nonrecognized and unregistered religious groups remained technically illegal, and these groups occasionally experienced harassment. The level of harassment declined in comparison with previous years, and the vast majority of unregistered churches and temples were allowed to operate without interference.

The Government actively discouraged contacts between the illegal UBCV and its foreign supporters, although such contacts continued. The Government appeared to show increasing tolerance for unofficial contacts made by Protestant and Catholic groups with foreign counterparts. Police routinely questioned some persons who held alternative religious or political views, such as UBCV monks and certain Catholic priests. Police continued to restrict the free movement of UBCV monks and expelled at least two UBCV members from their pagodas in the Mekong Delta and in Khanh Hoa Province. According to credible reports, police in the Central Highlands restricted the activities of, and at times detained, persons based on a suspicion that the form of Protestant religion that they were practicing encouraged ethnic minority separatism.

In Ho Chi Minh City, local officials demolished a portion of Mennonite Pastor Nguyen Hong Quang's home that was built without proper zoning approval. Government officials reportedly also discouraged Quang from participating in a December registration briefing sponsored by the Government under the legal framework on re-

ligion with other Ho Chi Minh City-based Protestant groups. The authorities refused to accept all but a handful of registration applications from Quang's group.

There were no reports of police interference with other Protestant activities in Ho Chi Minh City. In August the city authorized the government-recognized SECV to build a new seminary complex within city limits. Reports of harassment of Protestant groups in the Northwest Highlands continued to decline.

With the exception of up to 20 congregations in Dak Lak Province that faced limits on the size of gatherings, church leaders report that SECV-affiliated Protestant groups in the Central Highlands that the Government ordered closed in 2001 had resumed operations, and a small but growing number—fewer than 80—were officially recognized. The United World Mission Church, based in Danang but active throughout the Central Highlands, also received registration during the year and reported improved treatment for its congregations. More than 1,000 unregistered Protestant congregations among ethnic minority groups in the northern region and the Northwest Highlands, the Hmong in particular, formally began registration proceedings with local authorities.

In September the SECV was able to hold an organizational meeting in Nha Trang to select church officials without government interference.

There were few credible allegations of forced renunciations during the year. However, in September leaders of a house church organization based in Ho Chi Minh City reported that local officials and village elders in a remote rural village in central Coastal Ninh Thuan Province used the threat of withholding government benefits and social ostracism to induce 30 ethnic minority individuals to abandon Protestantism and return to traditionalist beliefs. However, local officials later resolved their differences with the church leader, and three families reportedly readopted Protestantism, while others chose to continue to follow traditional beliefs.

In Quang Ngai Province, a congregation leader, whom local officials previously had attempted to force to renounce his faith, and another leader of his group received government permission to attend pastoral training classes.

Articles in some provincial newspapers encouraged local authorities and ethnic minority groups to favor animist and traditional beliefs and to reject Protestantism.

Early in the year, police in Kon Tum Province reportedly harassed two Protestant believers and beat them. Official complaints to provincial authorities about the alleged police abuse reportedly went unanswered.

There were no credible reports that ethnic minority Protestants were made to sign a formal, written renunciation of their faith or undergo a symbolic ritual. At year's end no local officials had been punished for forcing an ethnic minority pastor in Ha Giang Province to renounce his faith in 2005; however, his congregation was able to gather for worship.

Buddhists practicing their religion under the Vietnam Buddhist Sangha Executive Council, the officially sanctioned Buddhist governing council, were generally free to practice their religion. While these constituted the vast majority of Buddhists, the Government continued to harass members of the banned UBCV and prevented them from conducting independent religious activities outside their pagodas. Since 2003 senior UBCV leaders, including Patriarch Thich Huyen Quang and Thich Quang Do, have been confined to their pagodas and had restrictions on their ability to travel and meet with followers (see section 2.d.). Until September Thich Quang Do's attempts to meet with Thich Huyen Quang were blocked repeatedly. However, foreign diplomats were able to meet with Patriarch Thich Huyen Quang and Thich Quang Do on several occasions during the year. In September the Government allowed Thich Quang Do and 19 other UBCV leaders to meet with Thich Huyen Quang during his hospitalization in Ho Chi Minh City.

Although the Government technically maintained veto power over Vatican appointments of Catholic bishops, under the 2005 framework on religion it continued to ease restrictions on the Roman Catholic Church and did not veto any candidates submitted by the Church for bishoprics. During the year a new bishop was appointed for the newly created Ba Ria Vung Tau Diocese. The Government reduced restrictions on the size and frequency of entering classes for Catholic seminaries. It also approved the creation of a new seminary in Xuan Loc Diocese, which technically would operate as a satellite of the Ho Chi Minh City seminary. The Ho Chi Minh City government continued to facilitate certain charitable activities of the Catholic Church in combating HIV/AIDS. A number of Catholic clergy reported a continued easing of government control over activities in certain dioceses during the year. In many places local government officials allowed the Catholic Church to conduct religious education classes (outside regular school hours) and some charitable activities. The Government continued low-level discussions to normalize diplomatic relations with the Vatican.

At least 10 Hoa Hao church followers remained in prison on accusations of playing key roles in a protest and clash with the police following a June 2005 religious event. Hoa Hao monks and believers following the government-approved Hoa Hao Administrative Council (HHAC) were allowed freedom to practice their faith. Monks and followers who belonged to dissident groups or declined to recognize the authority of the HHAC suffered restrictions. In June a hunger strike by some Hoa Hao dissidents in the Mekong Delta triggered a standoff with police; however, the incident was defused without violence. Some organizers of the June incident were detained later in the year.

The Government restricted and monitored all forms of public assembly, including assembly for religious activities. Large regularly scheduled religious gatherings were allowed, such as Protestant and Catholic Christmas celebrations, the Catholic celebrations at La Vang Pilgrimage Center in Quang Tri Province, and the Cao Dai celebrations in Tay Ninh Province. The Hoa Hao were allowed to hold large public gatherings to commemorate some traditional anniversaries.

Open adherence to a religious faith generally did not disadvantage persons in civil, economic, or secular life, although it would prevent advancement in government and military careers. However, there were some reports that ethnic minority boarding schools discriminated against children from religious, especially Protestant, families. Religious practice does not preclude membership in the CPV. Some government and CPV officials admitted that they followed traditional and Buddhist religious practices.

Foreign missionaries may not operate openly as religious workers in the country, although many undertook humanitarian or development activities with government approval.

A government publishing house oversees the publishing of all religious materials. Many Buddhist sacred scriptures, Christian Bibles, and other religious texts and publications, including some in ethnic minority languages, were printed by government-approved organizations.

The Government allowed religious travel for some religious persons. Muslims were permitted to make the Hajj, and more Buddhist, Catholic, and Protestant officials were able to travel and study abroad. The Government allowed many Catholic bishops and priests to travel freely within their dioceses and allowed greater, but still restricted, freedom for travel outside these areas, particularly in ethnic areas. Many Protestant house church leaders traveled overseas and within the country during the year. In the past government officials discouraged officially recognized clergy from entering the provinces of Son La, Dien Bien, Lai Chau, as well as Ha Giang and other "sensitive" ethnic-minority highlands border provinces; however, some Protestant and Catholic leaders reported that this policy eased significantly during the year.

The Government continued to be wary of overseas travel by religious leaders of nonrecognized groups not first coordinated with authorities. In one case members of a large Baptist group returning from a retreat in Cambodia were stopped and questioned by authorities, although there were no subsequent reports of repercussions against them. Authorities reportedly continued to refuse to return the passport of a Protestant pastor who made an unauthorized visit abroad in 2004.

*Societal Abuses and Discrimination.*—In general relations among the various religious communities continued to be amicable, and there were no known instances of societal discrimination or violence based on religion. There was limited cooperation between the Catholic Church and the government-recognized Vietnam Buddhist Sangha on charitable activities such as the fight against HIV/AIDS. There was no indigenous Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides that citizens "shall enjoy freedom of movement and of residence within the country—(and) freely travel abroad and return home—in accordance with the provisions of the law"; however, the Government imposed some limits on freedom of movement. Local authorities sometimes required members of ethnic minority groups to obtain permission to travel outside certain highland areas, including in some cases travel outside their own villages.

Political dissidents Pham Hong Son and Nguyen Khac Toan, who were amnestied during the year, were subject to official restrictions on their movements (see section 1.d.).

The 2004 decision by the Prime Minister's Office regarding travel to certain areas remained in effect. It requires citizens and resident foreigners to obtain a permit

to visit border areas, defense facilities, industrial zones involved in national defense, areas of "national strategic storage," and "works of extreme importance for political, economic, cultural, and social purposes."

Local officials reportedly informally discouraged some clergy from traveling domestically, even within their own provinces, especially when travel to ethnic minority areas was involved (see section 2.c.).

During the year the National Assembly passed a controversial new Law on Residence which allows the MPS to retain the current system of residence registrations, in spite of strong opposition from many legislators. During the debate of the law, Assembly members echoed a common public concern that the residence registration violates the freedom of residency stipulated in the constitution. Many citizens believed that this government practice effectively acted as a barrier for individuals and families to move within the country and become legal residents of a new province or city, and that it has become an infamous example of excessive government bureaucracy. Legal residency is needed to buy property. MPS officials successfully argued that they must maintain this system for the sake of social order and security. The MPS restricts the number of residency registrations given out, for example, for Hanoi and Ho Chi Minh City.

Many persons continued to move without approval, especially migrant or itinerant laborers moving from rural areas to cities in search of work. Moving without permission hampered persons in obtaining legal residence permits. Foreign passport holders must register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends and family. Citizens are also required to register with local police when they stay overnight in any location outside of their own homes; the Government appeared to have enforced these requirements more strictly in some districts of the Central and Northern Highlands. However, some ethnic minority individuals from the Central Highlands encountered no problems when they traveled to Ho Chi Minh City to process family reunification visas.

During the APEC summit, there were many reports of arbitrary government arrests and temporary detention of those deemed a threat or a potential embarrassment to the Government. Some of the reports were exaggerated, but others were substantiated by foreign diplomats. In general the Government did not hesitate to arbitrarily detain those whom they deemed a potential threat to government and Communist Party control.

The Government again allowed fact-finding and monitoring visits by the Office of the UN High Commissioner for Refugees (UNHCR) and foreign diplomatic mission representatives to the Central Highlands. In general these trips were monitored but not hindered by local government authorities. The Government granted the UNHCR and foreign diplomatic staff access to local citizens of interest. The UNHCR and foreign diplomats saw some resistance from lower-level officials in permitting private interviews of returnees. Local policemen often were present during UNHCR returnee interviews. Earlier in the year a separate foreign observer mission reported government officials disguised as local village elders. Nevertheless, the UNHCR and foreign diplomats separately concluded that provincial governments continued to honor their obligations to attempt to peacefully reintegrate ethnic minority returnees from Cambodia.

The UNHCR reported that by the end of the year, local authorities had received unprecedented training on UNHCR mandates for returnees. The UNHCR reported a general feeling of "more openness" during their monitoring visits and a better filtering of information from national to provincial to local government levels, due in part to World Trade Organization accession and APEC summit preparations.

UNHCR representatives reported that the overall environment for ethnic minorities in the Central Highlands improved, despite an increase in the number of persons illegally going to Cambodia during the year. They stated that there was "no general threat" of systemic discrimination against ethnic minorities in the Central Highlands.

Although the Government no longer required citizens traveling abroad to obtain exit or reentry visas, the Government sometimes refused to issue passports. In the past the Government did not allow some persons who publicly or privately expressed critical opinions on religious or political issues to travel abroad. Authorities continued to deny political activist Tran Khue a passport to travel to Europe and the United States. However, provincial governments in the Central Highlands consistently facilitated the passport issuance and travel of ethnic minority individuals traveling legally to the United States on family reunification visas.

Citizens' access to passports sometimes was constrained by factors such as bribery and corruption. Immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passport issuance based on personal animosities, on

the officials' perception that an applicant did not meet program criteria, or to extort a bribe. Unlike in past years, there appeared to be no restrictions on the ability of family members of ethnic minorities granted refugee status abroad to obtain documents and passports to rejoin their spouses abroad.

The law does not provide for forced internal or external exile; however, cases amounting to de facto exile continued to occur. In 2003 several UBCV leaders were forcibly returned to their home pagodas and placed under official or unofficial administrative detention there (see section 2.c.). Protestant pastor Nguyen Nhat Thong has been forced to reside in a remote village in Binh Thuan Province since 1979. He has been allowed to travel outside the village since 1986, but he must ask for the permission of local authorities each time. Protestant pastor Nguyen Lap Ma, who had been forced to reside in an isolated village in Can Tho Province since 1982, received a passport and was resettled in another country.

The U.S. Government continued to process immigrants and refugee applicants for admission and resettlement, including family reunification cases and Amerasians. Travel under other refugee categories had virtually ceased as the relevant programs were closed to new applicants in the mid-1990s. However, due to concerns that some former reeducation camp detainees, former U.S. Government employees, and former U.S. organization employees had been unable to apply or complete the application process, on June 25 a two-year application period opened for such persons. By year's end several hundred persons had departed the country under this process and through related family reunification cases.

The Government generally permitted citizens who had emigrated abroad to return to visit. However, the Government refused to allow some citizen activists living abroad to return. For example, exiled activist Pastor Paul Tran Dinh Ai was denied entry at Ho Chi Minh City airport in February when he attempted to visit his mother. By law the Government considers anyone born in the country to be a citizen, even if the person has acquired another country's citizenship, unless a formal renunciation of citizenship has been approved by the President. However, in practice the Government usually treated overseas Vietnamese as citizens of their adopted country. Emigrants were not permitted to use Vietnamese passports after they acquired other citizenship. The Government generally encouraged visitation by such persons but sometimes monitored them carefully.

Following April 2004 protests in the Central Highlands, a number of ethnic minorities hid in forests and rubber plantations, and some attempted to flee across the border into Cambodia. Vietnamese police attempted to block these potential refugees and reportedly crossed the border into Cambodia. The UNHCR received approximately 775 ethnic minority refugees in its camps in Cambodia. Thirteen potential refugees who received UNHCR protection in Phnom Penh independently returned to Vietnam in October 2004. According to authorities, the 13 persons returned safely to their homes; however, newspaper accounts reported that they were interviewed extensively by authorities upon their return.

In January 2005 the Government signed a tripartite Memorandum of Understanding on the Settlement of Issues Relating to the Vietnamese Central Highlands Ethnic Minority People in Cambodia with the Government of Cambodia and the UNHCR to facilitate the return of all ethnic minority individuals in Cambodia who did not qualify for third-country resettlement. The UNHCR and various foreign diplomats were subsequently permitted to visit ethnic minority returnees from Cambodia after their arrival in the Central Highlands.

The UNHCR reported that 228 Vietnamese ethnic minority individuals from the Central Highlands arrived in Cambodia during the year. Approximately 50 individuals returned under the auspices of the 2005 agreement.

*Protection of Refugees.*—The country is not a signatory to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. After North Korean asylum seekers entered foreign diplomatic missions in Hanoi in July 2005, the Government called on diplomatic missions and international organizations to hand over to local authorities any third-country intruders, whom the Government considers to be immigration law violators. There were no reports at year's end that the Government had invoked this new policy.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution does not provide for the right of citizens to change their government peacefully, and citizens could not freely choose and change the laws and officials that govern them. All authority and political power is vested in the CPV, and the constitution delineates the leadership of the CPV. Political opposition movements and other political parties are illegal. The CPV Politburo, led by a triumvirate consisting of CPV General Secretary Nong Duc Manh, State President

Nguyen Minh Triet, and Prime Minister Nguyen Tan Dung, is the supreme decision-making body in the country, although it technically reports to the CPV Central Committee.

The Government continued to restrict public debate and criticism to certain aspects of individual, state, or party performance determined by the CPV itself. No public challenge to the legitimacy of the one-party state was permitted; however, there were instances of unsanctioned letters critical of the Government from private citizens, including some former senior party members, that circulated publicly. Several small opposition political groupings that established themselves during the year were tolerated, although police harassment of members gradually increased (see section 2.b.).

*Elections and Political Participation.*—The most recent elections to select members of the National Assembly were held in 2002. The elections were neither free nor fair, since all candidates were chosen and vetted by the CPV's VFF, an umbrella group that monitored all of the country's popular organizations. Consequently, 90 percent of the delegates were CPV members, and non-CPV members were only nominally independent.

The Law on Election of Deputies to People's Councils provided for higher numbers of female and minority candidates, more candidates per position, and fewer party members standing for seats in people's council elections at all levels than in previous elections. Nonetheless, for the 2004 people's councils elections at the district level, the party-controlled VFF approved all candidates, as it did for national and provincial assembly elections. Although voting is not compulsory, election officials applied many means to persuade citizens to vote, including using public address systems to ask late-voting citizens by name to come to the polls. The Government claimed a 99.7 percent voter turnout for the 2004 people's councils election. Proxy voting in that election, while illegal, appeared widespread. In addition, most voting was finished by 10 a.m., although polls were required to stay open until 7 p.m.

The National Assembly, although subject to the control of the CPV (all of its senior leaders and 90 percent of its members were party members), increasingly served as a forum for the expression of local and provincial concerns, a critic of corruption and inefficiency, and an arena for debating progress in improved transparency for the legal and regulatory systems. In the past it did not initiate legislation and did not pass legislation that the CPV opposed, but the National Assembly continued to assert itself as a legislative body during the year. The CPV's nominees for the three top positions in the Government (below party general secretary) made brief presentations to the Assembly before their candidacies were voted on. Assembly members' displeasure over the Government's reaction to corruption scandals was evident in low votes returned on several CPV candidates tainted by the scandals and in question-and-answer sessions with government ministers. In an unprecedented development, some deputies also indirectly criticized the CPV's preeminent position in society.

CPV officials occupied most senior government and National Assembly positions and continued to have the final decision on key issues.

The law provides the opportunity for equal participation in politics by women and minority groups. Women held a number of important government positions, including the vice presidency. There were 136 women in the 498-seat National Assembly. There were three women at the ministerial level but none in the Politburo. There were few women in provincial-level leadership positions.

There were 87 ethnic minority members in the National Assembly and two ethnic minority members serving in cabinet-level positions. The CPV general secretary was a member of the Tay ethnic minority group; however, the number of minorities in the executive branch of government or within the party at a national-level did not accurately reflect their proportion (15 percent) of the population.

*Government Corruption and Transparency.*—Corruption continued to be a major problem. The Government showcased its efforts to fight corruption, including publicizing budgets at different levels of government and streamlining government inspection measures. Cases of government officials accused of corruption were publicized widely (see section 2.a.). In March and April, the press extensively reported a corruption story involving PMU-18, a government office handling large infrastructure projects, some with substantial foreign contributions. The press revealed that Bui Tien Dung, the head of PMU-18, was part of a betting ring. Deputy Minister of Transportation Nguyen Viet Tien was implicated in the scandal by a March 28 MPS report and required to step down; on March 30, a spokesman for the Prime Minister declared that "the transport minister must take responsibility, and after that deputy ministers must follow." On April 1, the CPV announced that a proposal to remove Transport Minister Dao Dinh Binh had been submitted to the Politburo.



Binh submitted his resignation on April 3; however, he was not formally punished despite significant protests from National Assembly deputies. In late November the Government Inspectorate also found that two local party officials in Quang Ngai Province had illegally allowed their relatives to use large stocks of land for personal use; the party eventually removed the officials from their positions. In December the inspectorate found party officials had misused \$4.3 million (685 billion VND) intended for the upgrade of Highway 5, although it remained unclear if anyone would be punished in connection to the scandal.

During the year senior government officials in Khanh Hoa Province faced sanction, investigation, and possible imprisonment for a corrupt land deal. In August the director of one of Ho Chi Minh City's most prestigious high schools was arrested for corruption. The cases remained under investigation for possible prosecution.

At year's end neither Vice Minister of Trade Mai Van Dau nor his son, Mai Thanh Hai, had been tried after their 2004 indictment on charges of accepting bribes in exchange for arranging textile quotas.

In accordance with the Law on Promulgation of Legal Normative Documents, the Official Gazette published most legal documents in its daily publication. Party documents such as Politburo decrees were not published in the Gazette.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government does not permit private, local human rights organizations to form or operate. The Government generally did not tolerate attempts by organizations or individuals to comment publicly on government human rights practices, and it used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of assembly, interference with personal communications, and detention.

The Government generally prohibited private citizens from contacting international human rights organizations, although some activists did so. The Government generally did not permit visits by international NGO human rights monitors; however, it allowed representatives from the press, UNHCR, foreign governments, and international development and relief NGOs to visit the Central Highlands. The Government criticized almost all public statements on human rights issues by international NGOs and foreign governments, although criticism was muted compared with previous years.

The Government generally was willing to discuss human rights problems bilaterally with some foreign governments, and several foreign governments continued official talks with the Government concerning human rights.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven. While many persons formerly interned in reeducation camps on the basis of association with the pre-1975 government were well integrated into society, some continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. In the past some military veterans of the pre-1975 South Vietnamese government and their families faced economic hardship as a result of past employment restrictions and discrimination. Few of these prohibitions remained, and the declining percentage of war veterans belonging to the labor force also lessened the incidence of such discrimination.

*Women.*—The law prescribes punishment ranging from warnings to up to two years' imprisonment for "those who cruelly treat persons dependent on them", but the police and legal system were generally not equipped to deal with cases of domestic violence. Officials increasingly acknowledged domestic violence, which also was discussed more openly in the media. Domestic violence against women reportedly was common, although there were no firm statistics measuring the extent of the problem. Hotlines for victims of domestic violence operated by domestic NGOs existed in some major cities. There were no reports of police or judicial reluctance to act on domestic abuse cases. Approximately two-thirds of divorces reportedly were due in part to domestic violence. The divorce rate has risen in the past few years, but many women remained in abusive marriages rather than confront social and family stigma as well as economic uncertainty.

It is a crime to use violence, threaten violence, take advantage of a person who is unable to act in self-defense, or resort to trickery to have sexual intercourse with a person against that person's will. This appears to criminalize rape, spousal rape, and in some instances sexual harassment; however, there were no known instances of prosecution for spousal rape or sexual harassment.

Prostitution is illegal, but enforcement was uneven. Estimates varied widely, but some NGOs estimated that there were 300,000 prostitutes in the country, including those who engaged in prostitution part-time or seasonally. As in past years, some women reportedly were coerced to work as prostitutes, often victimized by false promises of lucrative work (see section 5, Trafficking). Many more women felt compelled to work as prostitutes because of poverty and a lack of other employment opportunities. There were continued reports that some parents coerced daughters into prostitution or made extreme financial demands that compelled them to engage in prostitution, since parents often expected an eldest daughter to assume responsibility for a significant part of a family's finances. The Vietnam Women's Union as well as international NGOs engaged actively in education and rehabilitation programs to combat these abuses.

While there is no legal discrimination, women faced societal discrimination. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage as well as in the workplace and labor code provisions that call for preferential treatment of women, women did not always receive equal treatment.

In November the National Assembly passed the country's first-ever Law on Gender Equality. The law was considered an acknowledgement by leadership that sex discrimination is a serious problem. It aims to redress wage and other gaps and rationalize existing gender-related statutes. The law also calls for the establishment of a government agency to implement the law and promote public education about gender equality. While the National Assembly consulted with the international donor community on the development of the law, and the law is seen as forward-thinking in many areas, UN representatives stated that there are parts of the new law not compatible with the UN Convention on the Elimination of All Forms of Discrimination Against Women, alluding in part to the Government's maintenance of a lower retirement age for women than for men.

The Women's Union continued to promote women's rights, including political, economic, and legal equality and protection from spousal abuse. The Women's Union also operated microcredit consumer finance programs and other programs to promote the advancement of women.

*Children.*—International organizations and government agencies reported that despite the Government's promotion of child protection and welfare, children continued to be at risk of economic exploitation. While education is compulsory through the age of 14, authorities did not enforce the requirement, especially in rural areas where government and family budgets for education were strained and where children were needed for agricultural labor. Some street children in Ho Chi Minh City and Hanoi participated in night education courses. The culture's strong emphasis on education led parents who could send children to school to do so rather than allow them to work. The public school system includes 12 grades. More than 90 percent of children attended primary grades; however, the percentage that attended lower and upper secondary school was much lower. Secondary school enrollments were at less than 75 percent of eligible students for lower secondary and less than 50 percent for upper secondary. Enrollments were lower at all educational levels in remote mountainous areas, although the Government operated a system of subsidized boarding schools through the high-school level for high-aptitude ethnic minority students. The Government also had a program of preferential placement for ethnic minority individuals seeking university entry. Religious groups operated some orphanages, despite the Government's prohibition on such activities, and sent the children to public schools during the day.

The Government continued a nationwide immunization campaign, and the government-controlled press regularly stressed the importance of health and education for all children. While reports from domestic sources indicated that responsible officials generally took these goals seriously, concrete actions were constrained by limited budgets. According to the United Nations Children's Fund (UNICEF), despite growth in incomes over the past decade, severe malnutrition remained a problem; approximately 39 percent of children under five years of age were underweight during the 1995–2000 period.

Anecdotal evidence suggested that child abuse occurred, but there were no studies on the extent of such abuse.

Widespread poverty contributed to child prostitution, particularly of girls but also of some boys, in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some child prostitutes, such as those from abusive homes, were forced into prostitution for economic reasons.

Some children were trafficked domestically, and others were trafficked to foreign destinations for the purpose of sexual exploitation (see section 5, Trafficking). Domestic trafficking also included incidents of beggar children and flower-selling rings,

especially in the urban centers of Ho Chi Minh City and Hanoi. Government officials prosecuted one such case, originating in Hue. Other children were trafficked from Cambodia into Ho Chi Minh City.

Child labor was a problem (see section 6.d.).

According to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), there were 21,869 street children in the country as of February 2003. Street children were vulnerable to abuse and sometimes were abused or harassed by police. International NGOs documented numerous cases of Cambodian children trafficked to Ho Chi Minh City for work in begging and flower-selling rings. In August the Vietnam Women's Union, in cooperation with the Government of China and UNICEF, organized a Children's Forum on antitrafficking. Youth unions also launched awareness campaigns.

*Trafficking in Persons.*—The penal code prohibits trafficking in women and children, but trafficking, in particular trafficking in women and children for the purpose of sexual exploitation, remained a significant problem. Documentation of known trafficking cases as well as the level of case adjudications and prosecutions increased, while the Government became more open in identifying and prosecuting trafficking cases and public awareness rose. The transnational element to Vietnam-sourced trafficking also increased along with an increase in economic growth, globalization of the economy, and the gap between rich and poor.

A Central Coordination Office within the MPS's Criminal Department was set up during the year to coordinate government efforts in identification and prosecution of trafficking cases and assist in prevention and training activities. In addition, several law enforcement officers were trained under western standards.

During the year the Government signed an antitrafficking memorandum of understanding (MOU) with China, similar to the MOU signed with Cambodia in 2005, which resulted in increased cooperation on border security, identification and prosecution of trafficking cases, and assistance and reintegration procedures for victims. With assistance from the UN and the international donor community, training of law enforcement officials increased, training manuals were developed and institutionalized, and law enforcement institutions and the court system began increasing their capacities. Several international NGOs worked in the field of trafficking in the country.

There were few documented cases of trafficking in adult persons for labor during the year; however, deceitful and fraudulent overseas labor contracts and recruiting remained a problem. MOLISA reported that some workers of state-owned labor companies who were recruited and sent abroad suffered conditions akin to involuntary servitude or forced labor. MOLISA reported incidents within the Malaysian construction industry (see section 6.e.).

The country was a source for trafficking in persons. Women were trafficked primarily to Cambodia, Malaysia, China, Taiwan, and South Korea for sexual exploitation. Chinese police stated that they had rescued more than 1,800 trafficking victims on the China-Vietnam border between 2001 and 2005. Some women also were trafficked to Hong Kong, Macau, Thailand, the United Kingdom, and the United States. There also were reports that some women going to Taiwan, Hong Kong, Macau, South Korea, and China for arranged marriages were victims of trafficking. The Government estimated that approximately 10 percent of women in arranged marriages with Chinese men may have become trafficking victims. Some women and children also were trafficked within the country, usually from rural to urban areas. There were no reported incidents of trafficking of adult males during the year.

Some children were trafficked within the country, and others to foreign destinations, for the purpose of prostitution. An NGO advocate estimated that the average age of trafficked girls was between 15 and 17. Some reports indicated that the ages of girls trafficked to Cambodia typically were even lower.

Individuals also were convicted in cases in which parents received payments in exchange for giving up their infant children for adoption. In addition, there was anecdotal evidence that small children and infants were sometimes kidnapped and sold to traffickers in China. Children also were trafficked to other countries. Mass organizations and NGOs continued to operate programs to reintegrate trafficked women and children into society. During the year programs designed to provide protection and reintegration assistance for trafficking victims through psychosocial support and vocational training, as well as to supplement regional and national prevention efforts by targeting at-risk populations for similar services, increased in the north of the country.

There were reports that some women from Ho Chi Minh City and the Mekong Delta who left the country to marry men from Taiwan were forced into prostitution after their arrival in Taiwan. There was reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in

China that were ostensibly marriage service bureaus, international labor organizations, and travel agencies. After arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution. In 2005 visa issuance standards for Taiwanese marriages were tightened considerably, and the number of problematic or fraudulent marriages declined significantly as a result.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. MPS and UNICEF research indicated that trafficking victims could come from any part of the country but were concentrated in certain northern and southern border provinces, especially the Mekong Delta and central province of Thanh Hoa. Some were sold by their families as domestic workers or for sexual exploitation. In some cases traffickers paid families several hundred dollars in exchange for allowing their daughters to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income; others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, spouses, and employers.

Individual opportunists and informal networks, as well as some organized groups, lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes (see section 5, Women). The Government stated that organized criminal groups were involved in recruitment, transit, and other trafficking-related activities. Organized crime was on the rise, and Vietnam-sourced trafficking operations were uncovered in Europe.

Throughout the year the Government increased efforts to prosecute traffickers. The law provides for prison sentences of two to 20 years for each offense for persons found guilty of trafficking women, and between three years and life in prison for each offense for persons found guilty of trafficking children. Hundreds of traffickers have been convicted and imprisoned. The Government worked with international NGOs to supplement and strengthen law enforcement measures and institutions and also cooperated with other national governments to prevent trafficking. It also cooperated closely with other countries within the frameworks of Interpol, its Asian counterpart, and the Association of Southeast Asian Nations.

While reliable statistics on the number of citizens who were victims of sex-related trafficking were not available, there was evidence that the number has grown in recent years. The Criminal Police Department of the MPS, the Ministry of Justice, the Border Guard Command, and the Social Evils Department of MOLISA were the main government agencies involved in combating trafficking, with significant collaboration from the Women's Union. Police took an increasingly active role in investigating trafficking during the year, including training a dedicated antitrafficking force and building a conviction record. Late in the year, Ho Chi Minh City police reportedly uncovered a ring trafficking women to Malaysia, similar to another ring broken up in 2005.

Official institutions, including MOLISA, the Women's Union, the Youth Union, and the Committee for Population, Family, and Children, continued active programs aimed at prevention, public awareness, and victims' protection. These programs included warning women and girls of these dangers, repatriation programs, and vocational training for teenage girls in communities considered vulnerable to trafficking. Government agencies worked closely with the International Organization for Migration, the Asia Foundation, and other international NGOs to provide temporary shelter, medical services, education, credit, counseling, and rehabilitation to returned trafficking victims. Throughout the year security agencies with border control responsibility received training in investigative techniques to prevent trafficking. The UN Office on Drugs and Crime, funded with support from the Australian, French, and United Kingdom governments, had a three-year program with the MPS in strengthening law enforcement institutions.

*Persons With Disabilities.*—The law requires the state to protect the rights and encourage the employment of persons with disabilities; however, the provision of services to such persons was limited. Government agencies worked with domestic and foreign organizations to provide protection, support, physical access, education, and employment. The Government operated a small network of rehabilitation centers to provide long-term, inpatient physical therapy. Several provinces, government agencies, and universities had specific programs for those with disabilities.

Educational opportunities for children with disabilities were poor but improving. Slightly more than 10 percent of children with disabilities were enrolled in school. The Government worked with donor countries and international NGOs to train additional teachers for students with disabilities.

The law provides for preferential treatment for firms that recruit persons with disabilities and for fines on firms that do not meet minimum quotas that reserve 2 to 3 percent of their workforce for workers with disabilities; however, the Govern-

ment enforced these provisions unevenly. Firms that have 51 percent of their employees with disabilities can qualify for special government-subsidized loans. During the year the Government provided \$750,000 (12 billion VND) for vocational training for persons with disabilities. Measures enacted in 2002 require that the construction or major renovation of new government and large public buildings include access for persons with disabilities. The Ministry of Construction trained architects and engineers in the requirements.

The Government worked closely with international groups in implementing programs to increase access by persons with disabilities to education and employment.

*National/Racial/Ethnic Minorities.*—Although the Government officially was opposed to discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities remained a problem. With the significant economic growth that has occurred, especially in the last five years, some improvement in this area was reported, although the improved economic conditions largely evaded ethnic minorities. The Government continued to implement policies to narrow the gap in the standard of living by granting preferential treatment to domestic and foreign companies that invested in highland areas, which are heavily populated with ethnic minorities.

The Government also had infrastructure development programs that targeted poor, largely ethnic minority areas and established agricultural extension programs for remote rural areas. The Government operated special schools for ethnic minorities in many provinces, including subsidized boarding schools at the high-school and middle-school levels, and offered special admission and preparatory programs as well as scholarships and preferential admissions at the university level.

The Government resettled some ethnic minorities from inaccessible areas to locations where basic services were easier to provide; however, the resettlement sometimes diluted the political and social solidarity of these groups. The Government acknowledged that one of the goals of resettlement was to persuade the minorities to change from traditional slash-and-burn agricultural methods to sedentary agriculture. This resettlement program also had the effect of making more land available to ethnic Vietnamese migrants and state-owned plantations.

Some members of ethnic minority groups continued to flee to Cambodia and Thailand, reportedly to seek greater economic opportunity or shortcuts to immigration to other nations. During the year approximately 20 Vietnamese Hmong were detained along with a larger group of Laotian Hmong in Thailand, reportedly claiming that they were escaping ethnic and religious pressures in the northern region and the Northwest Highlands, although conditions for religious freedom significantly improved in the north during the year. Government officials continued to monitor some highland minorities closely, particularly several ethnic groups in the Central Highlands, because of concern that the form of Protestant religion they were practicing encouraged ethnic minority separatism. Hmong Protestants in the northwest provinces were also subject to special attention for practicing their religion without official approval, although the great majority of Hmong believers were able to worship without difficulty, and conditions for religious freedom significantly improved in the north (see section 2.c.).

The Government continued to impose extra security measures in the Central Highlands, in response to fears of ethnic minority separatist activity. There were some reports that ethnic minority individuals using cellular telephones to call the ethnic minority community abroad were a special target of police attention. There were numerous reports that ethnic minorities seeking to cross into Cambodia were returned by Vietnamese police operating on both sides of the border, sometimes followed by beatings and detentions; however, the Government also continued to implement measures to address the causes of ethnic minority discontent and initiate new measures as well. These included special programs to improve education and health facilities and expand road access and electrification of rural communities and villages. The Government allocated land to ethnic minorities in the Central Highlands through a special program, but there were complaints that implementation of these special programs was uneven.

The Government continued a program to conduct classes in some local ethnic minority languages up to the fifth grade. The Government worked with local officials to develop a local language curriculum. The Government appeared to implement this program more comprehensively in the Central Highlands than in the mountainous northern and northwestern provinces. The Government broadcast radio and television programs in ethnic minority languages in some areas. The Government also instructed ethnic Kinh officials to learn the language of the locality in which they worked; however, implementation was not widespread. Provincial governments continued initiatives designed to increase employment, reduce the income gap be-

tween ethnic minorities and ethnic Kinh, and make officials sensitive and receptive to ethnic minority culture and traditions.

The Government allowed the UNHCR and western diplomats extensive access to interview and monitor ethnic minority individuals returned to the Central Highlands from Cambodia under a tripartite MOU established with Cambodia and the UNHCR in 2005. Western observers were increasingly allowed to conduct private interviews with these individuals. There was little credible evidence that ethnic minority returnees faced discrimination in the Central Highlands during the year.

*Other Societal Abuses and Discrimination.*—There was no evidence of official discrimination against persons with HIV/AIDS, but there was substantial societal discrimination against such persons. There were multiple credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing. In a few cases, children of persons with HIV/AIDS were barred from schools, although this is against the law. With the assistance of some foreign donors, the national government and some provincial authorities took steps to treat, assist, and accommodate persons with HIV/AIDS; decrease societal stigma and discrimination; and increase dignity, although overall consistency was lacking. Religious charities were sometimes permitted to operate in this area.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers are not free to join or form unions of their choosing. The CPV controls the single trade union, the Vietnam General Confederation of Labor (VGCL), an umbrella organization that approves and manages a range of subsidiary labor unions organized according to location and industry. According to December 2005 data, the VGCL claimed 5.4 million members, or an estimated 48.8 percent of the approximately 11.1 million wage earners. Of these, 36.5 percent worked in the public sector, 33.1 percent in state-owned enterprises, and 30.4 percent in the private sector. The VGCL claimed that its membership represented 95 percent of public sector workers and 90 percent of workers in state-owned enterprises. Approximately 1.7 million union members worked in the private sector, including in enterprises with foreign investment (more than 700,000 persons). The vast majority of the workforce was not unionized, as more than 33 million of the 44 million total laborers lived in rural areas and engaged in activities such as small-scale farming or worked in small companies and the informal private sector.

Union leaders influenced key decisions, such as amending labor legislation, developing social safety nets, and setting health, safety, and minimum wage standards. However, the VGCL asserted that authorities did not prosecute some violations of the law. MOLISA acknowledged shortcomings in its labor inspection system, emphasizing that the country had an insufficient number of labor inspectors. The VGCL stated, and MOLISA acknowledged, that low fines on firms for labor violations failed to act as an effective deterrent against law violations. On June 7, at a National Assembly session, VGCL Standing Chairman Dang Ngoc Tung criticized law enforcement and stated that remedies had not been strong enough. Tung provided an example in which an enterprise had employed 5,000 workers but had made social insurance contributions for only 2,000 employees, retaining for itself as much as \$187,500 (three billion VND) in social insurance contributions. Tung stated that labor authorities imposed only a \$1,250 (20 million VND) fine on the firm for the violation, and subsequently the employer continued to violate the law.

The International Labor Organization (ILO) and the UN Development Program continued to cooperate on a large multiyear technical assistance program to strengthen labor law implementation. The program involved projects to improve industrial relations, including collective bargaining and dispute settlement, encourage job promotion for young women, and improve occupational safety and health, among other objectives. During the year the ILO concluded a project to eliminate child labor.

The VGCL had relations with 140 labor organizations in 91 countries, 20 NGOs and UN organizations, and 20 international and regional occupational trade unions.

According to the trade union law, VGCL's industrial union subsidiaries are also allowed to join international trade unions in conformity with their activity objectives.

The labor code requires enterprises to facilitate employee efforts to join the union and prohibits antiunion discrimination on the part of employers against employees who seek it, but enforcement was uneven. Toan Cau SH Trading Company's 681 workers in Quoc Oai District of Ha Tay Province, who had been working since September 2005, were prohibited from establishing a union. The company ignored not only the workers' request to set up a trade union but also a similar appeal from the representative of Quoc Oai trade union.

*b. The Right To Organize and Bargain Collectively.*—By law the provincial or metropolitan branch of the VGCL is responsible for organizing a union within six months of the establishment of any new enterprise, and management is required to cooperate with the union. In actuality only 85 percent of state-owned enterprises, 60 percent of foreign-invested enterprises, and 30 percent of private enterprises were unionized.

The law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers. However, according to a June ILO report on industrial relations, only 6 percent of workers in the four most industrialized provinces were represented by collective labor agreements. The ILO noted that collective bargaining agreements, if they existed, were vague and tended simply to repeat the law, lacking key specifics on salary increases for seniority, overtime, and nonsalary benefits.

In November the National Assembly passed an amendment to the labor code that revised chapter 14, pertaining to strikes. The Government deemed the amendment necessary because nearly all of the more than 1,200 strikes held since 1995 were de jure illegal. A wave of strikes in late 2005 and early in the year created a further impetus for the amendment. Labor experts had criticized the previous legally required conciliation and arbitration processes as overly lengthy and complicated. At the same time, enterprises and local authorities had failed to establish required dispute resolution bodies. The amendment clarifies the procedures for holding strikes legally and for the first time allows workers to choose their own representatives to negotiate disputes at enterprises where no union exists. In the past the VGCL was the sole organization allowed to represent workers.

While the amended law does not allow for independent unions, it states that the negotiation of disputes can be led and organized by “relevant entities” when the enterprise in question does not have a union. MOLISA officials characterized the change as significant because large numbers of workers were not unionized. A key feature of the amended law is that it shortens the time for resolving disputes by half and divides labor disputes into those over rights and those over interests. Collective labor disputes over rights must be routed through a conciliation council and, if the council cannot resolve the issue, to the chairman of the district-level people’s committee. In collective labor disputes over interests, workers must take their claims through a process involving a conciliation council, or a district-level labor conciliator where no union is present, and if no resolution is obtained, a provincial arbitration council before a legal strike can be held. Unions (or workers’ representatives where no union is present) have the right either to appeal decisions of provincial labor arbitration councils to provincial people’s courts or to go on strike. Individual workers may take cases directly to the people’s court system, but in most cases they may do so only after conciliation has been attempted and failed. The amendment also stipulates that workers on strike will not be paid wages while they are not at work.

Strikes that began at South Korean and Taiwanese foreign-invested firms in the southern region soon spread to domestically-owned firms in that area and also to firms in other areas of the country. The VGCL and MOLISA maintained that the vast majority of strikes occurred over wages and employers’ labor regulation violations; however, the ILO noted that outdated industrial relations mechanisms contributed to the tensions. Specifically, the ILO mentioned a lack of capacity at the VGCL at the local level to mediate labor disputes, the weakness of collective bargaining agreements at enterprises, and poor enforcement of labor laws.

According to MOLISA, 303 strikes took place in the first six months of the year, more than twice the number that took place in all of 2005, itself a record year for strikes. Of the 303 strikes, 224 involved foreign-invested enterprises, 76 occurred in domestic private firms, and only three affected state-owned firms. Approximately 75 percent of the strikes took place in the textile, shoe-making, and processing industries, and 90.9 percent of the strikes occurred in Ho Chi Minh City and Dong Nai and Binh Duong provinces. Strikes typically did not follow the authorized conciliation and arbitration process and thus were technically illegal, but the Government tolerated them and took no action against the strikers. The law prohibits retribution against strikers, and there were no reports of retribution. In some cases the Government disciplined employers for the illegal practices that led to strikes.

The law prohibits strikes in 54 occupational sectors and businesses that serve the public or are considered by the Government to be important to the national economy and defense. A subsequent decree defines these enterprises to be those involved in electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the Prime Minister the right to suspend a strike considered detrimental to the national economy or public safety.

There are no special laws or exemptions from regular labor laws in export processing zones and industrial zones. There was anecdotal evidence that the Government enforced the laws more actively in the zones than outside them.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, there were reports that thousands of children worked in exploitative situations (see section 6.d.). Some women were coerced into prostitution (see section 5).

Prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets, reportedly to purchase items for their personal use.

On April 5, the Government abolished an ordinance requiring all male citizens between 18 and 45 years of age and female citizens between 18 and 35 years of age to perform 10 days of annual public labor. In December 2005 a government taskforce finished a year-long survey of forced labor, and at year's end it was reviewing all legal regulations related to forced labor with the aim of signing ILO conventions 29 and 105 on forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was a problem. The law prohibits most child labor but allows exceptions for certain types of work. The law sets the minimum age for employment at 18, but enterprises may hire children between 15 and 18 if the firm obtains permission from parents and MOLISA. Based on a living standards survey conducted in previous years, MOLISA reported in June that approximately 30 percent of children between the ages of six and 17 participated in economic activities, 44.7 percent of them between 15 and 17, 16.4 percent between 11 and 14, and 1.2 percent between six and 10. MOLISA further calculated that 1.2 percent of children between six and 10 worked, 16.4 percent of children between 11 and 14 worked, and 44.7 percent of children between 15 and 17 worked. Observers noted that the estimate may have understated the number of children who participated in such activities, since many more children worked in the informal sector, usually on family farms or in family businesses not within the scope of the law. According to the Vietnam Commission for Population, Family, and Children, as of December 31, 2005, there were 7,699 street children in the country, although estimates of the numbers of such children in previous years were considerably higher. In 2005 a total of 2,032 street children were assisted in returning to their homes.

By law an employer must ensure that workers under 18 do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the labor law. The law permits children to register at trade training centers, a form of vocational training, from the age of 13. Children may work a maximum of seven hours per day and 42 hours per week and must receive special health care.

In rural areas children worked primarily on family farms and in other agricultural activities. In some cases they began work as young as age six and were expected to do the work of adults by the time they were 15. In urban areas children also worked in family-owned small businesses. According to a 2002–03 living standard survey, 88.5 percent of children who worked did so in household businesses and family-owned small businesses, while the remainder were occupied in wage-earning work. Migration from rural to urban settings exacerbated the child labor problem, because unauthorized migrants were unable to register their households in urban areas. This meant that their children could not attend public schools and families had less access to credit. Officials stated that juveniles in education and nourishment centers, which functioned much as reform schools or juvenile detention centers, were commonly assigned work for “educational purposes.”

A 2004 study of child labor in Ho Chi Minh City found cases in which parents in poor families entered into “verbal agreements” with employers, who then put their children to work. An ILO- and MOLISA-sponsored study of four groups of child workers conducted by Hanoi National University of Vietnam's Center for Women Studies found that the salaries of children in domestic labor were sent directly to the parents. Most children in the study rarely used the wages for themselves, although some were able to pay their school fees with part of their salary. The study also noted that the working hours and income of children engaged in coal sorting and fishing were to some degree managed by their families.

Government officials may fine and, in cases of criminal code violations, prosecute employers who violate child labor laws. While the Government committed insufficient resources to enforce effectively laws providing for children's safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers. In September Ho Chi Minh City police uncovered two unlicensed tex-



tile businesses that forced children between the ages of 12 and 17 to work 15 to 19 hours a day. The employers also allegedly physically abused the children.

International donor assistance targeted the problem of child labor. The Government also continued programs to eliminate persistent child labor, with a particular focus on needy families and orphans.

*e. Acceptable Conditions of Work.*—The law requires the Government to set a minimum wage, which is adjusted for inflation and other economic changes. In January, amid the wave of strikes at foreign-invested firms, the Government raised the official monthly minimum wage for unskilled laborers at foreign-investment joint ventures by 40 percent to \$54.40 (870,000 VND) in the urban districts of Hanoi and Ho Chi Minh City; \$49.40 (790,000 VND) in the suburban districts of Hanoi, Ho Chi Minh City, and several other industrial districts and towns; and \$44.40 (710,000 VND) elsewhere in the country. The Government may temporarily exempt certain joint ventures from paying the minimum wage during the first months of an enterprise's operations or if the enterprise is located in a very remote area, but the minimum monthly wage in these cases can be no lower than \$44.40 (710,000 VND). On October 1, the official monthly minimum wage of the state sector increased to \$28 (450,000 VND). This amount remained inadequate to provide a worker and family a decent standard of living. The new salary policy benefited more than 10 million persons and 1.8 million pensioners and social insurance beneficiaries. However, state-owned enterprises consistently paid more than the state-sector minimum wage. The number of workers who received government-subsidized housing decreased. Many workers received bonuses and supplemented their incomes by engaging in entrepreneurial activities. Households frequently included more than one wage earner.

The Government set the workweek for government employees and employees of companies in the state sector at 40 hours, and it encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours but did not make compliance mandatory.

The law sets normal working hours at eight hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at one and one-half times the regular wage, two times the regular wage for weekdays off, and three times the regular wage for holidays and paid leave days. The law limits compulsory overtime to four hours per week and 200 hours per year but provides for an exception in special cases, where this maximum can be up to 300 overtime hours worked annually, subject to stipulation by the Government after consulting with VGCL and employer representatives. The law also prescribes annual leave with full pay for various types of work. It was unclear how well the Government enforced these provisions.

According to the law, a female employee who is engaged, pregnant, on maternity leave, or raising a child under one year of age cannot be dismissed unless the enterprise closes. Female employees who are at least seven months' pregnant or are caring for a child under one year of age cannot work overtime, at night, or in locations distant from their homes.

The law requires the Government to promulgate rules and regulations that ensure worker safety. MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations. In practice enforcement was inadequate because of low funding and a shortage of trained enforcement personnel. The VGCL reported that there were more than 300 labor inspectors in the country but that at least 600 were needed. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. The greatest number of occupational injuries was caused by machinery such as rolling mills and presses. In 2005 36.3 percent of fatalities were caused by construction accidents, and 14.3 percent of occupational injuries were caused by mining accidents. According to MOLISA statistics from 60 of 64 provinces, in 2005 there were 3,691 injuries and 473 fatalities resulting from 4,050 work-related accidents. In 2004 statistics from 64 provinces showed 6,186 injuries and 575 fatalities resulting from 6,026 work-related accidents (some involving multiple workers).

There was evidence that workers, through labor unions, were effective in improving working conditions. Some foreign companies with operations in the country performed independent monitoring of problems at their factories. Companies reported that MOLISA or provincial labor agencies performed labor and occupational safety and health inspections at enterprises when they learned of serious accidents or when there were reports of hazardous conditions.

The law provides that workers may remove themselves from hazardous conditions without risking loss of employment; however, it was unclear how well this stipula-

tion was enforced. MOLISA stated that there were no worker complaints of employers failing to abide by the law.

Recognizing that labor exports were a lucrative source of income for the country, the Government planned to send 80,000 to 90,000 additional citizens overseas each year until 2010, adding to the 400,000 workers already abroad at the end of the year. To promote and regulate the growing industry, restrict the number of laborers taking illegal jobs abroad for higher pay, and address international community concerns over a lack of worker protections afforded to Vietnamese guest workers, in November the Government passed an export labor law (see section 5).

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## EUROPE AND EURASIA

### ALBANIA

The Republic of Albania is a parliamentary democracy with a population of approximately 3.6 million. Legislative authority is vested in the unicameral People's Assembly (parliament), which elects both the Prime Minister and the President. The Prime Minister heads the Government, while the presidency is a largely ceremonial position with limited executive power. Parliamentary elections held in July 2005 did not fully comply with international standards but were generally considered a step forward in the country's democratic development. Although delayed, a peaceful transition of power occurred in September. Civilian authorities generally maintained effective control over the security forces.

The Government generally respected the human rights of its citizens; however, there were significant problems in several areas. Arrest and pretrial detention conditions continued to be an area of great concern with cases of abuse, violence, and inhuman conditions reported. Police corruption and impunity continued to be a problem. There were societal killings and an atmosphere of fear in some areas due to traditional blood feuds. Societal violence and discrimination against women and children were a problem, as was trafficking in persons. Societal discrimination against homosexuals, Roma, and Balkan-Egyptians also continued.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings; however, the country continued to experience high levels of societal killings. Many killings occurred as the result of individual or clan vigilante actions connected to traditional “blood feuds” or to criminal gang conflicts. According to the interior ministry, at least five persons were killed during the year in blood feuds based on the medieval Code of Lek Dukagjini (the *kanun*). Approximately six persons were killed for revenge. The National Reconciliation Committee (NRC), a nongovernmental organization (NGO) that worked on blood feud issues, estimated that there were as many as 78 deaths from feuds nationwide.

According to the NRC, approximately 860 families were effectively self-imprisoned during the year due to blood feuds. Property disputes accounted for four-fifths of formally declared blood feuds, with the remainder pertaining to issues of honor or violations of the home (e.g., theft, trespassing, etc.). The NRC estimated that there were several hundred additional blood feuds stemming from trafficking, which are typically not formally declared out of shame. Of the 738 families reported effectively self-imprisoned in 2005, 166 left the country, including 93 families that sought formal political asylum in other countries.

The NRC claimed that fear of revenge prevented approximately 182 children from attending school, 86 of whom were permanently confined to their houses. Traditionally under the *kanun*, which was practiced particularly in the northern part of the country, only adult males are acceptable targets in blood feuds. However, women and children often were killed or injured in attacks because the *kanun* was not always strictly observed.

According to the Conflict Resolution and Reconciliation of Disputes Foundation, the phenomenon of blood feuds was intensified in the northern part of the country as a result of increased internal migration. Mountain villagers, who were most likely to follow the *kanun*, migrated to low-lying areas, cities, and towns, and many constructed homes on disputed land, triggering a blood feud.

The 2004 murder of Emin Spahija, head of the NGO Peace Missionaries League that worked exclusively on blood feud issues was still on going. A suspect was arrested but has not yet been formally charged.

In May 2005 the parliament approved a law establishing a coordination council, chaired by the President, to develop a national strategy against blood feuds and to coordinate activities of government agencies. The council was inactive during the year.

The court of serious crimes tried blood feud cases. Under the Criminal Code, premeditated murder, when committed for revenge or a blood feud, is punishable by 20 years' or life imprisonment.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such actions; however, the police and prison guards at times beat and abused suspects and detainees. The Albanian Helsinki Committee (AHC) and the Albanian Human Rights Group (AHRG) continued to report that police nationwide used excessive force or inhumane treatment. According to the AHRG, most mistreatment took place at the time of arrest or initial detention. Roma, Balkan-Egyptians, and homosexuals were particularly vulnerable to police abuse (see section 5).

In July the Council of Europe Committee for the Prevention of Torture (CPT) released a report based on its 2005 inspection of the country's prisons and detention centers. The report detailed widespread inhumane treatment and physical abuse of prisoners and detainees. During the year there were reports that police in various parts of the country, such as Korca and Vlora, beat and mistreated persons during their arrest or while in pretrial detention.

In May 2005 Besnik Kosturi filed charges against a Korca criminal police officer, Oltion Agolli, for mistreatment. The officer reportedly beat Kosturi for refusing to provide information on a pending case. Medical experts verified the abuse and the officer was suspended. The case was sent to the Korca district prosecutor's office, which declined to initiate formal proceedings due to lack of evidence.

In May the Vlora Office of Internal Police Control gathered information in the case of Arben Belaj against Dritan Veizaj, a member of the Vlora special police force, for allegedly beating Belaj. The information was forwarded to the Vlora District Military Prosecution and Veizaj was suspended from his duties pending the final court outcome.

The Shkodra District Military Prosecution investigated the 2005 case of Frendi Ndoci against Pjerin Lazri and other Shkodra police officers for allegedly beating him at the police commissariat. Lazri was found guilty and fined approximately \$830 (80,000 lek).

At times police abused juvenile detainees. According to the Children's Human Rights Center of Albania (CHRC), police sometimes used threats, violence, and torture to extract confessions from minors. In June Amarildo Perfundi, an 18-year-old high school student from Korca, was taken into custody for questioning for theft. Shortly after being released, Perfundi committed suicide. Several human rights organizations in the country criticized police handling of the case, citing psychological trauma and abuse on the part of police. The ombudsman investigated and found that the police had not followed legal procedures for arrest, detention, and questioning. The ombudsman concluded that the psychological trauma Perfundi sustained led him to commit suicide. Upon the recommendation of the ombudsman, the two officers involved, Altin Gusho and Gezim Mullai, were dismissed for failure to follow correct procedures. The case was forwarded to the district prosecutor's office for investigation and possible prosecution. The prosecutor found that there was insufficient evidence to bring charges against Gusho, and he was subsequently reinstated. Formal charges have been filed against Mullai.

Unlike in previous years, there were no reports that police beat protesters. However, the civic activist organization Mjaft! reported that police stood by without taking action as a government supporter physically assaulted a Mjaft! participant in a protest (see section 2.b.).

*Prison and Detention Center Conditions.*—The Ministry of Justice operated all prisons and some pretrial detention facilities. Most pretrial facilities were collocated with police commissariats and were operated by the Ministry of the Interior. The July CPT report stated that conditions inside the prisons and detention centers remained poor and were marked by decrepit conditions, overcrowding, poor food quality, physical abuse of detainees, and a lack of medical care. The Ministry of Justice's Directorate of Prisons asserted that many of the problems highlighted in the CPT report have been corrected in the prisons and detention facilities that it operated. The AHC confirmed that conditions in the Ministry of Justice run detention facilities were steadily improving, but that little or no progress had been made in the Ministry of Interior run detention facilities that held 80 percent of all detainees. A

project to close all Ministry of Interior facilities and to move all detainees to Ministry of Justice run facilities has been underway since 2003.

The AHRG and the AHC singled out Ministry of Interior-run facilities as the most egregious violators of human rights. According to the Directorate of Prisons, the Government had no plans to rehabilitate Ministry of Interior run-facilities in anticipation of their eventual closure and replacement by Ministry of Justice run facilities. In addition to substandard infrastructure, AHC reported that Ministry of Interior-run facilities were operated under internal regulations which did not respect the rights of detainees to health care, adequate hygiene, and access to fresh air, recreation, and media.

By year's end there were four additional Ministry of Justice facilities under construction, including a mental health facility in Durres.

In September the AHC reported that detainees at the Ministry of Interior-run detention facility in Berat rioted and set fire to their bedding materials to protest poor treatment and conditions. As a result, the AHC recommended to the Government that the treatment of all pretrial detainees in the country should be governed by the 2005 Ministry of Justice regulations and that the harsher 1999 Ministry of Interior regulations should be abandoned. According to the AHC, the Ministry of Interior regulations are not only outdated, but also contain provisions that are contrary to laws regarding the rights and treatment of prisoners.

Overcrowding remained a serious problem in prisons and detention centers. The director of prisons reported that, as of December, there were 3,060 persons held in prisons designed for 2,718 and 752 persons in pretrial detention facilities designed for 671. According to the director of prisons, all of the 50 convicted criminals that in 2005 were serving sentences in pretrial detention facilities had been transferred to prisons. This number did not include the 40 to 50 convicted prisoners who may be in pretrial detention facilities at any time awaiting transfer to prison.

Pretrial detention conditions at the Ministry of Justice run Lezhe prison, one of the largest in the country, improved substantially during the year. With foreign donor support, the physical conditions were ameliorated and prison guards and administrators received human rights training.

Poor quality and insufficient food continued to be a concern, particularly for prisoners who did not have relatives nearby to provide food. In September 2005 the ombudsman's office inspected the Commissariat Four detention facility in Tirana and other district detention facilities and determined that eight Chinese nationals (six men and two women detained for possessing illegal documents) and other detainees were not being fed. The ombudsman requested that the Prime Minister's office and ministries of interior and justice take immediate measures to assist the detainees and the situation was corrected. In addition, the Chinese nationals were given the opportunity to speak via telephone with relatives.

According to the General Directorate of Prisons, there were 80 women serving in Prison 325 for women in Tirana and 47 women in pretrial detention. A nursery was constructed at Prison 325 and in September it housed two children.

Juvenile convicts and detainees were separated from adults. There were no reported cases of sexual abuse of minors. All convicted minors were held in the juvenile wing of the Vaqarr prison where they received basic education. The CHRCA reported that minors still used the same recreation and hygienic facilities as adult detainees, although at different times.

The director of prisons acknowledged that the physical abuse of prisoners and corruption of prison guards and officials was a major problem. During the year, 178 guards and officials were dismissed for corruption or misconduct and charges were pending against five high-level prison officials for corruption (see section 3).

The Government permitted international human rights observers to visit both pretrial detention centers and prisons; there were no reports of refusals to permit access for inspections by domestic independent human rights monitors.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, there were reports that police occasionally arbitrarily arrested and detained persons.

*Role of the Police and Security Apparatus.*—In 2005 the Ministry of Public Order and the Ministry of Local government were combined as a new Ministry of the Interior. Local police units reported to the Ministry of the Interior and were the main force responsible for internal security. The military has a special 90-person commando unit, which operates in an antiterrorist role under the minister of defense. The law allows the minister of interior to request authority over this unit during a domestic crisis. The State Intelligence Service (SHISH) is responsible for both internal and external intelligence gathering and counterintelligence. The Albanian State Police (ASP) employed approximately 12,000 officers.

The overall performance of law enforcement remained weak. Unprofessional behavior and corruption remained major impediments to the development of an effective civilian police force. According to the Ministry of the Interior, only 40 percent of police officers received training beyond basic, despite assistance from foreign governments.

Corruption remained a problem among police forces, and low salaries and widespread corruption throughout society made the problem difficult to combat. The Ministry of the Interior's Office of Internal Control engaged in the prevention, discovery, and documentation of corruption and other criminal activity committed by police.

Between January 2005 and October, the Office of Internal Control received 127 complaints from the public and conducted 132 investigations. Of these, charges against two officers were dismissed as baseless. In 35 other cases, there was sufficient evidence for authorities to arrest officers on suspicion of having committed criminal acts. A total of 98 police officers (including 37 of middle to high rank) were charged with offenses, including counterfeiting and illegal issuance of travel documents and assistance to illegal border crossing. Approximately 70 officers were dismissed during the period for professional misconduct, including corruption.

Impunity remained a problem, although on the decline. In 2005 the ombudsman received 30 complaints against police officers for use of excessive force or mistreatment. Out of these, the ombudsman determined that four were valid and the remainder was dismissed as baseless. The ombudsman's recommendations were accepted and the prosecutor's office brought charges against the four police officers.

*Arrest and Detention.*—By law a police officer or prosecutor may order a suspect into custody. The constitution requires that detained persons must be informed immediately of the charges against them and of their rights, and a prosecutor must be notified immediately after police detain a suspect. Police generally followed these requirements in practice. Within 48 hours of the arrest or detention, a suspect must appear before a judge. The judge has an additional 48 hours to determine whether the suspect should remain in detention. In some cases, detained persons were kept in pretrial detention beyond 48 hours without a court decision on whether the prosecutor had sufficient evidence.

A court may order detention in especially serious cases that could pose a danger to society. Alternatively, a suspect may be placed under house arrest. Bail may be required if the judge believes that the accused may not appear for trial.

Legal counsel must be provided free of charge if the defendant cannot afford a private attorney; however, this right was not widely known, and police often failed to inform suspects of it. Access to legal information remained difficult for citizens, particularly those in rural areas or those lacking Internet access. However, for the limited segment of the population with Internet access, virtually all laws were available on-line free of charge, and there were several NGOs that provided free legal advice for those in need, although the NGOs were not easily located. In contrast with the previous year, there were no reports of persons being illegally detained and unable to contact a private attorney. In some cases detainees were interrogated without their attorneys present. Legal services offered by the state bar association were considered inadequate, corrupt, and at times lacking in professionalism.

During the year the ombudsman received two complaints of arbitrary arrests and illegal detention by the police but considered neither to have merit. While there were no other reports of arbitrary arrest and detention by police, some NGOs believed it was still a problem. The AHRG reported that in an effort to bolster statistics, numerous arrests took place during the year either without a valid arrest warrant or with arrest warrants based on falsified evidence. For example, the AHRG cited the case of four transvestites arrested in August for allegedly engaging in prostitution (see section 5). The police publicized this case as part of its efforts to crack down on serious crime.

The law requires completion of pretrial investigations within three months; however, a prosecutor may extend this period by additional three-month increments in particularly difficult cases. While the law provides that the maximum length of pretrial detention should not exceed two years, lengthy pretrial detention often occurred as a result of delayed investigations. In 2005 the AHRG reported that Elton Gerdhuqi had been detained in the Vlora police commissariat since 2000 and that the Vlora court had yet to issue a decision on the case. By year's end all 49 prisoners held in pretrial detention after their trial had been transferred to prison.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, political pressure, intimidation, widespread corruption, and limited resources prevented the judiciary from functioning independently and efficiently. The President heads the High Council of Justice (HJC), which has au-

thority to appoint, discipline, and dismiss district and appeals court judges. Judges who are dismissed have the right to appeal to the high court. The council includes the minister of justice, the head of the High Court, nine judges of all levels selected by the National Judicial Conference, and three members selected by parliament. In July the Constitutional Court struck down most provisions of a 2005 law that sought to alter the functioning of the HJC on the grounds that they would have compromised the independence of the judiciary. The Government contended that such changes were necessary to eliminate potential conflicts of interest among council members.

During the year progress was made in removing incompetent or corrupt judges from the bench. During the year the Ministry of Justice recommended to the HJC that five judges be sanctioned for corruption or incompetence. The HCJ voted to remove one judge from office, and the other four were reprimanded. Investigations were underway against 10 other judges.

The governing coalition parties in parliament accused the prosecutor general of incompetence and corruption and recommended that the President dismiss him. The opposition saw this as a governmental attack on the independence of the prosecutor general's office. Ultimately, the President declined to act on parliament's recommendation and cited the need to maintain the independence of the prosecutor's office. Subsequently, the Constitutional Court ruled that the parliamentary commission convened to investigate the prosecutor general was unconstitutional and did not have the legal power to review the prosecutor's decisions.

Police, prosecutors, and the judiciary continued to blame each other for failures that allowed criminals to avoid imprisonment. For example, the courts accused prosecutors and police of failing to carry out solid investigations and gather evidence necessary to prosecute criminals successfully, and the police asserted that corruption and bribery tainted the courts. The judicial police were responsible, under the direction of prosecutors, for developing investigations initially conducted by police.

The judicial system is composed of district courts, six courts of appeal, the serious crimes court, the serious crimes court of appeal, military courts, military courts of appeal, a high court, and a separate and independent constitutional court. The high court hears appeals from both the district courts and the courts of appeal, while the constitutional court primarily reviews those cases involving constitutional interpretation and conflicts between branches of government and cases of individuals alleging denial of due process. The serious crimes court and serious crimes court of appeal focus on the fight against organized crime, trafficking, and on other serious crimes and on improving the quality of adjudication.

*Trial Procedures.*—The constitution and law provide for the right to a speedy trial; however, limited material resources, lack of space, and case overload in many instances prevented the court system from adjudicating cases in a timely fashion. Long case backlogs were typical and resulted in suspects being detained for longer than legal limits (see section 1.d.). Defendants, witnesses, and others who do not speak Albanian are entitled to the services of a translator. Defendants are entitled to a lawyer, and, under the law, the Government provides lawyers for indigent defendants, although the quality of representation varied. Defendants have the right to appeal decisions within 10 days to the Court of Appeal. Defendants are legally presumed innocent until convicted.

During the year four trials were conducted in absentia, compared with 98 such trials in 2005.

The trial system does not provide for jury trials. Prosecutors and the defense lawyers present cases to a panel of three judges, and defendants have the right to all evidence that is presented to the judges.

The country has no juvenile justice system, and children's cases frequently were presented to judges who were not trained in juvenile justice. According to the CHRCA, lengthy sentences given to juveniles were often due to lack of such training.

While separate from civilian courts, military courts are under the district court. They employ judges and prosecutors from civilian courts for military cases but do not try civilians.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedure and Remedies.*—The bailiff's office, which is part of the Ministry of Justice, ensures that civil judgments are enforced. Many civil judgments, particularly property settlement cases, were not implemented because of strong social or political ramifications. For example, authorities did not enforce the court order awarding the building that housed the country's two main trade unions in Tirana to their rightful owner as determined by the court. During the year one

individual won a case in the European Court of Human Rights in Strasbourg against the Government for failure to pay court ordered restitution for seized property.

*Property Restitution.*—In July parliament amended the 2004 law on restitution and compensation for property confiscated during the Communist regime. The law expanded the limit of 148 acres to 247 acres for property restitution, dissolved the independent State Committee for Property Restitution, and replaced it with an agency appointed by the council of ministers. During the year the Government established a fund of three million (300 million lek) to provide compensation to claimants. The Annual Report of the Activities of the ombudsman's office reported that in 2005 a total of 41 complaints related to property compensation were processed and that the number of such complaints was up 40 percent from the previous year. Of these, 10 were resolved in favor of the plaintiff, and the remainder was directed to the courts.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, at times, the Government infringed on these rights.

In July the homes of 45 Romani families were destroyed in Elbasani when city officials decided to relocate them to another part of the city (see section 5). In 2005 18 Romani families were forced to abandon their homes in Tirana because they blocked a local municipality's territory regulation plan.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. While the media was active and largely unrestrained, there were serious problems with the use of the media for political purposes.

Politicization of the media remained an issue of concern and, in the run up to local elections planned for January 2007, appeared to be on the upswing in the final quarter of the year. The polarization of media outlets into opposing camps has become more pronounced. Publishers and newspaper owners continued to dictate news stories to serve their political and economic interests and sometimes blocked stories that ran counter to those interests. Journalists continued to practice self-censorship, and there was little transparency in the financing of the media.

In general individuals could freely criticize the Government and its actions in print and broadcasts. However, in May the activist movement Mjaft! reported that police disrupted its efforts to disseminate a poster critical of the Prime Minister. After approximately 1,000 posters were hung around the city of Tirana, police forces reportedly removed the posters and confiscated the remaining 4,000 that had not been posted. There were no reports that officials used or threatened to use libel suits to limit free political discussion.

The independent print media were active but were constrained by limited professionalism, lack of finances, and political pressure. Political parties, trade unions, and various societies and groups published their own newspapers or magazines independent of government influence. An estimated 200 publications were available, including daily and weekly newspapers, magazines, newsletters, and pamphlets. One new major national daily newspaper, Shqip, started in the spring while two others, Dita and Express, closed.

According to official data, there were 64 private television stations and 44 private radio stations, but the actual number was reportedly larger. While stations generally operated free of direct government influence, most owners believed that the content of their broadcasts could influence government action toward their other businesses.

The public Albanian Radio and Television (RTSH) operated a national television channel and a national radio station. RTSH devoted most of its coverage to the Government and the ruling party. By law, the Government provides 50 percent of the station's budget. During the year Kico Blushi, chairman of the RTSH Steering Council, resigned to protest parliament's postponing a request to dismiss television director Artur Zheji. Blushi claimed that RTSH was still hostage to politics and the Government, thus failing to fulfill its public mission.

In May parliament amended the Law on Broadcast Media, restructuring the RTSH Steering Council and the National Council of Media, which is responsible for licensing and regulation and dismissing the previous members of the council. The opposition charged that the new law was a political maneuver designed to weaken the independence of the two regulatory bodies by tilting them in favor of the Government. The amendment also called for the appointment of media professionals and representatives of civil society in lieu of representatives of the political parties.



In contrast to 2005 there was only one report that police or other officials physically abused journalists. In February a television reporter accused police officer Kastriot Caushi of the Lushnje Police Commissariat and members of the Republican Guard of using excessive force to keep reporters from interviewing the President. The reporter suffered minor injuries from the incident.

In 2005 the editorial office of the top-circulation daily Shekulli was damaged when an explosive was thrown onto its balcony. While nobody was harmed, there was damage to the office. A spokesperson for the newspaper reported that the case was closed with no formal charges having been filed.

Political intimidation of the media persisted. Journalists continued to complain that publishers and editors censored their work either directly or indirectly in response to political and commercial pressures. Many journalists complained that the absence of employment contracts frequently hindered their ability to report objectively.

In September the council of ministers passed a resolution to evict Top Channel TV, a leading television station that had been critical of the Government, from a state-owned building in central Tirana. The Government said it intended to use the space to promote art and culture. Citing a long-term lease with the Ministry of the Economy, the company charged that this move was an attempt to put pressure on the station for its editorial content. At year's end the case was still ongoing.

Libel is a crime that may be punished with a prison sentence of up to two years and a fine. In contrast with the previous year, there were no cases of libel suits against the media reported during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Access to the Internet has increased over the year, but remained limited, particularly outside the major urban areas.

*Academic Freedom and Cultural Events.*—Unlike in past years, there were no government restrictions on academic freedom or cultural events.

In 2005 a district court rejected the suit brought by the chief of the University of Tirana's geography department, Professor Doka, in connection with his 2004 dismissal for having an "antinationalist approach" to work. The dismissal was prompted by Doka's publication of an atlas that expanded geographic minority zones in the country. The Government subsequently prohibited publication of the atlas. Doka won the case on appeal and resumed his position at the university. However, it was unknown if the atlas was ever published.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice.

The law requires organizers of gatherings in public places to notify police three days in advance; there were no reports that police denied such gatherings arbitrarily.

Unlike previous years, there were no reports that police mistreated protesters. However, Mjaft! reported that on September 1, police stood by without taking action while a government supporter physically assaulted a participant in a protest it had organized. At year's end no charges were filed against the officers and the police did not take independent action.

*Freedom of Association.*—The constitution and law provide for the right of association, and the Government generally respected this right; however, the law prohibits the formation of any political party or organization that is nontransparent or secretive. There were no reports that this provision was used against any group during the year.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion and the Government generally respected this right in practice.

The predominant religious communities, Sunni Muslim, Bektashi Muslim, Orthodox, and Roman Catholic, enjoyed a greater degree of official recognition (for example, national holidays) and social status.

The Government does not require registration or licensing of religious groups.

The Albanian Evangelical Alliance, an association of approximately 98 Protestant churches, continued to complain during the year that it had encountered administrative obstacles to accessing the media. However, alliance representatives stated that it was not clear whether the limited access was due to the organization's small size or its religious affiliations.

Unlike in previous years, there were no media allegations that Jehovah's Witnesses had influenced juvenile suicides.

The Government discontinued a prohibition on the dissemination of religious literature in public places. The dissemination of such materials was prohibited in public schools.

The Government failed to return all of the religious properties and objects that were confiscated under the Communist regime. In cases where religious buildings were returned, the Government often did not return the land surrounding the buildings or provide compensation. In addition, the Government did not compensate churches adequately for the extensive damage to religious properties during the Communist period. However, discussions about a possible resolution continued.

In June the Orthodox Autocephalous Church of Albania reported that the Government attempted to evict it from a building in Permet that was seized by the communist government and subsequently returned to the Orthodox Church in 1997. The parish priest gathered parishioners and children to block the eviction notice. The Government has since assured the Orthodox Church that they would collaborate to find a mutually agreeable solution. The former communist government converted the structure to a cultural center and, in 2003 the Albanian High Court ruled that since little of the original structure remained, the Orthodox Church was not entitled to the property. The Government continued to refuse the Orthodox Church's request that icons and other religious materials currently held in state-run museums and archives be returned.

*Societal Abuses and Discrimination.*—There was no repeat during the year of the incidents of societal intimidation and threats of violence against Jehovah's Witnesses triggered in 2005 by media allegations in 2005 that the community had influenced a series of juvenile suicides. There were no such reports during the year.

In June police brought in for questioning a suspect in the 2003 killing of Sali Tivari, former general secretary of the Islamic community, but no formal charges were brought.

There were reportedly fewer than 100 Jews in the country; there were no reports of synagogues or community centers functioning in the country or of any anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

Under the law, internal migrants must transfer their civil registration status from their original community to their new community before they are entitled to social services such as education and health care. According to the Office of Civil Registration, in order to transfer residency to a new community, citizens must prove they are legally domiciled either through property ownership, a property rental agreement, or utility bills. Since many of these internal migrants are essentially squatters residing in illegally constructed homes, it is difficult to prove a legal domicile. In addition to administrative hurdles, many of the internal migrants do not register due to both a lingering deep-seated mistrust of the Government and a general lack of education.

As a result, some citizens lacked formal registration in the communities in which they reside. The Roma and Balkan-Egyptians were particularly affected by this phenomenon. The Government made no progress toward creating a standardized national identity document during the year.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. Under the law, requests for asylum must be made with 10 days of arrival on the country's soil and the decision for granting asylum status must be given within 51 days of the initial request. During the year the Government granted six asylum requests and eight other requests were currently under consideration.

In 2005 the Government granted temporary residency protection to an individual who did not qualify as a refugee under the 1951 Convention or the 1967 Protocol.

The Government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR, through the government-run national reception center for asylum seekers, provided social and legal services, health care coverage, insurance, and limited training support for the small refugee community and coordinated further assistance through a network of NGOs.

Together with international organizations, the Government, through the European Union's Community Assistance for Reconstruction, Development, and Stabilization program, prescreened undocumented migrants stopped at all border crossing points. Under the program, an NGO and government team assisted border police in identifying undocumented migrants that were potential victims of trafficking, asylum seekers, or economic migrants.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In 2005 parliamentary elections were held throughout the country. The report of the Organization for Security and Cooperation in Europe (OSCE) election observation mission concluded that the elections complied only partially with international standards. Official election results were delayed for weeks due to complex complaint and appeal procedures and the need to rerun elections in several zones. OSCE election observers reported several instances where election officials obstructed the process and placed party interests before their duty to count and report votes in an impartial and honest manner. Family voting occurred and was particularly common in rural areas.

Individuals and parties could freely declare their candidacy and stand for election. A political party must register with the Tirana District Court and declare an aim or purpose that is not anticonstitutional or otherwise contrary to law, describe its organizational structure, and account for all public and private funds it receives. The court registered parties routinely.

There were 10 women in the 140-seat People's Assembly, including the speaker, and one woman in the Council of Ministers; however, overall, women were poorly represented at the national and local levels of government, despite commitments by the major political parties to increase female representation. The Coalition for the Promotion of Women, Youth, and Minorities in parliament, supported by the ombudsman, called on all major political parties to include at least 30 percent female candidates in local elections expected in February 2007. While the proposal was sent to the Parliamentary Commission on Legislative Affairs, no formal legislative action had been taken.

Several members of the Greek minority served in both the 140-seat People's Assembly and the executive branch in ministerial and subministerial positions. No other ethnic minorities were thought to be represented in the People's Assembly or the Council of Ministers.

*Government Corruption and Transparency.*—Corruption remained a major obstacle to meaningful reform. During the year, the country received a score of 2.6 on Transparency International's 10 point composite index of the degree to which corruption is perceived to exist among a country's politicians and public officials, indicating a perception that the country has a serious corruption problem. A January survey by the Institute for Development and Research Alternatives found that on a scale of 0 to 100, customs officials scored 87 and were perceived as the most corrupt public servants. However, a new director assumed office in late 2005 and made inroads in reducing corruption in the Customs Service, primarily by dismissing nearly 200 customs officials on charges of corruption or other abuse of office. Tax officials, ranking 83.1, and doctors, ranking 80.1, followed close behind. However, the most respected leaders were the President (21) and religious leaders (27.9). While the perception of police corruption worsened slightly, the survey results showed a modest improvement in respondent perceptions of corruption among members of parliament, ministers, judges, prosecutors, custom officials, and NGO leaders. In the first nine months of the year, the prosecutor's office dealt with 480 cases of abuse of office and other types of corruption resulting in the criminal conviction of 107 government officials.

During the year the Council of Ministers adopted several anticorruption internal regulations. In February, the parliament approved new broadened conflict of interest legislation. In January the Government created an Anti-Corruption Task Force and during the year carried out a highly visible crackdown on organized crime. Opposition politicians charged that the Government's efforts were highly politicized and accused the Prime Minister of using the fight against corruption as a weapon against any who opposed his views.

In July citing human rights concerns, the Constitutional Court set aside the Government's new internal regulation on antinepotism in the civil service and in May rejected most of the proposed amendments to a law on conflict of interest for judges

serving on the High Council of Justice that would have forced many existing members to either resign or give up existing judgeships.

The law provides that government ministers may not own a company that is directly tied to their official responsibilities and includes a prohibition against companies owned by close family members of government officials. Approximately 6,000 public officials and close relatives must submit financial declarations; another 1,500 officials of the previous administration were obliged to file declarations for the year following the end of their mandate. The Inspectorate of Asset Declaration administers the conflict of interest regulations.

Authorities took legal or disciplinary actions based on financial declarations against 123 officials and fined 69 officials for late submissions. During the year when notified of a potential conflict of interest, 56 employees either voluntarily resigned their positions or were dismissed, and another 67 divested themselves of the offending asset. By year's end, five high profile cases investigated by the inspectorate were forwarded to the prosecutor's office for criminal prosecution.

The director of prisons reported that over the past year charges have been brought against five high-level prison officials and an additional 178 prison guards or officers have been dismissed for corruption. In its July report, the CPT cited bribe taking and other corruption on the part of guards as one of the most serious problems in the penitentiary system.

Citizens and noncitizens, including foreign media, have the right to obtain information about the activities of government bodies and persons who exercise official state functions. Public officials are legally obligated to release all information and official documents with the exception of classified documents and state secrets. During the year public access to information improved greatly, in large part due to greater use of the Internet. The Information Department at the Council of Ministers disseminated public information via its Web site and responded to public inquiries for information. In addition, virtually all government ministries and agencies posted public information directly on their websites. However, NGOs noted that the Government tailored information released on the Internet to meet the needs of the media and not members of the general public.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views; however, in some areas, such as violence against women, including domestic violence, and children's issues, NGOs made little progress.

Independent domestic human rights organizations included the Albanian Helsinki Committee (problems related to minorities, security forces, the judiciary, and elections), the Albanian Human Rights Group (legal assistance and police training), the CHRCA (children's rights), and the Citizen's Advocacy Office (official corruption).

The Government cooperated with international organizations, such as the UNHCR, the Council of Europe, and the International Organization for Migration (IOM), and did not restrict their access to the country.

A human rights ombudsman investigated inappropriate, inadequate, or illegal government actions. Although it lacked the power to enforce decisions, the ombudsman acted as a watchdog for human rights violations. The most common cases included citizen complaints of police and military abuse of power, lack of enforcement of court judgments in civil cases, wrongful dismissal, and land disputes (see sections 1.c. and 1.e.). In many cases, the Government took concrete steps to correct problems in response to the findings of the ombudsman. During the year the collaboration between the ombudsman's office and the prosecutors improved.

The ombudsman has authority to monitor courts and judicial proceedings, inspect and monitor detention facilities and prisons, and facilitate cooperation from state employees. The law also provides the ombudsman authority to initiate cases when victims do not come forward or in cases that involve the interest of the community.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, ethnicity, disability, language, or social status; however, discrimination against women, Balkan-Egyptians, Roma, and homosexuals persisted.

*Women.*—Domestic violence against women, including spousal abuse, remained a serious problem. In a traditionally male-dominated society, social norms and lax police response resulted in underreported abuse, making it difficult to quantify the number of women who were victims of rape, domestic violence, or sexual harassment. According to the Gender Alliance for Development Center's 2002–03 media

monitoring project, 56 women and girls throughout the country lost their lives as a result of domestic violence, and 74 others were seriously injured.

The Government did not have programs to combat domestic violence or assist victims. The Women to Women organization, a Sweden-based NGO, reported that there were approximately six domestic violence hot lines that operated throughout the country. The hot line that served mainly the northern part of the country received approximately 20 calls per month from women reporting some form of violence. Shtreheza, an NGO that operated two shelters for battered women in Tirana, reported an increase in cases of domestic violence and that both facilities were at maximum occupancy, mainly due to better awareness and access to help.

Many communities, particularly those from the northeastern part of the country, still followed the traditional code—the *kanun*—under which, according to some interpretations, women are considered to be, and were treated as, chattel. Some interpretations of the *kanun* dictate that a woman's duty is to serve her husband and to be subordinate to him in all matters.

On December 18, parliament enacted the country's first law against domestic violence. The Government developed and introduced the law with the assistance of the Women's Legal Rights Project. The law allows victims of violence to obtain protection orders from the courts in civil proceedings, orders that will then be served to the alleged abuser. If the abuser violates the order, then he can be arrested and prosecuted. The law also requires the Government to set up services for victims and to raise public awareness of domestic violence throughout the country.

The criminal code penalizes rape, including spousal rape; however, spousal rape was not reported or prosecuted in practice. The concept of spousal rape was not well established, and often neither authorities nor the public considered it to be a crime. The law imposes penalties for rape and assault depending on the age of the victim. For rape of an adult, the prison term is three to 10 years, rape of an adolescent age 14 to 18 is five to 15 years and rape of a child under 14 is seven to 15 years' imprisonment.

The law prohibits prostitution; however, it was a problem. Trafficking in women and children remained a problem (see section 5, Trafficking).

The law prohibits sexual harassment; however, it was rarely enforced in practice.

Women were not excluded, by law or in practice, from any occupation; however, they were not well represented at the highest levels of their fields. The law mandates equal pay for equal work; however, this provision was not fully implemented. According to a March report by Amnesty International (AI) women earned 20 to 50 percent as much as men. Men owned 92 percent of the land in the country and earned 84 percent of the country's gross domestic product, although women continued gradually to gain economic power.

Women enjoyed equal access to higher education, but in some rural areas they represented 24.9 percent of students enrolled in higher education, and the dropout rate was greater for girls than for boys. According to the Albanian Institute of Statistics there were twice as many illiterate women (2 percent of the population) as illiterate men (1 percent).

Women were not accorded full and equal opportunity in their careers, and well-educated women were often underemployed or worked outside their field of training.

The law provides equal rights for men and women under family law, property law, and in the judicial system. In practice, cultural traditions resulted in men often being favored over women. In May the Government abolished the State Committee on Equal Opportunity, which was responsible for drafting, promoting, and monitoring governmental gender equality programs, and replaced it with a new Directorate of Equal Opportunity within the Ministry of Labor, Social Affairs, and Equal Opportunity. In May the Government also abolished the Interministerial Committee on Gender Equality, an advisory body. In November, together with civil society partners, the directorate presented to the council of ministers a national strategy against domestic violence.

*Children.*—The Government's commitment to children's rights and welfare is codified in domestic law; however, in practice there was limited commitment.

The law provides for nine years of free education and authorizes private schools. School attendance is mandatory through the ninth grade or until age 16, whichever comes first; however, in practice, many children left school earlier than allowed by law to work with their families, particularly in rural areas (see section 6.d.). Parents had to purchase supplies, books, school materials, and space heaters for some classrooms, which was prohibitively expensive for many families.

In general children must be registered in the same community where their parents are registered. However, according to the CHRCA, children born to internal migrants frequently have no birth certificates or other legal documentation and, as a result, are unable to attend school (see section 2.d.)

Registration of children is compulsory and free within 30 days of the child's birth. After this period, registration must take place through the courts, a process that is costly due to legal fees and possible fines that may be incurred for not being properly registered. Thus, the country has a large—and growing—population of vulnerable, unregistered children, who were at greater risk of trafficking or exploitation, particularly children from the Balkan-Egyptian and Romani communities.

According to 2004 World Bank statistics, secondary school enrollment for both boys and girls was 77.8 percent, while the Albanian Institute of Statistics estimated enrollment in secondary education at 53 percent for 2003 to 2004. Enrollment in primary school was approximately 95 percent for the same period.

Equal access to medical care was available in principle for both boys and girls; however, a high level of bribery in the medical care system sometimes limited access for all.

Child abuse, including sexual abuse, occasionally occurred but was rarely reported. In May the media reported widely the arrest of a British national, who operated an orphanage, on charges of child molestation and selling access to the children to foreign sex tourists. According to the Ministry of the Interior, in 2005 20 cases of sex crimes against children were reported.

According to the NRC, as many as 182 children remained endangered by blood feuds involving their families; 86 of these were in particularly dangerous circumstances (see section 1.a.).

Child marriage was a problem. While statistics were not available, child marriage was reportedly common among the Romani population and there were still some communities in the north and northeast of the country where there is traditional arranged "marriage from the cradle" based upon parental agreement.

Trafficking in children, although not widespread, was a problem (see section 5, Trafficking).

Child labor remained a major problem (see section 6.d.).

Homeless, displaced, or street children remained a problem, particularly Romani children, who lived in extreme poverty throughout the country. Street children begged or did petty work; many migrated to neighboring countries, particularly during the summer.

*Trafficking in Persons.*—The law prohibits trafficking in persons and provides penalties for traffickers; however, persons, particularly women and children, were trafficked to, from, and within the country. Unlike in past years, there were no reports of police involvement in trafficking.

The country remained a source for trafficking of women and children for the purposes of sexual exploitation and forced labor, but was deemed by international observers to no longer be a significant country of destination or transit. The relatively few foreign women and girls in transit came primarily from Kosovo, and, to a lesser extent, Moldova, Romania, Ukraine, Russia, Bulgaria, Sri Lanka, and China. Most trafficked women and girls were transported to Italy, Greece, and other European countries, such as Belgium, France, the United Kingdom, the Netherlands, and Norway, as well as to the United States. Traffickers largely used overland routes or falsified documents to transport their victims by plane or ferry.

The trafficking of children to Kosovo and Greece for begging or sexual exploitation continued to be a problem, although estimates varied widely on the number of victims annually. According to NGOs, approximately 1,000 unaccompanied Albanian children were living in Italy, although not all were victims of trafficking. A 2002 study conducted by the NGO International Social Service reported that 1,800 unaccompanied Albanian children, many of who were trafficking victims, lived in Greece. According to Terre des Hommes (TdH), a Swiss child-welfare NGO operating in the country, the number of children trafficked to Greece has declined in recent years.

Internal trafficking of women and children continued to be a problem. TdH identified 90 children who during the year had been trafficked within the country for forced begging, forced labor, and possible sexual exploitation. Children who were internally trafficked came from all regions of the country and were typically trafficked to either Tirana or Durrës. According to TdH, the number of internally trafficked children was rising. Romani and Balkan-Egyptian communities were particularly vulnerable due to poverty and illiteracy. In a few cases children were bought from families or kidnapped, reportedly for begging or working abroad. According to TdH, children, mostly from Romani and Balkan-Egyptian communities, were increasingly trafficked for begging by their parents without the involvement of a third party.

The main forms of recruitment of adult victims of trafficking involved marriage under false pretenses or false promises of marriage to lure victims abroad for sexual exploitation. Due to the poor economic situation, men and women from organized criminal groups also lured many women and girls from all over the country by promising them jobs in Italy and Greece. Traffickers typically confiscated victims'

documents, physically and sexually abused them, and sometimes forced them to work as prostitutes before they left the country. Both citizens and foreign women trafficked by domestic organized crime networks were abused, tortured, and raped. Traffickers also threatened many of the victims' family members. To a lesser extent, family members or neighbors sold victims, particularly Romani children, to traffickers, or traffickers kidnapped children, including from orphanages.

The law provides for penalties of five to 15 years' imprisonment for trafficking in persons; seven to 15 years' imprisonment for trafficking women for prostitution; and 15-to-20-years' imprisonment for trafficking in minors. Aggravating circumstances, such as the kidnapping or death of a victim, can raise the severity of the punishment to a maximum of life in prison. Prison sentences may be supplemented by fines of \$4,000 to \$6,000 (400,000 to 600,000 lek) for sexual exploitation of a minor and \$3,000 to \$6,000 (300,000 to 600,000 lek) for sexual exploitation of a woman. The law provides that a government official convicted of exploitation for prostitution receive 125 percent of the standard penalty. The law also mandates the sequestration and confiscation of assets derived from organized crime and trafficking. The Agency for the Administration of Sequestered and Confiscated Assets administers sequestered and confiscated assets, including those of persons found guilty of trafficking related crimes. Despite several court-ordered seizures during the year, there were no cases of forfeited assets successfully liquidated and the agency did not distribute any funds to victims.

Prosecution of traffickers has improved. At year's end 10 traffickers of women were convicted and 27 new cases of suspected trafficking were detected leading to the arrest or detention of 32 persons. Four persons were convicted of organizing, directing, or financing trafficking. Six persons were convicted on child trafficking related charges and three new cases of suspected child trafficking were detected, leading to the arrest of four persons. In a matter closely related to trafficking, 66 persons were convicted for providing assistance to illegal border crossing and 132 new cases were detected leading to the arrest or detention of 168 persons. In addition, 37 persons were convicted for aggravated exploitation of prostitution within the country, and 24 new cases were detected leading to the arrest of 29 persons.

Authorities often released arrested traffickers because of insufficient evidence or, if they were prosecuted, charged them with lesser crimes, or gave them less than the minimum sentence for trafficking.

The country has a child trafficking strategy and action plan based on UN Children's Fund (UNICEF) guidelines that are intended to prevent recruitment of potential victims and protect victims, including those returned from abroad. The strategy and the plan also set out the Government's approach for the prosecution of traffickers. The Government has a full time antitrafficking deputy minister at the Ministry of Interior who is in charge of coordination of the implementation of the strategy. The Government signed a bilateral child trafficking cooperation agreement with the Greek government and established a National Referral Mechanism for the reintegration of victims into society. In an effort to move antitrafficking efforts out of the capital and into the rural areas that are most heavily affected, the Government also established in July regional committees in each of the country's 12 prefectures.

During the year the Government expanded implementation of the witness protection law by upgrading the witness protection unit to a Directorate for Witness Protection and Collaborators of Justice, located within the state police. In 2005 the Government also named a commission, comprised of a prosecutor, a judge, and police officials, to evaluate applications for admission to the witness protection program. The Government budgeted \$207,627 (20,762,700 lek) for witness protection during the year, representing a 20-fold increase over the 2005 appropriation.

In contrast to previous years, there were no reports of cases of direct police involvement in trafficking. However, police officers continued to be involved in various forms of trafficking-related corruption, despite determined efforts of the Office of Internal Control and State Intelligence Service to address the problem (see section 1.d.)

The Government provided some limited services to trafficking victims, operating a shelter near Tirana and a national referral mechanism that enabled authorities to share data confidentially on victims returning to the country. The newly created Responsible Authority also shared data with the Ministry of Labor, Social Affairs, and Equal Opportunity, government and NGO shelters, and local antitrafficking committees, which include NGOs, to ensure ongoing victim support and assistance. Consistent with the guidance approved by the General Director of the State Police on the handling of returned persons, authorities at Rinas International Airport developed local procedures using a dedicated reception facility. These procedures included participation from the Border and Migration Police and, from time-to-time, State Social Service workers and representatives from the Anti-Trafficking Police.

Local procedures have also been approved for use at some land border crossing points. These new procedures are in use, however, recent transfers of Border and Migration Police officers disrupted them.

Several NGOs were active in addressing victims' needs. The IOM operated a reintegration center in Tirana that provided counseling and medical services, job training, and some legal assistance. The Vatra Hearth Shelter, an NGO in Vlora, and the state-run Linza Shelter provided similar services. Both shelters reported that a large percentage of their cases during the year involved victims deported from other European countries.

Police treatment of trafficked women continued to improve during the year; however, foreign women who were detained by police at times lacked translation services or were not given a choice of lawyers. In general foreign women believed to be victims of trafficking were granted temporary residency and placed in shelters pending repatriation to their country of origin.

Victims of trafficking often faced significant stigmatization from their families and society. According to the Vatra Hearth Shelter, the protection of returned trafficking victims who denounced their traffickers continued to be a serious problem. The shelter reported that two returned victims were murdered by their traffickers. In one case, the victim reported the threats to the local police, who failed to take her concerns seriously. The police were charged with negligence to respond.

Retrafficking was a significant problem, with 85 out of 288 victims sheltered at the Vatra, Tjeter Vision, and Different and Equal Shelters during the year reporting that they had been trafficked at least twice previously. Some of the victims were under continuous threats from perpetrators. Citing confidentiality concerns, a fourth shelter providing services to victims of trafficking, the state-run Linza Shelter, declined to provide data regarding victims. Of the 288 victims at the shelters, 28 were internally trafficked and the remainder were citizens returned from other countries.

Domestic and international NGOs carried out most of the country's trafficking awareness programs. During the year the new government began an ambitious antitrafficking awareness program in schools and higher education curricula and was working through Ministry of Labor, Social Affairs, and Equal Opportunity employment offices on a safe migration and overseas employment initiative that included an antitrafficking module. In November the Government launched an antitrafficking hotline and reported that by year's end dozens of calls had been received.

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with disabilities; however, there was some discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services. Widespread poverty, unregulated working conditions, and poor medical care posed significant problems for many persons with disabilities. In September the Government finalized its National Strategy for Handicapped Persons that lays out the Government's priorities and plan of action for the next several years.

From January to February, the ombudsman's office performed an inspection of mental health institutions. In the Psychiatric Hospital of Elbasani, they found that patients had entered the mental health institution without documentation or decisions by the courts, as the law demands. The mental health institutions were usually under-staffed, and the doctors typically were not neurologists or psychiatrists.

The Government acknowledged that the admission and release of patients from mental health institutions was problematic due to the lack of sufficient financial resources to provide adequate psychiatric evaluations.

In 2004 the Council of Ministers enacted the Urban Designing and Architecture Rules on People with Disabilities. The law mandates that new public buildings be made accessible for persons with disabilities. Although the Government has been slow to enforce the law, the rules have increased awareness of the need to make new structures accessible to people with disabilities, thus leading some builders to incorporate appropriate features into new projects.

In the 2005 parliamentary elections, election authorities provided persons with disabilities services for the first time in the country's history. Improvements in the Electoral Code provided for wheelchair accessible voting booths and special accommodations for the blind.

*National/Racial/Ethnic Minorities.*—There were reports of police violence and societal discrimination against members of minority groups. As visible minorities, the Romani and Balkan-Egyptian communities were subject to considerable societal abuse and discrimination on a daily basis.

The law permits official minority status for national groups and for ethnolinguistic groups. Greeks are the largest national minority, followed by small



groups of Macedonians and Montenegrins; Aromanians (Vlachs) and Roma are defined as ethnolinguistic minority groups. The Government has not provided minority status to the Balkan-Egyptian community, thereby denying it constitutional protections against discrimination available to other minority groups. To qualify for minority status under the law, a group of individuals must share the same language (other than Albanian), have documentation to prove its distinct ethnic origin or national identity, and have distinct customs and traditions or a link to a kinship state outside of the country. The Government maintained that the Balkan-Egyptians did not meet some criteria, such as a distinct language and traditions, and instead considered them a "community." Nefreta, a Balkan-Egyptian NGO, asserted that the community has a culture, tradition, and history that are distinct from any other group in the country, and that Balkan-Egyptians are racially distinct as well.

During the year there were reports that police beat Roma and Balkan-Egyptians. Nefreta reported that in at least three instances Balkan-Egyptians were arbitrarily arrested, detained, or otherwise abused by the police. According to Nefreta all three cases were reported to the prosecutor's office and the ombudsman's office but the complaints were not followed up.

There were complaints that police displaced Romani and Balkan-Egyptian families from their homes. According to Amaro Drom, an NGO that works with the Romani population, in July there were two assaults on the Romani and Balkan-Egyptian communities in Elbasani both stemming from their forced eviction from land they were illegally occupying. In the first case, 45 families were displaced and 120 individuals left homeless when authorities destroyed their homes to make way for the construction of an apartment building. A few days later, a Romani open-air market was destroyed without notice in the middle of the night, depriving 450 merchants of their livelihoods. The municipality proposed a new location that the Roma have rejected because it was too far out of the city. Some of the displaced found new homes in Elbasani while the rest moved to other cities.

In 2005 the Tirana municipality demolished the homes of 18 Romani families comprising 150 persons, reportedly without warning, leaving them homeless in the middle of winter. The municipality demolished the homes, located in a settlement close to the Lana River, because they were illegal and would block the execution of its territory regulation plan. According to Amaro Drom, the Tirana municipality first offered the displaced persons a new location outside the city center, but failed to keep this promise. The municipality then offered to place them in mobile homes, an offer that the Roma rejected. A similar case resulted in the eviction of 51 Romani families in 2004.

The Romani and Balkan-Egyptian communities were among the most politically, economically, and socially neglected groups in the country. Members of the Balkan-Egyptian community tended to settle in urban areas and generally were more integrated into the economy than the Roma. In addition to widespread societal discrimination, these groups generally suffered from high illiteracy, particularly among children, poor health conditions, lack of education, and marked economic disadvantages. According to a 2006 World Bank-UN Development Program study, approximately 80 percent of Roma lived in extreme poverty, compared to 20 to 30 percent of the rest of the country's population. The group's unemployment rate was 71 percent, nearly 12 times the rate for the rest of the population, and Roma had a life expectancy 15 years less than non-Roma. The Government did not fund its National Roma Strategy, which sought to improve the livelihood of the community.

Because the Balkan-Egyptian community is not recognized as an official minority, as are the Roma, they were not specifically included in government poverty alleviation strategies.

The ethnic Greek minority pursued grievances with the Government regarding electoral zones, Greek-language education, property rights, and government documents. Minority leaders cited the Government's unwillingness to recognize ethnic Greek towns outside communist-era "minority zones"; to utilize Greek on official documents and on public signs in ethnic Greek areas, to ascertain the size of the ethnic Greek population, and to include a higher number of ethnic Greeks in public administration.

While there were Greek-language public elementary schools in the southern part of the country where most ethnic Greeks live, the Greek cultural association Omonia complained that the community needed more classes both within and outside the minority zones, due to overcrowded classrooms and unfulfilled demand. Every village in the Greek zones had its own elementary-middle (nine year) school in the Greek language, regardless of the number of students, and Gjirokaster had two Greek-language high schools. During the year, the Government granted an operating license to one school in the south outside the Greek zone. During a September visit by the Prime Minister to Greece, the Government agreed to cooperate in the

building of a Greek-language university in the city of Gjirokastra to be funded by the Greek government.

*Other Societal Abuses and Discrimination.*—NGOs claimed that police targeted the country's homosexual community for abuse. According to the Albanian Gay and Lesbian Association, the police often arbitrarily arrested homosexuals and then physically and verbally abused them while they were in detention. In August police arrested the secretary general of Gay Albania, a gay rights NGO, and three others on prostitution charges. The AHRG carried out an investigation and reported that while in detention the four were mistreated by other prisoners and insulted by prison forces. The AHRG also reported that media coverage of this arrest did not respect the privacy of the arrested, including their HIV status, and was manipulated to propagate antihomosexual stereotypes and further discrimination. A 2006 UN Development Program report on HIV/AIDS in the country stated that citizens perceived little confidentiality in their HIV test results. Social stigmatization and severe discrimination against persons with HIV/AIDS were also common.

According to the ombudsman's office, in 2005 police at the Tirana police commissariat detained, insulted, and physically mistreated a member of the Gay Albania association. Medical experts verified the mistreatment, and the ombudsman's office started an investigation. No action had been taken against the police by year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers had the right to form independent unions and exercised this right in practice; however, members of the military are prohibited from joining unions. Civilian government employees may join unions but do not have the right to strike. Approximately 20 percent of the workforce was unionized.

The law does not prohibit antiunion discrimination; however, there were no reports of such discrimination in practice.

*b. The Right To Organize and Bargain Collectively.*—Citizens in all fields of employment, except uniformed members of the armed forces and some court employees, have the constitutional right to organize and bargain collectively, and the law establishes procedures for the protection of workers' rights through collective bargaining agreements; however, labor unions operated from a weak position. In practice, unions representing public sector employees negotiated directly with the Government. Effective collective bargaining remained difficult, and agreements were hard to enforce.

The law provides that all workers, except civil servants, uniformed military, police, and some court officials, have the right to strike and workers exercised this right in practice. The law prohibits strikes that are declared openly to be political or that are judged by the courts to be political.

Opposition parties claimed that approximately 10,000 public servants were dismissed after the new government took over in 2005. The chairman of the Civil Service Commission, however, reported that only 425 people were dismissed from the public administration. Through September 194 complaints for unlawful job firings have been presented to the ombudsman's office. The ombudsman's office concluded that, with few exceptions, the dismissals were contrary to established procedures. In July in a case brought by the AHC and the ombudsman's office, the Constitutional Court set aside the Government's antinepotism rules that had been the basis for many dismissals. In its finding, the court ruled that such dismissals constituted a violation of the right of the workers to choose their place of employment.

By year's end the urban transport park in Tirana had not reinstated 10 employees who held a five-day hunger strike in 2004 to protest illegal dismissal. The park's director claimed that the strike violated the workers' employment contract. However, the AHRG and ombudsman stated that the hunger strike was legal and that the park director had not abided by the law in the firing of the employees. The case was brought to court, and the employees lost their claim.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, such practices occurred (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age of employment at 14 and regulates the amount and type of labor that can be performed by children under the age of 18. Children between the ages of 14 and 16 may work legally in part time jobs during summer vacation; children between the ages of 16 and 18 can work throughout the year in certain specified jobs. The law provided for Ministry of Labor, Social Affairs, and Equal Opportunity to enforce minimum age requirements through the courts; however, there were no

reports that enforcement took place. Labor inspections of factories in 2005 found 83 cases of underage employment. However, labor inspectors only investigated the formal labor sector, whereas most child labor occurred in the informal sector. The majority of factories inspected were shoe and textile companies. More than 70 percent of the underage workers were girls. NGOs reported that labor inspectors charged with investigating child labor complaints did not give out fines or penalties or initiate legal actions against those who violated child labor laws.

The CHRCA estimated that approximately 50,000 children under the age of 18 worked either full or part time. UNICEF estimated that 23 percent of children aged 5 to 14 years in the country were working between 1999 and 2003; children considered to be working included those who performed any paid or unpaid work for someone who was not a member of the household, who performed more than four hours of housekeeping chores in the household, or who performed other family work.

According to the CHRCA, the majority of child laborers worked as street or shop vendors, beggars, farmers or shepherds, drug runners, vehicle washers, textile factory workers, and shoeshine boys, some as many as 16 hours a day. In Tirana and other cities, children, mostly Roma, worked as beggars or sold cigarettes and other items on the street; the police generally ignored this practice. The CHRCA also noted that there were approximately 1,000 street children in Tirana. Increasing numbers of children in Tirana fell victim to prostitution and other forms of exploitation. Children were trafficked for sexual exploitation and forced labor (see section 5).

*e. Acceptable Conditions of Work.*—The national minimum wage was \$145 (14,000 lek) per month. However, it was not sufficient to provide a decent standard of living for a worker and family. The average wage for government workers was approximately \$300 (28,950 lek) per month. According to a 2005 report by the UNDP, 25 to 30 percent of the population lived under the official poverty line of \$47 (4,720 lek) per month. Another 30 percent lived very close to that line. The Albanian Institute of Statistics reported that average monthly wages in the public sector increased 14.4 percent from 2003 to 2004.

The law establishes a 40-hour workweek; however, the actual workweek typically was set by individual or collective agreements. Many persons worked six days a week. The law requires payment of overtime and rest periods; however, these provisions were not always observed in practice. The Government had not established standards for a minimum number of rest periods per week, limits on the maximum number of hours worked per week, or the amount of premium pay for overtime and did not prohibit excessive compulsory overtime.

The Ministry of Labor, Social Affairs, and Equal Opportunity is responsible for enforcing government occupational health and safety standards and regulations; however, these regulations were generally not enforced in practice. Actual workplace conditions were frequently very poor and in some cases dangerous. During the year the media reported a number of job-related deaths, particularly in the construction and mining industries. The law does not provide workers the right to remove themselves from hazardous situations without jeopardy to their employment.

## ANDORRA

The Principality of Andorra is a constitutional parliamentary democracy with a population of 81,222. Two princes—the President of France and the Spanish bishop of Urgel—serve with joint authority as heads of state, and a delegate represents each in the country. Free and fair elections in April 2005 chose 28 members of the General Council of the Valleys (General Council) that selects the head of government. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of dealing with individual instances of abuse. However, prolonged pretrial detention and violence against women and children were reported.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. The Council of Europe's Committee for the Prevention of Torture reported that some prisoners charged they were kicked while being arrested or under detention. The report recommended strengthening safeguards against mistreatment of persons in police custody.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The country has no defense force and depends on Spain and France for external defense. The national police, which have sole responsibility for internal security, are organized into four areas: public security, technical support, borders and traffic, and crime. Corruption was not a problem during the year; there are legal provisions for investigating and addressing allegations of corruption whenever they may occur. Some police officials received training in other European countries during the year.

*Arrest and Detention.*—Police may legally detain persons for 48 hours without charging them with a crime. Warrants are required for arrest. The law does not provide individuals under arrest immediate access to an attorney. Legislation provides for legal assistance beginning 25 hours after the time of arrest. There is a system of bail.

Lengthy pretrial detention was a problem, and the ombudsman has criticized it. Approximately 75 percent of lengthy detention cases involved foreigners. Pretrial detainees made up approximately 30 percent of the prison population.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary includes the Magistrate's Court and the Court of Courts. Once sentencing is announced there is a 10-day period to present an appeal to the Magistrate's Court. Upon acceptance of appeal the report is sent to the Court of Courts where the two parties are requested to return within a 15-day period. If the appellant or a legal representative makes no physical appearance before the court within the 15-day period then the appeal is declared void. The highest judicial body is the five-member Supreme Council of Justice. The two princes, the head of government, the President of the parliament, and, collectively, members of the lower courts, appoint one member each.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and defendants can request a jury. Defendants have the right to present evidence and consult with an attorney. Defendants enjoy a presumption of innocence, and they have the right to appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The civil judiciary is independent and impartial.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice. Under the constitution, the Roman Catholic Church and the state have a special relationship; however, the Catholic Church received no direct subsidies from the Government.

*Societal Abuses and Discrimination.*—There were no reports of anti-Semitic acts against the approximately 300-person Jewish community.

For a more detailed discussion see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The constitution and law prohibit forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not established a system for providing protection to refugees. The Government did not grant refugee status or asylum; however, it cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. At the request of the Spanish government, the Government accepted five Eritrean immigrants who were part of a group saved from a ship adrift in the Mediterranean Sea. The Government said it accepted the group for humanitarian reasons.

#### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—General Council elections in April 2005 were considered free and fair and allowed the conservative Andorran Liberal Party to remain in power. Individuals and parties could freely declare their candidacy and stand for election.

There were eight women in the 28-seat General Council, and three women in the 11-seat cabinet.

There were no members of minorities in either the General Council or the cabinet.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year.

The law provides for public access to government information, and the Government permitted access in practice for citizens and non-citizens, including foreign media.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

An ombudsman received and addressed complaints, some of which were against the Government's policies. The ombudsman was free of government control, and the Government was generally responsive to the ombudsman's recommendations. The ombudsman, who is elected by consensus of all political parties, is authorized to hear and investigate complaints by private citizens against government officials or agencies. The ombudsman advised the Government to follow World Health Organization recommendations concerning work and residence permits for immigrants. The Government's denial of permits to people with certain diseases, including those affected by the HIV virus, is a practice that the ombudsman stated could violate human rights.

The Andorran International Women's Association (AIWA), Caritas, the Andorran Women's Association (AWA), and Women's Group formed a "platform for human rights" in January with the purpose of ensuring that human rights are adhered to in the country.

#### *Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The constitution and law declare that all persons are equal before the law and prohibit discrimination on grounds of birth, race, gender, origin, opinions, or any other personal or social condition; however, the law grants a few rights and privileges exclusively to citizens.

*Women.*—Violence against women was a problem. According to the Ministry of Health, Welfare, and Family, violence against women increased during the year; the number of reports of physical abuse rose to approximately 110 cases. There is no specific law prohibiting domestic violence, although other laws may be applied in such cases. Victims of domestic violence could request help from the AIWA and the AWA, but rarely filed a complaint with the police for fear of reprisal. The two associations reported that some women complained at the treatment they received from police when they went to file a complaint. Authorities reported that the number of persons prosecuted for violence against women during the year increased, but they did not provide statistics. The Government had a hot line and provided medical and psychological services to victims of domestic violence but did not have any shelters. The Government and the AIWA placed abused women and their children in the private apartments of people who agreed to provide shelter to them. Caritas, a religious NGO, worked closely with the Government and the AIWA on social issues.

The law prohibits rape, including spousal rape, which is punishable by up to 15 years' imprisonment. Authorities enforced the law effectively.

Prostitution is illegal and was not a problem.

The law does not prohibit sexual harassment; however, it was not considered a problem.

The law prohibits discrimination against women privately or professionally; however, the AWA reported that there were many cases of women dismissed from employment due to pregnancy. Women did not earn equal pay for equal work. Observers estimated that women earned 35 percent less than men for comparable work; this gap appeared to be decreasing slowly.

*Children.*—The Government was committed to children's welfare. Free, universal public education begins at age four and is compulsory until age 16. The Government provides free nursery schools, although their number continued to be insufficient. Reportedly 100 percent of school-age children attended school. Secondary school was the maximum level of public school offered.

Health care is free, and boys and girls had equal access.

Although violence against children was a problem, according to the secretariat of state for the family, the number of cases was low, and the incidence of child abuse continued to fall during the year.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government enforced it effectively. Nevertheless, societal discrimination against persons with disabilities existed on a small scale, in the form of social and cultural barriers. Persons with disabilities also faced disadvantages in the labor market. The law mandates access to public buildings for persons with disabilities, and the Government generally enforced this provision. An association for persons with disabilities operates in the principality.

*National/Racial/Ethnic Minorities.*—Some immigrant workers complained that although the law provides them the same labor rights as citizens, they were not treated the same in practice.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. However, no further specific law has been developed to protect this right; thus workers are sometimes reluctant to admit to union membership, fearing retaliation by their employers.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government respected this right in practice. The law does not specifically provide for collective bargaining. The minimum wage is determined by the consumer price index; the vast majority of employees are paid more than this. The law does not provide for the right to strike, and there were no strikes during the year. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not prohibit forced and compulsory labor, including by children; however, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under the age of 18 from working, except in very limited circumstances. The labor inspection office in the Ministry of Social Welfare, Public Health, and Labor effectively enforced child labor regulations.

*e. Acceptable Conditions of Work.*—The national minimum wage of \$8.51 (6.50 euros) per hour, and \$1,080 (825 euros) per month did not provide a decent standard of living for a worker and family. Wages increased at a slower pace than housing and lodging costs. The labor inspection office enforced the minimum wage effectively.

The law limits the workweek to 40 hours, although employers may require up to 66 hours per month and 426 hours per year overtime from workers. The law provides for premium pay for overtime. There is a required rest period every day. The standard workday is eight hours; workers may work up to three overtime hours per day or 15 hours per week.

The labor inspection service sets occupational health and safety standards and effectively enforced them. During the year the labor inspection service received more than 200 complaints against companies for violating labor regulations, and had the authority to levy sanctions and fines against such companies. Although the law authorizes employees to refuse certain tasks if their employers do not provide the necessary level of protection, it does not provide workers the right to remove themselves from dangerous work situations without jeopardizing their continued employment. The number of accidents at work has been rising for a number of years; from January to October there were 5,395 accidents.

## ARMENIA

Armenia, with a population of approximately 3.2 million, is a republic. The constitution provides for a popularly elected President (Robert Kocharian) and a unicameral legislature (National Assembly). A constitutional referendum in 2005 and Presidential and National Assembly elections in 2003 were seriously flawed and did not meet international standards. The country has a multiparty political system. Civilian authorities generally maintained effective control of the security forces; members of the security forces committed a number of human rights abuses.

The Government's human rights record remained poor, and serious problems remained. Citizens were not able freely to change their government; authorities beat pretrial detainees; the national security service and the national police force acted with impunity; authorities engaged in arbitrary arrest and detention; prison conditions were cramped and unhealthy, although slowly improving; authorities imposed restrictions on citizens' privacy, freedom of the press, and freedom of assembly. Journalists practiced self-censorship, and the Government and laws restricted religious freedom. Violence against women and spousal abuse were problems, as were trafficking in persons, discrimination against persons with disabilities, and societal harassment of homosexuals. There were reports of forced labor.

There were some improvements during the year. The implementation of constitutional reforms ratified in 2005 led to some increase in judicial independence and for the first time gave citizens direct access to the Constitutional Court. Penalties for trafficking were toughened and a court for the first time imposed financial, as well as criminal, penalties on traffickers.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government and its agents did not commit any politically motivated killings, and unlike in 2005, neither the Government nor advocacy groups reported any deaths from hazing or other mistreatment during the year.

There were reports that an officer kicked a serviceman, who had previously undergone testicular surgery, in the groin. The serviceman later died, reportedly from cancer, after a second surgery on February 27. The officer received a one-year suspended sentence.

The military prosecutor's office said that there were no hazing-related deaths during the year.

Armenia continues to occupy the Azerbaijani territory of Nagorno-Karabakh and seven surrounding Azerbaijani territories. During the year incidents along the militarized line of contact separating the sides again resulted in numerous casualties on both sides. Reporting from unofficial sources indicates that approximately 20 persons were killed and 44 were wounded, including both military and civilian casualties on both sides of the line of contact.

All parties to the Nagorno-Karabakh conflict have laid landmines along the 540-mile border with Azerbaijan and along the line of contact. During the year there

were reports that a landmine killed one civilian and unexploded ordnance killed another.

On September 5, unknown persons killed a senior tax official using a bomb apparently planted under the seat of his government car. State prosecutors opened an investigation and arrested two suspects, based on the testimony of the official's driver. One suspect was released from prison on medical grounds. At year's end the investigation was ongoing.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, government security forces employed them. Witnesses continued to report numerous cases of police beating citizens during arrest and during interrogation while in detention. Human rights nongovernmental organizations (NGOs) reported similar allegations; however, most cases of police mistreatment went unreported because of fear of retribution.

On November 16, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report on its 2004 visit to the country. The CPT's investigators received numerous allegations from detainees of mistreatment by officials. One individual asserted he had received kicks and blows with fists and truncheons on various parts of his body; he appeared to bear bruises and other medical indications consistent with this account. The inmate said the ill treatment stopped when he agreed to sign a confession. Although the testimony was taken in 2004, other portions of the report criticized the authorities for not putting safeguards into place that might reduce the likelihood of such treatment.

The Government reported that police conducted five internal investigations into misconduct by off-duty police officers during the year. Two officers were subjected to disciplinary action, and criminal cases were opened against the remaining three, all of whom were fired. The Government reported that during the year 20 police officers received administrative fines (compared to 49 in 2005) for their roles in cases involving police mistreatment of detainees. Prosecutors also opened 11 criminal cases against some of the police officers involved; the disposition of those cases was unclear at the end of the year.

Unlike in 2005, when there was a constitutional referendum, there were no reports that police beat opposition supporters during the year. There was no indication that authorities were investigating reports that police beat opposition supporters following the 2005 constitutional referendum (see section 3).

Social norms and substandard living conditions in the armed forces contributed to mistreatment and injuries unrelated to military operations. Although there was no reliable and up-to-date reporting on the full extent of military hazing, soldiers reported to human rights NGOs that the practice continued. Local NGOs reported instances of hazing and said parents of soldiers complained that corrupt officials controlled military units. Authorities did not take any significant measures to limit or stop the practice; however, 20 military personnel were convicted in connection with criminal cases of hazing during the year.

A soldier reported in February that fellow servicemen raped him while they were on active duty. The case was under investigation at the end of the year.

In August Razmik Sargsian, a soldier who had been serving a 15-year sentence for the 2003 murder of two fellow soldiers, staged several hunger strikes to protest his innocence. Sargsian said interrogators, including military investigators and military police officer Aram Baghdasaryan, physically mistreated him for five days to obtain his confession for the killings. He claimed interrogators suspended him by his hands and beat him and threatened him with rape. Sargsian's confession implicated two other soldiers, and the court of first instance sentenced all three to 15-year terms in May 2005. Following an unsuccessful appeal, the Court of Appeals extended their sentences to life in prison on May 30. When the defendants' lawyers, Zaruhi Postanjian, Ashot Atoyan, and Stepan Voskanian, asserted that the proceedings were fraudulent and designed to cover up involvement of higher ranking personnel, state prosecutors initiated contempt proceedings against the lawyers at the request of the three appeals court judges who heard their cases (see section 1.e). On December 22, in a significant assertion of judicial independence, the Court of Cassation, the country's highest court, nullified the convictions of the soldiers and ordered them released. The Court based its ruling on a provision of the Criminal Procedural Code that allows a judge to send a case back to the prosecutor's office for reinvestigation if the original investigation was not conducted lawfully. Charges against the soldiers remained in place at year's end.

By law detainees may file complaints prior to trial to address alleged abuses committed by authorities during criminal investigations; however, detainees must ob-



tain permission from police or the prosecutor's office in order to obtain a forensic medical examination needed to substantiate a report of physical abuse. Human rights NGOs reported that authorities rarely granted such permission (see section 1.e.). There were no prosecutions or convictions of police for torture or other mistreatment during the year. Police conducted 18 internal investigations of complaints of brutality by their officers, but information on the outcome of these investigations was not available at year's end.

The CPT described allegations that detainees had spent periods of up to 10 days in various district divisions of the Ministry of Internal Affairs in Yerevan "in cells deprived of suitable means of rest, without a mattress and a blanket and without food (other than that brought by relatives)."

*Prison and Detention Center Conditions.*—Prison conditions remained poor and posed a threat to health, although the Civil Society Monitoring Board (CSMB), an organization established by government initiative involving prison monitoring by NGO personnel, reported some improvements as authorities began to renovate old prisons. However, problems remained: cells were overcrowded, most did not have adequate facilities, prison authorities did not provide most inmates with basic hygiene supplies, and food quality remained extremely poor. The CSMB reported in 2005 that prisoners were at high risk of contracting tuberculosis, and adolescents held in juvenile facilities rarely received the schooling required by law. The CSMB reported other chronic problems, including denial of visitor privileges, medical neglect, and in the most extreme cases, physical abuse.

In certain facilities prisoners bribed officials to obtain single occupancy cells and to obtain additional comforts. There were also unverified reports that authorities charged unofficial "fees" to family members and friends seeking to deliver meals to inmates. In some prisons monitors noted that prisoners had difficulty mailing letters and that some prison officials did not adequately facilitate family visits.

A local NGO reported that of 62 prisoners held in pretrial detention in the Lori region between January 1 and March 17, 16 showed signs of abuse. The NGO based its findings on prison logs in which authorities documented the conditions of prisoners transferred from pretrial detention. The same NGO reported that guards and administrators at prisons in Nubarashen and Goris had beaten prisoners.

On July 23, four prisoners serving life sentences at Nubarashen Prison attempted to escape. After they were caught they attempted suicide and later went on a week-long hunger strike to protest prison conditions. The Governmental human rights defender's office later sent a task force to the prison to investigate and found that conditions at the prison had improved with the renovation of cells and medical facilities but remained very poor.

The CSMB monitors reported that female prisoners had more freedom of movement than male prisoners and that their facility was cleaner and better equipped.

Observers believed that most instances in which authorities abused prisoners took place in pretrial detention facilities, which were under the control of the Department of Police. Suspects may be held in such facilities without charge for up to three days, and longer at the request of the prosecutor general and with the assent of a judge.

The Government permitted local NGOs and international rights groups, including the International Committee of the Red Cross (ICRC), to monitor conditions in prisons. Authorities continued to permit personnel of the CSMB to visit prisons without giving advance notice, as they have done since 2004. However, despite the Government's commitment to give the CSMB access to all detention facilities, including holding cells and local police stations, the Department of Police did not permit the CSMB or any other locally based organization to visit detention facilities under its control during the year.

The ICRC was permitted to visit both prisons and pretrial detention centers and did so in accordance with its standard modalities.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, in practice authorities continued to arrest and detain criminal suspects without warrants.

*Role of the Police and Security Apparatus.*—The national police and the National Security Service (NSS) are responsible for domestic security, intelligence activities, and border control; they report directly to the Prime Minister. Both services lacked the training, resources, and established procedures to implement reforms or to prevent incidents of abuse. Prisoners reported that police and NSS authorities did little to investigate allegations of abuse. As a result, impunity was a serious problem.

In contrast to 2005, the Government made some efforts to modernize and reform police and security forces, although the changes had mostly to do with infrastructure. On August 25, police opened a community justice center in Vanadzor with help

from the local affiliate of the international NGO, Project Harmony. The center offered counseling to first-time juvenile offenders and brought local police into public schools for community outreach. On October 30, a new community policing project designed to facilitate cooperation between police and civilians was initiated by the Organization for Security and Cooperation in Europe (OSCE) at the Arabkir district police department in Yerevan.

Corruption remained a significant problem in the police force and security service. Police officers routinely stopped motorists at roadside checkpoints to extort illegal "fees." Motorists reported that traffic police generally demanded approximately \$2.80 (1000 drams) to pass a checkpoint. Investigative journalists alleged that police inspectors and superiors received a portion of the proceeds from each traffic stop. As a result, there were no incentives to curb the practice and no efforts by the Government during the year to do so.

There was no dedicated mechanism for investigating police abuse. By law citizens may sue police in court as they would sue any person against whom they had an adjudicable complaint. The Government reported that during the year citizens lodged 69 civil complaints against police in court. Judges decided 26 of those cases in favor of the citizens and dismissed the remaining 43.

*Arrest and Detention.*—Prosecutors and police must first obtain a warrant from a judge in order to arrest a suspect, except to avert the imminent flight of the suspect or when they witness a crime in progress. Although judges rarely denied police requests for arrest warrants, police at times made arrests without a warrant on the pretext that detainees were material witnesses rather than suspects. The law provides that a detainee must either be indicted or released within three days of arrest, and this procedure was usually followed in practice; however, in some cases police skirted this requirement by alleging that suspects were material witnesses, who do not have the right to prompt judicial determination or legal counsel. The law provides for a bail system; however, most courts denied requests for bail in favor of detention.

The law also requires police to inform detainees of their right to remain silent, to make a phone call, and to be represented by an attorney from the moment of arrest and before indictment (including state-provided lawyers for indigent detainees). In practice police did not always abide by the law. They often questioned and pressured detainees to confess prior to indictment and in the absence of counsel. Since witnesses do not have the right to legal counsel or prompt judicial determination, police used this loophole to interrogate suspects in the absence of counsel and to detain them beyond the three-day limit for indicting suspects. Police sometimes restricted family members' access to detainees.

During a year without national elections, there were no large demonstrations; arbitrary detention of protestors was not a problem.

Lengthy pretrial detention remained a problem. According to the law, a suspect may not be detained for more than 12 months awaiting trial and authorities generally did not exceed this limit. The Government reported that during the first nine months of the year, pretrial detainees constituted on average about 25 percent of a prison population of nearly 3,000.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, despite structural changes implemented during the year that led to somewhat greater independence, courts remained subject to political pressure from the executive and legislative branches, and judicial corruption was a problem.

The law provides for a three-tier court system, including the highest court (the Court of Cassation), the Court of Appeals, and courts of first instance. Cases originate in courts of first instance; appeals are lodged with the Court of Appeals and the Court of Cassation. There is also a Constitutional Court, which rules on the constitutionality of legislation, approves international agreements, and rules on election-related questions.

Citizens' right to appeal was strengthened by changes approved in the 2005 constitutional referendum and enacted into law on July 1. These changes gave ordinary citizens the right to appeal to the Constitutional Court, which previously could only accept cases proposed by the President and approved by a two-thirds majority of the National Assembly or cases involving election-related issues brought by the National Assembly or Presidential candidates.

Changes to the constitution which allowed citizens to bring appeals to the Constitutional Court took effect on July 1. From that date through August 22, 288 citizens appealed to the court, which immediately threw out more than 60 percent of the cases, because they did not call into question a law's constitutionality and thus were not within the court's mandate. Of the remaining 109 appeals, hearings were scheduled for 13. The first hearings took place September 12 through November 14.

The President exercised dominant influence over the judiciary, including over the appointment and dismissal of judges and chairmen of courts on all levels. He has the authority to make appointments based on the recommendations of the Judicial Council, the supreme judicial body in the country, which previously consisted of nine judges, two legal scholars, and three prosecutors, all of whom he also appointed. The judicial reforms that took effect on July 1 significantly reduced the President's power to appoint members of the Judicial Council. He subsequently had the right to appoint only two of a 13-member body; the other members are either appointed by the National Assembly or elected by a General Assembly of Judges by secret ballot. The Constitutional Court is the only other exception to Presidential dominance in judicial appointments; he appoints only four of its nine judges.

On December 22, the Court of Cassation took the highly unusual decision of voiding two lower court decisions on the grounds that the original investigation had not been conducted lawfully (see section 1.c.).

Even with these changes, however, the judiciary was still far from independent. The Ministry of Justice remained responsible for the administration of judicial exams, the disciplining of judges, and the development of legislation relating to judicial functioning.

*Trial Procedures.*—The law generally requires that trials be public, but it permits many exceptions, including when a trial's secrecy is in the interest of "morals," national security, or for the "protection of the private lives of the participants." Juries are not used. A single judge issues verdicts in courts of first instance, and panels of judges preside over the other courts. Defendants generally have the right, and are generally required, to be present at their trials, but this requirement also has many exceptions. They have the right to counsel of their own choosing, and the Government is required to provide them with defense counsel upon request; however, this obligation was frequently not honored in the regions outside of Yerevan, where there often were not enough defense lawyers. Defendants also commonly refused free counsel due to the poor quality of the public defenders or the perception that public defenders colluded with prosecutors.

Defendants may confront witnesses and present evidence, and they and their attorneys may examine the Government's case in advance of trial. Judges generally granted defendants' requests for additional time to prepare cases. The law provides for the presumption of innocence; in practice this right was not always observed. In one case during the year, defendants' lawyers who criticized the outcome of their case, were sued for contempt of court by the judges involved (see section 1.c.).

Court statistics released on August 7 indicated that fewer than 1 percent of court cases resulted in acquittals. However, these statistics do not reflect the many cases that judges remanded to the prosecutor's office for lack of evidence and that prosecutors dropped and never sent back to court. Thus prosecutors, in effect, often lost their cases during the year. According to one international NGO specializing in legal issues, pretrial investigations lasted an average of one to three months. Both defendants and prosecutors have the right to appeal.

There were reports that prosecutors used confessions obtained through methods that some NGOs asserted amounted to torture, as central elements of their cases. Defense lawyers may present evidence of torture to overturn improperly obtained confessions; however, defendants stated that judges and prosecutors refused to admit such evidence into court proceedings, even when the perpetrator could be identified.

*Political Prisoners and Detainees.*—Armen Babajanian, the editor of the opposition newspaper Yerevan Zhamanak, was arrested on June 26 and charged with document forgery and evasion of military service. He was convicted on September 8. Babajanian admitted his guilt, but his four-year sentence was somewhat harsher than is customary, and some observers charged that he was the victim of selective enforcement.

Apart from this possible exception, there were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The same courts hear civil and criminal cases. Citizens had access to courts to bring lawsuits seeking damages for, or cessation of, a human rights violation; however, the courts were widely perceived as corrupt, and potential litigants in civil cases often evaluated the advisability of bringing suit on the basis of whether they or their opponents had greater resources with which to influence judges. Citizens also had access to the ombudsman's office, and during the year they were given access to the Constitutional Court when they judged that constitutional rights were not being protected (see sections 1.e., and 4).

Residents of approximately 100 houses in downtown Yerevan that were razed to make way for a new boulevard lost a number of court cases protesting their evic-

tions during the year. The Constitutional Court ruled on April 18 that the 2002 government decision that made the demolitions possible violated parts of the constitution, but the court did not obligate authorities to return the remaining houses to their former owners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits unauthorized searches and provides for the right to privacy and confidentiality of communications; however, the Government did not always respect these rights in practice.

There were several reports of government surveillance of opposition Heritage Party leader Raffi Hovhannesian. The party also reported that its members were harassed and threatened (see section 3).

By law, judges may authorize authorities to wiretap a telephone or intercept correspondence only after being presented with compelling evidence; however, the law was not strictly enforced in practice, and some judges arbitrarily granted permission.

At times police maintained surveillance of draft-aged men to prevent them from fleeing the country.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, the Government partially limited freedom of speech. There were incidents of violence, intimidation, and self-censorship in the press.

The law prohibits incitement to national, racial, or religious animosity. There were no prosecutions under this provision during the year, unlike in 2005 when Armen Avetisyan, the leader of the Union of Armenian Aryans, was convicted of this offense and given a three-year suspended sentence for making anti-Semitic and anti-Yezidi statements in a press interview (see section 2.c.).

Most newspapers were privately owned with the exception of government-sponsored Hayastani Hanrapetutyun and its Russian-language version, Respublika Armenii. The print media pursued stories vigorously and expressed a wide variety of views without restriction, but no media outlet was completely independent of patronage from economic or political interest groups or individuals.

Newspaper circulation was very limited, and most of the population relied on television and radio for news and information. There were more than 20 radio and 45 television stations, most of them privately operated. In Yerevan and regional cities, private television stations generally offered news coverage of good technical quality; however, the substantive quality of news reporting on television and radio varied. Most stations were owned by progovernment politicians or well-connected businessmen, factors that led journalists to engage in self-censorship. Major broadcast media outlets generally expressed progovernment views. Public Television of Armenia (H1) generally avoided editorial commentary or reporting critical of the Government.

In 2003 the National Commission for Television and Radio (NCTVR), the governing body for the country's media whose members are all appointed by President Kocharian, awarded a progovernment national television channel, Kentron TV, a broadcast frequency that had previously belonged to A1-Plus, one of the country's last politically independent television stations. Observers alleged the decision was politically motivated due to A1-Plus's previous criticism of the Kocharian administration. During the year A1-Plus continued its unsuccessful efforts to obtain a license to resume broadcasting. Since A1-Plus lost its license it has unsuccessfully filed 12 applications for radio or television licenses. An OSCE report, *The State of Media Freedom in Armenia*, released in July, recommended that the composition of the NCTVR and similar regulatory bodies be changed to represent the political diversity of the country and to include NGOs and professional associations.

In September, in an action unusual in a National Assembly where the ruling coalition has a comfortable majority, lawmakers rejected government-sponsored legislation that would have altered regulation of the media. The legislation would have further restricted media freedom, reduced or eliminated television coverage of National Assembly sessions, and altered the composition of the NCTVR. Under the Government proposal, the National Assembly would appoint half of the members of the NCTVR and the President the other half, but none would be selected by other elements of society as recommended by the OSCE report.

International media outlets generally operated freely.

The editor of the opposition newspaper Yerevan Zhamanak was arrested on June 26 and charged with document forgery and evasion of military service. He was convicted on September 8.

Although he admitted guilt, Armen Babajanian's four-year sentence was harsher than is customary for such offenses, and some observers regarded him as a victim of selective enforcement (see section 1.e).

There were unconfirmed reports of several incidents of harassment and intimidation of journalists that appeared to be related to their journalistic activities.

Independent investigative journalist Edik Baghdasarian reported that in July he began to receive e-mail threats following the publication of two articles on his Web site criticizing a new political party.

Journalist Gagik Shamshian, who works for opposition-owned Chorrord Ishkhanutun newspaper, reported that a gang of men attacked him on July 11 after he publicly accused the local district prefect's father of threatening him. He had written an article saying that two men arrested on charges of bank robbery were relatives of the prefect. Shamshian claimed the prefect's brother was among his attackers. Shamshian said law enforcement officials harassed him after the attacks for refusing to retract his testimony against the prefect's brother. The local police told Shamshian they had received complaints detailing criminal activity on his part, which he denied. Several weeks later, he retracted the allegations. The criminal case against him went to court December 14, with no verdict by year's end. On July 20, an unknown person broke the windows of Chorrord Ishkhanutun's office, poured gasoline on the windowsills, and set them on fire. Citing disillusionment with the country's law enforcement officers, Chorrord Ishkhanutun did not ask for a police investigation. The editor said she wasn't sure of the motive behind the fire; however, others drew a connection between the incident and the paper's reporting on the district prefect.

On September 6, unknown persons assaulted Ovannes Galagzhyan, the editor-in-chief of the opposition-sponsored newspaper Iravunk, in an attack he believed was related to political topics discussed in his newspaper.

There was no official censorship, although journalists and opposition parties complained that the Government put pressure on television stations not to grant air time to several out-of-favor politicians. Print and broadcast journalists continued to practice self-censorship because of pressure from official sources and from economic self-interest.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet cafes were widely available in the cities, although local ISP connections were often too slow to be useful.

*Academic Freedom and Cultural Events.*—There were no restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly, but there were some limits on this right. Organizers are not required to obtain a government permit to stage a rally or demonstration but are required to notify authorities in advance of their plans for such events. There were also locations, such as military installations and sensitive power generation facilities, where persons could not demonstrate without permission. The law empowers police to break up illegal rallies and demonstrations, particularly those that encourage violence and the overthrow of the Government. During the year police did not break up demonstrations.

The Government did not interfere when small rallies took place without permission.

There were reports that government authorities hindered political party meetings and pressured property owners to evict opposition parties from meeting facilities. For example, during the year the opposition Heritage Party was evicted from its offices, ostensibly over a lease dispute (see section 3). In May 2005 Aram Karapetyan asserted that his New Times opposition party was evicted from its headquarters in Yerevan following pressure on the landlord by government officials.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected it in practice. However, registration requirements for all political parties, associations, and secular and religious organizations remained cumbersome, exacting, and time-consuming. The law stipulates that citizens have the right to form associations, including political parties and trade unions, except for persons serving in the armed services and law enforcement agencies. As in previous years, no human rights groups or political organizations reported problems with registration, although the Heritage Party reported harassment of its members (see section 3).

*c. Freedom of Religion.*—The law provides for freedom of religion; however, there were some restrictions in practice. The Armenian Apostolic Church has formal legal status as the national church, which gives it privileges not afforded to other faiths. The law gives minority religious groups that register with the Government specific rights, such as the right to publish newspapers and magazines, rent meeting places

on government property, broadcast television or radio programs, and sponsor official visitors. Unregistered religious organizations may only import small quantities of religious literature for private use. The law also requires all religious organizations except the Armenian Apostolic Church to obtain prior permission to engage in public religious activities. There were no reports that religious groups were denied, or otherwise had problems with, registration.

The law prohibits incitement to national, racial, or religious animosity. There were no prosecutions under this provision during the year, unlike in 2005 when Armen Avetisyan, the leader of the Union of Armenian Aryans, was convicted of this offense and given a three-year suspended sentence for making anti-Semitic and anti-Yezidi statements in a press interview.

Although the country has a law providing alternative service for conscientious objectors, the military services themselves administer the alternative service, and many members of Jehovah's Witnesses refused the alternative program for that reason. At year's end, according to Jehovah's Witnesses lawyers, 52 of their members were in prison, 49 of them serving sentences and three awaiting trial.

On October 27, the Jewish community, with assistance from the Government and other groups, unveiled a new Holocaust memorial to replace the old one that had been vandalized earlier in the year.

The law prohibits proselytizing—which is left undefined in the law—by minority religions and bans foreign funding for foreign-based churches; neither ban was enforced. The Church of Jesus Christ of Latter-day Saints reported police harassment of missionaries in July 2005; however, church officials said members had not experienced any harassment since then.

The Jehovah's Witnesses organization reported that an Armenian Apostolic priest assaulted two of its members on August 21. According to the group, one of the victims suffered a broken arm and a concussion. The group said police opened an investigation but quickly ended it, stating that the priest expressed remorse for his crime.

*Societal Abuses and Discrimination.*—Societal attitudes toward most minority religions were ambivalent. Unlike in 2005, Yezidi leaders said that they had received no reports that police and local authorities discriminated against them.

According to observers the general population viewed "non-traditional" religious groups with suspicion and expressed negative attitudes about members of Jehovah's Witnesses because of their proselytizing practices and because they refused to serve in the armed forces. Members of Jehovah's Witnesses continued to experience occasional societal discrimination.

On March 17, two young members of the Union of Armenian Aryans, a small ultranationalist group, distributed a leaflet in the city of Vanadzor calling for death to members of religious sects. The staff of a local human rights NGO that reported the incident to the local prosecutor's office received e-mailed death threats June 18.

There were reports of isolated incidents in which Protestants in rural areas were fired from their jobs because of their religious beliefs.

Jewish community leaders estimated the community's size at between 500 and 1,000 persons (the Government does not provide official figures for religious adherents), but unlike in 2005, leaders of the Jewish community said that they had no reports of harassment of Jews during the year.

In September the environment minister, Vardan Ayyvazian, publicly referred to representatives of a foreign mining company during a press conference as "kikes."

There were no reports that individuals or groups distributed anti-Semitic literature.

Approximately one thousand Muslims resided in the capital. There was no formally operating mosque, although one surviving 18th century mosque in the capital remained open for Friday prayers without government interference, though it was not officially registered.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*c. Freedom of Movement Within The Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, but there were some restrictions in practice.

The Government generally did not restrict internal movement. Corruption and an inefficient bureaucracy hindered citizens' efforts to register changes in their status, including changes in official places of residence. This hampered efforts to emigrate. To leave the country on a temporary or permanent basis, citizens must obtain an exit visa. Exit visas for temporary travel out of the country may be routinely purchased at a cost of approximately \$2.80 (1,000 drams) for each year of validity and may be purchased when a passport is issued for the entire term of validity of the

passport. Visas may also be obtained later. There was an official 10-day waiting period for visas, but officials commonly agreed to expedite them in exchange for bribes up to about \$30 (10,714 drams). Citizens who opted not to purchase the appropriate visas, but attempted to depart the country, were not permitted to leave.

The exit visa process is more difficult for citizens leaving the country permanently. The registration agency must deregister them, which entails sending queries to numerous other agencies to determine whether the citizen has any outstanding debts or obligations. The process commonly took several months to complete, and according to some citizens, authorities used the exit permit process to exact bribes which, by some accounts, totaled hundreds of dollars. Permission to depart the country permanently may be denied to persons who possess state secrets, are subject to military service, are involved in pending court cases, or who have outstanding financial obligations. Men of military age who have not completed service requirements must overcome substantial bureaucratic obstacles to travel abroad, including excessive delays in processing and officials soliciting bribes for exit stamps.

The law does not prohibit forced exile, but there were no reports that the Government employed it.

*Internally Displaced Persons (IDPs).*—The Norwegian Refugee Council (NRC) found in a study released in 2005 that 8,399 IDPs lived in the country. The NRC said the number did not change during the year.

During the country's war with Azerbaijan, the Government evacuated approximately 65 thousand households from the border region, but most returned or settled elsewhere. Of the 8,399 remaining IDPs, almost two-thirds could not return to their villages, which were surrounded by Azerbaijani territory, and others chose not to return due to socio-economic vulnerability or a fear of land mines. IDPs enjoyed full rights as citizens, but the Government did not provide special programs to help them adjust to their new surroundings. IDPs had access to international assistance programs and there were no reports of abuse of IDPs.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to most refugees. In practice the Government generally provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum during the year.

As of December 26, 646 persons had applied for asylum and the Government granted 120 of those requests. Two were granted refugee status, and the Government provided temporary protection to 118 individuals who did not qualify as refugees under the 1951 Convention and the 1967 Protocol.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

There was an established procedure for granting asylum; however, a combination of frequent rotations of inexperienced border officials and little training on asylum procedures, at times caused delays and difficulties with refugee processing at airports and land borders. International organizations asserted that Russian border guards usually came into first contact with would-be asylum-seekers at the borders with Turkey and Iran, as well as at the main international airport in Yerevan, and often refused them entry without informing either the Government or the UNHCR. However, the Russian guards, who operated on the basis of an agreement between the two countries, were being phased out.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

Although the law provides citizens with the right to change their government peacefully, that right was restricted in practice due to repeated flaws in the conduct of elections.

*Elections and Political Participation.*—International observers found the 2003 Presidential and National Assembly elections to be well below international standards. There were serious irregularities, including ballot box stuffing, discrepancies in vote counts, partisan election commissions, and wide use of government resources to support the incumbent President. Domestic observers noted similar irregularities in local elections in September and October 2005.

In November 2005 a series of constitutional amendments were approved by a national referendum which made potentially significant changes in the division of powers between the branches. Although the balloting was conducted mostly without incident, Council of Europe observers reported discrepancies between the reported re-

sults and the apparent lack of turnout (a two-thirds majority of all registered voters was required for adoption, and a previous constitutional referendum had failed for lack of turnout). Domestic observers reported ballot stuffing, unauthorized individuals accompanying voters to the voting booths and ballot boxes to instruct them on how to vote, and intimidation of opposition observers. As it was technically not required to do so, the Government declined to invite the OSCE to observe the voting process.

Authorities harassed opposition supporters. On March 4, the Ministry of Justice's Department of State Property Management, armed with a court order, evicted the opposition Heritage Party from its offices, ostensibly over a lease dispute. When the party staff was allowed to return temporarily on May 29, they reported that their central computer had been hacked on March 8. Party officials reported instances of harassment of party members throughout the country after March 8 and attributed them to the hacking of the computer, which contained addresses and telephone numbers of party members.

There was a widespread public perception, reflected in the press and the speeches of politicians, that a small elite of "oligarchs" exercised disproportionate influence on public affairs.

The Orinats Yerkir party lost many members following its withdrawal from the governing coalition on May 12. Party leader Artur Baghdasarian asserted later that the President's office had pressured them to leave the faction, and there were reports that members were threatened with loss of employment and the closure of their businesses.

There were seven women in the 131-seat National Assembly but none in the cabinet.

There were no members of ethnic minorities in the National Assembly or cabinet.

*Government Corruption and Transparency.*—Corruption was widespread, as was citizens' awareness of it. In an August Gallup poll commissioned by a foreign organization, one in 10 respondents, asked to name the most serious problem facing the country, named corruption, placing it in third place behind economic concerns and the problem of Nagorno-Karabakh. The country scored 2.9 in Transparency International's 2005 Corruption Perceptions Index. The index reflects the perceptions of business people and country analysts using a scale of zero to 10 with zero being considered highly corrupt. Amalia Kostanian, head of the local affiliate of Transparency International stated that the expert and public perception was that corruption was increasing. However, the public, which rarely protested practices such as routine bribe-paying, was generally politically apathetic and appeared to be resigned to the prevalence of corruption.

The Government did not adequately maintain its own anticorruption programs. For example, an anticorruption council headed by the Prime Minister met only twice during the year, violating its own regulations, and a monitoring commission established by the council did not meet at all during the year.

According to the Government, 69 government officials were charged in 46 corruption cases during the year. At least 16 of those officials were convicted under anticorruption laws. The disposition of the remaining cases was unclear at year's end.

The law provides for access to government information as well as for its dissemination, but in practice the Government rarely provided access. In July the Yerevan mayor's office, which in 2005 was described by an NGO focusing on freedom of information as one of the worst providers of information access, set up an information center in city hall. Though the office was still in its infancy at year's end, the same NGO described the staff of the center as serious about its work.

Citizens had little awareness of their right to information, and those who were aware of this right were often unable to exercise them. The first instinct of government employees generally was to block access to information rather than to provide it. In some cases the officials themselves were not aware of laws providing for freedom of information.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

During the year more than 20 independent local religious and human rights organizations and local affiliates of international organizations operated in the country. They included the Armenian Helsinki Committee, the Civil Society Institute, the Helsinki Citizens' Assembly, Hope and Help, the International Committee of the



Red Cross, Junior Achievement, Mission Armenia, the Open Society Institute, and Transparency International. The Government, while not soliciting contacts with these organizations, generally did not deny requests to meet with domestic NGO monitors. Authorities followed some of their recommendations, particularly those related to social welfare, education, or those involving local matters.

With one possible exception, NGOs did not report experiencing reprisals for criticizing the authorities. On one occasion authorities subjected an NGO that had accused an official of wrongdoing in relation to trafficking, to an unexpected tax inspection (see section 5).

There was no progress in the investigation into the 2004 incident in which unknown persons beat Mikael Danielyan, the director of the Helsinki Committee human rights NGO, after Danielyan had given a controversial interview to an Azerbaijani newspaper. Authorities suspended the investigation shortly after the incident.

The Government was generally cooperative with international NGOs. It permitted visits by international organizations to prisons and in the case of the ICRC, to detention centers operated by the police.

In 2005 the country's first human rights ombudsman complained that government interference, including a ruling by the Constitutional Court, limited her ability to influence the Government's implementation of her recommendations. On February 17, the National Assembly elected a successor. One of his first actions was to petition the Constitutional Court to rule find government decision to expropriate residential houses and apartments in certain parts of downtown Yerevan to be unconstitutional (see section 1.e.). Although the court did so, it did not provide any remedies for the citizens deprived of their property without adequate compensation.

From February 17, when the new ombudsman took office, through December 11, the ombudsman's office received 1,178 citizen complaints. At year's end there was no information on the disposition of these complaints.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status, but there was societal discrimination against women, ethnic minorities, persons with disabilities, and homosexuals.

*Women.*—There is no law against domestic violence. Few cases of spousal abuse or other violence against women were reported during the year, although such violence was believed to be widespread. While there was no recent information on the extent of the problem, in a 2001 survey, 45 percent of the (female) respondents acknowledged that family members subjected them to psychological abuse, and 25 percent considered themselves victims of physical abuse. Most cases of domestic violence were not reported to police because victims were afraid of physical harm, were apprehensive that police would return them to their husbands, or were embarrassed to make family problems public. Several NGOs in the Yerevan and Gyumri areas provided shelter and assistance, including psychological and legal counseling, to battered women.

Rape, including spousal rape, is a criminal offense and carries a maximum penalty of 15 years' imprisonment. In the first nine months of the year, authorities registered 31 cases of rape and attempted rape; however, societal stigma contributed to the underreporting of those crimes. Authorities prosecuted and convicted 14 individuals involved in seven cases of rape, and five individuals involved in three cases of attempted rape during the year. In 2005 authorities prosecuted 21 individuals charged with these offenses.

Prostitution and sex tourism are not illegal, but operating brothels is prohibited. Operating a brothel and engaging in other forms of pimping are punishable by one to 10 years' imprisonment. According to the NGO Hope and Help, there were fewer than 5,000 prostitutes, approximately 1,500 of them in Yerevan. Police and other security forces were complicit in, or tolerated, prostitution.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

The law does not specifically prohibit sexual harassment, although it addresses lewd acts and indecent behavior. Society generally did not consider cases of sexual harassment important enough to justify legal action. Although there were no official statistics, sexual harassment appeared to be widespread.

Men and women enjoy equal legal status, although gender discrimination existed and was a continuing problem in the public and private sectors. According to a survey conducted 2005 in Yerevan, women earned on average 40 percent of what men earned. Women generally were not afforded the same professional opportunities as men and often were relegated to more menial or low-skill jobs.

*Children.*—The Government was committed to protecting children's rights and welfare, but it did not allocate resources sufficient to fulfill this commitment.

Education is free, universal, and compulsory through age 14; secondary education is provided through the complete secondary level. According to the UN Development Program, in 2003, 84 percent of students completed schooling through age 14, and 36 percent studied through age 16. Many facilities were impoverished and in poor condition. Access to education in rural areas remained difficult, and work in the fields during harvest season took precedence over school for many children. Lack of funding to provide heat prompted school officials in many areas to extend winter school breaks by as much as an additional month. Many teachers demanded bribes from parents in return for good or passing grades.

In 2005 the Government began to focus on education reform, and the 2005–2006 national budget included an allocation for increases in educators' salaries.

A 2004 survey commissioned by the UN Children's Fund (UNICEF) found that school drop-out rates were high for children from poor communities. NGOs reported that school absenteeism was also on the rise.

A high percentage of children in the Yezidi community did not attend school, partly for economic reasons and partly because schools lacked Yezidi teachers and books in their native language. In September the Government published and distributed Kurdish-language primary school textbooks for Yezidi schoolchildren. The Government also published Assyrian-language primary school textbooks during the year.

Free basic health care was available to boys and girls through age eight but often was of poor quality, and officials often demanded overt or concealed payment for services.

Physical abuse of children was not believed to be a serious problem, and the prosecutor general's office did not report any cases during the year. UNICEF reported that psychological abuse was widespread and that in 2004 there had been a few registered cases of sexual abuse in special education schools.

Experts believed child marriage was a problem among the small Yezidi and Kurdish ethnic minorities, but there were no specific reports of this practice during the year.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Observers did not believe that child labor was a serious problem (see section 6.d.).

UNICEF reported that the number of children begging or working on the street appeared to be on the decline. Abuse of street children did not appear to be a serious problem.

*Trafficking in Persons.*—Authorities reported that the country was a source and transit point for women and girls trafficked primarily for sexual exploitation to the United Arab Emirates and Turkey. It was also, to a lesser extent, a destination for women trafficked for sexual exploitation. There were also reports of men being trafficked to Russia for labor.

According to the general prosecutor's office, at least 40 persons were victims of trafficking during the year, including four victims exploited within the country and 36 exploited in the United Arab Emirates, Turkey, and Russia. The general prosecutor's office also reported that 99 persons were victims of pimping during the year, including 38 exploited within the country and 61 exploited in the UAE and Turkey. Trafficking organizations typically recruited victims who were already engaged in local prostitution. The majority of identified victims were aware that they were being recruited to work in the sex industry in other countries; however, they were unaware of the traffickers' intent or the true exploitive circumstances of the conditions in destination countries. Once in the country of destination, victims were deprived of their travel documents, locked in hotel rooms, and told that they must "repay" their expenses. This initial consent, unfortunately contributed to an overall lack of identification of trafficking by authorities. There were reports that traffickers encouraged women to become recruiters, promising them that they could keep a percentage of their recruits' earnings. Women engaged in prostitution, orphans who had outgrown their institutions, the homeless, and those in difficult financial situations were at particular risk of being trafficked. Trafficking victims, who came largely from impoverished communities, were at greatly increased risk of contracting sexually transmitted diseases, and there were some reported incidents of physical violence.

The law prohibits trafficking in persons. On July 16, the National Assembly adopted legislation that toughened trafficking penalties. The new law made trafficking in persons punishable by imprisonment for three to 15 years, depending on whether there were aggravating factors such as the death of victims or involvement of a minor.

During the first nine months of the year, eight defendants were convicted under the trafficking statute, according to the prosecutor general's office. During that same period, courts convicted 18 defendants under the pimping statute.

On December 12, a court in Gyumri ruled on the country's first labor trafficking case, sentencing the trafficker, Ararat Muradyan, to five years' imprisonment. The court also ordered the defendant to provide financial restitution to the victims, the first order for restitution in any trafficking case. In April 2004 the three male victims, including a 16-year-old boy, had been sent to the Russian republic of Tatarstan for construction work; they were held against their will and forced to work for 16 months before the Tatarstan authorities freed them.

In November 2005 the prosecutor general's office opened a criminal case on charges of trafficking against Ashot Hovsepian, and Sos Meliksetyan, a local nightclub manager. They were charged with trafficking four victims for work in a nightclub. This was the first clear indication that the country was a destination for trafficking. The NGO Hope and Help took the victims into its shelter. On January 8, a court sentenced Meliksetyan to two years' correctional labor, and a warrant for Hovsepian's arrest was outstanding at year's end.

A governmental interagency commission, the national police, the prosecutor's office, and the NSS are responsible for coordinating and implementing antitrafficking policy and for combating trafficking. The Government actively sought bilateral cooperation with several trafficking destination countries and regularly shared information with these partners.

Victims reported that Russian and Armenian border guards were easily bribed. Some prosecutors were also reportedly complicit in trafficking. Allegations of official complicity with traffickers continued to hurt the credibility of the Government's antitrafficking efforts. There were persistent allegations that senior members of the prosecutor general's office were susceptible to outside influence. Some observers asserted that agreements between corrupt court officials and traffickers were also common. Unlike in previous years there were no reports that police employees and employees of the country's international airport assisted traffickers with transportation of victims to and through the country.

In February the Government established a task force to investigate allegations of misconduct against an investigator in the prosecutor general's antitrafficking unit. After a cursory investigation, the task force reported no evidence of wrongdoing. In August a group of alleged trafficking victims, assisted by an NGO, brought new allegations of corruption and complicity against the same investigator and another official. A few days after the allegations were brought to the Government's attention, tax inspectors launched an investigation into the NGO's finances (see section 4). The prosecutor general created a task force that included members of antitrafficking NGOs to investigate the officials, who remained in charge of the original case during the internal investigation. The internal investigation commission found no evidence of wrongdoing; however, the investigators were transferred out of the antitrafficking unit, and one was demoted from senior investigator to investigator.

Upon their return from abroad, many trafficking victims feared societal stigma and discrimination and were reluctant to help locate and prosecute their traffickers. Government officials did not require victims to provide such assistance, but they worked with victims who were willing to do so. Judges did not prosecute victims in trafficking cases for violating laws but often denied them counsel and subjected them to humiliating treatment during trials.

The International Organization for Migration (IOM) and the NGOs Hope and Help, the United Methodist Committee on Relief (UMCOR), and Democracy Today, operated assistance programs for trafficking victims with funding from foreign governments. Between March and November 14, UMCOR and Hope and Help shelters assisted 23 victims, more than in all of 2005. The Government did not offer financial assistance but increasingly referred victims to these organizations. The NGOs maintained two hotlines for trafficking victims.

NGOs, international organizations, and the Government conducted trafficking prevention activities, primarily educational and mass media programs to raise public awareness. International organizations trained the Government's consular corps to identify signs of trafficking, and in June the Government, with international assistance, published a manual with guidelines for interviewing and repatriating trafficking victims for use by consular officers abroad.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services; however, discrimination was a problem. The law and a special government decree mandate accessibility to buildings for persons with disabilities, but in practice very few buildings and other facilities were accessible to them.

In September the Government allocated about \$33,000 (12 million drams) for the printing of Braille textbooks.

Institutionalized patients often lacked medication, and care was substandard. Hospitals, residential care, and other facilities for persons with serious disabilities were also substandard.

The Ministry of Labor and Social Affairs was responsible for protecting the rights of persons with disabilities, but the Government provided insufficient resources to the ministry to permit fulfillment of this responsibility.

*National/Racial/Ethnic Minorities.*—The Yezidi community, which numbers between 30,000 and 40,000 persons according to its leaders, speaks a dialect of Kurdish and practices a religion derived from Zoroastrianism, Islam, and animism. Unlike in previous years, Yezidi leaders did not complain that police and local authorities subjected their community to discrimination. However, on December 7, a woman and three teenagers set themselves on fire in front of the Presidential palace to protest the lack of local government response to the November murder of one of their relatives. Other Yezidi villagers involved in the protest said they believed the lack of response resulted from local government corruption rather than from discrimination.

*Other Societal Abuses and Discrimination.*—Persons who were openly gay were exempted from military service, purportedly because of concerns that they would be abused by fellow servicemen. The local Helsinki Association and other observers reported cases of police harassment of homosexuals through blackmail, extortion, and, on occasion, violence.

On August 9, an openly gay businessman was found dead in his apartment. The police investigation focused mainly on the man's possible sexual partners. Local observers reported that in the course of the police investigation, officers indiscriminately rounded up gay men in a city park for questioning.

Many employers discriminated by age, most commonly requiring that job applicants be between the ages of 18 and 30. After the age of 40, workers, particularly women, had little chance of finding jobs appropriate to their education or skills.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers, except for those serving in the armed services and law enforcement agencies (see section 2.b.), with the right to form and to join unions of their choice without previous authorization or excessive requirements, but most workers did not exercise this right in practice. Labor organizations remained weak because of employer resistance, high unemployment, and poor economic conditions.

The Confederation of Labor Unions (CLU) estimated there were 441,000 members of 24 trade unions. There were also other labor unions that did not belong to the CLU. Labor unions were generally inactive, with the exception of those connected with the mining industry. However, some mining enterprises, including some financed by foreign capital, discouraged employees from joining labor unions with the implied threat of loss of employment.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference. Although the law provides for collective bargaining, in practice there was none. Factory directors generally set pay scales without consulting employees. Regular or economic courts arbitrated labor disputes.

The law provides for the right to strike, except for members of the armed services and law enforcement agencies, but workers rarely went on strike. The law also prohibits retaliation against strikers, although it sometimes occurred.

In June 2005 the Ararat Gold Recovery Company (AGRC) fired 24 employees at its gold mining facility near Zod, allegedly for organizing a May 2005 strike over wages and workplace safety. AGRC initially dismissed 463 employees and required them to reapply for their positions; it did not rehire 11 employees who were members of the Lernagorts labor union and 13 unaffiliated employees. Four sued AGRC for reinstatement. One won the court case and was rehired but was fired again soon after. The other three lost their cases. AGRC maintained it fired the employees on legitimate grounds.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace. The minimum age for employment is 16; children may work from age 14 with parental and labor union permission. The Armenian State Labor Inspectorate is responsible for child

labor law compliance, but the inspectorate, community councils, unemployment offices, and, as a final board of appeal, the courts, enforced the law unevenly. Children under the age of 18 are prohibited from working overtime or in harmful and dangerous conditions, at night, and on holidays.

According to the Employment Service Agency, some children were involved in family businesses, as well as in other activities not prohibited by law. Observers also reported seeing children in Yerevan selling flowers and working in local markets after school hours.

*e. Acceptable Conditions of Work.*—The Government sets the minimum wage by decree. The monthly minimum wage of approximately \$55.60 (20,000 drams) did not provide a decent standard of living for a worker and family. While businesses generally observed the law for their registered employees, there were reports that employers did not register some employees and paid them lower than minimum wage. In 2004, the most recent year for which information was available, 6.4 percent of the population lived on less than \$1 per day, while 34.6 percent lived on slightly more than that amount. The Government did not enforce the minimum wage law effectively.

The law sets the workweek at 40 hours and provides for mandatory rest periods and overtime compensation. In the mining sector, employers allow limited sick leave with the presentation of a medical certificate. There were reports that employers fired employees who took extended sick leave.

In April 2005 the Employment Service Agency officially replaced the Ministry of Labor and Social Affairs as the Government's chief enforcement agency for workers' rights, occupational health, and safety standards. In its second year, the inspectorate made little progress toward implementing an inspection regime or the requirements of the labor code.

Workers had the legal right to remove themselves from work situations that endangered health and safety, but they were unlikely to do so because such an action would place their employment at risk, and jobs were scarce. The law requires the Government to set occupational and health standards, but by year's end the Government had not done so.

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## AUSTRIA

Austria is a parliamentary democracy with constitutional power shared between the popularly elected President and the bicameral Federal Assembly (parliament). The country's eight million citizens choose their government representatives in periodic, free, and fair multiparty elections. In 2004 voters elected President Heinz Fischer of the Social Democratic Party of Austria (SPO) to a six-year term. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were some reports of police abuse and use of unjustified force against prisoners. Anti-Semitic incidents, including physical attacks, name-calling, property damage, and threatening letters, telephone calls, and Internet postings occurred during the year. There was some governmental and societal discrimination against Muslims and members of unrecognized religious groups, particularly those considered "sects." There were incidents of neo-National Socialist activity, rightwing extremism, and xenophobia. Trafficking in women and children for prostitution and labor also remained a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

In August a Vienna court found four members of the elite Wiener Einsatzgruppe Alarmabteilung police unit guilty of torturing and seriously injuring Gambian asylum seeker Bakary J. earlier in the year during a predeportation incident. Three police officers received eight-month suspended sentences, and a fourth officer was given a six-month suspended sentence. The Austrian chapter of Amnesty International criticized the verdict as being too lenient.

In August the attorney for a Nigerian asylum seeker claimed that Austrian police physically injured him during his forced deportation. The incident occurred in Frankfurt, Germany after the Nigerian refused to board a plane to Nigeria.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that police beat and abused persons.

In 2005 the Council of Europe's Committee for the Prevention of Torture (CPT) reported a "considerable number" of allegations of police mistreatment of criminal detainees. The interior ministry investigated these cases but concluded that none of the accusations could be verified.

During the year the Government continued to deny an extradition request from Kosovo authorities in the case of a police officer convicted in absentia for torture while serving in Kosovo's civilian international police in 2003. The Government recalled the officer from Kosovo, but allowed him to remain on duty during the investigation. Following the investigation, the officer was removed from his former job in the Ministry of Interior and demoted to a lower position. In October the Government officially closed the case.

There were no reports during the year that army officials mistreated conscripts.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards in many areas, and the Government permitted visits by independent human rights observers. A May report by the Human Rights Advisory Council explicitly criticized pre-deportation conditions in 2005 as "questionable from a human rights point of view," and, at times "not in conformity with human rights standards."

Some human rights observers criticized the incarceration of nonviolent offenders, such as persons awaiting deportation, for long periods in single cells or inadequate facilities designed for temporary detention. In 2005 the CPT noted that juveniles were not always separated from adults at the Linz prison.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, the strict application of slander laws tended to discourage reports of police abuse.

*Role of the Police and Security Apparatus.*—The country has a police force that is responsible for maintaining internal security. The Ministry of Interior controls the police, while the Ministry of Defense controls the army, which is responsible for external security. The police were generally well trained and disciplined.

On August 31, a senior Vienna police officer, Ernst Geiger, received a three-month suspended sentence for violation of confidentiality rules. Geiger had allegedly informed the owner of a sauna of an upcoming police raid on March 9. Vienna's top police official, Roland Horngacher, was suspended from office on August 9 and faces charges of accepting improper gifts and abuse of office for suspected leaking of information to journalists.

Government statistics for 2005 showed there were 1,047 public complaints against federal police officials; of those, 960 were dropped. In 18 court cases, two officers were convicted of using unjustified force and two cases were pending at the end of the year. Some police violence appeared to be racially motivated (see section 5).

Nongovernmental organizations (NGOs) and other groups continued to criticize the police for targeting minorities. During the year the interior ministry conducted racial sensitivity training programs for over 2,000 police and other officials with NGO assistance. The Human Rights Advisory Council monitors police respect for human rights and makes recommendations to the minister of the interior. During the year the council issued several recommendations to improve processing of predeportation and juvenile delinquent cases.

*Arrest and Detention.*—In criminal cases the law provides for investigative or pre-trial detention for up to 48 hours; an investigative judge may decide within that period to grant a prosecution request for detention of up to two years pending completion of an investigation. The law specifies grounds required for such investigative detention and conditions for bail. The investigative judge is required to evaluate such detention periodically. There is a system of bail. The police and judicial authorities respected these laws in practice. Detainees also had prompt access to a lawyer; however, the CPT noted in 2004 that criminal suspects who lack the means to pay for legal services may be appointed an ex officio lawyer only after the court's decision to detain them, i.e. 96 hours after their apprehension.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The court system consists of local, regional, and higher regional courts, as well as the Supreme Court. The Supreme Court is the highest judicial body, while the Administrative Court acts as the supervisory body over administrative acts of the executive branch. The Constitutional Court presides over constitutional issues.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. A system of judicial review provides extensive possibilities for appeal. Trials must be public and conducted orally. Persons charged with criminal offenses are considered innocent until proven guilty. Defendants have the right to be present during trials. While pro bono attorneys are supposed to be provided to indigent defendants, the CPT in its 2004 report found that there were generally not enough lawyers in criminal matters, financial arrangements were inadequate, and lawyers were not available around the clock. The report concluded that, as there is no effective system of free legal aid for indigent persons in police custody, any right of access to a lawyer at that stage remains, in most cases, purely theoretical.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, including an appellate system. This is available for lawsuits seeking damages for human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law prohibits neo-Nazi activity, including making statements that deny the Holocaust. On February 20, the Vienna regional court convicted British historian David Irving and sentenced him to a three years in prison on charges of neo-Nazi activity. In 1989 Irving reportedly denied the existence of gas chambers at Auschwitz and claimed that unknown individuals dressed in Sturmabteilung uniforms committed the Reichskristallnacht crimes in November 1934. On August 29, the Supreme Court confirmed the guilty-verdict. On December 20, the Vienna court of second instance suspended two thirds of Irving's three-year prison sentence. Because Irving had been in custody since November 11, 2005, he was released from prison and deported to Great Britain.

On April 26, the Vienna Criminal Court convicted John Gudenus, a former Freedom Party member of the upper house of parliament, to a one-year suspended sentence for violating the law banning neo-Nazi activity. In public interviews in 2005, Gudenus had questioned the existence of gas chambers and belittled the suffering of concentration camp inmates during the Holocaust.

The independent media were active and expressed a wide variety of views without restriction.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including electronic mail. According to March 2005 figures, 56.8 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

The law divides religious organizations into three legal categories: officially recognized religious societies, religious confessional communities, and associations. Numerous unrecognized religious groups have complained that the law obstructs legitimate claims for recognition and relegates them to second-class status. As of December the European Court of Human Rights had not ruled on a 2003 complaint by the Jehovah's Witnesses challenging the legality of the requirement that a group must exist for 10 years in the country before it can be recognized by the Government.

The conservative Austrian People's Party (OVP) denied party membership to members of unrecognized religious groups, which it considered "sects," that hold a view of mankind fundamentally different from the party's, advocate opinions irreconcilable with the OVP's ethical principles, or reject basic rights granted by "progressively minded" constitutional states and in an open society. The OVP denied membership to members of the Church of Scientology.

The city of Vienna funded a counseling center of a controversial NGO, the Society Against Sect and Cult Dangers (GSK), which actively worked against alleged sects

and cults. GSK distributed information to schools and the general public and offered counseling to persons who believe that sects and cults had hurt their lives.

The Federal Office of Sect Issues functioned as a counseling center for those who had questions about sects and cults. While the office is legally independent of the Government, the minister for social security and generations appointed and supervised its director. Some members of the public believed the office of sect issues and similar government offices fostered societal discrimination against unrecognized religious groups.

*Societal Abuses and Discrimination.*—There was some societal discrimination against members of unrecognized religious groups, particularly those considered to be “cults” or “sects.” The majority of these groups have less than 100 members. The Church of Scientology and the Unification Church were among the larger unrecognized groups.

Muslims complained about incidents of societal discrimination and verbal harassment, including occasional incidences of discrimination against Muslim women wearing headscarves in public. On April 9, an unknown person conducted an arson attack against the construction site of an Islamic Cemetery in Vienna. The attack coincided with the conclusion of a conference of European imams in Vienna. On September 11, police destroyed a suspicious device, which turned out to be a fake bomb, in front of the Muslim Youth office in Vienna. On November 7, police arrested a 29-year old Muslim man on charges of placing the fake bomb.

The Jewish community has approximately 7,700 members. During the year the NGO Forum Against Anti-Semitism reported a total of 125 anti-Semitic incidents, including physical attacks, name-calling, graffiti or defacement, threatening letters, anti-Semitic Internet postings, property damage, and vilifying letters and telephone calls.

On November 26, a 24-year old Croatian man went on a rampage in the Jewish Lauder Chabad School, breaking windows, glass doors, and showcases with an iron rod. Police later arrested him.

The European Union Monitoring Center on Racism and Xenophobia declared that anti-Semitism in the country was characterized by diffuse and traditional anti-Semitic stereotypes rather than by acts of physical aggression.

The law prohibits any form of neo-Nazism or anti-Semitism or any activity in the spirit of Nazism. It also prohibits public denial, belittlement, approval, or justification of Nazi crimes, including the Holocaust. The law prohibits public incitement to hostile acts, insult, contempt against a church or religious society, or public incitement against a group based on race, nationality, or ethnicity, if that incitement poses a danger to public order. The Government strictly enforced the law against neo-Nazi activity. The Vienna Jewish community's offices and other Jewish community institutions in the country, such as schools and museums, were under police protection.

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Secondary school history and civics courses discussed the Holocaust. Religious education classes taught the tenets of different religions and fostered overall tolerance. The education ministry offered special teacher training seminars on the subject of Holocaust education. An education ministry program routinely invited Holocaust survivors to speak to classes about Nazism and the Holocaust.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. The law prohibits forced exile, and the Government did not use it in practice.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees



and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum and subscribed to a "safe country of transit" policy, which required asylum seekers who transited a country determined to be "safe" to return to that country to seek refugee status. With the expansion of the European Union (EU) this concept has lost some of its importance because upon their accession, neighboring Slovenia, the Czech Republic, the Slovak Republic, and Hungary became subject to the EU provisions that establish criteria and mechanisms for determining the EU member state responsible for examining an asylum application. In 2005 new legislation introduced stricter detention and removal policies as part of a stronger enforcement of the 2003 Dublin II regulation (also referred to as the Dublin Convention) which discourages asylum shopping by allowing serial asylum-seekers to be returned to the EU country where they first applied for asylum. EURODAC, the EU's system for comparing fingerprints of asylum-seekers and illegal immigrants, has facilitated the application of the Dublin Convention. As a result, asylum applications dropped by more than 30 percent during the year with a noticeable trend in applicants attempting to conceal their routes of transit.

The Government has in the past (during the Kosovo crisis and as a result of hostilities in Afghanistan) also provided temporary protection to individuals who did not qualify as refugees under the 1951 Convention or 1967 Protocol under a mechanism whereby victims of armed conflict may be admitted to the country. The Government cooperated with the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In 2004 voters elected President Heinz Fischer of the SPO to a six-year term in national elections in which individuals could freely declare their candidacy and stand for election. In 2002 the OVP received a plurality in parliamentary elections and renewed its right-center coalition with the Freedom Party (FPÖ). In 2005 the Alliance for the Future of Austria broke away from the FPÖ, but remained a junior partner with the OVP in the coalition government.

The Federal Assembly consists of the National Council and the Federal Council. There were 58 women in the 183-seat National Council and 18 women in the 62-member Federal Council. There were five women in the 14-member Council of Ministers (cabinet).

Although there appeared to be relatively little minority representation at the national level, no precise information on the number of minorities in the Federal Assembly was available.

Some Muslims were on party lists for the elections but were not elected into the Federal Assembly.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year.

The law provides for full public access to government information, and the Government generally respected these provisions in practice. Authorities can only deny access if it would violate substantial data protection rights or would involve information that is of national security interest. Petitioners could challenge denials before the Administrative Court.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, but some groups were dissatisfied with the information supplied by authorities in response to specific complaints.

The Human Rights Advisory Council, composed of representatives from the justice and interior ministries and NGOs, operated to ensure that police respected human rights while carrying out their duties. However, the International Helsinki Federation for Human Rights (IHF) characterized the council as ineffective and unable to obtain the cooperation of the security services, citing that the country's criminal

code was lacking severity in certain instances. According to the IHF, shoplifters were likely to receive a longer sentence than sex offenders.

The 2004 equal treatment law expanded the responsibility of the ombudsman to ensure equal opportunity in the workplace regardless of ethnic origin, religion, age, or sexual orientation, and to address general discrimination because of ethnic origin. The law went into effect in 2004, and the ombudsman began its work addressing the new grounds in March 2005; 617 complaints on the new grounds were filed in 2005.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law provides for protection against discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these provisions effectively; however, violence against women, child abuse, trafficking in persons, and racial discrimination were problems.

*Women.*—Violence against women, including spousal abuse, was a problem. The Association of Houses for Battered Women estimated that one-fifth of the country's 1.5 million adult women have suffered from violence in a relationship. However, media reports estimated that fewer than 10 percent of abused women filed complaints. The law provides that police can expel abusive family members from family homes for up to three months. In 2005 an injunction to prevent abusive family members from returning home was applied in 5,618 cases.

The Government funded privately operated intervention centers and help lines for victims of domestic abuse. The centers provided for the victims' safety, assessed the threat posed by perpetrators, helped victims develop plans to stop the abuse, and provided legal counseling and other social services.

Under the law, rape, including spousal rape, is punishable with up to 15 years in prison.

In July a new law prohibiting stalking went into effect. The law provides for sentences of up to one year in prison.

Although there were no reported cases of female genital mutilation (FGM) in the country, the city of Vienna set up a counseling office in June to assist female immigrants from African countries who were victims of FGM. In 2005 the African Women's Organization (AFO) helped 899 women with various problems, among them a number of FGM cases.

Prostitution is legal; however, illegal trafficking, including for the purposes of prostitution, was a problem (see section 5, Trafficking). Laws regulating prostitution require prostitutes to register, undergo periodic health examinations, and pay taxes.

The law prohibits sexual harassment, and the Government effectively enforced those laws. Of the 4,418 cases of discrimination brought to the ombudsman for equal treatment of gender in 2005, 408 involved sexual harassment. The labor court can order employers to compensate victims of sexual harassment on the basis of the Federal Equality Commission's finding on the case; the law provides that a victim is entitled to a minimum of \$840 (700 euros) in financial compensation.

There are no legal restrictions on women's rights and the Federal Equality Commission and the ombudsman for equal treatment of gender oversee laws prescribing equal treatment of men and women. However, on average, women earned 83 percent of what men earned for the same work. Women were more likely than men to hold temporary positions and part-time jobs and also were disproportionately represented among those unemployed for extended periods.

Although labor laws provide for equal treatment of women in the civil service, women remained underrepresented. The law requires the Government to hire women of equivalent qualifications ahead of men in all civil service areas in which less than 40 percent of the employees are women, including police. There are no penalties, however, for agencies that fail to attain the 40 percent target.

Female employees in the private sector may invoke equality laws prohibiting discrimination against women. On the basis of the Federal Equality Commission's findings, labor courts may award compensation of up to four months' salary to women who experienced discrimination in promotion because of their gender. The courts may also order compensation for women who were denied a post despite having equal qualifications.

*Children.*—The law provides for the protection of children's rights, and the Government was committed to children's rights and welfare. Each state government and the federal Ministry for Social Welfare, Generations, and Consumer Protection has an ombudsman for children and adolescents whose main function is to resolve complaints about violations of children's rights. The ombudsman provides free legal counseling to children, adolescents, and parents on a wide range of problems, including child abuse, child custody, and domestic violence.

Nine years of education is mandatory for all children beginning at age six. The Government also provided free education through secondary school and subsidized technical, vocational, or university education. According to the Ministry of Education, 99.8 percent of children between the ages of six and 15 attended school. The Government provided comprehensive medical care for children.

Child abuse was a problem, and the Government continued its efforts to monitor abuse and prosecute offenders. The Ministry for Social Welfare, Generations, and Consumer Protection estimated that 90 percent of child abuse cases occurred within families or was committed by close family members or family friends. Law enforcement officials noted a growing readiness to report abuse cases. According to authorities, approximately 20,000 abuse incidents are reported annually in the country.

In a child abduction case that attracted international media attention, 18-year-old Natascha Kampusch escaped her abductor in September after eight years in captivity; Wolfgang Priklopil, the suspect in the case, subsequently committed suicide.

There were occasional cases of suspected child marriage, primarily in the Muslim and Romani communities. However, such cases were undocumented. Some male immigrants entered into a marriage with a teenage girl in their home country, and then returned to the country with her.

The law provides that adults having sexual intercourse with a child under 14 may be punished with a prison sentence of up to 10 years. If the victim is impregnated, the sentence may be extended to 15 years. In 2005 the Interior Ministry reported 1,314 cases of child abuse, most involving intercourse with a minor, while the Justice Ministry reported 322 convictions. The law provides for criminal punishment for the possession, trading, and private viewing of child pornography. Exchanging pornographic videos of children is illegal.

Trafficking of children remained a problem (see section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. Women were trafficked for sexual exploitation and domestic service, and children were trafficked for begging and possibly for sexual exploitation.

The law provides for the prosecution of traffickers and addresses trafficking for prostitution through deception, coercion, or the use of force; for the purposes of slavery; for the exploitation of labor; and the exploitation of aliens.

Trafficking is illegal and punishable by imprisonment for up to 10 years. In 2005 there were 168 trafficking cases involving 109 suspects and 25 convictions for human trafficking. Trafficking for purposes of slavery is punishable by imprisonment for 10–20 years. The perpetrators of human trafficking included both citizens, who were generally connected with licensed brothels, and foreign nationals, who are involved primarily with unlicensed brothels. Authorities estimated that organized crime groups from Eastern Europe controlled a large portion of human trafficking in the country. The police were also aware of cooperation between Austrian and foreign citizens in organizing the transfer of foreign prostitutes through the country.

The Interior Ministry's Federal Bureau for Criminal Affairs has a division dedicated to combating human trafficking. Law enforcement officials maintained contact with authorities in countries of origin to facilitate the prosecution of suspected traffickers. During the year there were no reports that the Government extradited any persons wanted for trafficking crimes in other countries.

In January the Government eliminated a "dancer" visa that had been used to traffic women into the country.

The country was a transit and destination point for women trafficked from Romania, Ukraine, Moldova, the Balkans, and, to a lesser extent, the Czech Republic, the Slovak Republic, Hungary, Belarus, and Africa. Victims were trafficked through the country to Spain, Italy, and France. Women were trafficked into the country primarily for the purpose of sexual exploitation. The International Organization for Migration (IOM) estimated that there were approximately 7,000 foreign trafficking victims in Vienna alone. Women also were trafficked from Asia and Latin America for domestic labor. In 2005, following extensive efforts by the Government in cooperation with Bulgarian authorities, police noted a decrease in the trafficking of Bulgarian children for the purposes of begging and stealing, and sometimes sexual exploitation.

While there were no accurate statistics on the number of trafficking victims, the NGO Lateinamerikanische Frauen in Oesterreich-Interventionsstelle fuer Betroffene des Frauenhandels reported assisting 151 trafficking victims in 2005, down from 167 victims in 2004. Both citizens and foreigners were engaged in trafficking. The country was attractive to traffickers because of its geographic location and because it does not require entry visas for citizens of the Czech Republic, the Slovak Republic, Hungary, Romania, and Bulgaria.

Most trafficked women were brought to the country with promises of unskilled jobs, such as nannies or waitresses. Upon arrival they were often coerced into prostitution. According to police, there also were cases of women who knowingly entered the country to work as prostitutes, but were forced into dependency akin to slavery. Most victims were in the country illegally and feared being turned into authorities and deported. Traffickers usually retained victims' official documents, including passports, to maintain control over them. Trafficking victims reported being subjected to threats and physical violence. A major deterrent to victim cooperation was widespread fear of retribution, both in the country and in the victims' countries of origin.

The Government provided temporary residence, limited to the duration of the trial, to trafficking victims who were prepared to testify or who intended to file civil law suits. However, victims rarely agreed to testify due to fear of retribution. Victims have the possibility of continued residence if they meet the criteria for residence permits.

LEFOE provided secure housing and other support for trafficking victims. The IOM also sought to put victims in contact with NGOs in their countries of origin upon their return. With financial assistance from the interior ministry, LEFOE continued to operate a center in Vienna that provided psychological, legal, and health-related assistance, emergency housing, and German language courses to trafficked women. Federal and local governments funded NGOs that provided assistance in other cities.

The Government worked with international organizations to carry out prevention programs throughout the region. The Government funded research on trafficking and NGOs produced antitrafficking brochures, law enforcement workshops, and international conferences funded with the help of private donors.

*Persons With Disabilities.*—The law protects persons with physical and mental disabilities from discrimination in housing, education, employment, and access to health care and other government services, and the Government generally enforced these provisions effectively. There were no reports of societal discrimination against persons with disabilities.

Federal law mandates access to public buildings for persons with physical disabilities; however, many public buildings were inaccessible to persons with disabilities due to insufficient enforcement of the law and low penalties for noncompliance.

The law provides for involuntary sterilization of adults with mental disabilities in cases where a pregnancy would be considered life-threatening. However, no involuntary sterilizations have been performed in recent years. The law prohibits the sterilization of minors.

The Government funded a wide range of programs for persons with disabilities, including provision of transportation, assistance integrating school children with disabilities into regular classes, and assistance integrating employees with disabilities into the workplace.

*National/Racial/Ethnic Minorities.*—In 2005 the Ministry of Interior recorded 209 incidents of neo-Nazi, rightwing extremist, and xenophobic incidents against members of minority groups. The Government continued to express concern over the activities of extreme right-wing skinhead and neo-Nazi groups, many with links to organizations in other countries.

A 2005 report by the domestic NGO Zivilcourage und Anti-Rassismus Arbeit, in conjunction with other groups, found that persons from diverse ethnic and racial backgrounds faced increasing discrimination from government officials, particularly the police, as well as in the workplace and in housing. The report cited 1,105 cases of alleged racial discrimination in 2005. The Government continued training programs to combat racism and educate the police in cultural sensitivity. In September the Ministry of Interior renewed an agreement with the Anti-Defamation League to teach police officers cultural sensitivity, religious tolerance, and the acceptance of minorities.

Human rights groups reported that Roma faced discrimination in employment and housing. The situation of the Romani community, estimated at over 6,200 autochthonous (indigenous) and 15,000 to 20,000 non-autochthonous Roma, has significantly improved in recent years, according to the head of the Austrian Roma Cultural Association. Government programs, including providing financing for tutors, have helped school age Romani children move out of "special needs" and into mainstream classes. The Government also initiated programs in recent years to compensate Romani Holocaust victims and to document the suffering of the Roma during the Holocaust.

NGOs complained that Africans living in the country experienced verbal harassment in public. In some cases, black Africans were stigmatized as being involved in the drug trade and other illegal activities.

According to the IHF, the issue regarding full recognition of Slovenes remained problematic. For example, the governor of the province of Carinthia refused to implement rulings by higher courts that gave certain rights to the Slovene minority.

The law recognizes Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes as national minority groups and requires any community, where at least 25 percent of the population belongs to one of these groups, to provide bilingual town signs, education, media, and access to federal funds earmarked for such minorities. The law affects 148 communities. At year's end the Government had not reached a decision on implementation of a 2001 Constitutional Court ruling on lowering the 25 percent threshold. The law does not provide these rights to other minority groups, such as Turks, which the Government does not recognize as indigenous minorities. However, the Government provided a wide range of language and job promotion courses. In December the Constitutional Court ruled that the state of Carinthia must install additional bilingual town signs in German and Slovene.

According to the IHF, the criminalization of homosexuality continued to be an issue. A majority in parliament has not supported calls by the Green Party for the legalization of gay marriages.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to form and join unions without prior authorization or excessive requirements, and workers exercised this right in practice. No workers were prohibited from joining unions. An estimated 47 percent of the work force was organized into 13 national unions belonging to the Austrian Trade Union Federation (ÖGB).

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Approximately 80 percent of the workforce was under a collective bargaining agreement; the ÖGB was exclusively responsible for collective bargaining. The law does not explicitly provide for the right to strike; however, the Government recognized the right in practice. The law prohibits retaliation against strikers, and the Government effectively enforced the law.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, and the Government generally enforced these laws and policies effectively. The minimum legal working age is 15 years. The Labor Inspectorate of the Ministry of Social Affairs effectively enforced this law.

There were reports of trafficking of children for begging and sexual exploitation (see section 5).

*e. Acceptable Conditions of Work.*—There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wages by job classification for each industry. The accepted unofficial annual minimum wage is \$14,880 to \$17,360 (12,000 to 14,000 euros), and it provided a decent standard of living for a worker and family. An estimated 10,000 to 20,000 workers had salaries below this level.

The law limits standard working hours to eight hours per day and up to 40 hours per week. The standard workday may be extended to 10 hours as long as the weekly maximum is not exceeded. The law requires compulsory time off on weekends and official holidays. An employee must have at least 11 hours off between workdays. Authorities effectively enforce these provisions.

The law limits overtime to five hours per week plus up to 60 hours per year; however, authorities did not enforce these laws and regulations effectively, and some employers exceeded legal limits on compulsory overtime. Collective bargaining agreements may provide for higher limits.

The Labor Inspectorate regularly enforces laws that provide for mandatory occupational health and safety standards. Workers may file complaints anonymously with the Labor Inspectorate, which may bring suit against the employer on behalf of the employee. However, workers rarely exercised this option and normally relied instead on the chambers of labor, which filed suits on their behalf. The law provides that workers have the right to remove themselves from a job if they fear serious,

immediate danger to life and health without incurring any prejudice to their job or career, and the Government effectively enforced this law.

## AZERBAIJAN

Azerbaijan is a republic of approximately 7.9 million persons with a Presidential form of government. The President dominated the executive, legislative, and judicial branches of government. Ilham Aliyev, the son of former President Heydar Aliyev, was elected President in 2003 in a ballot that did not meet international standards for a democratic election due to numerous, serious irregularities. November 2005 parliamentary elections, including rerun elections in ten constituencies in May, showed an improvement in some areas but did not meet a number of international standards. Armenian forces controlled most of Nagorno-Karabakh, as well as large portions of adjacent Azerbaijani territory. The Government did not exercise any control over developments in territories occupied by Armenian forces. Civilian authorities generally maintained effective control of the security forces. Members of the security forces committed numerous human rights abuses.

The Government's human rights record remained poor, and it continued to commit numerous abuses. The public's right to peacefully change the national legislature was restricted in the November 2005 parliamentary elections, although there were some improvements in the period leading up to the elections and in the May 13 parliamentary election reruns that took place in ten parliamentary constituencies. Torture and beating of persons in police custody resulted in three deaths, and police officials acted with impunity. Prison conditions—despite improvements in infrastructure—were generally harsh and life threatening. Arbitrary arrest and detention, particularly of individuals considered by the Government to be political opponents, and lengthy pretrial detention continued. The Government continued to imprison persons for politically motivated reasons. Pervasive corruption in the judiciary and in law enforcement continued. Restrictions on media freedom, freedom of assembly, and political participation worsened.

During the year, the Government took several important steps to combat human trafficking, including establishing a shelter for victims of trafficking, and separating the antitrafficking special police unit from the organized crime unit.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, human rights monitors reported three prisoners died in police custody due to alleged abuse and mistreatment.

On April 3, Namik Mammadov died in police custody at the Khizi regional police department. Domestic human rights activists reported that police beat and tortured him during questioning in order to coerce a confession. Police officials initially alleged that Mammadov died of a heart attack. However, photographic evidence of torture resulted in the state prosecutor opening a criminal investigation into Mammadov's death. Following the investigation, officials asserted the death was a suicide.

On July 25, Rasim Alishov died while in the custody of the Mingechevir city police; human rights activists reported that Alishov was beaten and tortured to death. In response the interior minister dismissed the head of the investigations department of the Mingechevir police and a member of the investigations staff and reprimanded three other Mingechevir officers in August.

On September 16, Yuri Safaraliyev was found dead in a Gobustan prison bathroom. The Government attributed Safaraliyev's death to suicide.

On August 29, Alihuseyn Shaliyev, a former ministry of economic development official in pretrial detention, was found dead at a Ministry of Justice hospital. Shaliyev had been arrested in October 2005 in connection with an alleged coup plot (see section 1.d.). A ministry investigation concluded that Shaliyev committed suicide by repeatedly slashing himself with a razor blade, an assessment with which human rights monitors concurred.

The authorities did not prosecute law enforcement officials implicated in the 2005 deaths of Nikolay Nikolashvili, Elchin Shahmaliyev, Elhman Ibrahimov, and Mahir Suleymanov because the Government attributed these deaths to suicide.

In March 2005 the ministry of national security arrested a senior Ministry of Internal Affairs official, Haji Mammadov, for ordering the kidnapping of 11 persons and killing of three persons since 1995 as the head of a criminal kidnapping, mur-

der, and extortion ring within the ministry of internal affairs (see section 1.b.). Mammadov's trial began in June, received widespread publicity, and continued at year's end.

In 2005 unknown persons killed journalist Elmar Huseynov (see section 2.a.).

Human rights activists reported that Orkhan Nasibov, an army soldier, died on July 23 as a result of military hazing. It was not known whether military officials were investigated in connection with this allegation.

Armenia continued to occupy the Azerbaijani territory of Nagorno-Karabakh and seven surrounding Azerbaijani territories. During the year, incidents along the militarized line of contact separating the sides as a result of the Nagorno-Karabakh conflict again resulted in numerous casualties on both sides. Reporting from unofficial sources indicated approximately 20 killed and 44 wounded, taking into account both military and civilian casualties on both sides of the line of contact.

According to the national agency for mine actions, landmines killed two persons and injured 15 others during the year.

*b. Disappearance.*—During the year there were at least two reports of politically motivated kidnappings. On March 6 unknown assailants kidnapped opposition newspaper journalist Fikret Huseynli and on September 30 the father of Eynulla Fatullayev, founder of Azerbaijan's most widely read weekly newsmagazine (see section 2.a.).

In March 2005 the wife of the chairman of the International Bank of Azerbaijan was kidnapped. A ministry of national security investigation uncovered a kidnapping and extortion ring responsible for the woman's kidnapping, as well as multiple killings over a 10-year period directed from within the ministry of internal affairs. A ministry of national security special forces unit raid rescued the woman (see section 1.a.).

The prosecutor general prosecuted one senior ministry of internal affairs officer, Lieutenant Colonel Haji Mammadov, chief of the ministry's criminal investigation division, who confessed to the March kidnapping and also to the abduction of 11 persons since 1995. The ministry of national security arrested 12 persons for their involvement in the ring, including two Chechen citizens. The minister of internal affairs, who remained in office, dismissed three other senior ministry officials including the Deputy Minister for Law Enforcement Zahid Duniyaliyev. The Ministry of Justice did not prosecute these officials.

The International Committee of the Red Cross (ICRC) continued to urge the Government to provide information on the fate of persons missing in action since the beginning of the Nagorno-Karabakh conflict; during the year the number of those confirmed missing increased from 3,400 to 4,176. The Government estimated that approximately 4,850 citizens remained missing, allegedly held by Armenia. During the year the ICRC facilitated the transfer and repatriation of six persons between Armenia and Azerbaijan.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices and provide for penalties of up to 10 years' imprisonment; however, there were credible reports that security forces beat detainees to extract confessions. Despite defendants' claims that testimony was obtained through torture or abuse, no cases involving such claims were dismissed. A domestic human rights monitor reported that security forces tortured between 40 and 50 persons while in custody. For example, according to the monitor, police in a Mingchevir police station tied up a detainee and beat him unconscious. Impunity remained a problem.

In November 2005 the media reported that officers of the ministry of internal affairs organized crime unit repeatedly gave electric shocks to opposition Azerbaijan Democratic Party (ADP) deputy chairman and former political prisoner Natik Efendiyev while in detention (see section 1.d.). Following widespread attention from press, local nongovernmental organizations (NGOs), and international observers, the ministry transferred Efendiyev from the organized crime unit to a local prison where he received medical treatment. In September he was sentenced to five years in prison (see section 1.e.).

According to the ministry of internal affairs, authorities punished 104 officers for human rights abuses. However, the ministry did not state whether the Government criminally charged any police officers for these violations. The ministry reported that it dismissed 28 law enforcement officers for misconduct during the year.

During the year the Government did not punish interior ministry officials for police abuse, misconduct, and the excessive use of force at a November 2005 peaceful opposition demonstration nor was any action expected. Viliyat Eyvazov, one of the senior officers allegedly involved in police abuse and misconduct in the aftermath

of the 2003 Presidential election, continued to serve as deputy minister of internal affairs following his 2005 promotion.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and life threatening despite continuing prison infrastructure improvements.

Overcrowding, inadequate nutrition, and poor medical care combined to make the spread of infectious diseases a serious problem. Despite recent improvements to prison infrastructure, prisons, generally Soviet-era facilities, did not meet international standards. In maximum-security facilities, authorities limited physical exercise for prisoners as well as visits by attorneys and family members. Some pretrial detainees were reportedly held in “separation cells,” often located in basements, to conceal evidence of physical abuse and where food and sleep reportedly were denied to elicit confessions.

According to the Justice Ministry, three new detention facilities, built to meet international standards, were under construction in the regions of Sheki, Lenkoran and Nakchivan. The Government increased financing for prison renovations three-fold during the year and completed renovations at 16 facilities.

Harsh prison conditions resulted in numerous deaths during the year; the total number of prison deaths was not available from the Justice Ministry at year’s end. Credible reports indicated that at least three deaths in police detention facilities were the result of torture or abuse (see section 1.a.). Tuberculosis (TB) remained the primary cause of death in prisons; the Government reported 633 convicts received treatment for TB. The ICRC reported the Government treated 674 prisoners for TB during the year; due to the absence of systematic medical screening, such treatment often started after prisoners were seriously ill.

The ICRC reported that 53 inmates died of the disease during the year. In October the Justice Ministry launched an expanded TB treatment program in its detention facilities. Many relied on their families for medicine and food, who often paid bribes to prison officials to gain access to imprisoned relatives. The Government said that it received no complaints of corruption within the prison system.

In September a reconstituted joint government-human rights community prison-monitoring group began functioning, although it was not very active during the last three months of the year. The Government had disbanded the monitoring group following the February 2005 dismissal of the deputy minister of justice for prisons on allegations of accepting bribes for awarding prison renovation contracts, and it officially reestablished the group in August 2005.

The Government permitted prison visits by international and local humanitarian and human rights groups. The ICRC also had unobstructed access to prisoners of war and to civilians held in connection with the conflict over Nagorno-Karabakh. In August 2005 the Government authorized a select group of local human rights activists to visit interior ministry-run police stations and ministry pretrial detention facilities in addition to prisons. This access continued uninterrupted during the year.

*d. Arbitrary Arrest or Detention.*—Although the law prohibits arbitrary arrest and detention, the Government generally did not observe these prohibitions in practice, and impunity remained a problem.

*Role of the Police and Security Apparatus.*—The ministry of internal affairs and ministry of national security are responsible for internal security and report directly to the President. The internal affairs ministry oversees local police forces and maintains internal civil defense troops. The ministry of national security has a separate internal security force.

Law enforcement corruption was a problem. Police often levied spurious, informal fines for traffic and other minor violations and extracted protection money from local residents. In 2005 and again during the year, traffic police officers received a substantial pay raise to counter corruption; nevertheless, the low wages of other law enforcement officials continued to contribute to police corruption. The ministry of internal affairs reported that during the year it punished 45 police officers for corruption.

Police officers acted with impunity, and in most cases the Government took little or no disciplinary action. During the year, however, the Government reported that it took action against 104 police officers for human rights violations, seven of whom were disciplined for inflicting bodily harm. The Government reported that it dismissed 28 officers from the ministry of internal affairs police forces, removed six officers from their position and administratively disciplined 11 others. The Government did not state whether it criminally charged any officers for violating human rights and civil liberties during the year.

During the year an international foundation continued its training program in human rights theory, standards, and practices for security officers attached to the Special State Protective Service (SSPS), a government agency responsible for pro-



tecting the Baku-Tbilisi-Ceyhan pipeline. The officers who participated in the training were recruited from the SSPS, state border guard, army, and police.

During the year an international organization conducted community policing and crowd control training for 135 ministry of internal affairs police officers. In May 2005 the Justice Ministry granted approval for foreign governments to train law enforcement officials to meet international standards and the first training program began.

*Arrest and Detention.*—The law states that persons who are detained, arrested, or accused of a crime should be advised immediately of their rights and reason for arrest and accorded due process of law; however, the Government did not respect these provisions in practice. Arbitrary arrest, often on spurious charges of resisting the police, remained a problem throughout the year.

The law allows police to detain and question individuals for 24 hours without a warrant; in practice police detained individuals for several days, sometimes weeks, without a warrant. In other instances, the prosecutor general issued *ex post facto* warrants.

Judges, acting at the instruction of the prosecutor general's office or of other executive branch officials, sentenced detainees to jail within hours of their arrest without providing access to a lawyer.

The law provides for access to a lawyer from the time of detention; in practice, access to lawyers was poor, particularly outside of Baku. Although provided for by law, in practice indigent detainees did not have access to lawyers. Authorities often restricted family member visits and withheld information about detainees; frequently days passed before families could obtain any information about detained relatives. Individuals were sometimes permitted to "vouch" for detainees, enabling their conditional release during pretrial investigation; however, there was no formal, functioning bail system. At times politically sensitive suspects were held incommunicado for several hours and sometimes days while in police custody.

On October 11, immigration inspectors at Baku's international airport detained opposition youth activist and media freedom advocate Emin Huseynov on his arrival from Turkey, releasing him after five hours. Huseynov, who featured prominently in a BBC television documentary about the country's 2005 parliamentary elections, complained that authorities also subjected his family to harassment.

On October 18, police detained overnight Ali Ismayilov, the leader of the youth group Yox. The detention prevented Ismayilov's participation in an unauthorized rally in Baku's city center on October 19 (see section 2.b.).

On November 23, police officers detained 40 to 50 opposition party members attempting to hold an unsanctioned protest in front of the Baku mayor's office. Observers reported that police detained at least three opposition members before the protest began as they exited a local metro station. Immediately following their arrest, a Baku court fined some of the detainees and sentenced 16 others to detention for between two and 15 days. Credible reports indicated that the court proceedings failed to meet minimum standards for due process. For example, the detainees did not have access to legal counsel during the hearing and were not formally arraigned on a specific charge. Witnesses report that some of the detainees received their sentences while waiting in the police bus outside of the courtroom. All of the detainees were released at the end of their respective detention periods.

In the run-up to the 2005 parliamentary elections, ministry of internal affairs police officers preemptively detained members of the political opposition to prevent their participation in planned but unsanctioned political rallies, on grounds that they were suspected of planning to incite civil unrest. Within hours of the detentions, judges sentenced the individuals to jail on those grounds. Between June 4, when the Government partially restored freedom of assembly, and November 6, election day, the Government detained and sentenced 50 persons for attempting to participate in unauthorized rallies.

Lengthy pretrial detention of up to 18 months was a serious problem. The prosecutor general routinely extended the permitted, initial three-month pretrial detention period in successive increments of several months until the Government completed an investigation.

In October 2005 security forces arrested approximately 300 opposition party activists, including up to 20 parliamentary candidates, in connection with the anticipated return to Baku of exiled ADP leader Rasul Guliyev. Shortly thereafter in October the ministry of national security arrested Presidential aide Akif Muradverdiyev, Minister of Health Ali Insanov, Minister of Economic Development Farhad Aliyev, former finance minister Fikrat Yusifov, business leaders Fikrat Sadigov and Rafiq Aliyev, and others, including Ministry of Economic Development official Alihuseyn Shaliyev (see section 1.a.), for allegedly attempting to foment a coup d'etat in connection with Guliyev's failed October return. As of year's end, authorities had not

presented any evidence to substantiate this charge and eight persons remained in pretrial detention. The law permits individuals charged with fomenting a coup to be held in pretrial detention for up to 18 months if the prosecutor general's office states to a court that continued detention is justified for the investigation; this period would expire in April 2007. The trial of Natic Efendiyev, an ADP deputy chairman charged with aiding and abetting the coup plot, occurred in September (see sections 1.e. and 1.c.).

In November 2005 government agents arrested prominent academic and Guliyev friend Eldar Salayev for allegedly planning to carry out the coup. The national security ministry released Salayev from detention in 2005 on account of his age and poor health, although the charges against him continued to stand.

In November 2005 several progovernment television channels broadcast a videotape of ministry of national security detainees Yusifov, Insanov, Muradverdiyev, and Sadigov testifying to their role in the plot to overthrow the Government. Yusifov, a former finance minister whose testimony dominated the broadcast, described himself as the financial middleman in exiled opposition leader Guliyev's network of support within the Government and business community. Yusifov confessed that Aliyev, Insanov, Sadigov, and others gave him money, which he turned over to Salayev, who was tasked with financing the opposition's activities. In November 2005 authorities released Fikrat Sadigov, former head of a state-owned chemical company, on the condition he notify police before traveling outside of Baku.

NGOs and lawyers for several of the accused reported that some of the detainees did not have access to appropriate medical care. They also said that the Government denied the detainees' due process rights, inappropriately prolonged the pretrial detention period, and denied some detainees the right to visits by their families. Some NGOs considered the case of the alleged coup plotters to be politically motivated.

The police arrested and detained members of certain religious groups, generally evangelical Christian denominations (see section 2.c.).

*Amnesty.*—During the year President Aliyev pardoned 199 prisoners, including eight persons whom local human rights activists considered political prisoners. Aliyev's October 24 decree included two journalists imprisoned in August on libel charges.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, in practice judges did not function independently of the executive branch. The judiciary was corrupt and inefficient.

The executive branch exerts a strong influence over the judiciary. The President appoints Supreme Court and Constitutional Court judges (subject to parliamentary confirmation) and lower court judges (without parliamentary confirmation).

Judges' salaries steadily increased over several years; nevertheless, there continued to be credible allegations that judges routinely accepted bribes. There were also credible reports that judges and prosecutors took instruction from the Presidential administration and the Justice Ministry, particularly in cases of interest to international observers.

Courts of general jurisdiction may hear criminal, civil, and juvenile cases. District courts try the majority of cases. The Supreme Court may not act as the court of first instance. One judge presides over district court-level trials, while a three-judge panel hears cases at the Court of Appeals, the Court of Grave Crimes, and the Supreme Court. The constitution provides all citizens with the right to appeal to the Constitutional Court. Citizens also have the right to appeal to the European Court of Human Rights, and they exercised this right frequently.

On October 2005 the Justice Ministry for the first time granted approval to an international NGO to train judges on compliance with election law. This judicial training program continued throughout the year.

In January the Government conducted judicial recruitment examinations for the purpose of selecting qualified judges to fill vacancies in the judiciary. International observers reported that the examinations complied with international standards, resulting in the selection of 55 new judges. At the end of the year, all 55 candidates were awaiting Presidential appointments to the judiciary. The Government began a second round of judicial selection examinations in October that continued at year's end.

*Trial Procedures.*—The law provides for public trials except in cases involving state, commercial, or professional secrets or matters involving confidential, personal, or family matters. The law provides for the presumption of innocence in criminal cases, the right to review evidence, a defendant's rights to confront witnesses and present evidence at trial, a court-approved attorney for indigent defendants, and appeal for both defendants and prosecutors—provisions not generally respected in practice.

Plans to begin jury trials were not implemented. Foreign and domestic observers usually were allowed to attend trials. Although the constitution prescribes equal status for prosecutors and defense attorneys, in practice prosecutors' privileges and rights outweighed those of the defense. Judges reserved the right to remove defense lawyers in civil cases for "good cause." In criminal proceedings judges may remove defense lawyers for conflict of interest or if a defendant requests a change of counsel.

The law limits representation in criminal cases to members of a government-controlled collegium of lawyers (bar association), thereby restricting the public's access to legal representation of choice. The collegium reserves the right to remove lawyers from criminal cases and sometimes did so for reasons that observers believed were questionable. The law allows all licensed lawyers to join the collegium automatically. However, some provisions in the law left open the possibility that the collegium could refuse a fully qualified lawyer for failing to meet other, unspecified requirements. In 2005 the collegium admitted nine of 231 licensed lawyers entitled to automatic admission to the association. During the year the collegium did not admit any licensed lawyers to the organization. In June the collegium announced plans to hold a bar examination to admit additional lawyers to the collegium, but did not hold the examinations during the year.

The constitution prohibits the use of illegally obtained evidence; however, despite some defendants' claims that testimony was obtained through torture or abuse, no cases based on claims of abuse were dismissed, and there was no independent forensic investigator to determine the occurrence of abuse (see section 1.c.). Investigations often focused on obtaining confessions rather than gathering physical evidence against suspects. Serious crimes brought before the courts were likely to end in conviction, as judges generally required only a minimal level of proof and collaborated closely with prosecutors. In the rare instance when a judge determined the evidence presented was not sufficient to convict a defendant, judges could and did return cases to the prosecutor for additional investigation, in effect giving the prosecution a "second chance" for a conviction.

On September 6, Natik Efendiyev was tried on charges of stockpiling weapons in connection with an alleged October 2005 coup plot (see section 1.d.). After a two-day trial, Efendiyev was sentenced to five years in prison. No domestic or international human rights monitors were present at the trial because of its sudden occurrence and remote location. An appellate court upheld the conviction in November. Efendiyev reportedly was tortured in pretrial detention (see section 1.c.). Some NGOs considered the imprisonment of Natik Efendiyev to be politically motivated.

In September Musavat party member Piralı Orujev, arrested in June 2005, was sentenced to four years' imprisonment for allegedly conspiring to kill two progovernment figures. Some NGOs raised concerns about the fairness of his trial and considered his imprisonment to be politically motivated.

On November 23, a Baku court sentenced 27 opposition members to jail for periods of up to two weeks for participating in an unauthorized protest outside of the Baku mayor's office earlier that day (see section 1.b.). Similarly, in the period preceding the November 2005 parliamentary elections, judges often sentenced to jail opposition members arrested for participating in unauthorized political rallies within hours of their detention and without a fair trial.

The country also has a military court system with civilian judges. The military court retains original jurisdiction over any case in which "crimes against the state" are adjudicated.

*Political Prisoners and Detainees.*—Local NGOs maintained that the Government continued to hold political prisoners, although estimates of the number varied. NGO activists maintained that the Government held approximately 51 political prisoners. As was the case in 2005, at year's end three political prisoners arrested in connection with the 2003 Presidential election and listed in the Council of Europe's experts report remained incarcerated: Elchin Amirasanov, Safa Poladov, and Arif Kazimov.

From April 5 to July 12 the trial of Ruslan Bashirli, Said Nuriyev, and Ramin Tagiyev, activists from the opposition youth group Yeni Fikir took place in the Court of Grave Crimes. In August 2005 the Government arrested the activists and charged them with treason in the period leading up to the 2005 parliamentary elections. In a widely broadcast videotape shown by state-operated AzTV in 2005, Bashirli was shown taking money from and conspiring with Georgian and alleged Armenian citizens to foment revolution in the country. International and domestic observers doubted the credibility of the evidence against the three activists and suspected a case of entrapment to intimidate and embarrass the opposition.

Authorities asserted that national security justified closure of the Yeni Fikir trial to outside observers during its first three weeks. After the trial was opened to observers, diplomatic representatives attended the proceedings and reported that the

trial did not meet minimum international standards for due process. The defendants were repeatedly denied access to the evidence presented against them, the cross-examination of witnesses was restricted, and the judge, Tofiq Pashayev, often convened hearings for less than an hour before adjourning the court proceeding for several weeks. As a result, domestic and international observers considered the imprisonment of Bashirli, Nuriyev, and Tagiyev to be politically motivated.

On July 13, the court sentenced Bashirli to five years in prison, Tagiyev to four years in prison, and Nuriyev to a suspended three-year sentence because of a pre-existing health condition. On September 28, an appeals court upheld the lower court's verdict but reduced Tagiyev's sentence to three years.

Domestic and international observers considered the imprisonment of prominent political satirist Mirza Zahidov to be politically motivated (see section 2.a.).

Some NGOs considered several other cases involving prisoners or detainees to be politically motivated (see sections 1.d. and 1.e., Trial Procedures).

There were no reliable estimates of the number of political detainees. Most political detainees received sentences of between 10 and 15 days in jail, often described as "administrative detention" sentences (see sections 1.e., Trial Procedures, and 2.b.).

The Government generally permitted unrestricted access to political prisoners by international humanitarian organizations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary invasions of privacy and monitoring of correspondence and other private communications; in practice the Government restricted privacy rights.

The constitution allows for searches of residences only with a court order or in cases specifically provided by law; however, authorities often conducted searches without warrants. It was widely believed that the ministry of national security and ministry of internal affairs monitored telephone and Internet communications, particularly those of foreigners and prominent political and business figures.

Police continued to intimidate and harass family members of suspected criminals. Human rights monitors reported that officials denied family members the right to visit those detained in connection with an alleged coup plot (see section 1.d.).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press and specifically prohibits press censorship; however, the Government often did not respect these rights in practice. On October 11, the Organization for Security and Cooperation in Europe (OSCE) representative on freedom of the media visited the country in response to growing concern about the deterioration of media freedom. The representative criticized the general decline in media freedom during the year. He urged the President to pardon journalists convicted of libel, to remove libel from the criminal code, and to thoroughly investigate and prosecute physical assaults of journalists.

A large number of opposition and independent media outlets operated during the year. The print media expressed a wide variety of views on government policies. However, most broadcast media adhered to a progovernment line in their news coverage.

There were several pro-opposition newspapers and magazines, and a few independent newspapers and magazines. There were 17 television and 12 radio stations. There also were several national state newspapers and numerous newspapers funded by city or district level officials. In contrast to progovernment newspapers, the distribution of many opposition newspapers was limited to the capital, and their circulation was low. During the year many opposition and government-run newspapers reduced circulation, and several, including prominent opposition newspaper *Yeni Musavat*, reduced frequency. Moderate independent newspapers *Echo* and *Zerkalo*, however, maintained their circulation.

Some private television channels broadcast the views of both government and opposition officials, but their programs were not available in all parts of the country. ANS TV, a popular channel regarded as independent, provided generally balanced news coverage. However, on November 24, the National Television and Radio Council (NTRC) ordered ANS to stop broadcasting on grounds that the channel had failed to comply with national media law and regulations, a charge that ANS disputed. Citing the appeals of prominent citizens, and of the human rights ombudswoman, the NTRC reversed its decision on December 11 and allowed ANS to resume broadcasting the following day. However, according to the NTRC, numerous regulatory issues remained unresolved and at year's end, ANS had reapplied for its license in an open tender.

There were no restrictions on systems to receive satellite broadcasts by foreign stations.

Harassment and violence against individual journalists continued. The Media Council, an independent NGO, reported that 40 journalists experienced physical attack or harassment during the six-month period preceding the November 2005 parliamentary elections, the most recent period for which data was available.

On March 5, unknown assailants kidnapped opposition newspaper journalist Fikret Huseynli and attacked him with a knife. No one had been charged or arrested in connection with the incident by year's end.

On May 18, unknown assailants took Bahaddin Haziyevev, editor in chief of the opposition newspaper Bizim Yol (Our Path), to a lake near Baku, ran his legs over with a car, and reportedly threatened to kill his family if he did not stop writing articles critical of the Government. Huseynli sustained serious injuries. Authorities had not charged any suspects in connection with the attack by year's end.

On June 23, police arrested prominent political satirist Mirza Zahidov (also known as Mirza Sakit) on charges of narcotics trafficking and possession. Zahidov routinely criticized the Government and public officials in his writings. Human rights activists doubted the credibility of the charges against Zahidov and considered them to be politically motivated. On October 3 the Baku Court of Grave Crimes convicted Zahidov of drug possession but not of drug trafficking. The court sentenced Zahidov to three years in prison. In November, a Baku appellate court upheld the sentence.

On October 3, the Russian language weekly newsmagazine Realny Azerbaijan and its Azerbaijani-language sister publication Gundelik Azerbaijan abruptly ceased publication. Credible human rights monitors said that unknown assailants kidnapped the father of the publications' founder and editor in chief, Eynulla Fatullayev, and held him for three days. Fatullayev's father was released reportedly after Fatullayev agreed to cease publishing both titles on October 3. Fatullayev had started Realny Azerbaijan in May 2005 after having worked at The Monitor, which ceased publication following the killing of its founder and editor. In 2004 unknown assailants had physically attacked Fatullayev. Fatullayev resumed the publication of Realny Azerbaijan in December.

On November 24, the Baku Economic Court ordered the eviction of the opposition Popular Front Party (PFP), the opposition-affiliated newspapers Azadliq and Bizim Yol, and the independent Turan News Agency from their headquarters in central Baku. The court ruled that the PFP and the affected media organizations were occupying a building illegally leased to them by the Baku mayor's office in 1992. Officials began implementing the eviction order immediately after the verdict. Officials gave the building tenants until 11:00 a.m. on November 25 to remove their belongings and instructed the building's tenants to relocate to properties that the Government previously offered but which the tenants had rejected as unacceptable due to their remote location and deplorable condition.

On November 25, police officers cordoned off access to the building and local officials supervised hired movers who removed the tenants' furniture, equipment and effects to the alternate locations. However, police did not permit PFP workers to move the party's belongings to a preferred temporary office at the ADP's headquarters. The opposition newspapers Azadliq and Bizim Yol completed the relocation after one week and resumed publication. The independent Turan News Agency relocated to a downtown Baku facility within three days of the eviction and resumed its full operations within a week.

On December 25, four unidentified assailants attacked opposition Azadliq newspaper journalist Nijat Huseynov near a bus stop close to his home. Huseynov was hospitalized and in recovery at year's end.

There were no developments during the year in the March 2005 killing of the founder and editor of The Monitor, Elmar Huseynov, by unknown assailants. The Government characterized the killing as a terrorist act meant to destabilize the regime and launched an investigation into the case. Some human rights activists described the killing as a warning to those critical of the Government, a suggestion that officials vehemently rejected. In July 2005 press reports stated that the Government's investigation identified two Georgian citizens, Tahir Khubanov and Teymuraz Aliyev, as suspects. However, Ministry of Internal Affairs Lieutenant Colonel Haji Mammadov asserted during his trial (see section 1.b.) that he had ordered the killing of Huseynov at the order of former minister of economic development Farhad Aliyev (see section 1.d.). Members of the human rights and independent media communities did not find this assertion credible. The Monitor ceased publication in April 2005.

In contrast with 2005, there were fewer reports that police beat journalists covering opposition rallies or other events because authorities did not permit opposition political rallies during the year. In 2005 police officers beat some journalists and de-

tained and released others covering opposition rallies connected with the parliamentary elections.

A state regulatory agency, the NTRC, was responsible for issuing licenses and monitoring broadcasts, but it did not function independently of the Government and its procedures were not transparent. The Justice Ministry must register a corporation such as a television station operating company in order for it to have legal existence. Despite pressure from independent media outlets, the NTRC did not open tenders for the issuance of new broadcast licenses during the year.

Throughout the year, the NTRC failed to renew the broadcast license of independent private broadcasting company ANS Television and Radio, forcing it to operate without an official license since its license expired in September 2005. During the year, ANS was also the subject of multiple official investigations, including one for alleged tax evasion.

In October the NTRC notified ANS and the independent radio station, AntennFM Radio, that the stations' daily broadcast of Voice of America, Radio Free Europe/Radio Liberty, and BBC-contracted programming violated the national television and radio law. The NTRC asserted that the law prohibited foreign broadcasters from rebroadcasting programming on private television channels. In December the NTRC granted Voice of America and Radio Free Europe/Radio Liberty their own FM radio frequencies and notified Voice of America that it would be able to resume broadcasting on state television on January 1, 2007.

On November 24, the NTRC ordered ANS Television and Radio to stop broadcasting at 3:00 p.m. that day. The NTRC said that ANS had 11 violations of the national media law and NTRC regulations. ANS disputed the NTRC's claim, and company officials said that ANS complied with all of the NTRC's regulatory orders during the year. Senior government officials said that ANS could resume broadcasting if and when the company complied with the NTRC's requirements. Citing the appeals of prominent citizens, the NTRC reversed its decision on December 11 and allowed ANS to resume broadcasting the following day. However, according to the NTRC, numerous regulatory issues remained unresolved at year's end. ANS was also required to compete in an open tender for its broadcast frequency, the results of which were not yet known at year's end.

In September 2005 the Justice Ministry initially rejected the registration application of a regional television network consisting of local stations on the grounds that the network was sponsored by an international media development NGO. The network revised its incorporation documents to remove the international NGO from the title. However, the ministry did not act on the pending network registration application during the year.

In the months preceding the November 2005 parliamentary elections, opposition politicians consistently had free, unrestricted access to state television airtime and paid, unrestricted access to private television time, although news coverage was heavily skewed in favor of the ruling New Azerbaijan Party. While the election code includes free media access requirements, the Government restricted the opposition's access to a state television channel during the 72-hour period following the attempted October 2005 return of exiled opposition leader Rasul Guliyev.

Libel is a criminal offense; the law allows for large fines and up to three years' imprisonment. The Government intimidated and harassed the media, primarily through defamation suits, prohibitively high court fines for libel, and measures that hampered printing and distribution of independent newspapers and magazines. In contrast to 2005, the number of defamation suits threatening the financial viability of the print media increased during the year. Human rights activists believed that public officials used libel suits to prevent the publication of embarrassing or incriminating information. Government officials publicly stated that the accusations leveled by journalists were unfounded and slanderous.

In June, July, and August, public officials filed numerous libel lawsuits against journalists. Courts sentenced five opposition newspaper journalists to prison terms of between one and five years for libel as a result of these lawsuits. For example, on July 18, the minister of internal affairs sued Shahin Agabeyli, editor in chief of Milli Yol newspaper for libel. A Baku court sentenced Agabeyli to one year in prison on August 10. However, the President pardoned Agabeyli in October, and he was released. On August 2, a senior Ministry of Internal Affairs counternarcotics official, Hazi Aslanov, sued prominent opposition journalist Zarusht Alizadeh for libel because Alizadeh described ministry counternarcotic officers as drug dealers in an opposition newspaper interview. Alizadeh was fined \$5,700 (5,000 new manat).

In August 2005 the Government launched public television channel ITV. In the run-up to the November 2005 parliamentary elections the channel broadcast television debates between parliamentary candidates and provided candidates with free airtime consistent with the requirements of the election code. However, the OSCE

election assessment reported that government-funded ITV devoted 79 percent of its prime time news coverage almost exclusively to positive or neutral coverage of the President, administration, government, and ruling party. During the year OSCE media monitors reported that ITV's programming was increasingly difficult to distinguish from AzTV, the state television channel.

In 2005 one member of parliament sued the editor in chief of Hesabat for libel after the newsmagazine called the parliamentarian one of the country's richest persons. The case remained in a Baku court at year's end.

Most newspapers and magazines were printed in government publishing houses or on private printing presses owned by individuals close to the Government. The majority of independent and opposition newspapers remained in a precarious financial position; they continued to have problems paying wages, taxes, and periodic court fines.

The Government prohibited some state libraries from subscribing to opposition newspapers. The Government also continued to prohibit state businesses from buying advertising in opposition newspapers and pressured private business to do the same.

Baku-based journalists reported that authorities in the exclave of Nakchivan continued to block distribution of opposition newspapers.

As in the previous year, the Government tightened enforcement on unregistered, independent newspaper vendors who mainly distributed opposition newspapers, stating that the illegal vendors created traffic hazards on city streets. In March 2005 the Government lifted a prohibition on the sale of opposition newspapers in the subway system.

Continuing a trend from 2005, Gaya, the country's largest independent newspaper distributor, reopened some of its 20 newsstands in Baku that were torn down in 2002 by the Baku mayor's office. However, some of the newsstands remain in the custody of the Baku municipal authorities.

*Internet Freedom.*—The Government generally did not restrict access to the Internet, but it required Internet service providers to be licensed and have formal agreements with the Ministry of Communications and Information Technologies. There was no evidence to support the widely held belief that the Government monitored Internet traffic of foreign businesses and opposition leaders. However, in July press reports said that the Government temporarily blocked public Internet access to a Web site popular for lampooning the President. Access to the Internet was limited to urban centers due to lack of infrastructure.

*Academic Freedom and Cultural Events.*—The Government generally did not restrict academic freedom. The opposition Musavat Party said that 40 of its members, employed as teachers in state educational institutions in the regions were harassed and periodically threatened with dismissal for their political activities. University students have been threatened with expulsion for opposition political activity. As a result, a number of students believed they would be expelled if they were to become politically active.

In May approximately 50 students from Azerbaijan Independent University (AIU) went on hunger strike to protest the education ministry's suspension of further matriculation at the school and at 17 other academic institutions. Ministry officials said the suspension was part of ongoing efforts to root out systemic corruption in the education system. However, some analysts believed the ministry was attempting to stifle competition against the Government's premier academic institution, Baku State University. In response to widespread media attention, the ministry permitted fourth-year students at AIU to graduate and third-year students to transfer to other institutions but cancelled enrollment of the first- and second-year students. A group of the first- and second-year students sued the ministry over the revocation of their matriculation status. Claiming that the lawsuit was proceeding too slowly, approximately 100 to 150 of the first and second year students resumed their hunger strike in December in the Musavat office while awaiting a court decision. The strike ended on December 28 when Musavat officials decided not to continue providing a space for the strikers. At year's end the court had not issued a ruling.

At the end of 2005, the Government expelled four students from Baku State University, the State Economic University, and the Pedagogical University due to their political activities in support of opposition parties. One expelled student, Turan Aliyev, began a hunger strike at the end of 2005 and was joined by three opposition youth activists in protest of the universities' expulsions. On January 17, the minister of education intervened after local human rights activists drew public attention to the students' case and ordered the students' reinstatement. However, two of the students, Turan Aliyev and Namik Faziye, reported that university administrators

continued to refuse to grant them letters of enrollment that would allow them to return to class.

There were no government restrictions on cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly; however, the Government restricted this right in practice. The Government often denied opposition political parties' requests to hold political rallies. However, the Government periodically allowed other unauthorized rallies to take place. For example, in early February the Government allowed several unauthorized rallies of less than 100 participants in Baku and its surrounding villages. The protests were held in response to the publication of cartoons depicting the Prophet Mohammed in a Danish newspaper.

On October 16, the Baku mayor's office denied the Yox youth group's application to hold a demonstration on October 18. On October 18, Yox leader Ali Ismayilov said that unidentified men detained him overnight in order to prevent him from leading an unauthorized demonstration in Baku.

In November the opposition attempted to hold five unauthorized rallies of less than a hundred participants each, in response to the Government's lawsuit seeking to evict the PFP and several media outlets from their central Baku offices (see section 2.a.). On four occasions—November 2, 6, 15, and 16—police detained the opposition protesters, who were demonstrating peacefully, and released them after several hours.

On November 23, between 60 and 70 opposition party members attempted to protest peacefully in front of the Baku mayor's office. Police detained between 40 and 50 of the participants. Within hours of the detention, a Baku court fined some of the participants and sentenced 27 others to jail for between two and 15 days.

In June 2005 in advance of the November 2005 parliamentary elections, the Government partially restored the constitutional right to freedom of assembly, which had not been permitted since the demonstrations following the 2003 Presidential election. However, the Government again restricted this right in the period before the November elections. The Government interpreted the law to require individuals and political parties to obtain permission from the authorities in order to assemble and organize demonstrations.

During the pre-election period in 2005, the Government limited political rallies to predetermined sites approved by local authorities. Most of these locations were removed from city centers. The opposition held authorized rallies at some of these locations and attempted to hold unauthorized rallies in city centers. Authorities restricted public transportation to the sites of unauthorized rallies and, in one instance, blockaded the Azadliq bloc's local party offices to prevent opposition members from congregating in the downtown area.

Between May and October 2005, the Government deployed riot police on multiple occasions to break up unsanctioned political rallies in Baku, and police in several instances beat participants and journalists covering the rallies and arrested participants. With one exception, there was no accountability for these police abuses at year's end.

Following the November 2005 parliamentary elections, the opposition Azadliq bloc held four government-authorized rallies in Baku to protest the election's conduct. In November 2005 security forces violently dispersed an authorized Azadliq bloc rally in response to an opposition leader's call for a participant "sit down" to protest election results. Riot police charged through the crowd of 7,000 opposition supporters, striking them with truncheons while other security forces destroyed the platform where opposition leaders had been standing. Two opposition leaders were struck, and police seriously beat a third opposition leader while apprehending him. Police used truncheons and water cannons to remove protesters from the square. Opposition officials subsequently reported that 90 persons were seriously injured, four were taken to city emergency rooms in critical condition, and 67 others sustained minor bruises. Despite the peaceful conduct of participants, the Government arrested 57 opposition supporters for "hooliganism" and "public disorder" at the rally. Within hours of the arrests, courts sentenced 27 opposition supporters to jail for 10 to 15 days; the remaining 30 were released with administrative penalties or fines. No police officials were held accountable for the excessive use of force.

*Freedom of Association.*—The law provides for freedom of association, although in practice the Government continued to restrict this right. A number of provisions allowed the Government to regulate the activities of political parties, religious groups, businesses, and NGOs, including a requirement that all organizations register either with the Justice Ministry or the State Committee on Work with Religious Associations (SCWRA). Although a new law requiring the Government to act on registration applications within 30 days of receipt was implemented in 2005, vague, cum-



bersome, and nontransparent registration procedures continued to result in long delays that effectively limited citizens' right to associate.

The Government used a 2003 requirement for all existing NGOs to reregister with the Justice Ministry to delay or deny registration to some previously registered groups, often citing the failure of applicants to follow proper procedures. During the year the ministry registered 548 NGOs, which it reported was more than the number registered in 2005. However, the ministry did not provide information on the total number of NGO applications received or the number of NGO applications rejected during the year.

In May 2005 the OSCE issued a report on NGO registration, identifying problems and offering recommendations. Its conclusions noted that the Government procedurally evaded NGO registration by taking an excessive amount of time to discover shortcomings, which unduly prolonged processing times for NGO registration applications. While the report noted many of the shortcomings in applications cited by authorities were valid, most of them were correctable during the registration process and should not have been grounds for final rejection.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion; however, there were some abuses and restrictions in practice. Although the law expressly prohibits the Government from interfering in the religious activities of any individual or group, there are exceptions, including cases where the activity of a religious group "threatens public order and stability." In January the Government announced its intention to amend the law to restrict the political activities of religious groups. However, at year's end parliament had not taken up consideration of a draft amendment. The generally amicable relationship among religious groups in society contributed to religious freedom. Most religious groups met without government interference.

A number of legal provisions enable the Government to regulate religious groups, including a requirement that religious organizations, including individual congregations of a denomination, be registered by the Government (see section 2.b.). Muslim religious groups must receive a letter of approval from the Caucasus Muslim Board (CMB) before they can be registered by the State Committee on Work with Religious Associations (SCWRA). The committee and its chairman have broad powers over registration; control over the publication, import, and distribution of religious literature; and the ability to suspend the activities of religious groups violating the law.

Registered Muslim organizations are subordinate to the CMB, a Soviet-era entity that appoints Muslim clerics to mosques, periodically monitors sermons, and organizes annual hajj pilgrimages. It has been subject to some interference by the SCWRA, which has attempted to share control with the CMB over the appointment and certification of clerics and internal financial control of the country's mosques. At least one prominent Muslim religious leader objected to interference from both the CMB and SCWRA.

The SCWRA continued to delay or deny registration to some Protestant Christian groups, including two Baptist churches. Three of the Baptists' five main churches successfully reregistered. However, during the year, religious organizations reported that the registration process had improved and that the SCWRA appeared to be handling requests more effectively. At the end of the year, the SCWRA had registered more than three-quarters of the number of religious communities previously registered. The SCWRA estimated that 1,300 religious groups are in operation, although many have not filed for registration or reregistration. Some groups reported that SCWRA employees tried to interfere in the internal workings of their organizations during the registration process.

Although unregistered religious groups continued to function, some, such as Seventh-day Adventists, Jehovah's Witnesses, and Baptists, reported official harassment, including disruption of religious services and police intimidation, fines, and occasional beatings of worshippers by police. For example, on April 16, Baku police interrupted the Easter services of the Protestant Community of Greater Grace, purportedly to ascertain the legality of the group's religious activities. However, when the group complained to the Government, local officials apologized for the incident.

Local law enforcement authorities occasionally monitored religious services, and some observant Christians and Muslims were penalized for their religious affiliations. Christians were often suspected of illegally proselytizing but not political activity. Government authorities took various actions to restrict what they claimed were political and terrorist activities by Iranian and other clerics operating independently of the organized Muslim community. For example in 2005 the Government deported several Iranian and other foreign clerics operating independently of the organized Muslim community for alleged violations of the law. The Government

outlawed several Islamic humanitarian organizations because of credible reports about connections to terrorist activities.

Jehovah's Witnesses reported that authorities regularly interfered with their ability to rent public halls for religious assemblies and on occasion fined or detained and beat individuals for meeting in private homes. Local television stations also aired "raids" of religious meetings for "exposes" of religious groups.

On December 24, police accompanied by a television crew raided a gathering of Jehovah's Witnesses in Baku. Police detained and released most participants, but held six foreigners in immigration detention pending deportation proceedings. These individuals remained in immigration detention at the end of the year.

The law expressly prohibits religious proselytizing by foreigners, and officials enforced this strictly.

The Juma Mosque remained closed at the end of the year.

In 2004 Ministry of Justice officials and police forcibly evicted the Juma Mosque community from its premises following protracted litigation.

Since his 2004 conviction for participating in post election demonstrations in 2003, the imam of the Juma Mosque, Ilgar Ibrahimoglu, has not been allowed to travel outside the country, including to several meetings of the UN and the OSCE where he was to be an official NGO participant.

In June 2005 a Sumgayit court ruled that a school teacher was permitted to wear hijab in class. During the year, officials generally permitted headscarves in schools. In November after an NGO sued the university in court Sumgayit University officials changed a university policy that previously prohibited students from wearing hijab. The Center for Protection of Conscience and Freedom of Religious Persuasion reported that authorities continued to prohibit Muslim women from wearing headscarves in passport photos.

The law permits the production and dissemination of religious literature with the approval of the SCWRA; authorities also appeared to selectively restrict individuals from importing and distributing religious materials. The procedure for obtaining permission to import religious literature remained burdensome, but religious organizations reported that the SCWRA appeared to be handling requests more effectively.

Some religious groups continued to report that government ministries restricted and delayed the import of religious literature, although in other instances, the SCWRA facilitated the import of such literature. The Baptist Union reported the SCWRA restricted the quantity of religious books allowed after granting initial import permission.

In February 2005 the Supreme Court ruled that while the country remained in a state of war with Armenia, the military service requirement superseded an individual's constitutional entitlement to alternative service due to religious beliefs and that, absent implementing regulations, the military was not obligated to provide alternative service.

On April 28, police arrested Mushfiq Mammedov, a member of Jehovah's Witnesses, for refusing to fulfill the mandatory military service requirement due to his religious beliefs. According to the SCWRA, a local court sentenced Mammedov to a suspended six-month sentence.

*Societal Abuses and Discrimination.*—There were an estimated 15,000 Jews in the country, the vast majority located in Baku. Incidences of prejudice and discrimination against Jews were rare, and in the few instances of anti-Semitic activity the Government responded quickly. There was popular prejudice against Muslims who converted to non-Islamic faiths and hostility toward groups that proselytized, particularly evangelical Christian and missionary groups. The Government appeared to encourage such social stigmatization through orchestrated exposes and raids of non-traditional groups.

The Government actively undertook programs to encourage religious tolerance. For example, on November 15, the SCWRA, foreign affairs ministry, and Caucasus Muslim board cohosted an interfaith tolerance conference.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, although at times the Government limited freedom of movement, particularly for internally displaced persons (IDPs). The law required men of draft age to register with military officials before traveling abroad; some travel restrictions were placed on military personnel with access to national security information. Citizens charged with or convicted of criminal offenses and given suspended sentences were not permitted to travel abroad. The Government employed this provision to prevent the foreign travel of an imam who had been convicted and given a suspended sentence in 2004 (see section 2.c.). The Gov-

ernment refused to renew the passport of an opposition party leader, citing an outstanding civil complaint against him from over a decade ago. Officials regularly extracted bribes from individuals who applied for passports.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons.*—IDPs were required to register their place of residence with authorities and could live only in approved areas. This so-called propiska system, a carryover from the Soviet era, was imposed mainly on persons forced from their homes after the Armenian occupation of western parts of the country. The Government asserted that registration was needed to keep track of IDPs to provide them with assistance.

While official government policy allowed ethnic Armenians to travel, low-level officials often requested bribes or harassed Armenians who applied for passports. According to the International Organization for Migration (IOM), some Armenians of mixed descent reported to a local NGO that they had problems with officials in the passport and registration department when applying for identification cards; applicants who applied with Azerbaijani surnames encountered no problems except for having to pay bribes.

There were approximately 675,000 IDPs in the country. The vast majority of these persons fled their homes between 1988 and 1993 as a result of the Nagorno-Karabakh conflict.

During the year the Government received \$30 million in assistance from international and domestic humanitarian organizations for refugees and IDPs. According to the Government, it also allocated \$110 million from the country's oil fund and \$100 million from the state treasury to improve living conditions for IDPs and refugees. During the year the Government constructed new settlements under a 2004 Presidential decree to improve living conditions for refugees and IDPs.

The State IDP and Refugee Committee's estimated expenditures were \$87 million. IDPs received monthly food subsidies of approximately seven dollars (six manat) from the Government.

According to the IOM, in 2005 approximately 21,000 IDPs lived in the Sabirabad, Saatli, Aghjabadi, and Barda camps. Many IDPs lived at below-subsistence levels, without adequate food, shelter, education, sanitation, and medical care. Approximately 28,000 IDPs lived in settlements provided by the European Union, while another 12,000 lived in housing provided by the Office of the UN High Commissioner for Refugees (UNHCR). Other IDPs were scattered among unfinished buildings (in some cases mud dwellings), hostels, public health facilities, and the homes of friends or relatives.

*Protection of Refugees.*—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to some refugees through the refugee status determination department. While the department has been progressing in many ways, this was offset by a disappointing series of court rulings on refugee status decisions. The courts rejected all appeals against negative decisions on asylum claims. In practice the Government provided some protection against refoulement, the return of persons to a country where they faced persecution, and granted refugee status or asylum during the year. As in the preceding year, the largest number of applicants from officially recognized populations was from Afghanistan. However, the Government did not recognize any of these individuals as refugees.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. UNHCR, however, considered the Government's forced return to Turkey in October of a Turkish citizen of Kurdish ethnicity, recognized in Germany as a refugee, as contrary to the country's obligations under the 1951 UN convention and a clear violation of the principle of non-refoulement.

Over 90 percent of the 2,542 refugees and asylum seekers registered by the UNHCR in the country were Chechens from the Russian Federation. The Government does not recognize Chechens as refugees as established under the 1951 Convention, and it did not accept applications for refugee status determination from Chechens. Instead, the UNHCR continued to carry out all functions to provide Chechens with required assistance and protection to remain in the country.

Only Chechens who registered with the UNHCR were protected from forced repatriation to their homeland. The laws on residence, registration, and the status of refugees and IDPs did not apply to Chechens, who were required to register with the police and not entitled to residence permits. Chechens were permitted to enter the country visa-free following the March 2005 implementation of a new bilateral external passport system with Russia. However, most Chechens could not afford the asso-

ciated costs to acquire external passports. Harassment, detention, and arrests of undocumented Chechens occurred.

According to UNHCR, several hundred Chechens sought protection during the year, a marked decrease from previous years. Chechen children were allowed to attend public schools. However, Chechen refugees were often denied access to public medical services. Such assistance was provided by UNHCR through the support of foreign donors.

The Government did not provide temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol. However, the Government accepted the UNHCR identification card issued to Chechens.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully; however, the Government continued to restrict this right in practice by interfering in elections. The law also provides for an independent legislature; however, parliament's independence was minimal, and it exercised little legislative initiative independent of the executive branch.

*Elections and Political Participation.*—The Government held national parliamentary elections in November 2005. The OSCE's final assessment concluded that the elections did not meet a number of the country's OSCE commitments and Council of Europe standards for democratic elections. The OSCE concluded that the May 13 rerun elections that took place in 10 out of 125 parliamentary constituencies showed some improvement over the November 2005 elections in areas such as inclusive candidate registration, a largely unimpeded campaign, and increased opportunities for domestic election observers. However, the OSCE highlighted the need for further electoral reform, citing continuing problems in areas including the composition of election commissions; interference by local authorities in the electoral process; the voting, counting, and tabulation processes; and the election grievance process. There were numerous credible reports that local officials interfered with the campaign process to the benefit of progovernment candidates in the November 2005 elections and in the May partial rerun elections.

Local authorities also restricted freedom of assembly for opposition candidates. Police used disproportionate force to disrupt rallies (see section 2.b.).

More than 500 candidates withdrew in the final weeks of the November 2005 parliamentary election campaign; many cited government pressure to withdraw.

The Government generally respected the legal provisions of the election code. Candidates were able to hold numerous town hall meetings with voters, although police disrupted some gatherings. According to the OSCE, June 2005 amendments to the election code made limited improvements to the electoral framework, although most recommendations were not implemented or only partially implemented. The Central Election Commission approved a number of regulations to enhance the integrity of voting, counting, and the vote tabulation process. The Central Election Commission undertook an extensive, pre-election voter education campaign.

In October 2005 a Presidential decree reversed a ban on election observation by NGOs receiving financial support from international sources. The change had no impact on the 2005 parliamentary elections, as all observers were required to have registered in advance; however, domestic election observers were generally able to register as individuals. There were an estimated 3,000 individual observers affiliated with NGOs for the parliamentary elections.

Voting in the November 2005 elections proceeded in a more orderly and transparent manner than in previous national elections, although there were some irregularities. The OSCE-led observation mission assessed as positive 87 percent of the more than 2,500 polling stations it visited during the daytime voting process. However, in some instances, international observers reported unauthorized persons, such as police officers, in the polling station during the voting. Observers also witnessed candidates or candidate representatives attempting to influence voter choices and ballot box stuffing in one-third of the polling stations visited as well as family (group) voting in one-fifth of the polling stations visited.

Fraud and major irregularities marred the vote counting and tabulation process. International observers assessed the ballot counting process as bad or very bad in 43 percent of polling stations observed, reporting that election precinct officials refused to count election ballots in front of them and attempted to complete official tabulation protocols behind closed doors. In one precinct, observers witnessed election commission members taking instructions from an unidentified person in the polling station's basement. Precinct-level voting results were not posted in 54 percent of the counts observed.

Following the November 2005 elections, authorities acted to address some instances of election fraud. The Central Election Commission annulled results from 423 of more than 5,100 election precincts. President Aliyev dismissed three local executive authorities because of their interference in the campaign and voting process. The prosecutor general opened 17 criminal cases against local government officials, election commission members, and opposition candidates for violations of the election code on voting day, resulting in 10 convictions. The prosecutor also ordered the arrest of four local election officials for election fraud; they were convicted of election misconduct and sentenced to prison during the year. The Central Election Commission annulled four constituency results and ordered reruns of these races that were held in May. The commission overturned the results of two other constituencies in favor of opposition candidates because of serious precinct irregularities and dismissed the election commission members of these six constituencies citing the members' involvement in fraud or failure to follow election procedures. The Central Election Commission also dismissed 108 precinct-level election commissions and six constituency commissions on fraud-related grounds.

In a December 2005 hearing to certify the election results, the Constitutional Court annulled the results of an additional six constituencies, bringing to 10 the total number of annulled constituencies that were rerun on May 13; however, the six additional annulments also included the court's reversal of previous CEC decisions. Opposition supporters criticized the court's action because it cancelled a race previously awarded to an opposition Azadliq bloc candidate as well as a race that Azadliq claimed it had won in a fair contest.

The Central Election Commission and Constitutional Court actions did not fully address reports of fraud and other irregularities or allay the concerns of the international community about the extent to which the results fully reflected the will of the people.

One opposition member refused to take her seat in protest of election fraud, and the Government did not set a date for a by-election during the year.

The most recent Presidential election was held in October 2003 and formally brought Ilham Aliyev to power. This election failed to meet international standards for democratic elections due to a number of serious irregularities.

On October 6, the authorities held partial municipal elections around the country. The opposition Azadliq bloc, comprised of the PFP, ADP, and Azerbaijan Liberal Party, boycotted the municipal elections, asserting that the composition of local election commissions made the elections inherently unfair. Some of these municipal elections were reruns of 2004 municipal elections, which election authorities cancelled because of widespread fraud and irregularities.

Opposition parties played an active role in politics. However, members of the opposition were more likely to experience official harassment and arbitrary arrest and detention than other citizens. On November 24, the State Economic Court evicted the opposition PFP and several media outlets from their office building in central Baku. The Government assigned the party to the second floor of a building in deplorable condition on the outskirts of the city. The party refused to occupy the premises and instead continued to work out of space temporarily provided by the ADP. Police officials had not allowed PFP members to retrieve their property and effects from the newly assigned office space at year's end (see section 2.a).

The Government refused to renew the passport of PFP Chairman Ali Kerimli citing an outstanding civil complaint from 1993. Human rights activists criticized the action, noting that the Government had renewed Kerimli's passport on several occasions in the intervening years without objection.

Progovernment news agencies attacked Kerimli and his party in daily news broadcasts in 2005, inciting several violent protests outside of the PFP's offices.

There were 14 women in the 125-seat parliament. Several women held senior government positions, including deputy speaker of parliament and deputy chair of the Central Election Commission. There were no legal restrictions on the participation of women in politics, although traditional social norms limited women's political roles, and they were underrepresented in elective offices.

Ethnic minorities such as the Lezghins, Talysh, and Avars continued to serve in parliament and in government.

*Government Corruption and Transparency.*—The law penalizes corruption by outlawing bribery; however, there was widespread public perception of corruption throughout all facets of society, including the civil service, government ministries, and the highest levels of government. The NGO Transparency International reported that the country received a rating of 2.4 on its corruption perceptions index, indicating there was a perception of serious corruption. According to the prosecutor general's office, criminal cases related to corruption were opened during the year,

specifically on bribery charges; however, these cases had little or no impact on the prevalence of bribery and corruption in the country.

In January 2005 a new anticorruption law came into force that required public officials to report annual income, sources of income, property owned, and financial liabilities. It also prohibited nepotism and limited giving gifts and direct or indirect financial benefits to public officials or third parties; government officials acknowledged that implementation of this law was slow and halting.

The law provides for public access to government information by individuals and organizations; however, the Government often did not provide access. Although government ministries have separate procedures on how to request information, they routinely denied requests, claiming not to possess the information. Individuals have the right to appeal the denials in court; however, the courts generally upheld the decisions of the ministries.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the Government maintained ties with some human rights NGOs and responded to their inquiries, on occasion the Government criticized and intimidated other human rights NGOs and activists. The Ministry of Justice routinely denied or failed to register some human rights NGOs.

The major local human rights NGOs were the Association for the Protection of Women's Rights, the Bureau of Human Rights and Respect for the Law, the Azerbaijan Foundation of Democracy Development and Human Rights Protection, Azerbaijani Committee Against Torture, the Institute for Peace and Democracy, and the Human Rights Center of Azerbaijan. Most of the leading NGOs affiliated themselves with one of two independent, umbrella organizations: the Human Rights Federation or the Helsinki Citizens Assembly.

The Government met with a variety of domestic NGO monitors. In 2005 the Ministry of Justice formed a joint prison-monitoring commission with several representatives of the NGO community (see section 1.c.). The ministry also formed a joint political prisoner review committee with several representatives of the human rights community in 2005. In August 2005 the ministry of internal affairs granted permission for the first time for an NGO to have immediate access to police and pretrial detention facilities; the NGO exercised this right without obstruction.

Several NGOs reported that the Government and police at times refused to protect them from so-called provocateurs who threatened, harassed, and attacked NGO activists and vandalized their property. Arzu Abdullayeva director of the Helsinki Citizens Assembly received several threats in connection with her leadership of an NGO delegation's fact-finding visit to Nagorno-Karabakh in July.

The registration process for NGOs remained cumbersome and included requirements to register grants from foreign entities. NGO grants from foreign entities are subject to a social security tax of 22 percent on employee salaries, although grants from a few countries with bilateral agreements with the Government were subject to only a 2 percent tax. NGO activists reported that these provisions inhibited their organizations' activities.

The Government generally permitted visits by UN representatives and other international organizations such as the ICRC. International NGOs, such as Human Rights Watch and Reporters Without Borders, generally operated without government hindrance.

Citizens may appeal violations committed by the state or by individuals to the ombudswoman for human rights. No information was available at year's end regarding the complaints received during the year by the ombudswoman. In 2005 her office received 6,200 complaints and accepted 3,000 for investigation as authentic human rights violations. The ombudswoman may refuse to accept cases of abuse that occurred over a year ago, anonymous complaints, and cases already being handled by the judiciary. The ombudswoman traveled around the country to hear human rights complaints, cooperated with foreign diplomats working on human rights activities, and submitted an annual report to parliament. Compared with previous years, the ombudswoman was more outspoken in her criticism of government actions. For example, the ombudswoman spoke out against the NTRC's November decision to order ANS Television and Radio off the air (see section 2.a.). However, local human rights NGOs and activists criticized the ombudswoman's work as ineffective and generally regarded her as not independent of the Government.

The parliament and Ministry of Justice also had human rights offices that heard complaints, conducted investigations, and made recommendations to relevant government bodies. Officials of the human rights office within the ministry of foreign

affairs regularly met with the diplomatic community to discuss issues of concern. The parliament's human rights body did not operate fully independently of government influence.

On December 28, President Aliyev issued a decree announcing a new National Action Plan for the Protection of Human Rights aimed at improving Azerbaijan's human rights performance. The deputy prime minister and Presidential administration were assigned oversight responsibility.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law provides for equal rights without respect to gender, race, language, disability, or social status, but the Government did not always respect these provisions or effectively enforce them. Violence and discrimination against women, trafficking of persons, and discrimination against ethnic Armenians were problems.

*Women.*—Violence against women, including domestic violence, continued to be a problem. In rural areas, women had no effective recourse against assaults by their husbands or others; there are no laws on spousal abuse or specific laws on spousal rape. Rape is illegal and carries a maximum 15-year prison sentence. The Government stated that 32 rapes and attempted rapes were reported during the year. Most rape victims reportedly knew their assailants but did not report incidents out of fear and shame.

There were no government-sponsored programs for victims of domestic violence or rape. In Baku a women's crisis center operated by the Institute for Peace and Democracy provided free medical, psychological, and legal assistance for women. During the year the center provided services to 4,734 women, and 1,850 women called the center's crisis hot line. The institute also broadcast three public service announcements and short films in the regions, covering women's legal rights and court procedures.

Prostitution is an administrative offense rather than a crime and is punishable by a fine of up to \$100 (88 manat). Pimps and brothel owners may be sentenced to prison for up to six years. Prostitution was a serious problem, particularly in Baku.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment was prohibited by law, and the Government reported that it investigated cases of sexual harassment during the year. At year's end, the Government had not released data on the number of cases it investigated during the year.

Women nominally enjoy the same legal rights as men; however, societal discrimination was a problem. Traditional social norms and poor economic conditions continued to restrict women's roles in the economy, and there were reports that women had difficulty exercising their legal rights due to gender discrimination. Women were underrepresented in high-level jobs, including top business positions.

*Children.*—The law requires the Government to protect the rights of children with regard to education and health care. In practice government programs provided a low standard of education and health care for children.

Public education was compulsory, free, and universal until the age of 17. The Ministry of Education reported 100 percent elementary school attendance, 97 percent middle school attendance, and 88 percent high school attendance during the year; the UN Children's Fund reported the elementary school figure was approximately 88 percent. The highest level of education achieved by the majority of children was high school. In impoverished rural areas, large families sometimes placed a higher priority on the education of male children and kept girls to work in the home. Some poor families forced their children to beg rather than attend school (see section 6.d.).

The Government provided a minimum standard of health care for children, but the overall quality of medical care was very low. During the year, the Government began undertaking health sector reforms aimed at improving the low quality of care.

There were isolated reports of child abuse and of trafficking in children (see section 5, Trafficking), and during the year the Government reported that it opened an investigation into 11 cases of child trafficking.

Child marriage was not considered a significant problem, although evidence suggested it was growing, primarily in rural central and southern regions among poor families.

A large number of refugee and IDP children lived in substandard conditions in camps and public buildings. In some cases these children were unable to attend school.

*Trafficking in Persons.*—In 2005 the Government adopted new legislation and amendments to the criminal code criminalizing trafficking in persons. During the year 190 traffickers were prosecuted under the new law. In addition the Govern-

ment prosecuted traffickers under other laws including those prohibiting rape, forced prostitution and labor, and forgery of travel documents. Most trafficking-related crimes prosecuted during the year carried maximum penalties between five and twelve years' imprisonment, except for rape and sexual violence, which both carried maximum 15-year prison sentences. There also are specific criminal penalties for enslaving, raping, and forcing children into prostitution. During the year the Government opened 186 criminal investigations resulting in 190 convictions of individuals charged with trafficking-related crimes.

The deputy minister of internal affairs was the national coordinator for government antitrafficking activities, monitoring relevant government bodies' efforts and dealing with the NGO community. Government bodies involved in antitrafficking included the ministries of internal affairs, foreign affairs, justice, national security, and health; the prosecutor general; the state border guard; customs; and the State Committee on Women's and Children's Issues. In August the President announced a restructuring of the ministry of internal affairs, which created a separate antitrafficking unit.

The Government regularly collaborated with neighboring countries on antitrafficking investigations.

The country was primarily a country of origin and transit for trafficked women, men, and children for sexual exploitation and forced labor. Central Asian and local women and girls were trafficked from or through the country to the United Arab Emirates, Turkey, Iran, India, and Pakistan for work in the sex industry. There was also some internal trafficking of women for sexual exploitation. The Government reported it identified 77 trafficking victims. During the year the Government also reported 11 cases of child trafficking.

Women and girls were trafficked internally from rural areas to urban centers for sexual exploitation, men were trafficked to Turkey and Russia for forced labor, and children were trafficked internally for begging. Iranians, Iraqis, Afghans, and migrants from South Asia were smuggled through the country to Europe—particularly Germany, Sweden, France, and the Netherlands—and to the U.S. where they at times had their passports confiscated and were subjected to forced labor. Traffickers generally targeted women.

Traffickers were either foreigners or ethnic Azerbaijanis who acted in loose concert with international networks. They approached victims directly and indirectly through friends and relatives, usually offering to arrange employment abroad. Traffickers also used deceptive newspaper advertisements offering false work abroad. Traffickers reportedly used forged documents to move victims. They also used fraudulent marriage proposals from men posing as Iranian businessmen to lure women into prostitution in neighboring Iran. Despite such fraud, some families willingly married their daughters to wealthy Iranians without concern for the actual outcome.

There was no evidence of official complicity in trafficking, but corruption in some government agencies facilitated trafficking.

In 2005 parliament passed antitrafficking legislation increasing protections for trafficking victims by relieving them from civil, administrative, and criminal responsibility for offenses committed under coercion, intimidation, or other trafficking conditions. The law also allows the use of pseudonyms to protect the identity of trafficking victims and provides for assistance and shelters for trafficking victims. Subsequent revisions to the criminal code implemented this legislation.

There was no standardized mechanism to return trafficked women to the country. According to the IOM, some Azerbaijanis and third country nationals who were either victims of trafficking or engaged in prostitution were deported to the country, primarily from Turkey. However, the Government had no program to assist them.

The Government informally referred some victims to state health care facilities; these facilities lacked the capacity to provide the required specialized treatment or information for victims of trafficking. The Government also referred some victims to international organizations and domestic NGOs for assistance. Some NGOs, which cooperated with the Government, reportedly sheltered victims in private homes, due to a lack, for most of the year, of adequate shelters available for trafficking victims in the country. IOM conducted training for shelter volunteers, as well as training for volunteers to staff an NGO antitrafficking hotline, which has yet to open.

During the year the Government continued to implement its antitrafficking action plan. The Government completed renovations to the building designated last year to be a shelter for trafficking victims, which was officially opened in October. The Government also designated a number for a trafficking hotline which will be accessible toll-free both domestically and internationally once it is operational. The Government implemented a standardized recruitment, selection, and testing process for police officers of the new antitrafficking unit developed last year with international



assistance. However, it was not possible to determine whether this process conformed to international standards.

Several NGOs, such as the Institute for Peace and Democracy's Women's Crisis Center and Clean World, and government bodies, such as the State Committee for Women's and Children's Issues, worked on antitrafficking activities. There were no government-sponsored antitrafficking public education campaigns, although the Ministry of Education supported school information programs run by domestic NGOs.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, and access to health care, or the provision of other state services, but discrimination in employment was a problem. It was commonly believed that children with disabilities were ill and needed to be separated from other children and institutionalized. Several international and local NGOs developed educational campaigns to change social perceptions and reintegrate disabled children.

There are no legal provisions mandating access to public or other buildings for persons with disabilities, and most buildings were not accessible.

Care in facilities for the mentally ill and persons with disabilities varied; some provided adequate care while others lacked qualified caregivers, equipment, and supplies to maintain sanitary conditions and provide a proper diet.

The ministries of health and labor and social welfare were responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Some of the approximately 20,000 citizens of Armenian descent living in the country historically have complained of discrimination in employment, schooling, housing, the provision of social services, and other areas. Azerbaijani citizens who were ethnically Armenian often concealed their ethnicity by legally changing the ethnic designation in their passports.

Some groups complained that authorities restricted their ability to teach or print materials in their native languages. Specifically, Farsi-speaking Tالش in the south, Caucasian Lezghins in the north, displaced Meskhetian Turks from Central Asia, and displaced Kurds from the Armenian-occupied Lachin region reported sporadic incidents of discrimination, restrictions on the ability to teach in their native languages, and harassment by local authorities.

*Other Societal Abuses and Discrimination.*—The Government did not officially condone discrimination based on sexual orientation; however, there was societal prejudice against homosexuals.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for freedom of association, including the right to form labor unions, but there were some restrictions on this right in practice. The overwhelming majority of labor unions remained tightly linked to the Government, with the exception of the independent journalists' unions.

Uniformed military and police are prohibited from participating in unions, although civilians working in the interior and defense ministries are allowed to do so. The law also prohibits managerial staff from joining a union, but in practice managers in government industries often had union dues automatically deducted from their paychecks.

Production Sharing Agreements (PSA) between the Government and multinational energy enterprises signed in 1994 do not provide for employee participation in a trade union and effectively exempt these enterprises from national labor laws. Some labor organizations and local NGOs reported that some of these companies discouraged employees from forming unions, and most employees of multinational enterprises operating under the PSA arrangements were not union members, although there were exceptions.

On October 10, parliament lifted the statutory prohibition on trade unions engaging in political activity.

Many of the state-owned enterprises that dominated the formal economy withheld union dues from workers' pay but did not deliver the dues to the unions. As a result unions did not have resources to carry out their activities effectively. Unions had no recourse to investigate the withheld funds.

The Azerbaijani Trade Union Confederation (ATUC) had approximately 1.5 million members, including 26 labor federations in various industrial sectors. Although the ATUC was registered independently, some workers considered it closely aligned with the Government.

Membership in the Union of Oil and Gas Industry Workers remained mandatory for the State Oil Company's 50,000 workers, whose union dues (2 percent of each worker's salary) were automatically deducted from their paychecks.

There were no reports of government antiunion discrimination; labor disputes were primarily handled by local courts, which, while not exhibiting antiunion discrimination, were widely considered corrupt. There were reports of antiunion discrimination by foreign companies operating in Baku. Labor NGOs report that multinational energy companies and their subcontractors often discouraged union membership by their employees. Production sharing agreements signed in 1994 between the Government and these multinational energy enterprises did not address employees' participation in unions.

*b. The Right To Organize and Bargain Collectively.*—The law allows trade unions to conduct their activities without government interference; in practice most unions were not independent. The law also provides for collective bargaining agreements to set wages in state enterprises, and trade unions actively negotiated with employers, particularly in the formal sector. In reality unions could not effectively participate in negotiating wage levels because government-appointed boards ran major state-owned firms and set wages according to a unified schedule. In addition, in 2005, the labor ministry reported that the Government continued to have limited success in addressing worker-related issues with foreign companies.

The law provides most workers with the right to strike, and workers exercised this right. Categories of workers prohibited from striking include high-ranking executive and legislative officials, law enforcement officers, court employees, fire fighters, and health, electric power, water supply, telephone, and railway and air traffic control workers. Striking workers who disrupt public transportation can be sentenced up to three years' imprisonment. The law prohibits retribution against strikers such as dismissal or replacement.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law allow forced or compulsory labor under circumstances of war or in the execution of a court's decision under the supervision of a government agency, and some observers asserted that there were infrequent occurrences of forced or compulsory labor, including trafficking in persons (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for the protection of children from exploitation in the workplace and from work that is dangerous to their health, but there were few complaints of abuses of child labor laws.

The minimum age for employment depended on the type of work. In most instances the law permits children to work from age 15; 14-year-old children may work in family businesses or at after-school jobs during the day that pose no hazard to their health with parental consent. Children under 16 may not work more than 24 hours per week; children between 16 and 18 may not work more than 36 hours per week. The law prohibits employing children under 18 in jobs with difficult and hazardous work conditions. The Ministry of Labor and Social Security is responsible for enforcing child labor laws. However, the unit responsible is considered ineffective.

There were reports that some parents forced their children to beg, and children were trafficked internally for this purpose. Children were also trafficked for the purposes of forced labor and sexual exploitation (see section 5).

*e. Acceptable Conditions of Work.*—During the year the Government raised the minimum monthly wage from \$30 to \$34 (29 manat), the third raise in 18 months. The minimum wage was insufficient to provide a decent standard of living for a worker and family, although it was \$8 (about seven manat) above the official poverty level of \$26 (22 manat) set by the Government. The Ministry of Taxes, the Ministry of Labor, and the State Social Protection Fund legally share responsibility for enforcing the minimum wage. However, in practice the minimum wage was not effectively enforced.

The law provides for a 40-hour work week; the maximum daily work shift is 12 hours. Workers in hazardous occupations may not work more than 36 hours per week. The law requires lunch and rest periods, which are determined by labor contracts and collective agreements. It was not known whether local companies provided adequate premium compensation for overtime, although international companies generally did. There was no prohibition on excessive compulsory overtime. The Ministry of Labor reported little success enforcing such contracts and agreements in the informal sector, where most individuals were employed.

The law sets health and safety standards; government inspections of working conditions were weak and ineffective, and standards were widely ignored. The ATUC also monitored compliance with labor and trade regulations, including safety and health conditions. During the year the ATUC reported that it inspected 2,466 enterprises and organizations and found 677 legal and technical violations. The ATUC

stated that virtually all of the violations were addressed, and no official complaints were registered.

Workers did not have the right to remove themselves from situations that endangered their health or safety without jeopardizing their employment. According to the Oil Workers Rights Defense Council (ORDC), an NGO dedicated to protecting worker rights in the oil sector, four State Oil Company workers died in workplace accidents. Workplace accidents were also a problem in other sectors of the economy.

The law provides equal rights to foreign and domestic workers, although local human rights groups, including ORDC, maintained that disparities existed, particularly in foreign oil companies.

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## BELARUS

Under its constitution, the Republic of Belarus, with a population of 9,724,000, has a directly elected President and a bicameral National Assembly. Since his election in 1994 as President, Alexander Lukashenko has systematically undermined the country's democratic institutions and concentrated power in the executive branch through authoritarian means, flawed referenda, manipulated elections, and arbitrary decrees that undermine the rule of law. Presidential elections on March 19 that declared Lukashenko President for a consecutive third term failed to meet international standards for democratic elections. The Government continued to ignore recommendations by major international organizations to improve election processes and human rights. Civilian authorities generally maintained effective control of the security forces; however, members of the security forces committed numerous human rights abuses.

The Government's human rights record remained very poor and worsened in some areas as the Government continued to commit frequent serious abuses. In March the Government denied citizens the right to democratically change their government by holding a fraudulent Presidential election. Throughout the election campaign and in the months afterward, opposition and civil society activists, including four domestic election observers and a former Presidential candidate, were beaten, harassed, fined or imprisoned. The Government failed to account for past disappearances of opposition political figures and journalists. Prison conditions were extremely poor, and there were numerous reports of abuse of prisoners and detainees. Arbitrary arrests, detentions, and imprisonment of citizens for political reasons, criticizing officials, or participating in demonstrations were common. Court trials, whose outcomes usually were predetermined, frequently were conducted behind closed doors without the benefit of an independent judiciary or independent observers.

The Government further restricted civil liberties, including freedoms of press, speech, assembly, association, and religion. The Government seized at will published materials from civil society activists and closed or limited the distribution of several independent newspapers. The few remaining independent publications often were fined, usually for alleged slander or not following restrictive registration procedures. State security services used unreasonable and often brutal force to disperse peaceful protesters. Nongovernmental organizations (NGOs) and political parties were subjected to harassment, fines, prosecution, and closure. Religious leaders were fined or imprisoned for performing services and ceremonies, and churches were either closed, deregistered, or had their congregations evicted. Trafficking in persons remained a significant problem, although some progress was made to combat it. There was official discrimination against Roma, ethnic and sexual minorities, and the Belarusian language. Authorities harassed independent unions and their members, severely limiting the ability of the workers to form and join independent trade unions and to organize and bargain collectively.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports that the Government or its agents committed any politically motivated killings; however, one foreign diplomat died under unexplained circumstances. On March 22, Ryszard Badon-Lehr, a Polish diplomat assigned to Grodno, was found unconscious in his residence and appeared to have suffered a beating. He was transferred to a hospital in Poland, where he died on April 6. Authorities denied Badon-Lehr was beaten. They claimed he suffered a stroke and did not open an investigation into the case.

On March 14, authorities suspended their investigation of the 2004 killing of journalist Veronika Cherkasova, who was found dead in her Minsk apartment with multiple stab wounds. Her colleagues linked her death to her research into the Government's alleged arms sales to Iraq. The Government initially accused her teenage son of the death and detained him in late 2005 for three months on other charges. On October 17, the Minsk Prosecutor's office stated that Cherkasova was murdered, but had no suspects in the case (see section 1.d.).

In October 2005 independent journalist Vasily Grodnikov was found dead inside his locked apartment. Grodnikov's brother, who found the body, reported signs of a struggle and claimed that Grodnikov was killed by a blow to the head with a blunt object. In November 2005 police concluded that Grodnikov fell while intoxicated and closed the case. The prosecutor general's office reopened the case but in December 2005 announced no crime had been committed and that Grodnikov died as a result of "his careless actions" (see section 2.a.).

In late 2005 militia officer S. Magonov was found guilty of murder in the August 2005 beating death of Vasily Shevelenko and sentenced to eight years in prison following a criminal investigation by authorities. Shevelenko had been detained in August 2005 in a government drug and alcohol detoxification facility in Svetlogorsk, where he was severely beaten on the face, head, and neck.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances during the year, and there were no developments in the investigations of the 1999 and 2000 disappearances of opposition activists, a businessman, and a journalist. The Government continued to deny any official involvement in the disappearances.

On March 31, the authorities suspended the investigation into the disappearance and presumed killing in 2000 of television journalist Dmitriy Zavadskiy one year after reopening the case. Credible evidence indicated that government agents killed Zavadskiy for his reporting that government officials may have aided Chechen separatists in Russia.

Investigations into the 1999 disappearances and presumed murders of opposition figures Yuriy Zakharenko and Viktor Gonchar and businessman Anatoliy Krasovskiy remained open, but no developments were reported. In August 2005 President Lukashenko granted the order "For Service to the Motherland" to Ministry of Interior special forces Colonel Dmitriy Pavlichenko, who was named in a Parliamentary Assembly of the Council of Europe (PACE) report as having played a key role in the disappearances.

On December 20, the UN General Assembly adopted a resolution that expressed deep concern over the human rights situation in the country and urged the Government to hold free and fair elections and to cease politically motivated prosecution and harassment of political opponents. In April 2005 the UN Commission for Human Rights (UNCHR) approved a third resolution on the poor human rights situation in the country, urging the Government to conduct an impartial investigation into the disappearances of Zavadskiy, Zakharenko, Gonchar, and Krasovskiy. The UNCHR passed similar resolutions in 2003 and 2004. The PACE report recommended suspending senior officials suspected of involvement in the disappearances. The UNCHR also extended the mandate of its special rapporteur to continue examining the country's human rights performance (see section 4).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, Special Purpose Detachment (OMON) riot police and other special forces on occasion beat detainees and demonstrators.

The OMON also occasionally beat individuals during arrests and in detention for organizing or participating in demonstrations (see sections 1.d. and 2.b.). Credible sources reported that during demonstrations following the March 19 Presidential elections, OMON riot police and other special forces, such as the antiterrorist unit ALMAZ, beat demonstrators in custody and threatened others with death or rape (see sections 1.d. and 3). According to one such report, teenage demonstrator Andrey Kuzmienkov was detained on March 25 and beaten, suffering a ruptured kidney.

Eyewitnesses reported that security services brutally kicked and clubbed demonstrators and organizers, including young women. On March 23, Viktor Korniyenko, the deputy chief of Presidential candidate Aleksandr Milinkevich's campaign team, was beaten unconscious by two unidentified men in an attack linked to his political activities. On March 24, special forces forcefully removed hundreds of demonstrators from October Square (see sections 2.b. and 3). One of the demonstrators, Yuriy Chavusav, reported that he was repeatedly beaten and choked with his own scarf on a police detainment bus.

On March 25, special forces and OMON riot police used truncheons and tear gas to break up a peaceful march to Okrestina prison to protest the detention of 250

demonstrators (see section 2.b.). Television footage showed two severely beaten protesters lying on the ground and dozens more covered in blood. According to eyewitness reports, security services searched for and beat demonstrators hiding in stores or backyards. Ministry of Interior Colonel Dmitriy Pavlichenko, who has been implicated in the disappearances and presumed deaths of opposition activists, personally beat Presidential candidate Aleksandr Kozulin before the latter was tied up and transported by ALMAZ forces to a pretrial detention center (see sections 1.e., 2.b., and 3). Kozulin's beating by Pavlichenko and ALMAZ officers resulted in head and spine injuries. Neither Pavlichenko, ALMAZ officers, nor other special forces personally were punished for their actions. Kozulin was sentenced July 13 to five and one half years in prison for alleged hooliganism and organizing persons to disturb the public peace (see section 1.e.)

On March 14, a Grodno police lieutenant severely beat Nikolay Voron, a Kozulin activist, in a factory dormitory as he was passing out campaign flyers. According to a Kozulin spokesperson, the police officer repeatedly slammed Voron's head against a wall. He was rushed by ambulance to a hospital with serious head injuries.

Hazing of new army recruits by beatings and other forms of physical and psychological abuse continued, according to official sources; however, the number of reported cases declined.

*Prison and Detention Center Conditions.*—Prison conditions remained austere and were marked by occasional shortages of food and medicine and the spread of diseases such as tuberculosis and HIV/AIDS. Leila Zerrougui, chairperson of a UN working group on arbitrary detention who visited the country in 2004, reported that conditions in detention centers were worse than those in prisons because of poor sanitary and living conditions and restrictions on visitation, phone, and mail privileges. According to human rights monitors, conditions in prison hospitals also were poor.

Overcrowding in prisons, detention centers, and in work release prisons—*khimya*—was a serious problem. Persons sentenced to *khimya* live in prison barracks and are forced to work under conditions set by the Government. According to a government estimate, the total number of confined persons in the country was approximately 35,000. Former political prisoners reported that they were treated worse than murderers and other criminals and often had to share a cell with such individuals. They also reported that their legal rights were neither explained nor protected. Prisoners who complained about abuse of their rights often were threatened with death, humiliation, or other forms of punishment.

Credible reports indicated that police and prison officials continued to mistreat and torture prisoners. Human rights groups reported that prisoners did not receive adequate food, medical attention, or warm clothing, and were often denied a bed, sheets, change of clothes, and restroom privileges. As a result, tuberculosis, pneumonia and other diseases were widespread.

Following mass arrests on March 24 after a special forces raid on a tent city erected by protestors and a March 25 march to the Okrestina jail, credible sources reported that many detainees were not fed during the first 24 hours of detainment (see sections 1.d., 2.b., and 3). The law permits family and friends to bring detainees food and hygiene products, but in many cases authorities did not respect this right.

Authorities frequently kept those arrested for political activities in the Okrestina jail or the Volodarskogo detention center in Minsk. Following the mass arrests after the March 24 and 25 demonstrations, cell occupancy doubled, forcing detainees to take turns sleeping because there was insufficient space and beds.

Besides overcrowding, cells were damp, cold, and poorly ventilated. Former detainees reported that they were denied blankets or pillows and given little medical assistance. On March 26, jailed demonstrator Dmitriy Shimanskiy was transferred to a hospital after being diagnosed with the flu. He attributed his illness to the poor conditions of his cell. Kozulin and NGO Partnership activist Timofey Dranchuk reportedly suffered vision loss due to poor detention center conditions.

Credible sources reported that Kozulin's health seriously deteriorated in prison (see sections 1.c., 1.e., 2.b., and 3). Although his living conditions were said to be decent, associates claimed that he did not receive adequate medical attention after he was severely beaten by police and still complained about residual pain. On October 20, Kozulin began a 53-day hunger strike in protest of his incarceration and the fraudulent March 19 election. In response, prison authorities denied Kozulin's wife and lawyer visitation rights. On December 5, authorities allowed Kozulin a 30-minute meeting with his wife, who reported that her husband had lost 88 pounds and suffered from very low blood pressure. He was on 24-hour surveillance by prison hospital staff. Kozulin ended his hunger strike on December 12.

On April 14, authorities released opposition activist Mikhail Marinich after he served 18 months in a maximum security prison. Upon release Marinich sought treatment abroad for poor health, which he attributed to prison conditions. Credible reports indicated that prison authorities in March 2005 prevented Marinich from receiving medical treatment for three days after he suffered a stroke.

On May 15, authorities released entrepreneurial union leader Valeriy Levonevskiy, who served two and one-half years in a maximum security prison for slandering the President. According to Levonevskiy most cells he saw were poorly ventilated and damp, contributing to the spread of diseases such as tuberculosis. Medical check-ups were infrequent, and doctors repeatedly fabricated examination dates and results to fulfill paperwork requirements. Levonevskiy also asserted that prison food contained insufficient nutrients and vitamins and was often prepared by prisoners in unsanitary conditions.

Authorities sometimes granted human rights observers access to prisons and political prisoners in the presence of officials; however, most requests to visit political prisoners were denied. In 2004 authorities allowed a delegation from the UN Working Group on Arbitrary Detention to visit prisons and detention centers, but denied the group access to a Committee for State Security (BKGB) detention center on the grounds it had not requested the visit in advance.

*d. Arbitrary Arrest or Detention.*—The law limits arbitrary detention; however, the Government did not abide by these limits. Authorities continued to arrest individuals for political reasons and use administrative measures to detain political activists before, during, and after protests (see sections 2.b. and 3).

*Role of the Police and Security Apparatus.*—The Ministry of Interior has authority over the police, but the BKGB and Presidential security forces also exercised police functions. The President has the right to subordinate all security bodies to his personal command. Petty corruption among police was widespread, although the Government made attempts to limit official corruption (see section 3). Impunity remained a serious problem. While the law gives individuals the right to report police abuse to the prosecutor, the Government often did not investigate abuses by the security forces or hold perpetrators accountable.

*Arrest and Detention.*—Police frequently arrested and detained individuals without a warrant. However, police must obtain permission to detain persons for longer than three hours. Detained persons suspected of a crime may be held for up to 10 days without formal charge, and for up to 18 months after charges are filed. Under the law, prosecutors and investigators have the authority to extend detention periods without consulting a judge. Detainees have the right to petition the legality of their detention; however, in practice, appeals by suspects seeking court review of their detentions were frequently suppressed or ignored. The law provides for bail, but in practice bail was not granted.

Police often detained individuals for several hours ostensibly to confirm their identity. This tactic was frequently used to detain opposition members and demonstrators, to prevent the distribution of leaflets and newspapers or as a pretext to break up civil society meetings (see sections 2.a., 2.b., and 3).

For example, on February 17, police stopped and detained for three hours a vehicle carrying eight opposition candidate supporters on their way to Minsk for a candidate registration ceremony. On March 24, authorities detained three Polish citizens, including a former Polish ambassador to Belarus, who reported to the Polish Embassy that he was beaten by police.

On April 26, police arrested opposition Belarusian Party of Communists Chairman Sergey Kalyakin and Belarusian Popular Front Chairman Vintsuk Vyachorka for participating in an unauthorized demonstration. Kalyakin and Vyachorka served 14 and 15 days in jail, respectively. On April 28, police detained eight “flash-mob” activists demonstrating support for the independent Union of Belarusian Writers and released them after copying their identity information (see section 2.b.). On May 12, police detained, fingerprinted, and photographed ten opposition activists gathered near a local Interior Ministry building to express solidarity with jailed activists (see section 2.b.). Authorities released them without charge hours later after confiscating prodemocracy signs and national flags.

On July 26, authorities in Polotsk detained for one hour former opposition Presidential candidate Aleksandr Milinkevich, his wife, press secretary, and an opposition party deputy head after discovering old campaign leaflets in their vehicle. They were on the way to visit a prominent political prisoner.

On September 2, border guards detained and questioned human rights attorney Oleg Volchek for over three hours. He was released without charge, but authorities confiscated reports in his possession that criticized the country’s March 19 Presidential elections. Authorities later accused Volchek of transporting illegal economic

policy materials; however, the charge was dropped on December 7 for lack of evidence.

On October 16, authorities in Minsk detained 15 demonstrators who were holding images of Belarusian political prisoners and candles in memoriam of 54 people who died in a stampede at subway station in 1999. On that same day, police in Brest detained 14 activists who formed a line on a bridge so that letters on their chests would read "Freedom to Political Prisoners!" Authorities released all 29 demonstrators from local police stations without charge after recording identities.

On October 27, a Minsk court sentenced opposition activists and independent journalist Aleksandr Abramovich to 15 days in jail for attempting to demonstrate near a government building.

On October 30, a court in Grodno sentenced Milinkevich aide Andrey Kuselchuk to three days in jail for allegedly speaking obscenities in public. Police had originally arrested him on October 29 after finding opposition newsletters in his car.

On November 23, police in Vitebsk stopped a vehicle transporting Presidential candidate Aleksandr Milinkevich and a local opposition leader three times while they were collecting signatures for local election campaigns. During one of the stops, police brought Milinkevich and the vehicle to a local police station for questioning about possible involvement in a fatal car accident. He was held for two hours and released.

During the year a number of other individuals also were detained or arrested for political reasons. On October 5, authorities detained opposition youth activist Pavel Krasovskiy for 10 days on suspicion of involvement in the September 2005 bombings that injured more than 50 people in the northern city of Vitebsk. Authorities accused Krasovskiy of attempted murder and seized computer equipment and printed material from his residence. They also charged him with killing and raping two women in 1999. In October 2005 President Lukashenko announced that two brothers, identified as Vitaliy and Yuriy Murashko, had admitted to the bombing. However, in April they were freed on their own recognizance; there were no further reports regarding the charges against them by year's end. On November 15, authorities dropped the 1999 murder-rape charges against Krasovskiy but said he remained a suspect in the 2005 bombing, despite clear evidence that he was out of the country at the time.

According to the authoritative local human rights NGO Vyasna, authorities detained or arrested approximately 1,000 persons throughout the country for political reasons leading up to and following the Presidential election; 685 of the arrests occurred between March 19 and March 25. Many of those detained or arrested, including Milinkevich's two sons, were bringing food and warm clothing to prodemocracy demonstrators camping in Minsk's October Square to protest the fraudulent Presidential election. Detainees also included opposition United Civic Party leader Anatoliy Lebedko and his deputy Aleksandr Dobrovolskiy. On March 24, authorities raided the "tent city" and arrested as many as 250 people. Most of the detainees were sentenced to 10–15 days detention in trials that lasted no longer than 10 minutes. There were no reports of acquittals (see sections 2.b. and 3).

The Government arbitrarily detained representatives of the independent media (see section 2.a.).

On March 13, authorities released Anton Filimonov, the son of murdered journalist Veronika Cherkasova, after three months in detention (see section 1.a.) He was detained in December 2005 with four other persons for counterfeiting and on suspicion of murdering his mother. He was subjected to intense interrogation and authorities had attempted to confine him to a psychiatric ward. While in detention Filimonov reported that unidentified men had tried to persuade him to sign a confession to killing his mother. He was released for lack of evidence.

*Amnesty.*—Unlike in previous years, authorities did not grant general amnesty during the year.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however the Government did not respect judicial independence in practice. There was credible evidence that prosecutors and courts convicted individuals on false charges.

The President appoints six of the 12 members of the Constitutional Court, including the chairman, and the chairmen of the Supreme Court and the Supreme Economic Court. He also has authority to appoint and dismiss all district and military judges. Corruption and inefficiency in the judiciary were generally the result of political interference in the work of the court system (see section 3). In 2005 one judge was tried and convicted of corruption.

The criminal justice system has three tiers: district courts, regional courts, and the Supreme Court. The Constitutional Court is empowered to adjudicate constitu-

tional issues and to examine the legality of laws; however, in practice it was wholly dependent on the executive branch, had no means of enforcing its decisions, and did not challenge Presidential initiatives.

Prosecutors are organized into offices at the district, regional, and national levels. They answer to and serve at the pleasure of the prosecutor general, who is appointed by the President. Prosecutors are not independent and do not have authority to bring charges against the President or members of his executive staff.

On January 16, the UNCHR special rapporteur on Belarus released a report that confirmed the findings of an April 2005 report by the Office of the UN High Commissioner for Refugees on arbitrary detention (see section 2.d.). The report described the authority of prosecutors as “excessive and imbalanced” because prosecutors could extend periods of detention without the permission of judges. In addition, investigations are conducted by investigators and prosecutors without effective judicial oversight. The report stated there also was an imbalance of power between the prosecution and the defense. Defense lawyers did not have the benefit of examining investigation files, to be present during gathering of evidence, or to examine evidence against defendants until a prosecutor formally brought the case to the court. Lawyers found it difficult to call some evidence into question because technical expertise was under the control of the prosecutor’s office. According to the special rapporteur’s report, these imbalances of power had intensified at the beginning of the year. As a result, there were very few cases in which criminal defendants were found innocent. By Presidential decree all lawyers are subordinate to the Ministry of Justice, which compromised their independence. Lawyers must be licensed by the ministry and are required to work for the state in regional collegiums. The law prohibits private attorneys from practicing, and lawyers must renew their licenses every five years. Unlike in previous years, there were no credible reports during the year of lawyers losing their licenses for defending NGOs or opposition political parties.

*Trial Procedures.*—The law provides for public trials; however, the courts frequently held trials in judges’ offices, which often prevented interested observers from attending. Several trials, particularly of political figures, were closed to the public. Judges adjudicate all trials; there is no system of trial by jury. However, in the case of grave crimes, judges adjudicate the trial with assistance of two civilian advisors. Judges depended on the Ministry of Justice for funding court infrastructure and on executive branch officials for personal housing. There were widespread and credible reports that executive and local authorities dictated the outcome of trials.

On February 21, authorities arrested four leaders of the independent election-monitoring NGO Partnership—Nikolay Astreyko, Timofey Dranchuk, Aleksandr Shalayko, and Enira Bronitskaya—on suspicion of plotting a terrorist coup. They were held in pretrial detention without visits by family members until their July 28 trial. Judge Leonid Yasinovich conducted the trial behind closed doors. Following closing arguments, Yasinovich altered the charges to fit the prosecution’s case and sentenced Astreyko and Dranchuk to two years and one year imprisonment respectively, for operating an unregistered NGO. Shalayko and Bronitskaya were sentenced to six months in prison on the same charge. Authorities subsequently adjusted their sentences for time served in pretrial detention; Shalayko and Bronitskaya were released on August 21; Dranchuk on December 26. On November 17, a Minsk court resentenced Astreyko to corrective labor and house arrest (see sections 2.b., 2.d., 3, and 4).

On September 15, authorities arrested youth opposition leader Dmitry Dashkevich for operating an unregistered NGO and denied him family contact until November 1 when he was sentenced to 18 months in prison.

Defendants have the right to attend proceedings, confront witnesses, and present evidence on their own behalf; however, in practice these rights were not always respected.

The law provides for access to legal counsel for detainees and requires that courts appoint lawyers for those who cannot afford one; however, at times these rights were not respected, and some detainees were denied access to a lawyer. The law provides for the right to choose legal representation freely; however, a Presidential decree prohibits members of NGOs from representing individuals other than members of their organizations in court (see section 4). In contrast with the previous year, there were no reports of the Government using the decree as a pretext for closing NGOs.

The laws provide for the presumption of innocence; however, in practice defendants frequently had the burden of proving their innocence. Information obtained from interrogations was often used against defendants in court. Authorities seemed unwilling to challenge the veracity of prosecution witnesses. For example, in May a Gomel prosecutor refused to prosecute the deputy head of the local police depart-



ment, whom opposition activists accused of perjury, on the grounds that in administrative cases the law “does not envisage warning citizens about accountability for false testimony.”

Defendants have the right to appeal court decisions, and most criminal cases were appealed; however, in the vast majority of those cases lower court verdicts were upheld. In an appeal, neither defendants nor witnesses appear before the court; the court only reviews the protocol and other documents from a lower court trial. In 2004 the chairman of the Supreme Court stated that only 1.5 percent of court decisions were overturned on appeal.

*Political Prisoners and Detainees.*—Despite some releases, the number of reported political prisoners increased during the year as authorities sentenced opposition leaders and activists to short- and long-term jail detention on the basis of highly questionable evidence.

On March 14, authorities arrested and sentenced opposition youth leader Nikita Sasim to three months in jail for participating in an unsanctioned demonstration. Three months later, a Baranovichi court sentenced Sasim to three additional months in jail for alleged draft evasion. Sasim had a waiver from military service on account of head injuries caused by police during a peaceful protest in September 2005. Amnesty International (AI) declared Sasim a prisoner of conscience while he was in jail.

On May 4, opposition youth activists Andrey Ignatchik and Aleksey Kozulin, the nephew of an imprisoned former opposition Presidential candidate, were sentenced to five days in jail for participating in an unsanctioned protest. On May 10, a Minsk court sentenced opposition youth activist Artur Finkevich to two years of *khimya* for allegedly painting antigovernment graffiti. The judge suspended the trial for a week because the prosecution could not document the \$16,000 (34,240,000 rubles) damage Finkevich allegedly caused.

On May 15, a Lida district judge sentenced opposition party leader Ivan Kruk to six months in jail on the basis of police testimony that he resisted arrest. On May 29, Sergey Lyashkevich, an opposition campaign coordinator, was sentenced to five months in jail for inciting mass disorder. During Lyashkevich’s hearing, prosecution witnesses could not recall pertinent information and contradicted each other’s testimonies.

On July 13, a Minsk court sentenced opposition Presidential candidate Aleksandr Kozulin to 5 1/2 years in prison for alleged hooliganism and organizing persons to disturb public peace during and immediately after the March 19 elections (see sections 1.c., 1.e., 2.b., and 3). Other protest events related to the Presidential election were also part of the criminal case against Kozulin. Authorities denied the Kozulin family visits from October 20, the day he began a 53-day hunger strike, until November 25. Prison authorities also refused Kozulin legal counsel in an apparent effort to coerce him to end his fast.

On July 17, a Minsk court sentenced Anatoliy Lebedko, an opposition party leader, and Anatoliy Askerko to 10 days in jail for allegedly using obscenities when they tried to participate in a demonstration to express solidarity with prodemocracy activists who disappeared under mysterious circumstances.

On August 4, a Minsk judge sentenced independent election monitors Nikolay Astreyko and Timofey Dranchuk to two years and one year in prison, respectively, for running an unregistered organization. In late November, authorities permitted Astreyko to serve the remainder of his sentence in corrective labor and house arrest. The judge also sentenced their colleagues Aleksandr Shalayko and Enira Bronitskaya to six months in prison, but counted time served and ordered their release on August 21.

Also in August authorities refused to approve the early release of opposition party leader Nikolay Statkevich and youth activist Pavel Severinets from *khimya*. They were sentenced in 2005 to three years of work release following a politically motivated trial for organizing unsanctioned protests after the fraudulent 2004 constitutional referendum to abolish term limits. Their sentences were reduced to two years as part of a general amnesty; at year’s end they remained in *khimya*.

On September 18, a Minsk judge sentenced opposition politician Vyacheslav Sivchik to 10 days in jail for organizing an unsanctioned three-day demonstration in October Square to protest the fraudulent March 19 Presidential election (see section 2.b.). Sivchik was severely beaten by armed individuals who lured him into a car disguised as a diplomatic vehicle. At year’s end there were no developments into a government investigation on how the assailants acquired diplomatic vehicle number plates.

On October 23, a Minsk court sentenced 60-year-old human rights activist Yekaterina Sadovskaya to two years in prison for allegedly insulting President Lukashenko and levied a fine of \$1,860 (four million rubles) for allegedly insulting

and threatening a judge. She was arrested in July, sent to a mental hospital for a psychiatric examination, and then transferred to a pretrial detention center until her trial. According to the human rights NGO Charter 97, Sadovskaya admitted to writing a letter recommending that Lukashenko undergo a mental examination; however, the letter was never distributed. Authorities found the letter during a search of her home.

On November 1, a Minsk judge sentenced youth opposition leader Dmitry Dashkevich to 18 months in prison for operating an unregistered organization. AI subsequently declared Dashkevich a prisoner of conscience (see section 4). On December 22, authorities released Andrey Klimov, whom a Minsk court sentenced in June 2005 to 18 months of *khimya* in a politically motivated trial for organizing an unsanctioned protest in March 2005. He had previously spent four years in prison for alleged embezzlement.

In April authorities released former NGO leader and opposition activist Mikhail Marinich following the March 19 Presidential election and an amnesty that reduced his prison sentence to two-and-one-half years. He was sentenced in 2004 for allegedly stealing property from his NGO. While in jail, AI declared Marinich a prisoner of conscience. Marinich, a former government minister and Presidential candidate, was widely regarded as a leading political opponent of President Lukashenko (see section 1.c.).

In May authorities released opposition activist Valeriy Levonevskiy, who was sentenced in 2004 to two years in prison for writing a poem insulting President Lukashenko. While in prison, authorities prohibited Levonevskiy from corresponding with foreign embassies and denied him permission to attend his father's funeral (see section 1.c.).

In November authorities released former opposition Member of Parliament and outspoken critic of the Government Sergey Skrebets, who was sentenced on February 14 to two years in prison for allegedly securing an illegal bank loan in 2001.

Unlike in 2005, there were no credible reports that authorities orchestrated alleged fights with cellmates as a pretext to prolong short-term imprisonments. In August 2005 a court sentenced Tadeusz Gavin to 15 days in prison for participating in an unsanctioned protest. In mid-August of the same year, the court added 15 days to his sentence for allegedly attacking a cellmate. In November 2005 the Supreme Court annulled the second sentence for lack of evidence of a crime, after Gavin had served the sentence.

*Civil Judicial Procedures and Remedies.*—Although individuals could file lawsuits seeking damages for, or cessation of, a human rights violation, the civil judiciary is not independent and rarely impartial in such matters.

In February, opposition political party leader Anatoliy Lebedko filed a \$467,000 (one billion rubles) libel suit against a state television network for a February 20 documentary featuring a fabricated dialogue between him and a Georgian politician in which Lebedko was portrayed as plotting a violent street demonstration. In April a Minsk court threw out Lebedko's suit, reportedly under pressure from the Government.

In March state university authorities dismissed history instructor Yuriy Bacheshche for refusing to turn over his findings following his participation in independent election monitoring. In May during Bacheshche's civil hearing for reinstatement, authorities threatened Bacheshche with a criminal investigation for allegedly defaming President Lukashenko. In June the judge suspended Bacheshche's case (see section 2.a.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Government did not respect these prohibitions in practice. In addition, the law provides penalties for those who obstruct BKGB officers in the performance of their duties, even though these actions may, in principle, be illegal. Any effort to prevent BKGB officers from entering the premises of a company, establishment, or organization is an administrative offense, as is any refusal to allow BKGB audits or to deny or restrict BKGB access to company information systems and databases.

The law requires a warrant for searches; however, the BKGB entered homes, conducted unauthorized searches, and read mail without warrants. In May 2005 a new law took effect giving the BKGB authority to enter any building at any time, so long as it applies for a warrant within 24 hours after the entry took place. There were credible reports that government agents covertly entered homes of opposition activists and offices of opposition groups and monitored the actions of individuals.

On July 31, state-controlled media broadcast hidden camera footage of a police raid on a Latvian diplomat's apartment (see section 5).

Authorities conducted searches of residences and offices for clearly political reasons (see section 3). For example, on February 11, Brest police raided a basement belonging to opposition regional campaign manager Vladimir Radivonchik, seizing posters and calendars featuring images of opposition Presidential candidate Aleksandr Milinkevich. Police stated they conducted the search after receiving an anonymous telephone tip that Radivonchik was storing ammunition. Radivonchik was taken to a police station for questioning, where police played a recording of the phone call. The police found no ammunition and released Radivonchik.

On September 5, police in Vitebsk and Minsk searched three apartments belonging to youth activists, claiming the searches were connected to the politically based criminal cases of activists Kristina Shatikova, Denis Denisov, and Tatyana Yelovaya. Police seized cell phones, computers, and leaflets and brought one activist to a police station for questioning.

On October 31, police searched the office of the Dzedzich Foundation for Support of Youth Initiatives in Brest after allegedly receiving complaints about a domestic disturbance. Local Belarusian Popular Front (BPF) leader Dmitriy Shimanskiy reported that the authorities presented an unsigned inspection warrant before seizing 15 completed BPF applications, 500 blank applications, 800 copies of the UN Human Rights Committee's report on the country, and other printed material.

In March 2005 police raided the office of the Zhoda newspaper and confiscated decorations from office walls, including altered photographs of Lukashenko. Zhoda's editor Aleksey Karol and deputy editor Aleksandr Sdvizhkov were each fined \$1,200 (2,550,000 rubles) in September 2005 for "disseminating false information" through the altered photos.

Diplomats also were forced to submit to searches and detentions. On March 26, customs officials stopped Polish consul Janusz Dombrowski at a border crossing and demanded to search his vehicle. He refused. On March 27, Belarusian Television alleged that the border guards had stopped Dombrowski because they had information that he was trying to smuggle subversive literature into the country. After crossing the border, Dombrowski opened the trunk of his vehicle to show Polish reporters that he was only transporting food. Dombrowski claimed that he was detained at the border for 24 hours without food and water and treated like a common criminal. The diplomat was not allowed to bring his vehicle back into the country upon his return.

While the law prohibits authorities from intercepting telephone and other communications without a court order, in practice authorities continued to monitor residences, telephones, and computers. The BKGB, the interior ministry, and certain border guard detachments may use wiretaps but must first obtain a prosecutor's permission; the lack of independence of the prosecutor's office rendered the due process protections relating to wiretaps meaningless.

The Government telecommunications company Beltelekom has a monopoly on Internet service, allowing authorities to monitor practically all e-mail. There were credible reports that the Government monitored e-mail sent from Internet cafes and from university computer networks (see section 2.a.).

Nearly all opposition political figures reported that authorities monitored their activities and conversations. During the 2004 trial of former NGO leader and opposition activist Mikhail Marinich, the prosecutor introduced as evidence transcripts of Marinich's phone conversations that had been recorded by the BKGB (see sections 1.c. and 1.e). Representatives of certain NGOs also said that their conversations and correspondence were monitored routinely by the security services.

The Government owned a majority share in all cellular telephone companies. Ministry of Communications contracts for telephone service prohibited subscribers from using such services for purposes contrary to state interests and public order. The ministry has the authority to terminate telephone service to those who breach the law. There were several instances where prodemocracy activists had their cell phones disconnected as they attempted to spread information about peaceful demonstrations, particularly during the months leading up to and following the March 19 Presidential election. In October 2005 the cellular telephone company Velcom disconnected the mobile telephones of opposition activists asking citizens to place lit candles in their windows to protest government excesses.

There were numerous reports that the Government coerced young people to join the pro-Lukashenko state-funded NGO Belarusian Republican Youth Union (BRYU). There were credible reports that military conscripts were ordered to join the BRYU, and university students reported that proof of BRYU membership was often needed to register for popular courses or acquire a dormitory room.

The Government employed and encouraged a widespread system of informants. On July 26, interior ministry official Andrey Solodovnikov stated that civilian patrols at the country's educational institutions were formed in recent years to encour-

age students to become law-abiding citizens. Solodovnikov said that almost 200 “voluntary” squads had been created, with 49 of them policing higher educational institutions, 77 operating at general educational schools, and 66 at vocational training schools. In 2005 the squads reported more than 600 alleged offenses. According to Solodovnikov, universities offer discounts on tuition to patrol members. According to independent media, at year’s end there were approximately 43,000 members of 3,633 civilian patrol squads.

Unlike previous years, there were no reports that authorities threatened to punish family members for alleged violations by individuals. In March 2005 court officials visited the home of former NGO leader and opposition activist Mikhail Marinich’s ex-wife and confiscated \$1,860 (four million rubles) worth of personal property towards payment of a fine less than \$4.00 (8,000 rubles) (see sections 1.c. and 1.e.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government did not respect these rights in practice.

In November 2005 President Lukashenko told reporters that his government uses “serious pressure” to control the media and that he is in charge of this process. Individuals could not criticize the Government publicly without fear of reprisal, and authorities impeded criticism of the Government by videotaping political meetings, frequent identity checks, and other forms of intimidation (see sections 1.d. and 3). The law also limits freedom of expression by prohibiting the wearing of masks and use of unregistered flags, symbols, and placards bearing messages deemed threatening to the Government or public order.

In December 2005 the National Assembly passed and the President signed a series of amendments that greatly inhibited the freedoms of speech and assembly and criminalized the following actions: giving “false” information about the political, economic, social, military, or international situation of the country to a foreigner; providing information on government agencies or the rights of citizens; participating in the activities of unregistered NGOs and in public demonstrations; training people to demonstrate publicly; financing public demonstrations; and soliciting foreign countries or international organizations to “act to the detriment” of the country (see sections 1.d., 1.e., 2.b., 3, and 4). Violations are punishable by up to three years in prison.

The Government took steps to restrict independent media. On April 27, the Organization for Security and Cooperation in Europe (OSCE) chairman-in-office reported that freedom of the media had deteriorated in the country over the past few years, with fewer independent media outlets and greater use by the Government of administrative pressures to limit free expression.

The highest circulation newspapers and other publications were state-owned and printed only materials supportive of the Government. There were some independent small-circulation newspapers and magazines, many of which criticized the Government. However, local authorities frequently warned independent editors to avoid certain topics and not to criticize the Government. Authorities also warned businesses not to advertise in newspapers that criticized the Government.

During the year, the Government did not grant permits to any new independent newspapers. Meanwhile, authorities closed at least two independent newspapers and threatened to close several others. On March 17, Supreme Economic Court Judge Oksana Mikhnyuk closed the independent newspaper Zhoda for violating the country’s criminal code by publishing composite photographs of President Lukashenko and other prominent politicians and for reprinting satirical drawings of the Islamic Prophet Mohammad.

On April 10, authorities nullified the legal address of independent newspaper Nasha Niva because its editor, Andrey Dynko, had been arrested while reporting on opposition demonstrations following the fraudulent March 19 Presidential election. Under the country’s media laws, a newspaper must maintain a legal address in order to publish.

State-owned stores across the country also stopped selling all but eight independent newspapers. While independent newspapers could still be purchased from independent sellers, their circulation was seriously restricted by these measures.

In November and December 2005, authorities removed 17 independent newspapers from the state subscription list, making it impossible to receive them by mail. The state postal system, Belpochta, and the state kiosk network, Belsoyuzpechat, refused to distribute most of them. Starting on January 1, Belpochta and Belsoyuzpechat refused to distribute an additional 15 independent newspapers, including Brestskiy Kuryer, Vitebskiy Kuryer, Nasha Niva, Intex-Press, Lyakhavitskiy Chas, Tovarishch, Volaye Hlybokaye, Myastsoviy Chas,

Khimik, Borisovskie Novosti, and Kuryer iz Borisova. On April 10, the Ministry of Information refused to grant the independent newspaper *Nasha Niva*, first published in 1906, a subscription license. *Nasha Niva* subsequently distributed information via the Internet. As of February 3, state-run post offices in Novopolotsk and Polotsk refused to deliver the independent newspaper *Khimik*.

The arbitrary use of Presidential power, often exercised through Presidential decrees, created additional obstacles to an independent press. On July 31, President Lukashenko signed an order empowering the State Security Council to control the distribution of radio frequencies. In July and August 2005 the President signed decrees restricting foreign and domestic sources from giving money to organizations for broadly defined political activities, including the distribution of information. These restrictions followed a 2003 Presidential decree that was used to crackdown on independent media outlets and NGOs.

Only state-run radio and the state-run television networks ONT, Belarusian Television (BT), and Capital Television broadcast nationwide. The Government continued to make use of its virtual monopoly on television and radio broadcasting to spread the official version of events and to minimize opposing points of view. State-owned broadcast media continued to marginalize the political opposition by depicting it negatively or ignoring it altogether (see section 3). Local independent television stations operated in some areas and reported local news relatively unhindered by the authorities; however, most were under government pressure to forego reporting on national issues or be subjected to censorship. Moreover, local independent stations were frequently pressured into sharing materials and cooperating with authorities to intimidate local opposition and human rights groups during meetings with foreign diplomats.

In general, international media, including Deutsche Welle, were permitted to operate, but not without some interference and harassment. Russian channels NTV and RTR were generally available, although in many parts of the country only through pay cable services. However, their news programs were at times blocked from broadcast or temporarily replaced with local programming. On March 16, cable television company Kosmos Television stopped transmitting Russia's RTVi channel to 57,000 subscribers, citing technical problems. RTVi Director Mikhail Borshchevskiy reported receiving an order from authorities to cut off transmission during the election. Broadcasts from other countries, including Poland and Lithuania, could be received in parts of the country, usually along the border.

The Government harassed and arrested journalists, particularly before and after the March 19 Presidential election (see sections 1.d. and 3). The Belarusian Association of Journalists identified 31 journalists who were detained, arrested, fined, or jailed between March 14 and 27. Among them were Vadim Aleksandrovich of the newspaper *Belarusi i Rynok*, Dmitriy Gurnevich of *Radio Polonia*, and Andrey Dynko, editor-in-chief of *Nasha Niva*, who were sentenced to 10 days in jail on March 20 and 21 in connection with their reporting of opposition demonstrations in Minsk's October Square. On March 27, authorities fined freelance journalist Tatyana Snitko \$435 (935,250 rubles) after detaining her for three days for allegedly participating in an unsanctioned demonstration.

At least 12 foreign journalists were detained or jailed during the same period. On March 27, a Minsk court sentenced Ukrainian journalist Pavlo Salyha to 10 days incarceration for allegedly participating in an unsanctioned demonstration. On March 24, authorities arrested Nino Georgobiani and Georgy Lagidze of Georgia's public television and Canadian freelance journalist Frederick Lavoie as they filmed near a Minsk detention center. Georgobiani and Lagidze served five days in jail; Lavoie served 15 days.

Authorities also assaulted, detained, or arrested numerous independent journalists during the year. According to Reporters Without Borders, on March 2 police assaulted nine independent reporters who were covering the arrest of former opposition Presidential candidate Aleksandr Kozulin. On April 21, police in Bobruysk detained Vadim Dovnar, a correspondent with the Russian newspaper *Kommersant*, for allegedly speaking obscenities near a government building. On April 26, police detained independent journalists Nikita Bytsenko and Yuriy Svetlakov as they traveled to a rally commemorating the 20th anniversary of the Chernobyl nuclear disaster; they were released the day after the rally. On June 15, police in the Mogilev region detained reporters Syarhey and Mikalai Herdziy of the independent newspaper *Volny Gorad* for collecting information about construction in the village of Veraneykiy; they were released the same day with a warning.

Several foreign journalists were prevented from entering the country or were detained or arrested after their arrival (see sections 1.d. and 1.e.). In January border guards briefly detained and seized videotapes from a crew of Ukrainian television journalists who were covering the March Presidential election. On February 19, au-

thorities detained and expelled Polish journalist Wacław Radziviłowicz as he tried to cover the trial of several activists from the Union of Belarusian Poles NGO. On March 15, border guards detained and denied entry to Ukraine Channel 5 correspondent Andrey Zhihulin and cameraman Vitaliy Doroshchonok. Both journalists had been arrested during a live broadcast of an opposition rally in Minsk on March 12 and later released.

On March 14, authorities suspended the investigation of the 2004 killing of Veronika Cherkasova, a journalist for the independent *Solidarnost* newspaper. In December 2005 the prosecutor general closed the investigation into the October 2005 unexplained death of independent journalist Vasily Grodnikov, stating that he had died because of his own “careless actions” (see section 1.a.).

The law specifies that the Government may close a publication after two warnings in one year for violating a range of amendments adopted in 2005 that inhibit freedom of speech and of the press. Authorities continued to frequently issue warnings to pressure independent newspapers. In addition, regulatory provisions grant authorities power arbitrarily to prohibit or censor critical reporting. The State Committee on the Press can suspend periodicals or newspapers for three months without a court ruling. The law also prohibits the media from disseminating information on behalf of unregistered political parties, trade unions, and NGOs. On May 23, the Ministry of Information warned independent newspaper *Khimik* of possible legal actions after the local Novopolotsk ideology office complained that the paper had published an opinion poll conducted by an unlicensed pollster and an interview with an opposition Presidential candidate.

The Government tightly controlled the content of television broadcasts. On January 26, President Lukashenko declared that the country’s radio and television industry “is an integral part of state policies and ideology, a powerful communication tool for subjects of society.” In February the state-controlled television network BT ran a six-day documentary series disparaging the opposition. Throughout the election campaign, BT’s news program “Panorama” devoted more than 40 percent of its reports, which were all positive, to President Lukashenko and less than 0.5 percent to opposition candidates. There were credible reports during the year that the BKGB and other government agencies censored national television news broadcasts. Although the Central Election Committee (CEC) allocated equal airtime on two occasions for half-hour speeches on state television to both Lukashenko and opposition Presidential candidates prior to the March 19 elections, authorities censored several minutes of remarks by opposition candidates (see section 3).

State television covered the post-election opposition protests on March 21. However, broadcasts portrayed participants as drug users and selectively interviewed alleged bystanders who denounced the protests as pointless and disgraceful.

The Government censored the media. Authorities frequently imposed heavy fines on journalists and editors for criticizing the President and his supporters, and many publications were forced to exercise self-censorship. Authorities fined, warned, or jailed members of the media who publicly criticized the Government. The libel law makes no distinction between private and public persons in lawsuits concerning defamation of character. A public figure who was criticized for poor performance while in office may sue both the journalist and the media outlet that disseminated the critical report.

The Government used harsh libel laws to suppress criticism of political leaders. The law provides for punishment of public insults or libel of the President and government officials by up to four years’ imprisonment, two years’ *khimya*, or a large fine. Authorities continued to use such laws to stifle press freedom and to imprison political opponents (see section 1.e.).

In June a court sentenced opposition activist Nikolay Razumov to three years in prison for slandering the President; he has been in jail since March 14. During the campaign of opposition Presidential candidate Aleksander Milinkevich, Razumov said during an interview that Lukashenko was involved in the disappearance of opposition politicians Viktor Gonchar, Anatoliy Krasovskiy, and Yuriy Zakharenko (see section 1.b.). On June 18, authorities in Vitebsk fined independent journalist Serzhuk Serabro eight dollars (17,000 rubles) for watching activists raise a prohibited flag in the city center and confiscated his photographs.

In May police and the BKGB reported seizing 94 copies of a book by youth opposition leader Pavel Severinets to determine whether it complied with antidefamation regulations. The book discussed national geography and history, including the short-lived Belarusian National Republic, World War II, and the Chernobyl nuclear accident. However, a few chapters reportedly mentioned an opposition political party and an unregistered youth organization.

On May 17, the Minsk city prosecutor threatened Irina Khalip, an independent journalist working for the Russian newspaper *Novaya Gazeta*, with a four-year pris-

on term if she continued writing articles that defamed President Lukashenko. On February 6, Baranavichi Judge Zhana Kapachewskaya fined Uladzimir Hundar, editor of Baranavitskaya Gazeta, \$271 (58,000 rubles) for publishing an article on "Solidarity Day," an unofficial monthly commemoration of the mysterious disappearance of four political dissidents. The judge stated that Hundar was guilty of participating in the unsanctioned demonstration by virtue of publishing an article about it.

In January 2005 the private Pressbol sports newspaper was ordered to pay a \$14,000 (30 million rubles) fine and its editor, Vladimir Berezhkov, a \$4,600 (10 million rubles) fine for a 2004 article claiming that Andrey Imanali, deputy head of the Belarusian Gymnastics Federation, was involved in organized crime. In July 2005 Russian authorities charged Imanali with abduction and with alleged links to organized crime. He faces extradition to Russia.

In May 2005 Minsk authorities reopened a slander case against human rights activist Harry Pogonyailo for giving an interview to Swedish journalists about the disappearance of opposition figures. The interview never aired, and authorities confiscated the video tape. The slander case was dropped in November 2005.

In June 2005 Minsk judge Lyubov Valevich ordered independent newspaper Narodnaya Volya to pay \$46,000 (100 million rubles) to Sergey Gaidukevich, leader of a progovernment party, for claiming he was involved in violating the Iraqi oil-for-food program, even though a number of reputable international sources documented Gaidukevich's involvement.

The Government took numerous other actions during the year to limit the independent press, including limiting access to newsprint and printing presses, restricting the import of media-related materials, and temporarily suspending independent and opposition periodicals.

During the run up to the March elections, the Government discouraged and threatened printing companies from printing the legally authorized leaflets of opposition candidates and parties. In late 2005 State Control Committee inspectors conducted detailed audits of many printing houses to see if they had printed material for the opposition. Although there are no laws against owning printing presses, authorities seized at least one opposition press in July 2005 from the home of local opposition party leader Vladimir Kishkurna.

Several independent newspapers, including Belorusskaya Delovaya Gazeta, Den, and Solidarnost printed their materials in Russia because domestic printing presses (mostly state-owned) refused to print them. State printing houses refused to print four independent newspapers, including one of the country's two independent daily newspapers, Narodnaya Volya. The other three, Mestnaya Gazeta, Belaruskaya Delovaya Gazeta, and Solidarnost began disseminating Internet-only versions due to printing and distribution problems created by the Government. On May 30, Narodnaya Volya discontinued free distribution of its print run and warned its readers that some affiliates of the state-owned Belarusbank would not permit them to transfer money to subscribe to the paper.

On September 21, the Belarusian language intellectual magazine Arche was suspended for three months because its September issue featured a cover photograph of the country's police officers violently dispersing antigovernment protesters in 1995. Authorities claimed that Arche violated the country's media laws by publishing a political article because the magazine's license application stated that it would focus exclusively on history.

In many cases the Government confiscated at will independent and opposition newspapers. For example, on January 17, police in Grodno seized 50 copies of Polish Magazine in Exile from two activists with the NGO Union of Poles. On February 12, police in Lida seized 1,200 copies of Narodnaya Volya from opposition campaign activists. On March 3, Vitebsk police seized 250,000 copies of the independent newspaper Narodnaya Volya being transported from a Russian printing plant to Minsk because the issue contained quotations of an opposition Presidential candidate; on March 14, the police confiscated the paper's entire replacement run of 300,000 copies. On March 17, Minsk police seized 85,600 copies of the opposition newspaper Tovarishch; authorities offered to return the newspapers only after the country's March 19 elections. On July 26, authorities arrested Dzemjan Frankouski pursuant to a criminal case started in May for distributing issues of the independent newspaper Narodnaya Volya free of charge. Frankouski was released two days later.

Authorities also seized leaflets and other printed materials the Government deemed to be illegally printed. On January 6, police in the Gomel region seized 10,800 calendars from the car of opposition party activist Valeriy Rybchenko; police claimed the calendars did not have the proper publication data. Two weeks earlier police from the same area seized 57,000 holiday cards signed by former Presidential candidate Milinkevich. On March 6, authorities in Rogachev fined an opposition campaign worker \$145 (310,000 rubles) for passing out opposition campaign flyers.

On March 7, police in Gomel confiscated 28,000 leaflets from an opposition Presidential candidate's campaign. On March 15, Minsk police seized 92,000 leaflets from opposition activists. About 50,000 leaflets were taken from an opposition party leader, whom police arrested for petty hooliganism and illegal distribution of printed materials.

*Internet Freedom.*—The Government restricted access to the Internet. Credible reports indicated that the Government monitored e-mail and Internet chatrooms. Many individuals and groups could not engage in peaceful expression of views via the Internet, including by electronic mail.

During the March 19 Presidential election, there were numerous credible reports that the Government blocked several opposition campaign and independent media Web sites. Many opposition groups and independent newspapers have switched to Internet domains operated outside the country because of the Government's campaign against Internet freedom. There also were credible reports that authorities attempted to block Radio Liberty's Web site in the country during the March Presidential elections. On November 7, the NGO Reporters Without Borders again included the country on its annual list of "enemies of the internet," countries that censor independent news sites and opposition publications and monitor the Internet to stifle dissident voices.

In February the Ministry of Communications announced new laws effectively giving the country's telephone monopoly, Beltelekom, and other organizations authorized by the Government the exclusive right to maintain Internet domains. Meanwhile, there were credible reports that authorities in Vitebsk attempted to use the law to prohibit all wireless Internet access. The local government compromised only after several youth demonstrations, and invoked the prohibition to computers purchased after February.

In March 2005 Grodno authorities closed the Internet chat room forum.Grodno, declaring it "subversive." Beltelekom subsequently fired the chat room's administrator, Aleksey Rads. Some students claimed state university officials monitored Internet usage on university networks.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom, in part by requiring educational institutions to teach and students to study an official state ideology that combined reverence for the achievements of the Soviet Union and for the country under the leadership of President Lukashenko. Use of the word "academic" was restricted. On June 19, President Lukashenko signed a decree prohibiting any nongovernmental organization from including the word "academy" in its title.

During the year there were credible reports of authorities dismissing teachers on political grounds. In August authorities terminated longtime history teacher Ales Chigir, who was an opposition member of the Bobruysk City Council and headed an opposition Presidential candidate's regional campaign. On October 20, a Bobruysk court dismissed Chigir's suit to be reinstated as a teacher.

In March state university authorities dismissed history instructor Yuriy Bacheshche for refusing to turn over his findings after independent monitoring of the March 19 Presidential election (see section 1.e.). In December a Minsk civil court upheld the dismissal after the university alleged that Bacheshche distributed computer discs with cartoon images that defamed the country's President.

The dismissals were in keeping with a November 2005 directive by Education Minister Aleksandr Radkov that all schools, including private institutions, are political bodies, must follow state orders, and cannot be headed by opposition members. Radkov also asserted his right as minister to appoint and dismiss the heads of private educational institutions.

On January 24, the Supreme Court suspended the operations of the independent think tank association "Belorusskiye Fabriki Mysli" (Belarusian Thought Factories—BFM) for three months for lack of a legal address; BFM was liquidated on August 3 (see section 2.b.). Separately on January 23, BFM head Oleg Manayev, who also was the director of the Independent Center for Economic and Socio-political Research, received a warning from the prosecutor's office for conducting surveys and publishing results without first receiving official accreditation from the National Academy of Sciences.

On February 21, pursuant to a 2005 regulation requiring all opinion polling to be registered with NAS, the academy authorized 10 Belarusian and Russian polling services to conduct election-related polling. This list included the Presidential administration's polling service, sociological agencies of the Gomel and Grodno regional governments, and the pro-Lukashenko Ekoom polling organization. No major independent polling services were on the list (see section 3).



The Government tasked the state youth organization, BRYU, with ensuring ideological purity among youth. Students reportedly were pressured to join the BRYU to receive benefits and rooms in dormitories, and local authorities pressured BRYU members to campaign on behalf of government candidates (see section 1.f.).

Government mandated textbooks contained a heavily propagandized version of history and other subjects. On June 16, while dedicating the country's national library, President Lukashenko rationalized government censorship of texts on the grounds that modern books about heads of state and historical personalities contain "80 percent lies," and those about Soviet-era leaders Vladimir Lenin and Joseph Stalin contain "100 percent lies."

Although the Ministry of Education promised that no student would be expelled for political activities, by July credible sources reported that authorities had expelled at least 100 university students for involvement in opposition activities, particularly in pre-election opposition campaigns and post-election demonstrations (see sections 2.b. and 2.d.). These sources noted that university authorities did not formally expel students, but cited poor academic performance or missed classes as reasons for not readmitting them. The expulsions followed a May 2005 directive from the ministry to all educational institutions calling for the expulsion of any student who engaged in antigovernment or unsanctioned political activity, and for the proper ideological education of all students. Student organizations credibly claimed that authorities expelled dozens of students for their political activities during the year. In August 2005 Minsk Mayor Mikhail Pavlov publicly ordered school administrators to keep their students from becoming politically active.

In January the Ministry of Education dismissed an appeal by Tatyana Khoma to reinstate her at the Belarusian State Economic University (BSEU). The fourth-year student was expelled in November 2005 for "violating an internal university order." Khoma had traveled to France, where she was elected to the executive committee of the National Union of Students in Europe. In defending the expulsion, BSEU rector Vladimir Shimov said Khoma had traveled without the university's permission. He also said Khoma was the 51st BSEU student expelled since September 2005 for traveling without permission.

In May 2005 Belarusian State University expelled journalism student Olga Klaskovskaya. She had worked for the independent newspaper *Narodnaya Volya* and filed a complaint with the prosecutor general about police mistreatment while covering a demonstration. The university claimed it expelled her for missing exams when she was caring for her sick child.

The expulsions were in keeping with other efforts by the defense and foreign affairs ministries to curb study abroad because authorities stated that such programs "threaten the country's security" and pose life-threatening dangers.

On October 27, while addressing the lower house of parliament, Education Minister Aleksandr Radkov denied that any university students had been expelled for political reasons. However, a year earlier, Radkov confirmed to the lower house that he had directed university authorities to undertake such expulsions.

The Government also restricted cultural events. During the year the Government continued to force antigovernment theater groups into underground venues such as bars and private apartments. This included Free Theater's production of "Techniques of Breathing in a Closed Space," which was based on the testimony of the wives of missing dissidents.

Authorities denied writer Vladimir Orlov and activists Valentina Svyatskaya and Aleksandr Zhuchkov permission to hold a rock concert July 27 to commemorate the anniversary of the country's 1990 declaration of independence.

In June the authorities banned a "Basowiszczka" concert at the Palace of Fine Arts in Minsk on the grounds that the roof was in a critical condition. However, daily government-sanctioned concerts and exhibitions took place in the palace immediately prior to the requested date. Basowiszczka is an annual rock festival held in northeastern Poland that showcases young Belarusian musicians and performers who have been denied opportunities to perform in public in the country.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of peaceful assembly; however, the Government severely restricted this right in practice. Police and other security officials beat and detained demonstrators following unsanctioned but otherwise peaceful demonstrations.

By law organizers must apply at least 15 days in advance for permission to conduct a demonstration, rally, or meeting. Government officials must respond no later than five days prior to the scheduled event. However, authorities either did not grant permits to opposition groups or granted them only for demonstrations in out of the way locations. This happened regularly in the lead up to the March 19 Presidential election (see section 3.). On March 7, authorities in Mogilev refused at the last minute to allow supporters of Presidential opposition candidate Aleksandr

Milinkevich to use a local university building to meet with voters. The event, attended by approximately 250 persons, was held outdoors. On March 8, Milinkevich held two campaign rallies in Minsk, the largest of which reportedly attracted 1,400 people. Milinkevich had applied for a permit to hold one of the events in the Berestye Theater, but was denied access to the building that morning; the event was held outside. On September 28, local authorities denied local opposition BPF activists permission to hold a rally the following day for Milinkevich in the Vitebsk region on the grounds that written authorization from the BPF board was not attached to the application. That same day, authorities also denied BPF activists in the eastern city of Orsha permission to hold a September 30 rally for Milinkevich.

Demonstrators are required by law to pay for damages caused during demonstrations and for the presence of police and medical personnel. Only political parties, trade unions, or registered organizations may request permission for a demonstration of more than 1,000 individuals. The law also prohibits the wearing of masks and use of unregistered flags, symbols, and placards bearing messages deemed threatening to the state or public order (see section 2.a.).

During the year demonstrations in Minsk varied in size from a few participants to approximately 12,000 persons. However, the Government kept demonstrations under strict surveillance, and police and plainclothes security officers openly videotaped participants. Authorities used intimidation and threats to discourage people from participating in demonstrations leading up to and following the March Presidential election. For example, BKGB head Stepan Sukharenskiy announced that the BKGB would treat any attempts to take to the streets as potential acts of terrorism that would be punished according to the Criminal Code. The BKGB added to the climate of intimidation three days before the March 19 elections by opening a criminal investigation against several opposition leaders and Georgian activists for allegedly planning a terrorist attack to overthrow President Lukashenko (see section 3).

During the evening on March 19, up to 12,000 persons gathered on and around October Square in downtown Minsk. A large number of special riot police and other Ministry of Interior special forces were stationed around the perimeter of the square, but mainly out of sight of the protesters. Prior to the rallies and protests that followed the March 19 election, authorities had cut electricity to the usually brightly-lit square, where protesters had created a tent city on the square and were keeping constant vigil. Just after 3:00 am on March 24, approximately 100 riot police entered the square accompanied by buses and trucks. They declared the demonstration illegal and ordered participants to leave. In the ensuing hours, security forces arrested approximately 250 persons and transported them to the Okrestina jail (see section 1.d.). Most received five to 15-day jail sentences for participating in the unauthorized demonstrations (see section 1.e.).

On March 25, approximately 7,000 persons attempted to gather in October Square to protest the March 24 police crackdown on the opposition tent camp and to celebrate the anniversary of Freedom Day commemorating the country's brief independence from Russia in 1918. However, significant numbers of OMON and special forces prevented demonstrators from entering the square. Several thousand demonstrators carrying flags and chanting "long live Belarus!" attempted to break through the riot police barrier but were repelled. A smaller group of approximately 2,000 persons who had gathered on the other side of the square also were blocked by riot police.

In response to the police blockade, opposition leaders Aleksandr Milinkevich and Aleksandr Kozulin led the estimated crowd of 7,000 to Yanka Kupala Park. At the park Kozulin urged the crowd to follow him on a three-kilometer march to the Okrestina jail, where protesters were being detained. Riot police used smoke and stun grenades to break up the march and arrested at least 100 people, including Kozulin, who was brutally beaten by police (see sections 1.c., 1.e., 2.b., and 3).

Following the police crackdown after the March elections, anti-Lukashenko activists increasingly used fast moving "flash mobs" as one of their principal methods of protest.

On November 28, 13 opposition activists staged a demonstration during the Commonwealth of Independent States' Summit in Minsk by displaying images of imprisoned NGO youth leaders Dmitriy Dashkevich and Artur Finkevich (see section 1.e.). Police quickly dispersed the demonstrators but made no arrests. On December 10, activists organized three separate demonstrations in Minsk to show solidarity with imprisoned opposition activist Aleksandr Kozulin and to commemorate World Human Rights Day. Authorities broke up the demonstrations and arrested approximately 25 people for hooliganism. Three of the activists were sentenced to 15 days in jail.

In response authorities intensified their already significant repression to deter flash mob activists by increasing surveillance of opposition buildings and Web sites and filing criminal prosecutions. On April 28, police arrested eight flash mob activists outside the Supreme Court in Minsk out of several dozen who had gathered to demonstrate support for the independent Union of Belarusian Writers. Police released all eight after copying their passport information (see section 1.e.). Between May 30 and June 1, approximately 50 youth activists participated in hourly shifts of sitting on the pavement at Lenin Square in Brest and reading the Bible to demonstrate solidarity with several imprisoned leaders of Malady Front, an opposition youth group. Police arrested five activists. Three were found guilty of holding an unauthorized religious event under Article 167 of the Administrative Code.

Police also used preemptive arrests to combat protests. On May 7, young activists planned a flash mob event near the old National Library in Minsk to mark the anniversary of the renaming of Frantsisk Skaryna Avenue. The group reportedly intended to tear pages out of history textbooks used by schools. As the group formed, riot police blocked access to the library and arrested 12 persons. They were released after police searched them and recorded their personal data. On May 9, the anniversary of victory against Nazi Germany, police pre-empted an attempted demonstration in support of veterans. On June 2, OMON riot police detained nine activists for attempting to show solidarity with youth activists who were on a hunger strike. Authorities detained the group for at least two hours but filed no charges. There were several reports that police beat demonstrators during protests (see section 1.c.).

Persons often received heavy fines or jail sentences for participating in demonstrations. After a March 7 rally, police arrested senior opposition activists Anatoliy Lebedko and Vladimir Shantsov, a Milinkevich regional campaign manager. That day Lebedko was fined \$721 (1.5 million rubles), and Shantsov was sentenced to 15 days in jail for organizing an unsanctioned rally. After a March 8 rally, Milinkevich's campaign deputy Vintsuk Vyachorka left an event in a minivan that contained a public address system. Police confiscated the vehicle with the equipment and arrested the six passengers. On March 9, all were sentenced to 15 days in jail for organizing unsanctioned rallies (see section 1.e.). On August 24, a Minsk district court sentenced opposition youth activist Yuliya Goryachko to four days in jail and fined five others between \$290 and \$420 (620,000 and 900,000 rubles) for participating in an unsanctioned demonstration under Article 167 of the Administrative Code.

The Government took other measures to restrict the ability of prodemocracy and civil society groups to meet.

Local authorities prevented opposition parties from holding local conventions in a number of sites across the country (see section 3).

On December 24, police attempted to prevent a ceremony commemorating World War II nationalist Vintsent Gadlevskiy. Authorities stopped vehicles carrying people going to the ceremony, forcing them to continue on foot for several miles or causing several people to miss the ceremony altogether. Other attendees were ordered to report to the local police station for questioning.

*Freedom of Association.*—The law provides for freedom of association; however, the authorities severely restricted it in practice.

The Government employed an elaborate system of laws and strict registration regulations that restricted the ability of individuals to form associations that might be critical of the Government or immune to official manipulation. All NGOs, political parties, and trade unions must register with authorities; it is illegal to act on behalf of an unregistered organization. The leaders of the domestic election observation NGO Partnership were sentenced to up to two years in prison in August for leading an unregistered organization (see sections 1.e., 2.d., and 4).

The Government's registration procedures were costly and onerous, requiring the specific number and names of founders, along with a legal address for the organization in a nonresidential building. Individuals listed as members are vulnerable to retribution. The Government's refusal to rent office space to unapproved organizations and the expense of renting private space forced most organizations to violate the nonresidential address requirement, a situation that allowed the authorities to deregister existing organizations and deny registration of new ones.

On January 27, authorities in Svetlogorsk refused to provide the local chapter of the Belarusian Language Society (BLS) office space, and it was evicted from another state-owned building. The head of the BLS, Telman Maslyukov, told independent online news source Belapan that authorities claimed to have no space available to rent to the BLS.

In October the Justice Ministry denied registration to Stareishiny, the association of prodemocratic NGOs, allegedly due to the group's violation of procedures related

to the founding conference and members. The group appealed the denial to the Supreme Court, but the court refused to hear the suit on December 22, claiming that the group's legal counsel could not sign the complaint since the lawyer had not been appointed as the association's legal counsel at the founding conference. Stareishiny filed a new suit on December 28.

During the year authorities continued to close local political party offices (see section 3).

The Ministry of Justice reported that it continued to issue written warnings to NGOs, political parties, and trade unions during the year, and that the courts continued to deregister NGOs for "systematic or severe violations of the law." Harassment in the form of inspections by security officials and confiscation of political literature, usually without warrants, was widespread (see sections 1.d. and 3).

A government commission reviews and approves all registration applications. During the year it continued to base its decisions largely on the political and ideological compatibility of the applicant with the Government's authoritarian philosophy (see section 2.a.). For example, one of two remaining nationally-registered human rights organizations, the Belarusian Helsinki Committee, was repeatedly threatened with closure for, among other things, allegedly failing to pay taxes on a foreign assistance grant (see section 4). On February 7, the Supreme Court liquidated the umbrella youth organization Rada for allegedly engaging in politics and for interfering in the affairs of government agencies. The court ruling followed a forum Rada held in December 2005 at which it proposed to create an alternative youth policy. On April 27, the Government refused to renew the registration of the American Bar Association Office in Minsk. Authorities would not comment on the reason for the refusal. On August 3, the Supreme Court also liquidated the independent think tank "Belarusian Thought Factory" (BFM) for lack of a legal address. The closure follows a three-month suspension of the NGO in January and two warnings to BFM head Oleg Manayev for spreading false information about the 2006 Presidential election after he released the results of an election related poll (see section 2.a.). In April 2005 the Supreme Court liquidated Manayev's Independent Institute of Socio-Economic and Political Studies for lack of a legal address. It was one of two organizations in the country that conducted independent opinion polling.

*c. Freedom of Religion.*—The law provides for freedom of religion; however, the Government restricted this right in practice. While the constitution affirms the equality of religions and denominations, it also contains restrictive language, stipulating that cooperation between the state and religious organizations "is regulated with regard for their influence on the formation of spiritual, cultural, and country traditions of the Belarusian people."

The Government used the restrictive provisions of the law on religion to hinder or prevent activities of groups other than the Belarusian Orthodox Church. In particular the law restricts the ability of religious organizations to provide religious education, requires all religious groups to receive governmental approval to distribute literature, and prohibits foreigners from leading religious organizations. A concordat and other arrangements with the Government provide the Belarusian Orthodox Church, which is an exarchate of the Russian Orthodox Church, privileges not enjoyed by other religious groups. In March 2005 Vladimir Makarov, chief of the Defense Ministry's information directorate, called on clergy to fight the spread of "destructive sects" and to spread Orthodoxy.

The law requires that religious organizations register with the Committee of Religion and Nationalities Affairs of the Council of Ministers (CRNA) or with local and regional governments. During the year the CRNA continued to refuse to register some nontraditional religious groups. Religious groups that could not register frequently were forced to meet illegally or in the homes of individual members. According to the CRNA, 25 religious denominations with 2,944 religious communities were officially registered as of November.

The Government required all religious organizations to reregister with the CRNA in 2004. While the CRNA registered 2,676 religious communities, 104 communities were dissolved due to lack of membership or denied reregistration. The CRNA denied registration to what it considered nontraditional faiths, mainly Protestant groups, such as the Light to the World, the New Life Church, and the Belarusian Evangelical Church. When the Light to the World's lease on a church was terminated in October 2005 and authorities prevented them from leasing new premises, most of the group's leaders left the country.

The CRNA also refused to register the Belarusian Autocephalous Orthodox Church (BAOC) without the approval of local Belarusian Orthodox Church bishops. Without the approval, the BAOB was effectively banned. In 2005 authorities confiscated a building in Semkov Gorodok, which the local BAOB community had renovated for the church.

On December 4, the Minsk-based Hare Krishna community was forced out of their office, which was located in a vehicle service station, following an inspection by the sanitary and emergency management authorities. The inspectors, however, allowed all other tenants to remain. The Minsk and Bobruysk Hare Krishna communities have been searching for a legal address since they and other groups were denied registration in 2004. Following the denial, which the Hare Krishna unsuccessfully contested, the Minsk community worshipped in a residential building. However, they were repeatedly fined for operating there. In 2001 and 2002 the Hare Krishna communities attempted to register as an association to be allowed to invite foreign religious teachers into the country. The Government denied the application, and the community appealed the decision to the UNCHR. In August 2005 the UNCHR recommended that the Hare Krishna be established as an association and that authorities restore the community's rights within 90 days. The Government rejected the UNCCR recommendations and has taken no further action on the matter.

The Government continued to limit the ability of a number of groups to own or use property for religious purposes. On July 24, for example, Minsk City Economic Court judge Aleksandr Karamyshev ordered the New Life Church to sell to the city a building it purchased as a place of worship at a price far below market value and to vacate the premises by October 8. The CRNA refused to reregister the New Life Church because it tried to use a former cow barn as its legal residence. Authorities would not allow the church to renovate the structure, change the registration status from a cow barn to a religious property, or hold meetings in the building. The pastor and other leaders were assessed large fines for conducting services in the barn. To protest the July 24 decision, the church began a hunger strike, which prompted the authorities to review its decision. On November 4, the Supreme Economic Court overturned all court decisions regarding the church and held a hearing on December 7 to adjudicate the case under original jurisdiction. The case remained under review at year's end.

The Government permits the use of residential property for religious services only after it has been converted from residential use. This interpretation of the law effectively requires all religious organizations to reregister their properties as religious properties. However, authorities continued to reject requests for property registration from many Protestant churches, as well as from other nontraditional faiths. On June 27, the Minsk city court deregistered the Christ's Covenant Reformed Baptist Church for lack of legal addresses. In August 2005 and September 2005 the Government closed the Belarusian Evangelical Reformed Church and the Belarusian Evangelist Church for failure to secure nonresidential legal addresses for worship.

According to the Full Gospel Evangelical Christian Church, authorities continued to deny it permission to construct a building for religious purposes in Minsk.

Meeting hall officials cancelled or refused to extend agreements with religious groups to use their facilities, citing a government decree specifying measures to ensure public order and safety during public gatherings. On March 31, the Minsk city administration reportedly refused to allow the local Hassidic Jewish community to celebrate Passover at the state-owned Palace for Children and Youth, according to the international religious freedom NGO Forum 18. City officials asserted that a religious event could not be held in a venue frequented by children. The community was forced to hold the celebration at its cafeteria, which could only accommodate approximately 10 percent of the invited guests.

The law allows persons to gather in private homes to pray; however, it requires that individuals obtain permission from local authorities to hold rituals, rites, or ceremonies in homes. Police interfered with religious meetings in residences several times during the year, sometimes resulting in fines for participants.

On March 3, a Minsk district judge sentenced the pastor of Christ's Covenant Reformed Baptist Church, Gregoriy Vyazorskiy, to 10 days in jail for conducting unsanctioned religious services. Authorities warned the pastor in November 2005 against conducting illegal services in a private Minsk residence and about failing to provide a "legal address." Pentecostal bishop Sergey Tsvor faced similar charges, but they were dropped because of technical errors made by the police.

On March 24, authorities sentenced human rights lawyer Sergey Shavtsov to 10 days in detention for conducting an unsanctioned interdenominational seminar in a private cafe. On the last day of the three-day seminar, police entered the cafe and detained him because the event was not sanctioned by the Government.

In July and again in August, Union of Evangelical Christians Salvation Church pastor Sergey Poznyakovich was fined \$2,170 dollars (4.65 million rubles) and \$300 (640,000 rubles), respectively, for conducting an unauthorized religious service and performing a baptism ceremony in a nearby lake.

Baptists, Pentecostals, and other Protestants were warned or fined for illegally conducting and hosting religious services. According to the CRNA, convictions for

such offenses were based on charges of either disturbing public order or illegally gathering without prior permission.

On April 6, authorities fined political opposition activist Boris Khamaida \$2,600 (5.6 million rubles) for carrying a sign with a gospel quotation, "the one who endures to the end will be saved." Police detained Khamaida on March 20 for three hours for displaying the sign and charged him with violating demonstration laws.

On June 1, Forum 18 reported that authorities warned three evangelical Christians in Brest for participating in a 24-hour silent vigil of Bible reading to express solidarity with victims of political repression in the country. According to the authorities, the three protesters needed prior permission to organize and conduct religious events outside designated worship areas.

On August 9, border guards took into custody and transported to Minsk 47 Baptist children and adults, who were on a religious retreat at a private homestead in the western Grodno region, for alleged violations of health and safety regulations. The previous day, local authorities ordered the gathering to disperse and threatened to take the children to a police juvenile facility. After their release, a senior Minsk city religious affairs official conceded that the retreat was legal since private individuals had organized the event.

On October 13, independent media reported that authorities fined a 78-year-old Roman Catholic priest, Antoni Koczko, \$29 (62,000 rubles) for conducting an "unauthorized" religious service in Minsk. The priest, who is a Polish citizen, was born in the country and has been practicing in the city of Slutsk for the past 15 years.

The Government only registered Orthodox communities that were not based in Moscow and only with the approval of the local Moscow Patriarchate bishop. In June 2005 authorities warned the priest of the unregistered Russian Orthodox Church Abroad (ROCA), Father Leonid Plyats, that he could be jailed and fined for conducting "illegal religious activities," including small gatherings in private homes. In November 2005 authorities denied registration to a different ROCA parish in Ruzhany. In this case, Brest religious affairs official Vasilii Marchenko told ROCA members to worship at the Moscow Patriarchate Church instead. The ROCA parish refused and its members have been fined four times, totaling over \$2,000 (4 million rubles), for worshiping in private homes. The community again applied for registration; however in October there were credible reports that Moscow Patriarchate officials were pressuring parishioners to withdraw their signatures from registration applications.

In November 2005 former CRNA chairman Stanislav Buko announced that authorities would not register "destructive sects." He claimed no such sects were operating in the country but said that authorities closely monitored the activities of persons bearing the characteristics of such sects. University textbooks reportedly classified Baptists and Adventists as members of sects.

On May 19, Forum 18 reported that authorities pressured Pentecostal pastor Oksana Gavrilenko to resign from her job as a school teacher after she complained about a lecture to students by an Orthodox priest on the dangers of "sects," including Baptists and Pentecostals. According to the report, authorities did not reinstate Gavrilenko but did ask the priest to refrain from slandering Protestant churches.

In early December 2005, police in Vitebsk raided the homes of local Muslims on the pretext of looking for suspects connected to two September bombings, even though authorities had previously arrested two persons in the case with no known connection to Islam. Police detained several of the Muslims for questioning and seized religious literature.

The law provides that citizens may speak freely about their religious beliefs; however, authorities continued their efforts to prevent, interfere with, or punish persons who proselytized for any religious group other than the Belarusian Orthodox Church.

The Government did not permit foreign missionaries to engage in religious activities outside of the institutions that invited them. The law requires one-year, multiple-entry "spiritual activities" visas for foreign missionaries. Observers expressed concern that lack of standardized government guidance on how to implement recent changes to visa laws may affect the ability of missionaries to live and work in the country. For example, according to Forum 18, authorities for 10 years have refused to renew the work permit of Stewart Vinograd, founder of the Minsk-based New Testament Church and pastor of its Messianic Jewish congregation. Forum 18 also reported that in July authorities denied permission for the Full Gospel Union to invite Nigerian pastor Anselm Madubuko to preach at three member churches. In October authorities refused to renew visas for 12 Polish Catholic nuns and priests from the Grodno region, who had been working in the country for 10 years, and ordered them to leave by the end of the year.

Missionaries of other religious groups with a long history in the country, particularly Protestants, continued to have difficulties obtaining visas; and there were credible reports that members of Protestant religious communities were harassed for teaching children religion at home.

The law does not provide for the return of property seized during the Soviet period or the Nazi occupation and restricts the return of property that is being used for cultural or educational purposes.

In February CRNA chairman Leonid Gulyako told members of a Catholic parish that their monastery and church, which was being used as a state scientific archive, would not be returned because the Government did not have funds to build a new facility. The parish earlier requested that the Government return the property. However, in October 2005 the CRNA Council of Ministers said the church and monastery building could be returned only after the Government built a new building to house the archive.

*Societal Abuses and Discrimination.*—There was a generally amicable relationship among religious groups and a widely held ethic of tolerance; however, hostile or intolerant attitudes in some parts of the press encouraged negative attitudes toward some minority religious groups. The Belarusian Orthodox Church took some steps to counter propaganda that discriminated against other religious groups.

There were new media reports of isolated instances of anti-Protestant vandalism during the year. On October 31, vandals painted “No to Totalitarian Sects!” and the Russian extremist National Bolshevik Party’s symbol on the New Life Church’s building. On November 20, unidentified vandals painted “Don’t Believe Sects!” on a billboard in Baranovichi advertising the Salvation Church, an affiliate of the Union of Evangelical Faith Christians in the country. Police refused to institute criminal proceedings in connection with the vandalism.

According to government census figures, there were approximately 40,000 Jews in the country, but Jewish groups maintained that between 50,000 and 70,000 persons identified themselves as Jewish. The vast majority of the Jewish population was not religiously active. There were instances of anti-Semitism, but no government efforts to promote anti-bias and tolerance education. State-owned periodicals continued to attack nontraditional and Jewish religious groups. In January Mogilev newspapers published a series of anti-Semitic articles after a new type of kosher bread was produced in the city. The state-owned Mogilev Register claimed that the blood of sacrificed animals was used in kosher rituals and warned Orthodox believers to “keep away from kosher products in the same way they keep away from idol sacrifice.” Another newspaper, The Evening Mogilev, reported that the act of making something kosher is “sacrilegious and anti-Christian.”

There were new reports of isolated instances of anti-Semitic vandalism during the year.

In early October vandals damaged property and gravestones at Jewish and Christian cemeteries in Orsha. At the Jewish cemetery, where 7,000 Holocaust victims were buried, 10 tombstones and the fence around the property were damaged. At the Christian cemetery, vandals damaged 17 gravestones. Police stated they would not file criminal proceedings for vandalism if the perpetrators were found.

On November 12, Minsk’s Yama Holocaust Memorial, which has been vandalized on numerous occasions during the past few years, was again vandalized. Vandals drew a white swastika on the main obelisk and left behind leaflets calling for a war against supporters of democracy and Judaism and “others rushing to a new world order under the aegis of Talmudism and the U.S.” The incident occurred on the same weekend that the Israeli Cultural and Information Center was also vandalized with swastikas and anti-Semitic graffiti. Authorities initially refused to investigate the vandalism, saying the incident was a case of teenage hooliganism. However, on November 14, Deputy Foreign Minister Viktor Gaysenok pledged that police will do everything possible to find and punish those who damaged the memorial. The investigation was pending at year’s end.

On November 30, vandals burned flowers and wreaths on the Brest Jewish memorial, which was dedicated in 1992 to the extermination of the Brest ghetto. The flames and smoke left the monument partially blackened. The incident marks the sixth time the memorial has been vandalized since it was built. At year’s end police were investigating the incident.

On December 26, a fire destroyed the roof and interior walls of an orthodox church in Gomel. Satanic graffiti was sprayed on the exterior of the building. Police suspected arson and have opened a criminal case.

On April 17, authorities issued an official warning to preschool teacher Lyudmila Izakson-Bolotovskaya for the “intentional inculcation of religious doctrines in small children.” Izakson-Bolotovskaya and her children’s Jewish musical group were shown on local television celebrating a Jewish holiday. Authorities claimed that she

violated the law by holding a religious celebration in a government building and illegally propagated Judaism via the television coverage of the event. Authorities forced Izakson-Bolotovskaya to remove Jewish symbols from the classroom and threatened her with prosecution if she continued these activities.

Anti-Semitic and Russian ultranationalist and xenophobic literature continued to be sold and distributed at Pravoslavnaia Kniga (Orthodox Bookstore), a store operated by Orthodox Initiative, a group that sells Orthodox literature and religious paraphernalia. The CRNA asserted that the publication of such literature in the country was illegal, but that nothing could be done regarding privately imported Russian and anti-Semitic literature.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement; however, the Government at times restricted its citizens' right to choose their place of residence and their foreign travel. Internal passports served as primary identity documents and were required for permanent housing, work, and hotel registration.

Police continued to harass individuals because they lived at a location other than the legal place of residence indicated in their internal passport.

The law provides for freedom of movement in and out of the country; however, the Government at times restricted this right. Government regulations specify that citizens who wish to travel abroad must obtain an exit stamp valid for one to five years. The Government could invalidate stamps that had been issued.

On January 11, the Visa and Passport Department denied Anatoliy Lebedko, leader of the United Civic Party, a foreign travel stamp under the pretext that the BKGB had not granted permission. However, he received the stamp six days later after lodging a public complaint. The stamp was valid for only two years instead of the three he requested.

On February 7, border guards denied Anzhelika Borys, chair of the unrecognized Union of Belarusian Poles (UBP), permission to leave the country to participate in a conference in Warsaw due to insufficient room in her passport for an exit stamp.

On October 20, authorities refused to place a travel stamp in the passport of UBP activist Wojciech Boradyn without explanation, thus denying him the opportunity to travel abroad.

In November 2005 authorities prohibited seven UBP members from travelling abroad. Despite the prohibition, one UBP member, Andrzej Poczobut, travelled to Poland. Upon his return, authorities stamped a notation in his passport that prohibited him from international travel (see section 5).

In several cases opposition activists wishing to travel abroad were detained at the border for lengthy searches while leaving or returning to the country. On May 12, border officials prevented human rights NGO Belarusian Helsinki Committee (BHC) chairwoman Tatyana Protko from traveling to a conference in Germany. Border guards had detained her until the flight left. Protko claimed she was detained to prevent the BHC from providing information about the human rights situation in the country to the international community. Protko earlier had been restricted from traveling after the Government had threatened to bring criminal charges against her for tax evasion (see section 4). On October 30, UBP chair Borys and two associates were detained for seven hours upon their return to the country when authorities claimed they found an unidentified powder in the car in which they were traveling. Authorities seized the car and subjected the group to a drug test. On December 6, authorities confiscated Borys' passport in connection with the investigation. On November 4, Brest police detained local United Civic Party chairman Stepan Novoselchanin for two hours, causing him to miss a train to Kyiv to attend a conference of Belarusian opposition activists. On November 5, police detained for three hours two local Belarusian Party of Communists activists traveling by car to the same conference and impounded their vehicle, forcing them to continue the journey by bus.

On November 29, Minsk airport authorities detained and charged opposition leader and former Presidential candidate Aleksandr Milinkevich with using a forged document to cross a border after returning from the NATO summit meeting in Latvia. Milinkevich had mistakenly used his son's passport when he initially left the country. The charge, which remained pending at year's end, carries either a jail term of up to two months or a large fine.

In March 2005 a Presidential decree, ostensibly intended to counter trafficking in persons, imposed new restrictions on foreign travel. Under the order, any student who wishes to study abroad must obtain permission from the minister of education. In signing the decree, President Lukashenko publicly stated his opposition to study abroad programs. The Government used this requirement to prevent 59 high school



students from participating in an educational exchange program. It also used the requirement to expel university students who were involved in political activity (see section 2.a.) The decree requires the Ministry of Interior to track all citizens working abroad and travel agencies to report individuals who do not return from abroad as scheduled.

The Government denied reregistration to most travel agencies that arranged work abroad. On January 4, the Ministry of Sports and Tourism announced that it terminated the licenses of almost 200 tour operators in 2005 primarily for failing to meet mandatory inbound tourist requirements. In October authorities suspended the licenses of an additional 36 tour agencies and warned 67 others for failure to meet licensing requirements.

Statements by government officials during the year and in 2005, including an October 2005 Presidential decree, reduced the number of children from Chernobyl-contaminated areas that could travel abroad for treatment, particularly those who wanted to travel during the school year. On November 24, Education Minister Aleksandr Radkov announced that all orphans would spend the winter holidays in the country. In February 2005 several hundred children were denied permission to go to Germany and Italy. According to the October 2005 decree students or chaperones who did not return to the country on time must be reported to the Presidential administration. During the year President Lukashenko imposed further restrictions on recreational trips to Italy that require Italian host families to provide a certified guarantee that children will return home as scheduled and that they will not be adopted (see section 5).

The law requires persons who travel to areas within 15 miles (25 kilometers) of the border to obtain an entrance pass. In 2005 police arrested several prodemocracy activists for violating this law after holding meetings in towns near the border. On January 5, the Grodno border police fined two UBP activists, Poczobut and Andrey Pisalnik, the maximum \$135 (290,000 rubles) for allegedly entering a restricted border zone. They were stopped in December 2005 on their way to Sapotkin, where they intended to meet local UBP members.

The law does not provide for exile abroad; however, the Government did expel long-term resident and independent political analyst Vladimir Suzdaltsev. On March 27, authorities ordered Suzdaltsev, a Russian citizen, to leave within 10 days and not return for five years. Suzdaltsev had lived in the country for the last 13 years with his Belarusian wife and children.

Many university students who had been expelled or were under threat of expulsion for their political activities opted for self-imposed exile. Approximately 400 students chose to continue their studies at foreign universities mostly in Europe during the academic year.

The law provides for internal exile or *khimya* (see section 1.d.). In May youth activist Artur Finkevich was sentenced to two years of *khimya*; in November Partnership NGO leader Nikolay Astreyko was transferred from prison to *khimya* (see section 1.e., 2.b., 3, and 4). Detention in internal exile was one possible penalty for defaming the President. Persons serving *khimya* lived in prison barracks and were forced to work under conditions set by the Government. Political prisoners still serving *khimya* sentences included Nikolay Statkevich, Pavel Severinets, and Artur Finkevich.

The law provides for the right to emigrate, and the authorities generally respected this right; however, there were restrictions for individuals with access to sensitive government information or citizens involved in criminal investigations. Persons who have been refused permission to emigrate may appeal to the courts.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. Under the law, all persons who applied for or received asylum are protected against refoulement, the return of persons to a country where they feared persecution.

The law does not allow for temporary protection of persons who may not qualify as refugees; however, the Government granted humanitarian protection to persons who may not have qualified for refugee status but had humanitarian grounds for remaining in the country. As of October, two Georgians were granted humanitarian protection. In 2005, 40 persons were granted humanitarian protection.

The authorities cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. However, the Government failed to conclude a 1995 cooperation agreement with UNHCR.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides the right for citizens to change their government peacefully; however, the Government effectively denied citizens this right. The constitution allows the President to issue decrees that carry the force of law in specific, urgent circumstances, a provision President Lukashenko has interpreted broadly. Since his election in 1994 to a five-year term as the country's first President, Lukashenko has consolidated power steadily in the executive branch and dominated all branches of government. Referenda in 1996 and 2004 amended the constitution to broaden his powers and extend his term in office. Lukashenko gained a third term in office through a fraudulent Presidential election on March 19.

*Elections and Political Participation.*—According to the OSCE's final election observer report, the March 19 Presidential election fell significantly short of international standards for democratic elections and were characterized by arbitrary use of state power and widespread detentions. The Government restricted freedom of assembly, association, expression, and appeared unwilling to tolerate political competition.

More than 500 international observers from 38 countries observed the voting and counting on behalf of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the OSCE Parliamentary Assembly. However, authorities either denied entry or visas to 27 accredited OSCE observers. On March 16, BKGB officials detained eight Georgian Supreme Council (parliament) members who were accredited election observers at the Minsk airport for questioning about an alleged terrorist plot to upset the election.

The OSCE final election observation report on June 7 detailed the substantial problems that precluded a free and fair election, including detention of campaign activists, searches of campaign offices, confiscation of campaign materials, and interruption of campaign meetings. Other problems included pressure from the BKGB on domestic election observers (see sections 1.d. and 1.e.); scant media coverage of the three candidates opposing Lukashenko (see section 2.a.); highly questionable early voting; and ballot counting that was problematic and lacked transparency.

On November 23, President Lukashenko stated during a press conference that the March Presidential election results were falsified in favor of opposition candidates to appease Western leaders. Speaking to journalists, he said he actually won as much as 93.5 percent of the vote instead of the 83 percent announced by the CEC. He said the outcome was underreported in an attempt to have the results recognized by European and other western leaders. The following day a senior election committee official denied any vote rigging, saying the election was held in strict adherence to the country's laws.

Authorities virtually excluded opposition parties from the election process. During the Presidential election, authorities selected only one out of 2,124 territorial commission members from the opposition BPF party. According to prodemocratic Belarusian Party of Communists' (BPC) head Sergey Kalyakin, the BPC reportedly nominated 70 persons to territorial commissions, and the opposition United Civic Party (UCP) nominated 38, but none were selected. A similar situation existed in the local council election process. On October 23, prodemocratic party leaders reported that the election authorities did not include one opposition party member on the 1,590 territorial commissions. On December 1, the CEC reported that only one prodemocratic political party member, a representative from the UCP, was given one of the 70,877 seats on the precinct election commissions.

Authorities frequently warned opposition candidates against early campaigning and harassed activists who attempted to collect signatures to nominate opposition candidates. On January 5, activists for Presidential hopeful Zenon Poznyak claimed that they were chased out of underground passageways by police and barred from entering student dormitories. They said police cited a law banning collection of signatures in underground passageways, but could not cite the specific law that they were violating. BPC leader Kalyakin estimated that by mid-January approximately 60 percent of his party's signature collectors had either been questioned by authorities or threatened with expulsion if they continued to collect signatures.

On January 6, human rights NGO Charter 97 received letters from students at Belarusian State University (BSU) describing instances of university officials strongly encouraging students to sign nomination forms in support of President Lukashenko before they were allowed to take their exams. On January 9, the human rights NGO Vyasna reported that university officials interrupted an exam to announce that, if the students wanted to receive good marks, they had to sign nomination forms supporting Lukashenko. University students also were pressured to vote early and to leave the capital before the March 19 elections. Classes were

canceled on March 17 to March 20, and students were encouraged to return to their homes outside of Minsk.

On January 18, the CEC warned opposition coalition candidate Aleksandr Milinkevich and Presidential hopeful Zenon Poznyak for distributing campaign material while collecting signatures, which it said was a violation of the electoral law.

While opposition activists were warned or fined for early campaigning, the state-controlled television channel ONT broadcast a six week series of concerts featuring Russian pop stars, which culminated in a massive concert in Minsk four days before the start of early voting. The concert series was called *Za Belarus* (For Belarus), which was the campaign slogan Lukashenko used in the 2004 referendum that extended Presidential term limits.

On February 11, the Minsk city government issued a list of specific venues and locations where Presidential candidates could meet with voters and post campaign materials. Most of the venues were parks outside of Minsk's city center. In contrast, President Lukashenko had unlimited access to all government-owned venues in Minsk. Police routinely prevented candidates from holding rallies and posting campaign materials in unauthorized venues.

The CEC restricted campaigning by Presidential candidates to state-controlled broadcast and print media. Each candidate was allotted two 30-minute segments on state radio and television. However, the candidate's speeches were prerecorded, and in one case the CEC edited Alexander Kozulin's remarks on the grounds that they slandered the President and the Government. State broadcast media coverage was heavily biased in favor of Lukashenko and described the opposition in mainly negative terms (see section 2.a.).

Candidates were given access to seven state-run newspapers to publish their campaign platforms. On March 1, however, the newspapers announced they would not publish Milinkevich's platform because he had not provided the text on time. On March 2 and 3, four state newspapers published Lukashenko's platform on their front pages along with several of his photographs. In contrast, the major state newspapers published the platforms of Presidential candidates Kozulin and Sergey Gaidukevich in much less visible sections of the papers.

Independent polling services were prohibited (see section 2.a.).

According to a 2005 regulation, all opinion polling must be registered with the Government backed National Academy of Sciences; only government approved pollsters could conduct election related polling (see sections 2.a. and 2.b.).

There were credible reports that state employees were forced to collect signatures for Lukashenko's nomination out of fear of losing their jobs. State-owned department store employees in Minsk were required to gather signatures at the store's entrance. Other reports of coercion by Lukashenko's campaign operatives included forcing postal service workers, housing administrators, teachers, and hospital workers to collect signatures for the incumbent or risk losing their jobs.

Authorities either detained or arrested activists and often seized their private property or campaign materials. The leaders of the domestic election observers from the NGO Partnership were arrested in February on charges of planning a terrorist coup, but sentenced to up to two years in prison for leading an unregistered NGO (see sections 1.e., 2.b., 2.d., and 4). On January 6, police searched Milinkevich campaign team member Vladimir Hundar's apartment in Baranovichy and confiscated computer equipment (see section 2.a.). On February 14, Lida police detained opposition activists Anatoliy Khotko and Sergey Malchik and Grodno city council deputy Sergey Antusevich and seized 1,200 copies of the independent newspaper *Narodnaya Volya*. On February 21, the BKGB arrested Timofey Dranchuk, a Partnership NGO member, and confiscated numerous items from his apartment, including books, campaign leaflets, a computer, and personal documents (see sections 1.d. and 1.e.).

Police often invoked the law on combating terrorism to sanction their searches, detentions, and arrests (see section 2.b.). On March 3, police searched Milinkevich campaign team member Vasiliy Bezman's apartment for four hours looking for weapons and materials that could be connected to terrorist activities. They seized Bezman's computers and documents. Also on March 3, counterterrorist officers expelled three activists from Ukraine's *Pora* youth movement and several Ukrainian journalists who had arrived from Kyiv. Authorities claimed the journalists did not have proper press accreditation from the Ministry of Foreign Affairs. On March 16, BKGB chairman Stepan Sukharenko claimed that the agency had uncovered and foiled an opposition plot funded by two foreign governments to bomb four schools on election day as part of a coup against the President. Sukharenko accused the leaders of the domestic election observation group Partnership and opposition leader Anatoliy Lebedko of involvement in the alleged terrorist attack (see sections 1.e., 2.b., 2.d., and 4).

Authorities regularly interfered with peaceful election-related demonstrations (see section 2.b.). Activists that participated or led demonstrations were arrested and sentenced in large numbers following the March 19 elections (see section 1.e.). On July 13, a judge of the Moskovskiy District Court sentenced former Presidential candidate Aleksander Kozulin to five and a one-half years in prison for hooliganism and disturbing the peace for organizing a protest march on March 25 (see section 1.c., 1.e., 2.b., and 3).

Political parties continued to receive warnings from authorities for minor offenses under a law that allowed the Government to suspend political parties for six months for a violation and close a party after it received two warnings. The law also prohibited political parties from receiving support from abroad. In September 2005 the Ministry of Justice issued a separate ruling that required political blocs and coalitions to register with it. The closing in 2005 of approximately 80 percent of local political party offices around the country allowed the ministry to issue warnings to political parties that did not have the required number of local offices in the regions and in Minsk to operate (see section 2.b.).

On January 12, the Bobruysk chapter of Alexander Kozulin's Social Democratic Party "Hramada" (BSDP) lost its office after state authorities cancelled a rental lease due "to dangerous floor conditions." The authorities refused to rent BSDP another room to the party in the same building.

On January 30, the Ministry of Justice issued a second warning to the BPF for failing to have chapters in at least four regions and in Minsk. BPF deputy chairman Viktor Ivashkevich told reporters that landlords cancelled rental leases for BPF local chapters in Grodno and Gomel after being pressured by the authorities. As a result, authorities annulled the registrations of the two local chapters.

On August 15, the Ministry of Justice issued a warning to the Minsk chapter of the Belarusian Party of Communists (BPC) for alleged registration and other minor violations. The move was a culmination of a month-long effort by the pro-Lukashenko Communist Party of Belarus (CPB) to merge the two parties. When the BPC failed to comply with the warning, the Justice Ministry moved to suspend the BPC. On November 2, the Justice Ministry re-registered the BPC and annulled the merger with the CPB. On November 3, the Supreme Court canceled a hearing on the BPC's suspension until after the 2007 local elections. On November 28, the BPC appealed to authorities to end harassment of its members by the Justice Ministry. According to the BPC, the Justice Ministry ordered its local offices to verify membership of local chapters by compelling members to explain in writing why they belonged to the BPC. According to the BPC, 143 local party chapters were closed during the year.

There were 32 women in the 110-member lower house of the National Assembly, and 18 women in the 56-member upper house. Women chaired two of the National Assembly's 14 committees. There was one woman in the 38-member Council of Ministers, and the head of the Central Election Commission was a woman. With the exception of the judiciary, men held virtually all leadership positions.

No high level members of government or parliament openly identified themselves as members of a minority, although several were Polish or members of other ethnic groups.

*Government Corruption and Transparency.*—Corruption in the executive branch of government was a significant problem, with a poor delineation between the President's personal and official funds, and a heavy reliance on off-budget revenues. The Government itself profited from official corruption through high levels of goods confiscated at the border that were sold in state shops, and through renationalizing more of the economy.

Between January and October authorities uncovered approximately 3,000 corruption-related offenses. During the first six months of the year, the Government prosecuted approximately 857 individuals for corruption and recovered more than \$1.87 million (four billion rubles) for the state.

On January 5, authorities arrested a senior official of the state-run truck production company "Belaz" for allegedly using his position to steal \$154,000 (330 million rubles) under the guise of research and development expenses.

On February 8, the chairman of the Supreme Court, Valentin Sukalo, confirmed that in April 2005 President Lukashenko had pardoned Galina Zhuravkova, who was convicted and sentenced in 2004 to four years in prison for embezzling over \$3 million from the state (6.4 billion rubles.) Zhuravkova allegedly repaid the money and did not spend any time in prison.

On October 3, the Supreme Court sentenced former director general of the Naftan oil refinery, Konstantin Chesnovitskiy, to four years in prison for illegal business activities and accepting large bribes. Also, a former official of the state-run airline,

Belavia, was sentenced to 10 years in prison for accepting a \$66,000 bribe (142 million rubles).

On October 24, the former chief executive and personnel manager of the Evistor medical equipment plant were sentenced to 11 years in prison for accepting a \$50,000 bribe (106.7 million rubles) from a potential buyer of part of the company.

On November 21, two military courts convicted approximately 50 border guards and customs officials for accepting bribes to allow some 600 trucks enter the country between 2002 and 2004 without import duties. A former border control unit head, 13 border guards, five customs officers, and two civilians were sentenced to between five and 14 years in prison; 27 inspectors received sentences of up to seven years in prison.

On December 31, the Supreme Court sentenced a former police official to 10 years in prison for accepting bribes and abusing his power. The court confiscated his property and forbade him from holding a law enforcement job for five years. Five other men, including a KGB officer, received sentences ranging from six to eight years for bribery charges.

In July President Lukashenko signed an anticorruption bill to supplement existing anticorruption legislation. The new law expanded the list of professions vulnerable to corruption, designated the prosecutor general's office as the coordinator of anticorruption efforts, and prohibited government officials from having foreign bank accounts or engaging in nepotism. However, President Lukashenko's older son Viktor remained employed as his father's personal assistant.

The law and government policies severely restricted public access to government information. In practice citizens had some access to certain categories of information on government or database Web sites, but the information was often neither current nor complete. A 2004 Presidential decree broadened significantly the amount of government material considered a state secret.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic human rights groups were active in the country; however, authorities hindered their efforts to investigate alleged human rights violations. Authorities monitored NGO correspondence and telephone conversations and harassed NGOs by bureaucratic means such as frequent tax and other inspections and deregistration (see sections 1.f. and 2.b.). The Government generally ignored reports issued by human rights NGOs and did not meet with these groups during the year. Official government media did not report on human rights NGOs and their actions; independent media that reported on human rights' issues were subjected to closure and harassment (see section 2.a.).

The Government has officially closed (de-registered) most major human rights NGOs and NGO resource centers, under a variety of pretexts which independent observers viewed as politically motivated. Many of the closures were based on a law signed by the President in July 2005 that allows authorities to close an NGO after just one warning from the Government of a violation of the law. The violations most frequently cited were discrepancies between the seal that was presented when the organization registered and the seal used on subsequent occasions; inaccuracies in an organization's letterhead; the use of a mailing address at a residence rather than the registered office; alleged forgeries among the signatures required to obtain legal registration; and failure to follow the organization's own bylaws. The law allows authorities to close an NGO for illegally accepting foreign assistance and allows the Ministry of Justice to participate in any NGO activity, review any NGO document, and request any information from an NGO. It also requires NGOs to present detailed reports annually to the Justice Ministry about their activities, office locations, names of officers, and total number of members.

The law prohibits persons from acting on behalf of unregistered NGOs, and the Government continued to prosecute persons for this offense during the year. In July four leaders of the domestic election NGO Partnership received from six months to two years in prison for action on behalf of an unregistered NGO (see sections, 1.e., 2.b., 2.d., and 3). On November 1, Malady Front leader Dmitriy Dashkevich was sentenced to 18 months in prison for leading an unregistered organization (see section 1.e. and 3).

A 2003 Presidential decree restricting the right of organizations to receive funding from abroad provides that international assistance may be granted to, or accepted by, an organization whose project is registered by the Government; however, lengthy delays in project registrations were common, particularly for human rights organizations. Another Presidential decree prohibits foreign support for a broad range of activities, including the preparation, administration, and organization of elections and referenda; the organization of meetings, rallies, demonstrations, pickets, and strikes;

the publication and distribution of promotional materials; and the organization of seminars and other types of promotional activities involving the population. The law also prohibits unregistered organizations from providing assistance to other NGOs. The Government sometimes refused groups permission to accept foreign support even if they complied with government reporting requirements. In early 2006 the Government denied permission for the (BHC) to accept \$1,000 (2.1 million rubles) from the International Helsinki Federation.

During the year authorities continued to harass the BHC, the country's most significant registered human rights NGO. On December 5, authorities seized BHC office equipment as partial payment of a \$75,000 (160 million rubles) fine for back taxes levied on international financial support it received. The BHC appealed the Government fine, but the appeal was rejected by both the prosecutor general and the Supreme Economic Court, which cleared the way for the seizure. The seizure followed charges filed on May 26 by the Justice Ministry with the Supreme Court that BHC violated the law and its charter by including nonmembers as observers during the 2004 parliamentary elections, used a residence for its legal address, and did not pay taxes on time. The May 26 charges were suspended until the authorities could make a decision on the \$75,000 fine.

Authorities were increasingly reluctant to discuss human rights with international NGOs, whose representatives often had difficulty gaining admission to the country.

Government authorities continued to refuse to cooperate with the UN rapporteur on the human rights situation in the country. In 2005 the Government refused to allow the human rights rapporteur entry into the country to assess the situation and stated that it would not cooperate with the UN official. However, on September 27, UN Special Rapporteur on Belarus Adrian Severin reported that the human rights situation in the country had deteriorated "to such an extent that the elements usually defining a dictatorship could be seen." According to Severin, civil and political rights were limited, cultural rights were ignored, and economic and other "rights" were conditional on obedience to the wishes of the authorities. On September 28, Ministry of Foreign Affairs spokesman Andrey Popov stated that the rapporteur was not necessary because there were "no grounds for such an institution" in the country.

On November 3, the International Helsinki Federation urged the Government to abolish article 193.1 of the Criminal Code, which criminalizes directing and managing unregistered organizations. During the year leaders of two local groups, Partnership and Malady Front, were sentenced to prison under the article (see sections 1.e., 2.b., 2.d., and 3).

On December 20, the UN General Assembly adopted a resolution expressing deep concern over the human rights situation in the country; particularly the Government's "persistent" harassment and prosecution of opposition activists and independent NGOs, and the Government's failure to hold a free and fair Presidential election (see sections 1.d., 1.e., and 3).

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides that all citizens are equal before the law and have the right to equal protection of their rights and legitimate interests. The constitution and other laws also specifically prohibit discrimination based on factors such as race and language, or gender in certain instances. However, the Government did not always protect these rights in practice. Violence against women and children, trafficking of persons, and discrimination against persons with disabilities, Roma, ethnic minorities, and homosexuals were problems.

*Women.*—Domestic violence, including spousal abuse against women, was a significant problem. In November, AI in a report stated that measures taken by the authorities to protect women against domestic violence were insufficient. The criminal code does not contain a separate article to prosecute cases of domestic violence. During the first eight months of the year the Government reported that 2,993 criminal cases were opened under three criminal code articles prohibiting "household offenses" (intentional body damage, torture, and murder threats; severe body damage; destruction of property). During the same time, authorities secured 295 convictions for severe abuse of women and 33 for severe abuse of pregnant women, minors, and persons with disabilities. Women, however, remained reluctant to report domestic violence due to fear of reprisal and social stigma. NGOs operated crisis shelters primarily in Minsk, but they were poorly funded and provided limited support. NGOs complained of lack of funding and government support.

There is a law against rape, but spousal rape is not criminalized and is not generally viewed as a crime. Rape was a problem and most women did not report rape

from shame or fear that police would blame the victim. The Ministry of Interior reported 353 rape cases during the year.

The law prohibits prostitution, but the penalties usually involved a warning or a small fine. Although authorities and local human rights observers reported that prostitution was not a significant problem, considerable anecdotal evidence indicated that it was growing, particularly in regions outside the main cities. Prostitution rings operated in government-owned hotels.

Trafficking in women and girls, particularly for sexual exploitation, was a serious problem (see section 5, *Trafficking in Persons*).

Sexual harassment was reportedly widespread, but no specific laws other than those against physical assault address the problem.

The law provides for equal treatment for women with regard to property ownership and inheritance, family law, and in the judicial system, and the law was generally respected in practice. The law also requires equal wages for equal work; however, this provision was not always enforced. Women had significantly fewer opportunities for advancement to the upper ranks of management or government. A disproportionate number of unemployed persons were women. In March the Ministry of Statistics and Analysis reported that approximately 67 percent of unemployed persons in the country were women. Employers interviewing candidates for jobs often took into account whether a female applicant had children. The Ministry of Labor and Social Security is responsible for ensuring gender equality; however, it cannot issue binding instructions to any other government agency.

*Children.*—The authorities were committed to children's welfare and health. In cities and urban areas the quality of education and other services for children exceeded minimum state standards, although it was lower outside of major cities.

Children begin school at age six and are required to complete nine years of education; most children completed compulsory schooling. The state provided 12 years of free education and in many cases paid for university education; students who received higher education at public expense were required to work for two years after graduation in government-directed jobs.

By law universal free government health care was available and provided to children, but health care at private clinics is generally of better quality. There were no differences in the health care available to girls and boys. Beginning in 2005 the Government began to discourage medical rehabilitation trips abroad for children. During the past two years, the Government introduced new regulations that restricted certain groups of children living in areas affected by the Chernobyl nuclear disaster from traveling abroad for rehabilitation (see section 2.d.). Many observers considered the restrictions part of a government effort to limit opportunities for children to experience living conditions outside of the country.

Child abuse appeared to occur infrequently. The country's criminal code does not contain a separate provision on child abuse. During the first eight months of the year the Government reported that 59 minors were victims of rape; 31 suffered from intentional severe physical abuse, and 39 children ages nine through 12 suffered from a lesser form of physical abuse.

Child marriage was generally not a problem. However, within the Romani community, girls as young as 14 and boys as young as 16 could marry with parental consent, and frequently did so.

Trafficking of children was a problem (see section 5, *Trafficking*).

As of January 1, the National Adoption Center reported that there were approximately 32,600 orphans in the country. During the year there were reports of abuse and mistreatment in orphanages.

In September a foreign couple that served as seasonal foster parents for a 10-year-old female Belarusian orphan hid the girl for three weeks from authorities in Italy. They refused to release her, claiming they found marks on her body, including a suspected burn mark on the genital area. The Ministry of Education denied the allegations and the orphanage director stated that all "inmates have access to a pay phone and could call home at any moment" to report physical abuse in the school. The child was later returned to the orphanage (see section 2.d.).

As an alternative to orphanages, the law allows military units to adopt and train orphan boys between the ages of 14 and 16, an accepted practice that continues. While the children are not enlisted in the military, they must comply with military rules, wear a uniform, and obey orders. They have the option to join the unit upon reaching the draft age of 18.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked from, through, and in a few instances within, the country.

Trafficking remained a serious problem. The Ministry of Interior reported 518 cases of trafficking in persons in the first 10 months of the year and registered about 463 victims of trafficking, including 55 minors. Victims were primarily women, who were trafficked for sexual exploitation, although traffickers have continued to target males of all ages for forced manual labor, primarily in Russia. According to International Organization for Migration (IOM), men trafficked for labor exploitation represented a larger percentage of the total number of trafficking victims this year as compared to 2005.

The country was both a country of origin and a country of transit for women and girls trafficked to the European Union (particularly Germany, Poland, the Czech Republic, Lithuania, and Cyprus), the Middle East (particularly Israel), Turkey, Russia, Ukraine, and Japan. The country's open border with Russia was a particular problem as it allowed easy trafficking of persons. Single, unemployed women under the age of 30 and girls were at particular risk of being trafficked due to their lack of awareness about trafficking and lack of economic opportunities, although victims over 30 increasingly became trafficking victims during the year due to an increase in the number of men over 30 who were trafficked for forced labor.

Ministry of Interior reports indicated that traffickers were members of loosely organized crime networks based within the country that maintained connections to larger international organized crime rings or direct contacts with brothels, clubs and bars in destination countries. Employment agencies, particularly travel and modeling agencies, were also responsible for trafficking.

Traffickers used force, fraud, and coercion to traffic persons, mostly from economically depressed areas, for sexual exploitation or for physical or menial labor. Before the Government began to give closer scrutiny to the activities of tourist bureaus and employment agencies, traffickers lured victims through print and Internet advertisements, offering jobs abroad as models and soliciting marriage partners. More recently traffickers have used informal recruitment networks and personal approaches to victims through friends and relatives to make false promises of lucrative financial opportunities abroad. Traffickers often withheld victims' documents and used physical and emotional abuse to control them.

The law criminalizes trafficking in persons for sexual or other kinds of exploitation. A March 2005 Presidential decree led to amendments in the Criminal Code to allow the Government to confiscate the property of convicted traffickers and increased their prison sentences. The penalty for trafficking is a minimum of five to seven years' imprisonment with property forfeiture, while the punishment for severe forms of trafficking is a minimum of 12 to 15 years' imprisonment with property forfeiture.

In the first 10 months of the year, authorities convicted 172 persons for trafficking-related offenses, as compared with 84 persons for the first six months in 2005, and 67 persons for the first six months in 2004. On September 18, a Moldovan citizen was sentenced to three and one-half years under Article 187 of the Criminal Code for trafficking men to Russia for labor exploitation. Authorities also cooperated with counterparts in the main EU destination countries, other member countries of the Commonwealth of Independent States, Israel, and Turkey to combat trafficking in persons. In March police helped Israeli authorities break up a sex trade ring that trafficked Belarusian women to Israel. However, poor implementation of existing legislation and unwillingness to formally recognize antitrafficking NGOs as equal partners in the battle against trafficking in persons continued to inhibit the Government's antitrafficking efforts.

Antitrafficking efforts within the Government were coordinated by the interior ministry's Department on Combating Trafficking in Human Beings. Many observers concluded that the Government should clarify the role and power of the department for it to be effective. There was no formal mechanism to coordinate the Government's activities with those of NGOs and international organizations. Antitrafficking NGOs and international organizations complained of a lack of financial and operational support from the Government. While the Government allowed NGOs and international organizations to conduct some antitrafficking programs, there were many reports of long delays to register or refusals to register antitrafficking projects, especially if funding came from outside the country.

Attention to trafficking at the border increased, but segments remained largely uncontrolled; an open border used to traffic victims both eastward and westward exists with Russia.

The Ministry of Labor continued to monitor and license activities of employment agencies offering labor contracts in foreign countries. In 2005 all agencies that facilitated travel, work, study, and marriage abroad were required to reregister with the Government and provide full information to the Government about foreign employment contracts (see section 2.d.). Out of 716 travel agencies, 198 were not rereg-



istered. In October authorities suspended the licenses of an additional 36 tour agencies and warned 67 others for failure to meet licensing requirements (see section 1.d.). Most agencies dealing with work abroad, as well as most modeling agencies and marriage brokers, were not reregistered.

Reports continued that individual corrupt law enforcement and border officials facilitated trafficking by accepting bribes or by ignoring trafficking; however, there was no indication that the Government systematically facilitated or condoned trafficking. The State Control Committee investigated allegations of official corruption through the Interagency Commission for Combating Crime, Corruption, and Drug Trafficking. In March 2005 a court sentenced former culture ministry official A. Semenov to eight years in prison for using his position to traffic 20 women to Italy.

Victims seldom reported trafficking crimes to police due to the social stigma attached to trafficking, aversion to dealing with authorities, and a shortage of social services and rehabilitation options. Some victims who were deported back to the country did not receive special status or assistance as trafficking victims due in part to recurring problems with victim identification. There were 156 government territorial social centers around the country, but none specialized in victim assistance. To supplement the Government shelters, the UN Development Program, the IOM, and the antitrafficking NGO La Strada opened rehabilitation shelters for victims and their families. IOM assisted 413 victims as of December 1, compared with 455 in 2005.

Presidential decrees have eliminated criminal responsibility for illegal acts committed by a person being trafficked; defined the status of trafficking victims; and mandated measures to provide them with protection, medical care, and social rehabilitation, but only for victims who cooperate in an investigation and prosecution. However, the Government did not allocate funds to pay for rehabilitation services. Lack of adequate funding for victim protection hampered the Government's ability to deliver consistent assistance to victims. Instead, the Government relied on international organizations and NGOs to provide the mandated rehabilitation assistance to victims of trafficking. In addition, under the law, traffickers are responsible for expenses incurred by the Government to help victims, and agencies that assisted victims may seek reimbursement through the courts. Law enforcement authorities strongly encouraged victims to assist with investigations. Any trafficking victim who obstructs either the investigation or prosecution of a trafficking case is denied the benefits, including measures of protection, generally made available to victims.

The Government did not conduct any formal trafficking awareness programs during the year, and there were no line items in the state budget for countering trafficking; however, the government-controlled media increased its reporting on the problem. There were antitrafficking billboards and television and radio public announcements during the year. The Government continued to rely primarily on international organizations to implement antitrafficking legislation.

Government measures to deter trafficking included a requirement that all Internet dating services reregister with the Government and provide information to the interior ministry about citizens leaving the country to date foreigners and about foreigners arriving in the country to date citizens. The authorities continued to enforce strong measures introduced in 2005 to discourage and control study abroad, which they justified in part as antitrafficking measures. However, some observers asserted that the authorities were seeking to restrict freedom of movement and possibilities for education abroad under the pretext of combating trafficking (see sections 2.a. and 2.d.).

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities in employment, education, access to health care, and other government services. According to the Republican Association of Disabled Wheelchair Users (RADWU), persons with certain diagnosed disabilities were not allowed to hold most government jobs. On May 5, RADWU organized a demonstration of approximately 30 wheelchair users in Minsk to demand equal rights and fair employment opportunities. According to the Internet news source Belapan, similar demonstrations took place in 11 other cities.

The law mandates that transport, residences, and businesses be accessible to persons with disabilities; however, facilities, including public transport and government office buildings, were generally not accessible to persons with disabilities. According to RADWU, the Government's five year program launched in 2001 to make public buildings accessible to persons with disabilities achieved minor results. While ramps were installed on the exteriors of some buildings, the interiors remained inaccessible to people in wheelchairs. RADWU estimated that more than 75 percent of persons with disabilities were unable to leave their homes without assistance. Many sidewalks and stores had no ramps, and most buildings had only stairs or small elevators.

Authorities provided minimal benefits for persons with disabilities, and most of those benefits were ineffectual. For example, persons with disabilities were entitled to a 50 percent discount on rent and utilities, but only if they lived alone. Since few residences were accessible to persons with disabilities, most had to live with friends or family and were ineligible for the discount. Public transportation was free to persons with disabilities but neither the subway in Minsk nor the bus system was wheelchair accessible. The Government prohibited employers from requiring persons with disabilities to work more than seven hours a day; however, this restriction had the unintentional consequence of discouraging companies from hiring persons with disabilities. The Government provided support only to state-operated facilities, although those run by NGOs were often better equipped and more responsive to persons with disabilities.

The Ministry of Labor and Social Security is the main government agency responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—There was governmental and societal discrimination against the ethnic Polish population and Roma. There were also expressions of societal hostility toward proponents of Belarusian national culture.

During the year authorities repeatedly questioned the chairman of the unrecognized UBP, Anzhelika Borys, and her associates regarding their activities (see section 2.d.). On August 16, police summoned UBP activist and journalist Andrzej Poczobut for questioning, allegedly about a crime he witnessed. However, all of the questions focused on the sources of funding for his magazine and a previous fine. In August Poczobut was sentenced to 10 days in jail after a local television company complained that he obstructed the work of a cameraman trying to film a wreath laying. On September 25, police also summoned former UBP chairman Tadeusz Gavin for questioning.

On February 25, Minsk police detained Andrey Borys and two other UBP activists for three hours as they tried to attend a concert at the Sukno Palace of Culture. According to one UBP activist, police grabbed Borys, punched him in the face, put a pistol to his head, and dragged him from his vehicle. The police later claimed they had an anonymous tip that Borys was carrying weapons. No arms were found in the vehicle, but police confiscated 58 copies of the UBP publication *Głos znad Niemna* and charged all three activists with distributing printed material without required information about its origin.

On December 13, authorities sentenced “Magazyn Polski” Polish magazine layout editor Aleksey Saley to seven days in jail on charges of petty hooliganism and disobeying police officers after being arrested. Saley left his office on December 12 when several plainclothes police officers arrested him and forced him into a vehicle.

There was significant official and societal discrimination against the country’s approximately 40,000 to 60,000 Roma.

Government media and officials portrayed Roma negatively. On January 14, the prosecutor rejected complaints by the Romani community about a documentary film shown on state television in 2005 that portrayed Roma as criminals who began selling drugs in childhood. Nikolay Kalinin, the head of the Roma community and a human rights activist, stated that the program, *Gypsies Go to Jail*, contained “exclusively negative information” that portrayed fellow Roma as criminals. The prosecutor, however, stated that the documentary did not contain any discrimination or insults directed at the Romani community.

On April 3, a group of six unidentified men assaulted and beat Kalinin in downtown Minsk. The assailants told Kalinin the beating was to defend the honor of a woman whom Kalinin had allegedly insulted. Kalinin claimed that he had never seen the woman and linked the attack to his human rights work and involvement in monitoring the March Presidential election.

There was high unemployment and low levels of education within the Romani community. In November 2005 authorities estimated the unemployment rate among Roma at 93 percent. Romani children, who spoke mainly Roma and Belarusian, struggled in the school system where the primary language of instruction was Russian. Romani students reported that teachers and fellow students often considered them lazy or mentally incompetent due to language-related academic difficulties. During the year the Romani Lawyers Group continued to petition the Government to permit establishment of a public school in Minsk for Roma, arguing that there were schools for Jews, Lithuanians, and Poles. The Government has yet to respond to the petition, which was first submitted in September 2004. Roma were often denied access to free, higher education in state-run universities.

The Russian and Belarusian languages have equal legal status; however, in practice Russian was the primary language used by the Government. Few official functions and publications were in Belarusian. As of September 1, the Ministry of Education ordered all course instruction in grades 10 and 11 at Russian language

schools to be in Russian. Previously both Russian and Belarusian language schools taught national history, geography, and Belarusian language and literature in Belarusian. The Belarusian Language Society protested the decision. The ministry later agreed to allow individual schools to decide on the language of instruction. However, both Russian and Belarusian schools received new textbooks about Belarusian history and geography for 10th and 11th grade in Russian.

On November 29, Viktoriya Dashkevich, head of a puppet theater in the northern city of Vitebsk, reported that the neo-Nazi, Russian National Unity group (RNU) sent her a letter demanding that the theater stop staging Belarusian-language plays and translate all plays into Russian because Belarus will soon become a part of Russia. Dashkevich filed a complaint with law-enforcement agencies over the letter, but the authorities refused to open a criminal investigation.

Ultrarationalist skinhead groups made up of ethnic Russians harassed and vandalized property belonging to persons promoting Belarusian national culture. On April 3, unknown persons affixed fliers and signs with emblems of Russia's ultra-left National Bolshevik Party at the entrance to the Frantsisk Skaryna Belarusian Language Society headquarters. In June the leader of the Vitebsk chapter of the UCP received a threatening letter from the RNU telling her to abandon her opposition activities or face unspecified retribution from the RNU. On August 16, opposition BPF members discovered fake explosives planted near their office that were decorated with the RNU emblem, which resembles a swastika, and packed with RNU leaflets. The RNU denied planting the fake explosives. Also in August the independent newspaper Vitebskiy Kuryer received a letter from RNU leaders with threats to drive the paper out of business.

*Other Societal Abuses and Discrimination.*—Homosexuality is not illegal; however societal discrimination against homosexuals was a problem. Homophobia was widespread, and instances of harassment occurred in all spheres of society. According to the local TEMA gay rights group, government-controlled media tried to decrease participation in the protests following the March Presidential election by saying they were part of a "gay revolution." In 2005 state media attempted to discredit the opposition by associating it with homosexuality. On July 31, state media BT broadcast on national television a police expose of a Latvian diplomat assigned to the country whom authorities accused of distributing pornography (see section 1.f.). The program targeted the diplomat because of his sexual orientation and included several minutes of hidden-camera footage of the diplomat watching pornography and engaging in homosexual activities. The police dropped the investigation in October.

On November 8, police raided an apartment where TEMA members gathered to organize an international Lesbian, Gay, Bisexual and Transsexual Conference scheduled for November 10. Police seized conference materials and detained members for questioning at a police station. Four TEMA activists were released; three remained in detention over night. TEMA leaders subsequently canceled the conference.

Societal discrimination against persons with HIV/AIDS remained a problem despite greater awareness of the disease and increasing tolerance towards people infected with HIV/AIDS. For example, maternity wards no longer separate HIV/AIDS-infected mothers from those not infected. However, the UNAIDS office reported that attitudes towards HIV/AIDS patients remained complicated, and there were still numerous reports of HIV-infected individuals who faced discrimination or were afraid to disclose their illness.

*Incitement to Acts of Discrimination.*—In contrast with 2005, there were no reports that the Government or government-controlled media promoted racial or ethnic hatred or incited violence against any race or ethnic group.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers, except state security and military personnel, to form and join independent unions voluntarily; however, in practice the Government did not respect this right. During the year the Government continued efforts to suppress independent unions, stop their activities, and to bring all union activity under its control. The efforts included frequent refusals to extend employment contracts for members of independent unions, arrests of independent union members, confiscation of union materials, and refusals to register some unions.

The government-controlled Federation of Trade Unions of Belarus (FTUB) was the largest union in the country with an estimated four million members; however the number is likely inflated since the country's total workforce is approximately four million. The Belarusian Congress of Democratic Trade Unions (BCDTU) was the largest independent union organization, consisting of four constituent unions.

In September 2005 President Lukashenko expressed his intention to see all workers become FTUB members. The Presidential administration subsequently enacted several measures to further this goal. Two Presidential decrees in October 2005 granted the FTUB and its affiliated unions privileges that were not extended to independent trade unions. This included free office space in state-owned buildings and the exclusive right to inspect all business concerns for compliance with wage regulations, regardless of whether the firm employed FTUB members.

During the year the Government continued efforts begun in 2005 to reinvigorate an "ideology program" at state enterprises, which was designed to propagate government policies and monitor workers' attitudes. New, more highly motivated "ideology workers" were named to replace tenured and relatively independent workers who previously occupied such positions. One independent union leader claimed that the ideology director at his factory said his job was to rid the factory of all nongovernmental unions.

On October 9, President Lukashenko signed a decree to eliminate registration requirements for trade unions; however, at year's end the measure had not been implemented, and several independent trade unions remained unregistered. Trade unions must be registered to conduct union activities and to negotiate collective bargaining agreements. Unregistered union members faced administrative and criminal charges for what authorities could deem as "illegal" activity.

During the year city officials in Grodno, Borisov, and Mogilev continued to deny registration applications from local chapters of the independent Radio Electronic Workers Union (REP). On October 6, Borisov city officials for a fourth time denied registration to the REP chapter at the Borisov Factory of Auto Tractor Electric Equipment. In Grodno and Mogilev, officials denied REP registration in June and July, respectively, for a second consecutive year. At year's end the Justice Ministry had not decided if it would uphold a refusal by the Sovetskiy District administration to register a REP chapter at the Minsk Automobile Factory. The chapter first applied for registration three years ago.

Unlike in previous years, there were no reports that authorities tried to implement a 1999 Presidential decree requiring independent trade unions to reregister to account for membership. Under the decree, unions had to enroll at least 10 percent of workers in an enterprise to register a local chapter, and have at least 500 members to form and register a national union. In November 2005 the Justice Ministry ordered the independent Free Trade Union of Metalworkers (FTUM) to reregister as a local chapter after it found that the union had 217 members. The union protested the order, claiming that it had 542 members because the ministry prevented four of the FTUM's nine local chapters to register. Also in 2005 the ministry found the Democratic Union of Transport Workers to have too few members and referred the case to the prosecutor general.

Unlike in previous years, there were no reports that the Government dissolved unions without judicial process.

The Government used a system of contracts with individual workers and administrative measures to discourage membership in independent unions and in regional, national, and international labor organizations.

Beginning in 2004 authorities required government employees and employees of state-owned businesses, which make up a majority of the workforce, to work under short-term contracts. While contracts could be signed for up to five years, most state employers issued work contracts for a six month or one year term. In August 2005 President Lukashenko signed a decree that set the minimum contract length for state employees at one year to satisfy complaints by critics. Any contract for less than one year must be agreed to in writing by a worker, and a worker's contract cannot be terminated without a two week notice. However, authorities continued to use the contract system to discourage state employees from participating in independent union and political party activities, which they deemed to be "anti-government" or "harmful" to society.

On November 21, the management of the Gomel Motor Park No. 1 refused to extend the work contract of REP chapter leader Andrey Baranov because his membership in the independent union precluded him from continuing work as a driver. The action followed a Justice Ministry decision that drivers at the Gomel Motor Park No. 1 could not join trade unions. In March police confiscated 70 REP applications from the motor park drivers and sometimes helped management pressure union applicants to resign their membership. As a result, 20 drivers signed requests to leave REP. Of that number, six who were forced to quit the union claimed that they were threatened with job loss.

The Government continued to reject or ignore efforts by the international community to encourage trade union independence. On July 26, authorities refused to allow four members of the European Union's economic and social committee into the

country even though they had entry visas. The EU officials wanted to determine whether the country was fulfilling International Labor Organization (ILO) recommendations to stem the erosion of independent trade union activity. The Ministry of Foreign Affairs stated that the delegation's visas were canceled because the visit was not prepared in close cooperation with the Government.

During the year government-backed union officials continued to reject a key ILO recommendation by refusing to give a seat on the National Council of Labor and Social Issues (NCLSI) to an independent union. In August, the head of the government-controlled FTUB Leonid Kozik pledged to the leader of the independent BCDTU, Aleksandr Yaroshuk, a seat on the national council. However, the council neither provided written confirmation of the promise, nor voted to give the BCDTU a seat on the NCLSI. As a result, the BCDTU could only participate as an observer on the NCLSI.

Authorities and factory managers continued to discourage workers from maintaining membership in independent unions. For example, continued threats from managers at the Belshina tire factory in Orsha not to renew work contracts caused a drop in membership of the Belarusian Independent Trade Union (BITU) from 250 in 2005 to approximately 80 at year's end.

In January Anatoliy Yakobuk, director of the Mogilev Artificial Fiber Factory, refused to deduct union dues from worker salaries and to transfer the fund to the national office of the independent REP. On April 17, management renewed the fund transfers, but REP activists claimed Yakobuk complicated the process by requiring REP members to apply for the monthly funds transfer in writing.

On June 1, the chapter of the BITU that represents workers at the Grodno Azot chemical plant, one of the country's major chemical manufacturing industries, filed a complaint with the regional prosecutor's office claiming that Grodno Azot managers were forcing members to leave the union. According to union leader Sergey Antusevich, Grodno Azot's new director, Aleksandr Radevich, complained that he could not run an enterprise with two trade unions. During the year harassment of workers at the factory resulted in a decline in BITU membership from 800 to 300.

On June 2, the Belarusian Free Trade Union (BFTU) at the Bobruysk tractor factory reported that its membership decreased from 500 to 350 as a result of constant pressure from the factory administration. According to the BFTU, members were given an ultimatum: leave the union and receive contract extensions and better wages or face unemployment.

The Government also directly targeted union leaders and activists. On March 18, the country's antiterrorist paramilitary group ALMAZ unsuccessfully tried to force its way into REP's office under the pretext of a bomb threat. Grodno REP activist Ivan Roman was later arrested and detained for allegedly planting bombs. Roman reported that ALMAZ officers threatened his life. He was charged with using obscenities and released 36 hours later. In September 2005 a Grodno court fined Roman \$600 (1.3 million rubles) for acting on behalf of an unregistered organization while distributing union literature. Prior to his court appearance, unknown persons ransacked the REP's Grodno office, stealing documents and electronic files. In October 2005 Roman was detained for distributing an independent newspaper.

On April 26, the administration of the Gomel Motor Park No.1 dismissed employee and REP activist Aleksandr Evseychuk for absenteeism. According to Evseychuk, he was subpoenaed to appear in court, but allegedly returned to work too late to leave for a business trip. According to Evseychuk's lawyer, he was previously fined twice for his union work.

On May 4, the management of the Minsk Metro declined to renew the contract of Oleg Shcherbo, a locomotive driver for 23 years and BFTU member. In 2005 Shcherbo was demoted to a lower paying job as a mechanic. The BCDTU attributed Shcherbo's dismissal to his testimony about the Government's mistreatment of independent unions to a 2004 ILO Commission of Inquiry.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively; however, government authorities and managers of state-owned enterprises routinely interfered with union activities and hindered workers' efforts to bargain collectively, in some instances arbitrarily suspending collective bargaining agreements.

In September 2005 President Lukashenko called for all employers to sign collective bargaining agreements with trade union leaders at their respective companies. However, employers and progovernment trade unions refused to include many independent trade unions in the negotiations. Independent union leaders viewed the requirement for collective bargaining agreements as the beginning of a process that would strip unions of their negotiating power and independence; however, they also understood that failure to sign the collective agreements would prevent workers from receiving social benefits and protection.

During the year the administration at Grodno AZOT excluded the factory's BFTU from its collective bargaining agreement. As of August 18, the managers at the Belshina tire factory in Bobruysk continued to deny benefits required by its collective agreement to BITU members, asserting that the official union, Belkhimprofsoyuz, was against the move. According to the BCDTU, denying equal benefits to BITU members violated Article 365 of the Labor Code, which calls for extended agreements to cover all workers who give their consent. In September Belshina managers refused to pay BITU members bonuses offered to non-BITU members. To protest the move and to demand registration of the local BITU chapter, BITU leader Yelena Zakhozaya went on a 43-day hunger strike. In November managers paid the bonuses but did not approve the chapter's registration.

The law provides for the right to strike; however, tight government control over public demonstrations made it difficult for unions to strike or hold public rallies. Management and local authorities also blocked worker attempts to organize strikes on many occasions by declaring them illegal.

During the year unions organized small strikes in various regions of the country. However, these authorized demonstrations were held away from city centers. On August 9, 70 activists of the Mogilev REP chapter held a picket on the outskirts of the city to demand that city authorities register its local chapter. The rally was originally scheduled for July 25 at the Palace of Culture at the Artificial Fiber Plant, but city officials denied permission one day earlier after discovering that REP had failed to pay for ground cleaning services. The independent union had already paid for police, outpatient clinic, and local housing maintenance services.

Similar demonstrations were to take place in Grodno and Gomel, but city officials either did not approve a requested city center location or delegated the decision to regional officials. On March 2, Polotsk city officials refused to allow the BFTU to picket near the entrance of the Polotsk Fiber Glass Company because the site was not intended for carrying out mass actions.

There are no special laws or exemptions from regular labor laws in the six special economic zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, persons were trafficked for sexual exploitation and forced labor (see section 5).

During the year the Government approved several subbotniks, when workers "volunteered" to work on Saturday and donate earnings to finance government social projects. However, participation in the day-long labor was, in effect, mandatory. Workers who refused to work were subjected to fines and intimidation by employers and government authorities.

Unlike in 2005, there were no reports that authorities ordered graduating medical students who had paid their own tuition to work for three years in small towns.

With the concurrence of a doctor, an administrative court may sentence alcohol and drug abusers to up to two years of labor in government work treatment centers. Inmates receive minimal pay, almost all of which is taken to pay for room and board.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, including a prohibition on forced and compulsory labor, and specifies policies for acceptable working conditions, and in practice the Government generally implemented these laws.

The minimum age for employment is 16; however, 14-year-olds may conclude a labor contract with the written consent of one parent or legal guardian. The prosecutor general's office reportedly enforced the law effectively. Minors under 18 were allowed to work in nonhazardous jobs, but were not allowed to work overtime, on weekends, or on government holidays. Work was not to be harmful to the minor's health or to hinder their education. With the exception of some trafficked minors child labor was generally not a problem (see section 5).

*e. Acceptable Conditions of Work.*—The national minimum wage of \$70 (150,000 rubles) a month did not provide a decent standard of living for a worker and family. Officially, average real wages were approximately \$283 (608,450 rubles) a month at year's end, although many employees received additional wages under the table.

The law establishes a standard work week of 40 hours and provides for at least one 24-hour rest period per week. Because of the country's difficult economic situation, many workers worked considerably less than 40 hours per week, and factories often required workers to take unpaid furloughs due to raw material or energy shortages or lack of demand. The law provides for mandatory overtime and holiday pay and restricts overtime to 4 hours every two days, with a maximum of 120 hours of overtime allowed each year. The Government was believed to have effectively enforced these standards.

The law establishes minimum conditions for workplace safety and worker health; however, employers often ignored these standards. Workers at many heavy machinery plants did not wear even minimal safety gear. There is a state labor inspectorate, but the agency lacked authority to enforce employer compliance and often ignored violations. During the first eight months of the year, 140 fatal accidents in the work place were reported, a 4.1 percent decrease from the same time in the previous year. There also were 453 accidents resulting in serious injury during the same time period, which marked a 7.6 percent decrease. The labor ministry reported that workplace accidents were caused by carelessness, poor conditions, malfunctioning equipment, and poor training and instruction. The law does not provide workers the right to remove themselves from dangerous and unhealthy work environments without risking loss of employment.

## BELGIUM

The Kingdom of Belgium, with a population of approximately 10.5 million, is a parliamentary democracy with a constitutional monarch who plays a mainly symbolic role. The country is a federal state with several levels of government, including national, regional (Flanders, Wallonia, and Brussels), community (Flemish, Francophone, and German), provincial, and local. The Council of Ministers (cabinet), led by the Prime Minister, holds office as long as it retains the confidence of the lower house (Chamber of Deputies) of the bicameral parliament. Federal parliamentary elections held in 2003 were free and fair and resulted in a four-party coalition government. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of addressing individual instances of abuse. The following human rights problems were reported: lengthy pretrial detention, violence against ethnic and religious minorities and against women, racial and ethnic discrimination in the job market, and trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Overcrowding remained a problem in a system where approximately 9,500 inmates filled facilities with a capacity of 8,311. Almost half of all inmates were foreign nationals, with the latter also accounting for about half the group in pretrial detention. The large number of noncitizen inmates prompted the authorities to acknowledge cultural problems in the prisons.

In April the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued a report on its April 2005 visit to the country. The report expressed concern about reports of mistreatment in police custody. The CPT expressed concern about detention conditions at the special center of the Brussels national airport. This facility holds persons suspected of seeking to enter the country illegally. The report also noted that, during a strike by prison wardens, authorities failed to provide a decent quality of life for inmates. This failure occurred despite efforts by police, Belgian Red Cross, and civil protection teams to maintain security, family visits, and access to lawyers. The delegation also examined the circumstances in which two prisoners died during a 2003 strike at the Andenne prison. Legal proceedings resulted in a court decision to throw out the case. The report also expressed concern about conditions at psychiatric wards, where inmates were held in small cells.

Prisons met most international standards. The Government was upgrading some older facilities but overcrowding remained a problem as incarcerations outpaced construction. During the year the country continued to expand psychiatric prison ward capacity following criticism of inmate treatment.

Juvenile prisoners were sometimes held with adults. Convicted criminals and pretrial detainees were held together.

The Government permitted visits by members of parliament and independent human rights groups, and they visited during the year. In addition the Government instituted a system in which an independent control committee exercised oversight of each individual prison. A nationwide body, the Central Control Council, coordinates and oversees the prison-based organizations.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The federal police council, an anticorruption unit, and the federal Interior Ministry managed the operations of the federal police forces. An independent oversight committee monitored police activities and compiled an annual report for parliament. The federal police were responsible for internal security and nationwide law and order. The local police operated branches in all 196 police districts responsible for local law enforcement. There were isolated incidents of corruption in the police force; during the year the federal Ministry of the Interior issued a new ethics code aimed at further reducing instances of corruption.

In 2005 the parliamentary oversight committee received 2,221 complaints about police behavior, a 16 percent increase compared to the previous year. The complaints concerned discriminatory behavior, racism, failure to intervene, violations of privacy, and arbitrary detention. The oversight committee found 212 cases of individual mistakes, and 46 cases concerning organizational defects. In general one in eight complaints appeared to be justified, according to a parliamentary body responsible for police oversight.

*Arrest and Detention.*—Under the constitution, an individual can only be arrested while committing a crime, or by order of a judge that must be served within twenty-four hours of the time of arrest. The law provides a person in detention the right to a prompt judicial determination of the legality of his detention, and the authorities generally respected this right in practice. Detainees were promptly informed of charges against them. There is a functioning bail system, but during the year there was mounting controversy over the conditional release system which was viewed as being too lenient. The justice minister was forced to issue a temporary conditional release stop for certain categories of hardened criminals.

According to May figures, 37 percent of the prison population consisted of pretrial detainees. The average length of pretrial detention was 90 days.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system is composed of civil and criminal courts, which both refer cases to courts of appeal. The courts of first instance (district courts) are responsible for civil and commercial litigation for matters that exceed the jurisdiction of a justice of the peace. There are five appellate courts and one Supreme Court of Appeal (Cour de Cassation) overseeing both the civil and criminal courts. The Supreme Court of Appeal verifies that the law has been correctly applied and that no procedural errors have been committed. When the Supreme Court of Appeal overturns a ruling, the case is referred to one of the appeals courts to reexamine the facts.

The criminal courts consist of the magistrate's court, correctional courts, and the criminal chambers of the court of appeal. In addition, each province has a special criminal court, with a public jury to try murder cases. Each judicial district has a labor court, which deals with litigation between employers and employees regarding wages, notice, competition clauses, and social security benefits. There is also a magistrate in each district to monitor cases involving religious groups (see section 2.c.).

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. All defendants are presumed innocent and have the right to be present, to have counsel (at public expense if needed), to confront witnesses, to present evidence, and to appeal.

An amendment to the youth protection code adopted in May provided judges of juvenile courts with a wider range of possibilities for mediation and sentencing young offenders. Young offenders committing serious crimes can be tried by a regular court for adults, but with youth judges present, and these offenders can be incarcerated in special youth detention centers until the age of 23.

The law authorizes jurisdiction over war crimes and crimes against humanity outside the national territory when the victim or perpetrator is a citizen of or resides in the country. In April the law was amended to avoid discrimination against refugees and to guarantee means of appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.



*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Plaintiffs can either individually or through specialized organizations seek damages for human rights violations under the prevailing anti-discrimination legislation. There were no problems enforcing court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The law prohibits public statements that incite national, racial, or religious hatred, including denial of the Holocaust. The maximum sentence for Holocaust denial is one year's imprisonment. In April the Brussels Chamber of Indictment ruled that Roeland Raes, a former vice chairman of the Vlaams Belang party and former senator, would have to stand trial for denying the Holocaust during a television show broadcast in 2001. The trial had not taken place by year's end.

On June 21, two staff members of the Belgian Islamic Center were convicted for denial of the Holocaust. They received a 10-month sentence, which the court reduced by half, and were fined.

Individuals could criticize the Government publicly and privately without reprisal, and the Government made no attempts to impede criticism.

In 2005 and during the year Parliament enacted legislation to protect journalistic sources, including protecting them from judicial investigation, unless such an investigation could prevent the commission of criminal acts or endanger life.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The Government and service providers were developing programs to warn users of Web sites containing illegal content, such as child pornography.

Government incentives to expand Internet access increased the total number of Internet connections to 2.3 million out of a 10.5 million population.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

The law accorded "recognized" status to six religions and a grouping of nonconfessional philosophical or secular organizations, each of which received benefits from the federal and regional governments. The lack of recognized status generally did not prevent nonrecognized religious groups from freely practicing their religions, and citizens generally practiced their religion without official harassment or impediment. During the year the Buddhist community formally applied for recognition as a nonconfessional faith; the Syrian Orthodox Church sought recognition as a confessional faith.

Since 1999 the Center for Information and Advice on Harmful and Sectarian Organizations (CIAOSN), a government agency, has conducted research on 598 organizations, generally at the behest of members of the public requesting information about particular groups. CIAOSN has an advisory role and can point out the possible risk, in its view, of joining a particular group, but cannot prevent people from doing so.

In April the Brussels appellate court ruled that the Francophone community government must cease circulating a flyer in which Anthroposophism was labeled as a dangerous sect. The court awarded a symbolic \$1.31 (one euro) in damages to the plaintiffs.

In June the Brussels appellate court in a summary trial ruled that the CIAOSN was wrong in identifying Sahaya Yoga as a dangerous sect. The court ordered CIAOSN to make public the ruling and to change its Web site and annual report accordingly.

School authorities in Brussels terminated the contracts of two teachers for wearing Muslim headscarves. The two filed an appeal with the personnel appeals board of the Brussels public schools, but the latter upheld the decision. In the absence of

nationwide guidelines, individual schools remained free to decide on restrictions regarding the personal display of religious symbols.

In June a judge of the local police court ruled that the police in the Flemish town of Maaseik acted lawfully in 2005 when fining a woman of Moroccan origin for wearing a niqab, (a face veil worn by some devout Muslim women). The local police had fined the woman under a 1993 ministerial directive that people in the street should be identifiable.

In June three religion teachers in an Antwerp mosque were arrested for allegedly spanking students in their charge for dressing immodestly.

There is no provision in immigration law for foreign members of religious groups to enter the country to conduct religious work or for them to obtain work permits for that purpose. However, various religious groups continued to receive visas for members from abroad to temporarily conduct missionary activities. Foreign-born ministers of recognized faiths are not required to obtain work permits.

*Societal Abuses and Discrimination.*—The Center for Equal Opportunity and the Fight Against Racism (CEOOR) counted 56 anti-Semitic incidents during the year, including three violent incidents. There were 58 anti-Semitic incidents reported the previous year. Most incidents occurred in Antwerp, and to a lesser extent in Brussels. Verbal abuse and the painting of anti-Jewish graffiti were the most common complaints. As in the past, incidents appear to have been generated from the Muslim immigrant community. CEOOR also reported an increase in anti-Semitic incidents due to the July-August conflict involving Israel and Lebanon. Before the war the organization received one or two complaints of anti-Semitism per week; after hostilities commenced they received about one complaint per day. The complaints generally involved Internet hate messages and anti-Semitic letters and articles in the press. In addition, anti-Semitic graffiti on Jewish homes and insults against Jews on the streets were reported. An official investigation was under way at year's end to determine responsibility.

On July 5, a young man of North African origin yelled anti-Semitic insults while passing two Jewish boys who were walking outside the yeshiva (Talmud school) in Wilrijk (Antwerp). The North African man returned shortly later with some friends to assault the Jewish boys. One boy was badly hurt and the other boy escaped. The perpetrators were not found despite a police investigation.

On the evening of July 24, the National Monument for the Jewish Martyrs of Anderlecht was vandalized. Documents, windows, and the memorial's crypt were destroyed. The crypt included an urn containing ashes from Auschwitz, which was emptied and vandalized. The memorial, in the Anderlecht quarter of Brussels, had been a target of desecration before. There were no reported arrests, but the investigation continued, according to authorities.

On November 30, Turkish youths from the town of Beringen shouted abuse and threw stones at a group of Jewish boys visiting a coal mine museum. The perpetrators appeared before a magistrate, who ordered them to perform community service, to pay damages, and to formally apologize to the Jewish youths.

The law prohibits public statements that incite national, racial, or religious hatred, including denial of the Holocaust. The maximum sentence for Holocaust denial is one year's imprisonment. In April the Brussels Chamber of Indictment ruled that Roeland Raes, a former vice-chairman of the Vlaams Belang party and former senator, would have to stand trial for denying the Holocaust during a television show broadcast in 2001. The trial had not taken place by year's end.

On June 21, a Brussels court convicted two persons held responsible for disseminating racial hatred against Jews on the Web site of the Islamic Center of Belgium. They received a 10 month sentence, which the court reduced by half, and were fined.

In March a judge of the Brussels district court suspended his verdict in the case of a man who had painted anti-Jewish graffiti on the Brussels Airport premises. Because of the isolated nature of the violations, the judge sentenced the defendant to a five-year probation period.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection

against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to approximately 1,000 persons during the year. This included persons facing an unduly long application period.

The Government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

During the initial vetting conducted by the Immigration Office, applicants for refugee status receive material aid and are assigned to an open center. During the second phase of in-depth verification by the Commissariat for Refugees and Stateless Persons, applicants receive housing from a municipal assistance commission and can establish residence anywhere in the country. They can be gainfully employed. If the appeal is rejected, the refugee is still eligible for material aid.

Unaccompanied minor asylum seekers are assigned to designated special centers. Each individual applicant works directly with a custodian whose task is to assist during the application process. School-age applicants must attend school.

During the year 11,600 refugees applied for asylum, compared to 16,000 during 2005. Most applicants came from Russia, Congo, Serbia, and Iraq. In 2005 the authorities rejected 85 percent of the applications placed under review.

Rejected asylum seekers are informed in writing and in person of the repatriation scenarios they can choose from. Each year approximately 30,000 eviction orders are issued, but only 3,000 rejected asylum seekers leave freely. Most rejected asylum seekers remain unaccounted for after receiving the order to leave the country.

The Government, in partnership with the International Organization for Migration, provided relocation assistance to unsuccessful asylum applicants who agreed to repatriate voluntarily to their country of origin. Unsuccessful applicants who did not leave voluntarily were subject to forced repatriation.

During the year scores of asylum seekers took refuge in churches and went on hunger strikes. Most of them had stayed in the country illegally after their applications had been rejected. By year's end, the strikes had ended, and the interior minister reiterated his position that individual asylum seekers could apply to regularize their status on humanitarian or medical grounds.

In September Parliament enacted amendments to asylum legislation implementing a European Union directive of 2004 granting subsidiary and temporary protection status to foreigners who could prove that upon return to their home countries they would face the death penalty, torture, or other inhumane treatment. Under the new law the vetting procedure is shortened, and appeals are no longer handled by the Council of State, but by a separate body in order to expedite the growing number of pending cases. Regularization of undocumented aliens remained under the jurisdiction of the Ministry of Interior.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens aged 18 and older exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. Voting in all elections is compulsory. Failure to vote is punishable by a nominal fine.

*Elections and Political Participation.*—Local elections took place in October; for these elections the franchise was extended to include non-European Union foreign nationals. General elections were last held in 2003. Elections for the regional/community parliaments were held in 2004.

The law requires an equal number of male and female candidates on party tickets in European, federal, regional, provincial, and local elections. The constitution and the law require the presence of men and women in federal, regional, provincial, and local government executive positions. Failure to implement the law would nullify the elections and render any government created thereby illegal.

There were 53 women in the 150-seat chamber of representatives and 26 women in the 71-seat senate; five of the 21 federal cabinet ministers were women, and there were 12 female ministers among 33 regional ministers.

There were four members of minorities in the Chamber of Representatives and six in the Senate; one of the federal cabinet ministers was a member of a minority group, and there were two minority regional ministers.

*Government Corruption and Transparency.*—In January five Flemish civil servants and six private contractors were arrested on active and passive corruption charges in connection with public building contracts. No formal indictments had been filed by year's end.

In October a number of local officials in the Charleroi and Namur areas were arrested in connection with a public housing fund scandal made public the year before by investigative journalists. Other public utility agencies became implicated in the scandal as investigations continued.

With some exceptions—e.g., material involving national security—the Government provided unrestricted access to government information.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these laws; however, violence against women, trafficking in persons, and violence against minorities were problems.

*Women.*—Domestic violence against women, including spousal abuse, remained a problem. Reportedly, one in five women was subject to domestic violence. In 2005 federal police reported 11,557 cases of domestic violence, compared to 10,137 the previous year. The law defines and criminalizes domestic violence and provides for fines and incarceration. The law allows police to enter a home without the consent of the head of household when investigating a domestic violence complaint; however, there were complaints that the police frequently declined to do this in practice. By year's end the Government had not fully implemented provisions of the law that required it to establish and maintain a database of statistics on domestic violence.

In March the justice minister launched an updated version of her 2004–2007 action plan for dealing with domestic violence. The directive issued by the minister and leading magistrates ordered police forces and prosecuting magistrates to register all complaints and actions undertaken dealing with violence against women and spousal abuse. The minister assigned the task of handling domestic violence cases to one magistrate within each judicial district of the country.

A number of government-supported shelters and telephone help lines were available across the country. In addition to providing shelter and advice, many offered assistance on legal matters, job placement, and psychological counseling to both partners.

Rape, including spousal rape, is illegal, and the Government prosecuted such cases. In 2005, the most recent year for which statistics were available, police registered 2,559 rape cases; there were no figures on the number that went to trial, although in 2003 there were reportedly 497 convictions. A convicted rapist can be imprisoned for a minimum of 10 years to a maximum of life. The length of sentence is based on the age of the victim, the age difference between the offender and the victim, the relationship between the offender and victim, and the use of violence during the commission of the crime.

Prostitution is legal; however, the law prohibits organizing prostitution or assisting immigration for the purpose of prostitution. In an attempt to curb prostitution in the city, the Antwerp police fined men visiting prostitutes.

Trafficking in women was a problem (see section 5, Trafficking).

Sexual harassment is illegal, and the Government generally enforced the law. A victim of sexual harassment in the workplace can file a claim with a court of justice and claim damages. While the law provides victims of sexual harassment the right to sue their harassers and provides for financial remedies, most cases of sexual harassment were resolved less formally.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The federal government's Institute for the Equality of Men and Women is authorized to initiate lawsuits if it finds that equality laws have been violated.

Economic discrimination against women continued. The average annual salary for women was 85 percent of that for men. Discrimination was greatest among older workers and in higher wage categories. There was also discrimination against women in access to leading positions in both the private and public sector. In 2005, the latest year for which statistics were available, the Institute for the Equality of Men and Women received about 100 complaints, 40 percent of which were employment-related.

*Children.*—The Government was committed to children's rights and welfare.

Free full-time education is compulsory from ages six to 16; subsequently education remains compulsory until the age of 18, but students may continue on a part-time basis. More than 75 percent of children over 15 finish school with a secondary diploma. Girls and boys had equal access to education.

The Government funded health care; boys and girls had equal access.

There were reports of child abuse. Through October there were 60 prosecutions for child abuse. As a result of awareness campaigns to sensitize the general public to the problems of child abuse, the number of reports of child abuse and neglect increased. The law provides for the protection of youth against sexual exploitation, abduction, and trafficking. The law provides for severe penalties for child pornography and persons possessing pedophilic materials. It permits the prosecution of residents who commit such crimes abroad and provides that criminals convicted of the sexual abuse of children cannot be paroled without first receiving specialized treatment and they must continue counseling and treatment after their release from prison.

Child Focus, a government-sponsored center for missing and exploited children, reported that it handled 3,638 cases in 2005. There were 1,088 cases of runaways (concerning 1,104 individual children), and 233 cases of runaways who returned home within 48 hours. The center handled 35 abduction cases.

The authorities started issuing electronic identification cards to children under age 12. The card has the Child Focus phone number and allows safe chatting on the Internet.

In May police searched 20 houses in an international police drive against a child pornography network active in Europe and the United States. The investigation continued at the end of the year.

Although child prostitution was not widespread, it was a problem. As a result of the Government's 2004 campaign to prevent child prostitution, the public appeared more aware of the problem, and reporting increased. Police registered 1,174 pedophile sexual offenses on the Internet during 2005, the last year for which figures were available.

Trafficking in children was a problem.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, through, and from the country. The country was a destination and transit point for women and children from Central Europe, Asia, and sub-Saharan Africa, primarily trafficked for the purpose of sexual exploitation. Men were trafficked for exploitive labor on construction sites and in restaurants and sweatshops. Reportedly, trafficking for forced labor and forced begging increased from past levels. The country ranked “very high” as a destination country in the UN Office on Drugs and Crime's citation index. The Government fully complies with the minimum standards for the elimination of trafficking.

Since 2005 the law has criminalized recruiting, transporting, transiting, sheltering, and passing on to others the control over persons for the purpose of prostitution, child pornography, exploitation of poverty, economic exploitation, or organ transplant. The law also makes it illegal to force trafficked persons to commit crimes. Persons convicted of violating the antitrafficking law are subject to one to five years imprisonment and are fined between \$650 and \$65,000 (500 to 50,000 euros). Repeat offenses, offenses of an organized nature, and those with aggravated circumstances are subject to higher penalties. If the offender belongs to a criminal organization or if the trafficking results in manslaughter, the punishment is 15 to 20 years' imprisonment and a fine ranging from \$1,300 to \$195,000 (1,000 to 150,000 euros).

The authorities continued to investigate and prosecute trafficking and provided victims with specialized protection and assistance. In 2005 the federal government established a coordination agency composed of representatives from all concerned ministries. Agencies involved in combating trafficking are connected to a secure Web site, enabling them to exchange information and to have access to all relevant information. The Federal Police identified 144 criminal organizations involved in trafficking, and the federal police intercepted 27,466 illegal aliens, including victims of trafficking.

The Government continued to subsidize three specialized trafficking shelters providing assistance to victims of trafficking, and NGOs continued to report excellent cooperation and coordination with law enforcement. The shelters registered 586 victims in 2004 and 600 victims during 2005. The victims were mostly women from Nigeria, China, Romania, Bulgaria, Poland, Russia, and Albania. Eighteen percent were victims of economic exploitation, 65 percent were victims of sexual exploitation, and 15 percent were victims of smuggling. The majority of registered victims opted against help from state-run shelters.

The Government continued to provide victims a 45-day “reflection” period during which they could decide whether to assist in the investigation of their traffickers;

subsequent government protection was linked to a victim's willingness to testify in court. In practice the Government granted permanent residency to many who assisted in prosecutions. Over a third of current shelter residents had been granted indefinite residence status and thus qualified for the full range of social benefits available to citizens, including access to job training, rehabilitation, and medical treatment.

In April a court in Bruges convicted a person under the antitrafficking law who had his boat refurbished by Lithuanian workers smuggled into the country. The judge ruled that the workers were underpaid and that they were housed in unacceptable conditions. In October a judge in Dendermonde handed down sentences ranging from 18 months' to 10 years' imprisonment to 25 Indian and Pakistani human traffickers who had smuggled asylum seekers to the United Kingdom. The judge also ordered fines up to \$65,000 (50,000 euros) and the confiscation of goods worth almost \$1 million (770,000 euros).

During the year Parliament enacted legislation imposing stiffer penalties on persons contracting fake or forced marriages in order to obtain residence permits.

*Persons With Disabilities.*—The law provides for the protection of persons with disabilities from discrimination in employment, education, access to health care, and the provision of other state services. The CEOOR reported that it received 30 percent more complaints of discrimination against disabled persons in 2005 than in 2004. Most of the complaints concerned housing, public transport, public utilities, and access to banks, bars, and restaurants. While the Government mandated that public buildings erected after 1970 be accessible to such persons, many older buildings were still inaccessible.

*National/Racial/Ethnic Minorities.*—Immigrant communities complained of discrimination. Members of the Muslim community, estimated at 450,000, and principally of Moroccan and Turkish origin, claimed that discrimination against their community, notably in education and employment and particularly against young men, was greater than that experienced by other immigrant communities. In 2005 the CEOOR, which investigates complaints of discrimination, handled 1,022 complaints. The CEOOR noted a trend of increased discrimination regarding employment, housing, and restaurant access. It also pointed at an increase in ethnic conflicts among neighbors.

Two percent of the complaints of ethnic discrimination resulted in litigation initiated by the CEOOR. The courts ruled in several landmark ethnic discrimination cases. Not only were Holocaust deniers convicted, but also landlords discriminating against foreigners. An Antwerp court convicted three persons for disseminating a racist version of a popular song through the Internet.

In March the College of Prosecutors General, the body of leading magistrates, issued a directive to all judicial districts ordering magistrates to separately identify all racially-motivated cases.

The CEOOR lost a case in court against an employer who had decided not to hire a Moroccan job seeker upon request from his clients.

*Other Societal Abuses and Discrimination.*—In its annual report for 2005, the CEOOR noted an increase in nonracial complaints. These cases concerned discrimination on grounds of sexual orientation, health condition, and age. Courts have occasionally convicted landlords refusing to lease to same-sex couples, and a judge in Brussels convicted one youth for savagely beating a gay couple. The CEOOR also handled numerous complaints regarding insurance companies discriminating on age, health, and disability grounds.

The country permits homosexual marriages, and same-sex couples can adopt children.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to associate freely, including the freedom to organize and to join unions of their choice, and workers exercised this right in practice. Approximately 63 percent of employed and unemployed workers were members of labor unions. During the year trade unions complained about legal and practical difficulties they encountered when seeking to organize workers in small businesses and retail groups. According to the International Trade Union Confederation (ITUC), employers prefer to pay fines rather than reinstate workers dismissed for union activities.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protects this right in practice. The right to bargain collectively is recognized, and the Government protected this right in practice. The law provides for the right to strike, and workers exercised this right. However, the ITUC reported that, in spite of a European Union

directive, workers in small companies are generally denied the right to collective representation. It also stated that the scope of the right to strike is poorly defined, and that employers prefer to pay out legal entitlements rather than reinstate workers terminated as a result of union activities.

In October 2005, during nationwide strikes against the Government's pension plans, 75 enterprises sought court intervention against strike actions. These were mostly preventive initiatives to avoid blockades of entire industrial zones. In 34 of these cases, judges imposed penalties as a preventive measure.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law and policies generally protect children from exploitation in the workplace. The minimum age of employment is 15. Youths between the ages of 15 and 18 could participate in part-time work and study programs and work full-time during school vacations. Trafficking of children occurred (see section 5). The labor courts effectively monitored compliance with national laws and standards; no violations were reported enduring the year.

*e. Acceptable Conditions of Work.*—The monthly national minimum wage for workers over 21 years of age was approximately \$1,636 (1,259 euros), coupled with extensive social benefits, which provided a decent standard of living for a worker and family.

The standard workday is eight hours and the standard workweek is 38 hours. Departure from these norms can occur under the terms of a collective bargaining agreement, but daily work time cannot exceed 11 hours and 50 hours of work per week. An 11 hour rest period is required between two work periods and overtime is paid at a time-and-a-half premium Monday through Saturday and at double time on Sundays. The Ministry of Labor and the labor courts effectively enforced these laws and regulations.

There are comprehensive provisions in the law for worker safety. Workers have the right to remove themselves from situations that endanger their safety or health without jeopardy to their continued employment, and workers exercised this right in practice. In general regulations were enforced effectively.

## BOSNIA AND HERZEGOVINA

The independent state of Bosnia and Herzegovina (BiH) consists of two multi-ethnic constituent entities within the state, the Federation of Bosnia and Herzegovina (the Federation) and the Republika Srpska (RS), along with the Brcko District. The country has a population of approximately 4.5 million; the Federation has a Bosniak (Bosnian Muslim) and Croat majority, while the RS has a Bosnian Serb majority. As stipulated in the 1995 peace agreement (the Dayton Accords), a state-level constitution provides for a federal democratic republic with a bicameral parliamentary assembly but assigns many governmental functions to the two entities, which have their own governments. The Dayton Accords also provide for an Office of the High Representative (OHR) with authority to impose legislation and remove officials. The Government is headed by a tripartite presidency that for most of the year consisted of Bosnian Croat Ivo Miro Jovic, Bosnian Serb Borislav Paravac, and Bosniak Sulejman Tihic. On October 1, BiH held general elections that were generally free and fair. On November 6, Presidents-elect Bosnian Croat Zeljko Komsic, Bosnian Serb Nebojsa Radmanovic, and Bosniak Haris Silajdzic took office. In the Federation, an indirectly-elected President nominates and the House of Representatives approves the Federation prime minister. In the RS, a directly-elected President nominates and the RS National Assembly confirms the RS prime minister. Civilian authorities generally maintained effective control of the security forces.

The Government's human rights record remained poor, although there were improvements in some areas. Serious problems that remained included: death from landmines; physical abuse by police; overcrowding and poor prison conditions; improper influence on the judiciary; harassment and intimidation of journalists; restrictions on religious minorities and attacks on religious structures; obstructionism toward minority returnees; government corruption; societal discrimination against women, ethnic minorities, sexual minorities, and persons with disabilities; ethnically-motivated violence; trafficking in persons; and limits on employment rights.

Two of the war crimes suspects most wanted by the International Criminal Tribunal for the former Yugoslavia's (ICTY), Ratko Mladic and Radovan Karadzic, also remained at large.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

There were no developments during the year in the 2004 killing by unknown persons of Hrustan Suljic, President of the local Bosniak returnee community near the town of Teslic. Although local police highlighted the case on the television show Unsolved Cases on December 28, 2005, the investigation produced no new results.

Domestic courts and the ICTY continued to adjudicate cases arising from crimes committed during the 1991–95 conflicts (see sections 1.e. and 4).

During the year there were 34 landmine accidents that killed 17 persons and injured 17.

*b. Disappearance.*—There were no reports of politically motivated disappearances. An estimated 13,000 persons remained missing from the wars in 1991–95. The International Committee of the Red Cross (ICRC) reported that, since 1995, it had received 22,326 requests from family members to trace relatives still missing from the war. By year's end, a total of 7,972 persons had been accounted for, including 448 located alive.

The missing persons case of Colonel Avdo Palic, commander of Bosnian government forces defending the UN-protected enclave of Zepa, received a great deal of publicity during the year. Mr. Palic went missing in 1995 from the UN Protection Force (UNPROFOR) compound in Zepa. The BiH Human Rights Commission issued a final ruling on January 16, which stated that RS authorities failed to provide adequate details regarding Palic's disappearance. OHR then ordered the RS to form a commission to investigate the Palic case. Although the commission issued a report in April, OHR banned publication of the report due to the pending criminal investigation by the BiH prosecutor's office. At year's end there were no updates on Palic's whereabouts.

The national Missing Persons Institute, a state-level authority established in 2004, was responsible for absorbing the entity-level missing persons commissions and continuing the search for missing persons in partnership with the International Commission on Missing Persons (ICMP). The institute's goal was to establish a single, central list of all those who went missing during the war. The institute, which was supposed to take over competencies from the entities during the year, was not fully operational at year's end. In March the institute appointed a board of directors composed of one Bosniak, one Croat, and one Serb.

During the year entity-level commissions carried out 435 exhumations of mass or illicit gravesites in 205 locations with the forensic support of the ICMP. These efforts recovered 801 complete and 1,397 incomplete sets of human remains. The majority of these came from five mass graves found during the year in Kamenica near Zvornik, which contained the remains of more than 1,000 victims of the Srebrenica massacre.

To date the ICMP has generated 13,495 DNA matches relevant to 8,928 missing individuals and has collected more than 65,472 blood samples representing 22,482 missing individuals.

During the year the BiH prosecutor's office and its War Crimes Department conducted an ongoing investigation based on statements from the RS Srebrenica Commission, a body active from 2003–05 that investigated the events surrounding the Srebrenica massacre and the fate of missing individuals from those events. The investigation followed up on information provided in the commission's final report of October 2005.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices and the Government generally respected these provisions in practice; however, physical mistreatment of individuals by police occurred.

The Office of the Ombudsman and the RS and Federation police did not provide information on the number of complaints against police officers received or investigated during the year. In September one man was beaten by police in front of television cameras, after he and four others threw paint at the BiH Presidency building and injured two guards. The nongovernmental organization Dosta! (Enough!) issued a press release protesting the excessive use of force.

*Prison and Detention Center Conditions.*—Overcrowding, inadequate nutrition, and poor hygiene were chronic problems in police detention facilities. Prison stand-



ards for hygiene and access to medical care met prisoners' basic needs, but overcrowding and antiquated facilities remained serious problems. There were no proper facilities for treating mentally ill or special needs prisoners. There were some reports of allegedly ethnically-motivated violence among inmates. In June four Bosnian Serbs convicted of war crimes claimed they were attacked by Bosniak inmates in Zenica prison after photos from the Srebrenica massacre were broadcast on television. The Federation justice minister denied their request to be transferred to Kula prison in the RS. There were no reports of specific incidents of corruption among prison officials, but such activities were considered to occur in some instances.

Adult and juvenile female inmates were held together in separate wings of facilities for adult males. Male inmates aged 16 to 18 were held with adult male inmates, while male inmates under the age of 16 were held separately. In October the first correction facility for juveniles aged 16 to 18 opened in the Banja Luka prison, with a 35-bed capacity. Pending agreement with the Federation Ministry of Justice, the facility will accommodate juveniles from both entities.

The Government permitted visits by independent human rights observers. International community representatives were given widespread and unhindered access to detention facilities and prisoners. The ICRC continued to have access to detention facilities under the jurisdiction of the ministries of justice at both the state and entity levels and mainly visited persons under investigation or sentenced for war crime offenses.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The law gives the state-level government primary responsibility for law enforcement, but extends significant overlapping competencies to each entity and to the Brcko District, each of which has its own police force. The European Union Force (EUFOR) continued to implement the military aspects of the Dayton Accords and provide a secure environment for implementation of the nonmilitary aspects of the settlement. The North Atlantic Treaty Organization headquarters in Sarajevo is responsible for overseeing defense reform, counterterrorism efforts, and cooperation with the ICTY. A European Union (EU) police mission monitored, mentored, inspected, and worked to raise professional standards of the local police.

There are three primary levels of law enforcement in the country: the state-level Ministry of Security, which does not have a police force but is supported by the State Investigation and Protection Agency (SIPA), the State Border Service (SBS), and the Foreigners Affairs Service; the Federation Ministry of Interior; and the RS Ministry of Interior. The RS interior ministry is centralized with five public safety centers. The Federation interior ministry is decentralized; each of the 10 cantons has its own cantonal interior ministry that functions autonomously. While neither the Federation nor the RS interior ministries reports to the Ministry of Security, they must work in tandem with SIPA on cases involving specific offenses, such as terrorism, organized crime, and trafficking. Although they shared information, these structures for the most part functioned independently. During the year a technical expert group finalized a police reform plan. At year's end, it was unclear when the plan would be sent to the entity national parliaments for review.

Police in the RS generally did not meet target standards of ethnic representation, as mandated by various agreements.

The EU police mission acted in an advisory capacity to entity police forces, with a limited mandate. Police Standards Units (PSUs) functioned as internal affairs investigative units in each entity's interior ministry and in the Brcko District. The presence of these units led to the creation of standardized procedures for processing complaints of police misconduct and for disciplining police in accordance with standard procedures.

As of October the RS PSUs investigated 780 conduct-related complaints and determined that 37 citizen complaints and 89 internal complaints were well founded. The unit forwarded recommendations for disciplinary action to prosecutors in 113 cases considered to be major violations. During the year 19 felony reports and 25 misdemeanor reports were filed against 44 interior ministry employees for offenses including narcotics trafficking, forgery, theft, domestic violence, assault, extortion, and traffic violations.

By October the Federation PSUs investigated 54 cases and concluded that 18 complaints were well-founded. The 18 cases deemed to be major violations of duty were forwarded to prosecutors for disciplinary action.

There were continued reports of corruption within the entity and national security services.

*Arrest and Detention.*—The law requires persons suspected of committing a crime to be brought before a prosecutor within 24 hours of detention. Police are also authorized to detain individuals for up to six hours at the scene of a crime for investigative purposes; this period is included in the 24-hour detention period allowed prior to being charged. The prosecutor has an additional 24 hours either to determine whether the person should be released or brought before a judge to decide whether they should remain in pretrial custody. Detainees are allowed to request a lawyer of their own choosing and to inform family members of their detention.

In practice, these requirements were generally observed. Persons were generally arrested openly with warrants based on sufficient evidence and issued by a judge. Detainees were promptly informed of the charges against them and there was a functioning bail system. There were no reported cases of arbitrary arrest or detention during the year.

The law generally limits pretrial detention to one year; however, in cases involving war crimes, organized crime, economic crime, and corruption, detention can be extended for an additional year. Persons in pretrial detention have the right to be informed of all charges against them once an indictment has been handed down. Under the law, a trial must be undertaken in a speedy manner. In practice detainees were usually not held in pretrial detention for more than six months except in cases involving war crimes.

*e. Denial of Fair Public Trial.*—The state constitution does not explicitly provide for an independent judiciary, but the laws of both entities do. There were indications, however, that political parties influenced the judiciary in certain politically sensitive cases. Judicial reforms have reduced the level of intimidation by organized crime figures and political leaders, although such interference continued to occur.

The State Court is the highest court in the country for certain criminal cases, including war crimes, organized crime, terrorism, economic crime, and corruption. The country also has a State Constitutional Court, whose judges are selected by the Federation's House of Representatives, the RS National Assembly, and the President of the European Court of Human Rights in consultation with the presidency. Each entity has its own supreme court and chief prosecutors' offices. There are cantonal courts in the Federation, district courts in the RS, and municipal courts in both entities and the Brcko District.

Local officials and police generally cooperated in enforcing court decisions, but problems persisted as a result of organizational inefficiency. Despite efforts to streamline court procedures, large backlogs of unresolved cases, mostly in non-criminal matters, remained a problem in many jurisdictions. Authorities generally respected and implemented constitutional court decisions.

*Trial Procedures.*—Under Federation and RS laws, trials are public and the defendant has the right to counsel, at public expense, if charged with a crime that is punishable by long-term imprisonment. However, courts did not always appoint defense attorneys for indigent defendants in cases where the maximum prison sentence was less than five years. The law provides that defendants have the right to confront or question witnesses, to present witnesses and evidence on their own behalf, and to appeal. The Government observed these rights in practice.

The BiH State Court made significant progress on adjudicating organized crime and war crimes cases and expanded the witness protection program. In the first eight months of the year there were 13 final verdicts, up from four for 2005. From January to September, the Witness Protection Department provided assistance to 68 individuals, as compared with 32 the previous year.

The State Court War Crimes Chamber and entity courts continued conducting war crimes trials during the year. The ICTY transferred five new cases involving nine defendants to the State Court. Ten trials were underway based on BiH indictments reviewed by the ICTY at year's end. Two additional trials began at the State Court based on local indictments not reviewed by the ICTY, involving 12 defendants. The BiH State Prosecutor's office opened 126 new war crimes investigations, involving 334 suspects, and confirmed 18 new indictments, involving 32 accused. The BiH State Prosecutor referred more than 90 ICTY-reviewed indictments to lower courts, involving more than 250 individuals. There was some contention between victims and the BiH State Prosecutor's office concerning case referrals because of the disparity between maximum sentences for war crimes at the state level (45 years) and the entity level (20 years).

In April the State Court appellate panel confirmed a five-year sentence for Abdulahim Maktouf, an Iraqi national residing in the country, for participating in the kidnapping of three Croat civilians, one of whom was beheaded. Also in April, the court sentenced Nedo Samardzic to 13 years' imprisonment for multiple acts of

enslavement, rape, torture, and killing of non-Serb civilians in the Foca region in 1992–93.

In July the War Crimes Chamber sentenced Boban Simsic to five years in prison for war crimes against Bosniak civilians in Visegrad in 1992. The case was on appeal at year's end. In October the State Court appellate panel upheld the guilty verdict for Dragoje Paunovic, who was sentenced to 20 years for crimes against humanity in connection with the forced deportation of Muslim civilians from the eastern RS in 1992.

Three war crimes trials concluded in November. Radovan Stankovic, the first person indicted for war crimes to be transferred from the ICTY, was sentenced to 16 years in jail for committing multiple acts of enslavement, rape, torture, and murder against the non-Serb population in the Foca region. The court sentenced Marko Samardzija to 26 years' imprisonment for murdering over 144 Bosniak men and boys from the villages of Brkic and Balagic Brdo in 1992. The Court also sentenced Nikola Kovacovic to 12 years in prison for committing atrocities against the Croat and Bosniak populations in the Greater Bosanska Karjina area in 1992. The three cases were on appeal at year's end.

In June the BiH State Prosecutor came under public criticism for refusing to release the names of 892 persons the Srebrenica Commission suspected might be connected to the mass killings, but who were still employed in municipal, entity, and state institutions. Many of these names were later leaked to the media in the weeks prior to the October national elections.

On the entity level, the Federation prosecutor initiated 44 new war crimes cases, involving 443 accused during the year. During the year the RS prosecutor initiated 10 cases involving 13 individuals accused of war crimes.

The first war crimes trial in the RS concluded early in the year when the RS Supreme Court confirmed the 2005 Banja Luka district court acquittal of 11 former Prijedor police officers accused of murdering Catholic priest Tomislav Matanovic and his parents, who disappeared from Prijedor in 1995.

The justice process regarding the eight Bosnian Serbs arrested by the RS in 2004 for war crimes against Muslims and transferred that year to the Sarajevo cantonal court was still underway. In 2005 four cases were returned to the RS prosecutor's office, and four remained in Sarajevo cantonal court. The cases of defendants Svetko Novakovic, Jovan Skobo, Zeljko Mitrovic, Momir Skakavac, and Dragoje Radanovic remained ongoing for the second consecutive year.

In September 2005 the Sarajevo cantonal court acquitted Momir Glisic of committing war crimes against civilians in the Grbavica settlement near Sarajevo. The Federation prosecutor appealed the decision to the Federation Supreme Court and on September 18, the Federation Supreme Court sentenced Glisic to two years and six months in prison.

During the year, the BiH State Prosecutor's office initiated an investigation into the activities of ex-commander of the Fifth Corps of the BiH army, General Atif Dudakovic, and other unknown persons portrayed on a recently-released video killing an unknown number of individuals from the Bosnian Serb Army during the war. The video, which shows events occurring during "Operation Storm" received a wide distribution on Bosnian, Croatian, and Serbian media outlets. The investigation was ongoing at the end of the year.

At the international level, the ICTY continued to prosecute war crimes cases during the year. In June the ICTY sentenced Naser Oric, commander of the Bosnian army in the Srebrenica area, to two years' imprisonment. He was then released for time served. In September the tribunal sentenced Momcilo Krajisnik, wartime President of the RS Assembly, to 27 years in prison. By the end of the year, the ICTY concluded proceedings against 100 of the 161 persons who have been charged by the tribunal. Six ICTY indictees remained at-large, including Radovan Karadzic, Ratko Mladic, and Stojan Zupljanin.

Despite local and international level efforts to prosecute war crimes, many of the lower-level perpetrators of killings and other abuses committed in previous years remained unpunished, including those responsible for the approximately 8,000 persons killed after the fall of Srebrenica, and those responsible for approximately 15,000 to 20,000 other persons who were missing and presumed killed as a result of "ethnic cleansing."

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The law provides for an independent and impartial judiciary in civil matters, and citizens could file civil suits seeking remedies for human rights violations. Individuals could also seek assistance from

an ombudsman institution to hear and provide recommendations on cases of human rights violations, though these recommendations were not binding (see section 4).

*Property Restitution.*—The Domestic Commission on Real Property Claims (DCRPC) processed claims for property wrongfully taken during the 1992–95 war that were not adjudicated by the former Commission for Real Property Claims (CRPC) or by municipal housing authorities. During the year the DCRPC resolved 344 cases. Due to funding limitations and other bureaucratic obstacles during the year, the DCRPC received an extension of its mandate until 2007 to resolve the remaining 24 backlog cases and 100 appeals. By year's end, all municipalities had implemented already adjudicated CRPC and DCRPC property claims relating to socially owned apartments that had been illegally occupied during the 1992–95 war.

In 2004 the Constitutional Court upheld a Federation law prohibiting ownership of property in the Federation by anyone who served in the Yugoslav military after May 1992. The ruling affected former Yugoslav officers, mostly Serbs, who claimed 4,000 apartments they had abandoned during the war. The court also ruled that the Federation could apply a Yugoslav legal principle that prevents a citizen from claiming tenancy rights to more than one apartment at a time; this adversely affected the officers' claims, since most had apartments elsewhere, primarily in Serbia. Even with the court ruling, the DCRPC must still render official legal decisions in all these cases.

During the year the Constitutional Court received 2,757 cases related to property restitution, war damage, old currency savings, and missing persons, and it resolved 1,997 of them. During the year the court also resolved a backlog of cases from 2004. The court found constitutional violations in 52 cases and, by September 1, authorities had implemented 14 decisions; one was not implemented. In five cases, authorities concluded that there was a constitutional violation, but no deadline was given for implementation. Overall implementation rates were 28 percent. During the year the court concentrated on resolving issues related to systematic failures at the state and entity levels to resolve holdover issues, including old currency savings, issues of public debt, war damages, and missing persons.

Roma displaced during the war had difficulty repossessing their property as a result of discrimination and because they lacked information on procedures (see section 5). In many cases, Romani families lacked documents proving ownership or had never registered their property with local authorities. The lack of documentation also prevented them from applying for reconstruction assistance.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government did not always respect press freedom in practice. Laws safeguarding freedom of the press were delegated to the cantons in the Federation and to the central authorities in the RS. There are provisions against hate speech in the Federation Criminal Code, but not in the RS Criminal Code. The Broadcasting Code of Practice also regulates hate speech by broadcasters. The Communications Regulatory Agency, charged with implementing the code, did not register any cases of hate speech during the year. The print media is self-regulated and governed by the Press Code which also regulates hate speech, among other issues. During the year, the Press Council of BiH did not receive any complaints about hate speech, and monitoring reports conducted during the year indicated that the level of hate speech decreased. There were, however, a number of cases of gender discrimination noted in the media, as well as cases of discrimination based on sexual orientation. An increased number of cases of violation of rights of minors were noted in the media.

The Government generally respected freedom of speech in practice; individuals could criticize the Government without fear of reprisal and frequently did so.

Many independent, privately owned newspapers were available and expressed a wide variety of views. Several printing houses operated in the country. Dnevni Avaz, whose editorial policy strongly reflects Bosniak interests, remained the largest circulation daily, followed by Banja Luka-based daily Nezavisne Novine. A number of independent print media outlets encountered financial problems that endangered their continued operation.

Two public broadcasters, Federation Television (FTV) in the Federation and Radio Television of Republika Srpska (RTRS) in the RS, remained the largest television broadcasters in the country. BHT 1, a nationwide public broadcaster, gradually increased its audience and outreach. While these broadcasters provided relatively bal-

anced coverage, remaining public broadcasters in cantons and municipalities in the Federation and RS remained vulnerable to political influence. A local commercial network of five stations operated in both entities (Mreza Plus), as did the private television networks OBN and PinkBH. Dozens of small independent television stations broadcast throughout the country. Radio continued to provide a forum for diverse points of view. In many cases, news programs of independent broadcasters reflected opposition perspectives.

A number of RS media outlets showed a distinct pro-RS government bias. Federation media outlets also exhibited political bias, although not in support of any one political party.

Journalists continued to face threats in the course of their professional work. In the first six months of the year, the Free Media Help Line (a part of the Bosnian Journalists Association) registered 41 cases involving violations of journalist rights and freedoms and pressure from government and law enforcement officials. There were 13 cases of pressure on journalists, twelve threats, seven labor disputes, three cases of harassment, one physical attack, and one violation of the Press Code.

Violations of the employment rights of journalists continued during the year. Private media owners and management were the most frequent perpetrators of violations of employee rights. In a number of cases, journalists worked without an employment agreement or social and health benefits, items mandated by law.

In some instances, officials subjected media outlets to overt pressure, such as threatening them with loss of advertising or placing limits on their access to official information. Politicians and government officials also pressured the media by accusing them of opposing the interests of a given ethnic group or betraying the interests of their ethnic group.

In February several journalists from different media outlets received a threatening note from an unknown organization named Sandzacka Ruka Pravde (Sandzak's Arm of Justice). The note was directly addressed to Zvonko Maric, a journalist with Federation Television, but mentioned several other media outlets. The note threatened that Maric and his family would be executed because of his alleged anti-Bosniak views. The state-level association of journalists, BH Novinari, the BiH Press Council, and the BiH Helsinki Committee for Human Rights criticized the threats and called on law enforcement to investigate them. There was no information available to the public on whether an investigation had been initiated.

In March a military colonel, Veljko Brojic, physically attacked a journalist from the print daily Fokus, Cvjetko Udovicic, in the newspaper's Doboj office. The attack was allegedly in response to Udovicic's story about possible irregularities in the decision of Doboj's authorities to give the colonel an apartment. Doboj's police filed a criminal complaint against the colonel because of his violent behavior. By year's end Udovicic decided of his own volition and without explanation to drop the charges.

In March privately-owned Nezavisne Novine reported that certain individuals from the RS Police and SDS were under investigation by the Prosecutor's Office for possible involvement in organized crime and support of persons indicted by the Hague Tribunal. The reports provoked reactions from the RS and from then SDS President, Dragan Cavic, who publicly accused Nezavisne Novine of being an instrument of the newly-appointed RS Minister of Interior who, according to Cavic, wanted to remove political opponents from the police. Cavic also criticized RS Radio and Television, asserting that it took sides in the issue by carrying unconfirmed information and fabrications previously published in Nezavisne Novine. Although Nezavisne Novine carried reactions of the police officers whose names were mentioned as well as that of President Cavic, Cavic sued Nezavisne Novine for defamation. The court case had not yet opened by year's end.

In May during a Radio Zos report from Doboj Istok on the investigation of a pedophile case in the city of Tesanj, two police officers from the Tesanj police station entered the station and attempted to terminate the broadcast. The police explained that they were trying to protect the identity of minor children. Radio Zos continued its broadcast. BH Novinari, Free Media Help Line, and the state-level Regulatory Communications Agency criticized Tesanj police for their interference.

In June, while addressing graduates of the Islamic Pedagogical Faculty in Zenica, the head of the Islamic Community in BiH, Reis Mustafa effendi Cerić, accused Federation Television, and in particular the editor of FTV's 60 Minutes political magazine, Bakir Hadziomerovic, of attacking Islam and Muslims.

In July a previously unknown group named Kaznena Ekspedicija (Retribution Expedition) faxed a letter to Sarajevo's weekly Slobodna Bosna with the names of 20 politicians and journalists who, according to the group, should be killed by November 1. The letter was written on the memorandum of the Prst newspaper, a tabloid financed by a Bosnian Serb extremist nationalist party. The RS police investigated the case but had not released the results by year's end.

In November the Vienna-based South East Europe Media Organization reported and expressed concern over death threats and intimidating phone calls made to Mubarek Asani, a journalist for BHT 1 television station. The threats appeared in response to Asani's report in early November on the Javna Tajna show, which discussed details of an illegal prostitution ring involving unnamed politicians and other public figures. As a consequence, the Sarajevo Prosecutor's Office opened an investigation of the allegations.

The law prohibits criminal cases against journalists for defamation, although they may be sued in civil court. Courts, however, did not always have sufficient experience and training to accurately interpret this area of law. The print media engaged in self-regulation, although this did not eliminate the possibility of reprisals or charges being brought against journalists for the content of their reports.

From the adoption in 2001 of the Law on Defamation 'until the end of the year, approximately 400 defamation cases have been tried in cantonal and district courts in the Federation and RS; approximately 350 charges were brought in Federation courts. Public figures, particularly politicians, tended to initiate defamation cases, although journalists frequently brought charges against colleagues. Jurisdiction for defamation cases has been in the municipal courts since September 2005. While country-wide data was not available by year's end, the 172 defamation cases filed in the Sarajevo municipal court from September 2005 to date indicated a significant increase.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Rates of Internet usage by the Bosnian population remained very low, with estimates below 20 percent.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events; however, ethnic favoritism and politicization of faculty appointments constrained academic freedom. In Sarajevo, Serbs and Croats complained that members of the Bosniak Party of Democratic Action (SDA) and Bosniaks in general received preferential treatment in appointments and promotions at the University of Sarajevo. The University of Banja Luka continued to limit faculty appointments almost exclusively to Serbs. The University of Mostar remained divided into two separate universities, reflecting the continued ethnic divide in the city.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice. A wide range of social, cultural, and political organizations functioned without interference.

The law allows NGOs to register freely at the Ministry of Civil Affairs and Communications and therefore to operate anywhere in the country; however, some NGOs and NGO associations experienced difficulties registering, including long delays and inconsistent application of the law. Some NGOs, frustrated by bureaucratic delays at the state level, chose instead to register their organizations at the entity level in one or both entities.

*c. Freedom of Religion.*—The law provides for freedom of religion; however, societal violence and the threat of violence restricted the ability of adherents of minority religions in heterogeneous areas to worship as they pleased. On October 16, the Ministry of Human Rights and Refugees issued instructions for implementation of the Law on Religious Freedom, which provides for freedom of religion, ensures legal positions of churches and religious communities, and prohibits any form of discrimination against any religious community. The law also provides the basis for the establishment of relations between the state and religious communities. In practice, respect for religious freedom declined during the year.

Entity and local governments and police forces frequently allowed or encouraged an atmosphere in which abuses of religious freedom could take place. Compared to 2005 attacks on religious objects and religious officials increased significantly during the year, particularly in the campaign months before the national elections, during which nationalist rhetoric employed by certain political parties heightened religious and ethnic tensions in the country. In some cases, however, police and local government officials acted to protect religious freedom by providing security for major religious events and for religious buildings. The reluctance of police and prosecutors to aggressively investigate and prosecute crimes against religious minorities remained a major obstacle to safeguarding the rights of religious minorities.

In the RS, administrative and financial obstacles impeded the rebuilding of religious structures damaged in the 1992–95 war, limiting the ability of minorities to worship and interfering with their return in many areas.

The law requires religious communities to register with the Ministry of Justice; any religious group can register if it has at least 300 adult members who are citizens. Local congregations of the four major religious communities (Muslim, Serbian Orthodox, Jewish, and Catholic) were registered, as were congregations of several smaller Christian denominations, including Baptist, evangelical Christian, and Jehovah's Witnesses.

Religious education is mandatory for Serb children in RS public schools and optional for children in other parts of the country. In practice classes were generally offered only for students of the majority religion in a given area. Authorities sometimes pressured parents to consent to religious instruction for their children. In some cases, children who chose not to attend religion classes were subject to pressure and discrimination from peers and teachers.

*Societal Abuses and Discrimination.*—Ethnically-motivated religious violence was often directed at ethnic symbols, clerics, and religious buildings, particularly in the months surrounding the October 1 national elections. Such acts of violence were reported in several municipalities in the country. Local police generally did not conduct serious investigations into such incidents. For example, in Trebinje municipality in July, unknown perpetrators sprayed gunfire into a Muslim cemetery, damaging several tombstones. In the same month, unknown persons threw an explosive device at the home of a Bosniak returnee in Trebinje. When police concluded that the attacks were the pranks of local youngsters, the local Islamic Community called for the dismissal of the police chief, who they asserted did not perform a full investigation into the matter.

There were a number of acts of violence and vandalism against Islamic religious targets during the year. For example, in March unknown persons destroyed 23 400-year-old tombstones in the graveyard next to the destroyed Arnaudija Mosque in Banja Luka. There were also several reports of anti-Muslim graffiti on the walls of mosques in Trebinje, Banja Luka, and on two mosques under construction in Brcko District. In August unknown assailants detonated an explosive device at the grave of former President Alija Izetbegovic, destroying his tombstone and leaving a large crater at the grave. The Carsijska Mosque in Bosanska Dubica was also the site of several vandalism attacks in September. In October a missile attack destroyed a large portion of the Jasenica Mosque near Mostar; this was the most severe attack since the end of the war. The Jasenica Mosque became a source of controversy when local Croats objected to its reconstruction on the grounds that its new design violated a law that allows reconstruction only in the same style as the original prewar building. City officials ordered removal of the mosque, but the order had not been carried out before the attack.

There was also vandalism against Serbian Orthodox religious targets. In January unknown persons stoned the Serb Orthodox Church and its annex buildings in Puracic, breaking the glass in six different windows. There were also reports of the destruction of a wooden cross in July. In August unknown persons wrote threatening, anti-Serb graffiti on the Serb Orthodox Church in Petrovo. Also in August unknown perpetrators damaged several tombstones and broke a large number of vases at the Orthodox cemetery in Ljubinici and broke windows and damaged the entrance door of the Orthodox Church in Gracanica. In September individuals threw a hand grenade at the door of the Orthodox Church in the Bosniak returnee settlement of Divic.

Catholic religious objects were also the targets of vandalism. In September unknown persons broke the glass on the entrance door to a Catholic Church in the Sarajevo neighborhood of Grbavica. This church was the subject of controversy because the Catholic community had requested a permit to build a new church which local authorities had yet to approve. Also in September in the Orasje neighborhood near Tuzla, persons damaged the metal doors and windows of the cemetery chapel and moved religious statues.

There were a number of controversial cases involving construction of religious objects or monuments. An illegally constructed Serbian Orthodox church remained on the land of a Bosniak returnee in the town of Konjevic Polje in the eastern RS, despite the absence of local Serb residents and the RS Ministry of Urban Planning's 2004 decision that the church should be removed. On September 11, for the second consecutive year, the local Orthodox priest celebrated mass in the church, which was attended by a large number of nationalist antagonists. Local police were present, and there was no violence.

In the Bosniak returnee village of Divic, near Zvornik, a Serbian Orthodox Church remained on the site of the village's destroyed mosque. Although Serbian Orthodox

religious leaders agreed to relocate the church in September, reports in October indicated that they were only willing to relocate the church to an area immediately adjacent to a Muslim cemetery, which angered the Islamic community and stalled relocation negotiations.

In 2004 Federation authorities ordered the removal of crosses that had been illegally constructed on public land in Stolac; however, the removal was delayed pending the outcome of a 2004 lawsuit on the legality of the Federation government's decision. In September the Federation Constitutional Court upheld the constitutionality of the law, and the Federation Ministry of Spatial Planning was able again to launch an initiative for removal of the crosses. While the Federation Ministry of Spatial Planning had the legal authority to undertake such an initiative, the ministry was reluctant to do so out of concern that it would increase inter-ethnic tensions during the election year.

The Jewish community had approximately 1,000 believers and was recognized as one of four established religions in the country.

In May graffiti containing anti-Semitic slogans appeared on a wall in the Sarajevo settlement of Ilidza. The Bosnian Jewish community criticized the act, stressing that such signs gave a negative image of Bosnia. During the year Jewish leaders noted a tendency to mix anti-Israeli sentiment with anti-Semitism, as the general public and the media often failed to distinguish between criticism of Israeli policy and anti-Semitic rhetoric.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, some limits remained in practice.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—The overall return process for persons displaced by the 1991–95 wars slowed during the year, indicating a sharp decrease in returns from years past. According to the Office of the UN High Commissioner on Refugees (UNHCR), between the end of the war in 1995 and year's end, 1,017,433 persons who left the country had returned. Of these, 458,816 were returnees to areas where they were an ethnic minority. The UNHCR registered 5,603 returns through December, of which 4,596 were minority returnees. These numbers continued to decline, particularly for returnees to areas where they would be an ethnic minority. Government officials and some NGOs, however, believed that the total number of returns was inflated, since the UNHCR determines returns based on property restitution rather than physical presence. Some properties, therefore, could have been returned to the original owners without those individuals actually returning to live in the locale.

The difficult economic situation in the country remained the most significant factor inhibiting returns, with many rural areas experiencing official unemployment rates above 40 percent. When jobs were available, minority returnees often complained of discrimination in hiring. In returnee areas throughout the country, the percentage of minorities holding municipal employment was neither representative of current populations, nor legally mandated percentages based on the 1991 census, indicating local government failures to implement and enforce the provisions of the Law on Self Administration. Funds for reconstruction assistance continued to decline, although the Ministry of Human Rights and Refugees continued to implement projects from the joint return fund.

The security situation for returnees improved during the year, although isolated incidents of violence were reported and a hostile atmosphere still existed in many areas. During the year, there was a substantial shift towards attacks against symbols of a minority group as a whole and away from attacks against individuals. Many returnees cited authorities' failure to apprehend war criminals as a disincentive to return. Many displaced persons created permanent lives away from their pre-war homes, and only individuals with few other options (including a large number of elderly pensioners) tended to return.

Other factors inhibiting returns included a lack of access to social benefits including healthcare, education and pension benefits. A lack of available housing and high municipal administration taxes on documents that are necessary for return, such as birth or land certificates, also affected the number of returns. Minority returnees often faced intimidation, discrimination, obstructionism in their access to health care and pension benefits, poor infrastructure, and denial of utility services such as electricity, gas, and telephone by publicly owned utility companies. While problems decreased from previous years, they persisted in hard-line areas. Authorities in some areas of Croat-controlled Herzegovina and some towns in the eastern RS con-



tinued to resist minority returns, obstructing returnees' access to local services, including municipal power and water, education, issuance of important civil documents, and health care.

In the RS, the Ministry for Refugees and Displaced Persons provided support to Bosniaks and Croats returning to the RS and to Bosnian Serbs returning to the Federation. The Federation Ministry for Refugees assisted Croats and Serbs returning to the Federation and Bosniaks returning to the RS. Both entity-level refugee ministries provided limited reconstruction assistance to returnees and also committed part of their budgets toward joint projects to be determined by the State Commission for Refugees. All levels of government budgeted funding for returns, but it was unclear how much of this funding was actually used.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. The Law on Movement and Stay of Aliens and Asylum is undergoing revision to expedite the time between application and final adjudication. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution.

During the year the Government did not grant temporary protection to any persons who may not qualify as refugees under the 1951 Convention and the 1967 Protocol.

The Government generally cooperated with the UNHCR, the International Organization for Migration (IOM), and other humanitarian organizations to assist refugees and asylum seekers. Refugees with pending asylum applications, regardless of national origin, may remain in collective centers until their cases can be decided. As a result of the 1999 conflict in the former Federal Republic of Yugoslavia (FRY), approximately 6,000 persons, half of them from Kosovo, fled the FRY and came to the country. According to UNHCR statistics from June, 521 refugees from Serbia and Montenegro, including refugees from Kosovo, remained in collective centers. An additional 3,098 refugees from Serbia and Montenegro were also living in communities throughout the country. By October the Government had not accepted any of these refugees for local integration or permanent status in the country. During the year the Government extended the "temporarily admitted persons" status to approximately 3,000 Kosovars, a status that neither precludes nor facilitates asylum, residency, or naturalization under the 1951 Convention and the 1967 Protocol.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully; however, the use of coercive tactics by some nationalist parties precluded full citizen participation without intimidation.

*Elections and Political Participation.*—Observers from the Organization for Security and Cooperation Europe (OSCE) concluded that the general elections held during the year had been conducted largely in line with international standards but noted problems, including the inability of numerous voters to find their names on voter registers, voters being directed to incorrect polling stations because of changes in the registration process, group voting, irregularities in the counting process, and a few cases of voter intimidation.

A new passive registration system, linked to the issuance of national identification cards, registered 400,000 new voters prior to the national elections held during the year. Some voters complained, however, that the registration process discriminated against voters who physically live in one location but continue to receive government benefits in another because they could only vote in their place of legal, and not actual, residence.

While political parties did not compel individuals to become members, many viewed membership in the leading party of any given area as the surest way of obtaining, regaining, or keeping pension and health benefits, housing, and jobs in government-owned companies. There were also reports that political parties paid individuals to campaign on their behalf or to run for office to increase the number of representatives present in electoral polling stations.

Individuals and parties representing a wide spectrum of political views could freely declare their candidacies and stand for election. Nationalist rhetoric dominated the pre-election campaign, with Bosniak nationalist politicians calling for the abolition of the RS and Serb politicians threatening to call a referendum in the RS to secede from the state. Nevertheless, opposition parties were not excluded from participation in political life. Membership in large, well-funded parties conferred formal advantages, as nonparty members were often excluded from appointment to many key government positions.

During the pre-election period, the civic movement GROZD produced a 12-point, issue-specific platform and asked all political parties to incorporate these issues into their own political platform. More than 500,000 Bosnians (notable as more than the number of votes any one party received in the 2002 elections) signed a petition in support of the GROZD platform, as did several less powerful political parties.

The election law requires that at least 30 percent of political party candidates be women. At year's end, six of 42 delegates in the BiH House of Representatives were women. Out of 82 delegates in the RS National Assembly, 19 were women. Although national elections took place October 1, the new Federation and State parliamentary assemblies had not been constituted by year's end. In the previous mandate of parliament, there were seven women in the directly elected 42-seat BiH House of Representatives (lower house) and no women in the 15-seat BiH House of Peoples (upper house), whose members were appointed by entity legislatures. There were 23 women in the 98-seat Federation House of Representatives. There was one woman in the nine-member Council of Ministers, but at year's end the new Council of Members had not been established.

There were no members of a minority in either the BiH House of Representatives or the nine-member Council of Ministers. Under the state-level constitution members of the ethnic Serb, Croat, and Bosniak groups must be appointed to government positions on a proportional basis, based on the 1991 census. Separate from those groups, there are 16 recognized national minority groups. While other minorities may hold these offices, they remained underrepresented.

*Government Corruption and Transparency.*—There were reports of official corruption during the year. The country received a score of 2.9 on Transparency International's 10 point index of the degree to which corruption is perceived to exist among a country's politicians and public officials, indicating a perception that the country has a serious corruption problem.

The law bars citizens from holding positions of public responsibility if they have pending criminal indictments against them, but this prohibition was not always observed in practice. For example, the court did not remove or suspend Mato Tadic, charged with accepting bribes in the tax evasion and bribery case involving former BiH Presidency member Dragan Covic, from his position as President of the Constitutional Court while the trial against him was underway. Covic was convicted in November of one count of abuse of office and sentenced to five years in prison.

Although the law provides for citizen access to government records, many government agencies did not comply with the law. For example, some agencies have not yet prepared the required registry of documents that are available and guidelines for access to them. According to the law, the Government must provide an explanation for any denial of access, and citizens may appeal denials in the court system or to the ombudsman's offices. In practice, the Government sometimes failed to provide an explanation for denial of access to information as required by the law; however, if citizens appealed denials to the ombudsmen, the courts, or legal aid, the Government generally provided an explanation. Public awareness of the law remained low.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups and NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. For example, the BiH Helsinki Committee and the Helsinki Committee of the RS continued to actively report on a wide range of human rights abuses. However, government officials were often inefficient and slow to respond to their recommendations.

The Government cooperated fully with international organizations such as the Office of the High Representative (OHR), which has special powers over the Government, as well as other international organizations such as the UNHCR, ICRC, OSCE, and ICMP.

The Constitutional Court handles all human rights cases filed since the beginning of 2004. The Human Rights Commission, which consists of five judges from the Human Rights Chamber in the Constitutional Court, was formed in 2004 to address this backlog. By year's end the commission had issued 2,266 decisions, of which 536 were decisions on the merits of the case. The most common cases included claims for the return of frozen foreign currency accounts, war damages, and claims involving pensions and property rights.

In April the state-level parliament adopted a law establishing a single ombudsman institution composed of three members who will likely represent the country's three constituent peoples (Bosniaks, Serbs, and Croats), although members of national minorities can also be appointed. The multiple ombudsman offices already ex-

isting at the sub-federal level, whose effectiveness had been limited in addressing institutional patterns of discrimination, were to be abolished by December 31. An effective plan for handover of responsibilities from the entity-level ombudsman institutions to the state ombudsman office was not developed, however, and the transfer did not occur by year's end.

Citizens' remedies for human rights violations included filing civil suits or seeking assistance from the ombudsmen. However, the ombudsmen's recommendations were not binding, and the civil court system had major backlogs. The ombudsmen were effective in some individual cases, but were less successful in addressing institutional patterns of discrimination.

The State Court continued during the year to cooperate with the ICTY by, adjudicating cases transferred by the ICTY and proceeding on ICTY-reviewed indictments. During the year, BiH authorities also assisted in the transfer of one ICTY indictee to The Hague. The Federation continued its cooperation with the ICTY and the State Court's War Crimes Chamber. During the year, the Federation prosecutor initiated 34 war crimes cases involving 384 defendants (see section 1.e.).

RS Prime Minister Milorad Dodik's government ended the long-time practice of providing stipends from the RS budget to families of indictees on trial in the ICTY. The level of cooperation between the RS and Serbian law enforcement agencies in eradicating Mladic and Karadzic's cross-border support networks and compelling their eventual capture was unclear. The RS municipalities of Bijeljina, Sokolac, Han Pijesak and Pale remained under sanctions for failing to cooperate with ICTY. In April sanctions were lifted for Foca.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or other social status; however, discrimination against minorities, women, sexual minorities, persons with disabilities, and others was pervasive.

*Women.*—Violence against women, including domestic violence and sexual assault, remained a widespread and underreported problem. According to a 2004 study by the Sarajevo faculty of criminology, 20 percent of female respondents indicated that they were physically abused by their husbands or boyfriends. In 79 percent of these cases, the violence occurred repeatedly. According to general NGO estimates, one out of every three Bosnian women is a victim of domestic violence. Both the Federation and RS have adopted a law on domestic violence that requires police to remove the offender from the family home; however, domestic violence usually was not reported to the authorities. Experts estimate that only one in 10 cases of domestic violence was reported to the police. As of October, the RS domestic violence hotline received 2,657 reports of domestic violence.

Police received specialized training in handling cases of domestic violence and there were four hotlines operating in the Federation and RS that provided assistance and counseling to domestic violence victims. Reluctance on the part of victims to report domestic violence to authorities or to testify against their abusers contributed to lack of prosecutions. There were shelters in Mostar, Tuzla, Banja Luka, Sarajevo and Modrica to assist victims of domestic violence, and local NGOs were trying to build additional facilities. Several NGOs reported an increase in domestic violence reports because of awareness campaigns that informed victims about their rights and encouraged them to make official complaints.

Rape and spousal rape are illegal; the maximum penalty for either crime is 15 years' imprisonment. A sense of shame reportedly prevented some rape victims from complaining to authorities. While police generally responded to reports of sexual assault, they tended not to treat reports of spousal rape with the same seriousness.

Prostitution is illegal. The law treats procuring as a major crime, but prostitution and solicitation are misdemeanors punishable by a fine only. Since police raids on bars and brothels drove it underground, prostitution frequently took place in private apartments or on an outcall basis. Single mothers or other vulnerable women, particularly from economically depressed rural areas, were at higher risk of being recruited for sexual exploitation.

Trafficking in women for purposes of sexual exploitation was a serious problem (see section 5, Trafficking).

The law prohibits sexual harassment, but sexual harassment was a serious problem that was poorly understood by the general population. Many women surveyed by NGOs reported experiencing treatment that constituted sexual harassment in their workplaces. Victims of sexual harassment almost never filed complaints, largely because they did not recognize their experiences as harassment and were not aware of their legal rights and remedies.

The law prohibits gender-based discrimination. Women have equal legal status to men in family law and property law, and were treated equally in practice throughout the judicial system.

The Government's Agency for Gender Equality worked to harmonize legislation with the Law on Gender Equality and inform women of their legal rights. The Federation, the RS, and state-level parliaments had committees for gender equality.

Women served as judges, doctors, and professors, although few women held positions of real economic or political power. A small but increasing number of gender-related discrimination cases were documented. Anecdotal accounts indicated that women and men generally received equal pay for equal work at government-owned enterprises but not always at private businesses. Women in all parts of the country had problems with nonpayment of maternity leave allowances and the unwarranted dismissal of pregnant women and new mothers. Many job announcements openly advertised discriminatory criteria such as age (typically under 35) and physical appearance of female applicants. Women remained underrepresented in law enforcement agencies, although progress continued to be made.

*Children.*—The Governments of both entities were generally committed to the rights and welfare of children; however, social services for children were extremely limited. The Ministry of Human Rights and Refugees had a role in enforcing children's rights. Children with disabilities lacked sufficient medical care and educational opportunities.

Education is free and compulsory through age 15; however, parents were required to pay for textbooks, lunches, and transportation, which some families could not afford, causing some children to drop out of school. A lack of reliable monitoring and statistics on enrollment and drop-out rates hindered efforts to ensure that school-age children received an education. Children with special needs were legally required to attend regular classes, but schools were often unable to accommodate them. Except for Roma, almost all children finished primary school through the ninth grade; the completion rate was lower for secondary school. Boys and girls attended school equally.

According to the BiH Roma Council, less than 35 percent of Romani children attended school regularly. Amnesty International reported during the year that Romani children lacked access to education in BiH. Many Romani children were unable to attend school because of extremely poor living conditions, lack of proper clothing, and the inability or unwillingness of families to pay school-related expenses. Verbal harassment from other students, language problems, and registration costs and requirements also contributed to the exclusion of Roma from schools, despite the desire of many parents to enroll their children. Authorities failed to provide textbooks including topics related to Romani culture and history into the curriculum.

Students in minority areas frequently faced a hostile environment in schools that did not provide an ethnically neutral setting. Obstruction by nationalist politicians and government officials slowed efforts to remove discriminatory material from textbooks, abolish school segregation, and enact other reforms. Cantonal governments in the Federation and the Ministry of Education in the RS pressured school directors at the primary and secondary school level, and several schools were directed by hard-line political figures. For example, on the first day of school at the Sveti Sava primary school in the eastern RS town of Zvornik, school officials organized an Orthodox religious ceremony with an Orthodox priest presiding. More than 100 Bosniak students who attend the school were present with their families at the ceremony. Following the event, the RS Ministry of Education issued a statement indicating that such ceremonies were inappropriate.

Administrative and legal unification of the 52 cases of "two schools under one roof," with separate classes for Bosnian Croats and Bosniaks, did not lead to integrated classrooms, although shared extracurricular activities, school entrances and recreation facilities sometimes resulted. In some areas of the country, notably Vitez in central Bosnia and Prozor-Rama and Stolac in Herzegovina, local officials and parents sought to establish complete physical segregation of Bosniak and Croat students. Segregation and discrimination were entrenched in many schools, particularly in the teaching of national history and religious education. In the RS, non-Serbs made up less than 5 percent of the teaching staff in primary and secondary schools. In the Federation, minority teachers made up between 5 and 8 percent of all teachers, depending on the canton.

Schools throughout the country continued to use textbooks on subjects outside the so-called "national group" of subjects that contained controversial material. For example, textbooks in Bosnian Croat-majority areas refer to Croatia as the homeland of all Croat people, while texts in the RS instill a sense of patriotism towards Serbia.

Medical care for children in the Federation is controlled at the cantonal level, and the level of care varied widely between cantons. In the RS, the law provides that the Ministry of Health furnish free medical care to children up to 15 years of age; in practice, children often did not receive medical care unless they had medical insurance paid for by their parents. Boys and girls had equal access to medical care.

Family violence against children was a problem. Police investigated and prosecuted individual cases of child abuse; there were no statistics available on the extent of the problem, as much of it went unreported. Municipal centers for social work were responsible for protecting children's rights, but often lacked resources and alternative housing for children who ran away from home to escape abuse or who needed to be removed from abusive homes. Some NGOs estimated that one in four families experienced some form of domestic violence, including physical, psychological, or sexual abuse of children.

In certain Romani communities, girls married between the ages of 12 and 14. Apart from efforts to increase Romani participation in education, there were no programs aimed specifically at reducing the incidence of child marriage.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Child begging was common in some Romani communities; infants (with adults) and children as young as four were sent out to beg on street corners, often working 10 or more hours per day in all weather conditions.

According to statistics released during the year by the Ministry of Human Rights and Refugees, 21 percent of displaced persons from the country were children under 18.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, women and children were trafficked for sexual exploitation and children and adults, particularly from the Romani community, were sometimes trafficked for labor. There were reports that police and other officials were involved in trafficking.

The country was a destination, transit point, and, to a greater extent, country of origin for women and girls trafficked for sexual exploitation. An increasing trend of victims being trafficked domestically was also observed during the year. The number of domestic victims increased dramatically and is now about equal to the number of foreign victims, a possible indicator that official efforts to interdict and prevent cross-border trafficking have both increased internal trafficking and helped drive the crime underground to the local level. During the year, Romani children were trafficked to and within the country for forced labor.

The majority of women trafficked to the country came from Serbia, Ukraine, Moldova, Romania, and Russia. While no reliable estimates were available, a significant number may have been trafficked on to Western Europe. According to the IOM, most victims were lured by false job offers, such as advertisements offering work in Italy or Germany as dancers, waitresses, and domestic servants. Some NGOs reported that trafficking victims were increasingly lured into the country by promises of marriage to traffickers or their associates, while others knowingly entered into false marriages to obtain work and residence permits. Most trafficked women entered the country through Serbia and Montenegro. Those who transited the country generally continued on via Croatia. The IOM reported Bosnian victims in other parts of Europe, and local NGOs observed a dramatic increase of Bosnian victims within the country.

There were no reliable estimates on the number of victims trafficked during the year; police raids forced trafficking further underground, increasing the difficulty of estimating the scope of the problem. During the year the Office of the State Antitrafficking Coordinator registered 43 new trafficking victims from within its referral mechanism. During the year the IOM assisted 59 victims, 12 of whom were repatriated; 27 were citizens, while almost half of all victims (28 persons) were minors.

Traffickers came from a variety of backgrounds, including freelance operators and loosely organized local criminal networks. Large international organized crime syndicates were less involved than in previous years.

Victims reported working in conditions akin to slavery, with little or no financial support. In some cases, traffickers paid victims some wages so that they could send money home to their families. Traffickers coerced victims to remain in these situations through intimidation, verbal threats, seizure of passports, withholding of food and medical care, and physical and sexual assault. To keep victims in the country legally, traffickers also made victims apply for asylum since, as asylum seekers, they were entitled to remain in the country until their claims could be adjudicated.

Under the law, trafficking is a state-level crime that carries a sentence of up to 10 years in prison. The Ministry of Security is responsible for coordinating antitrafficking law enforcement at all levels of government, but during the year it

was understaffed and lacked the capacity and the funding to adequately manage antitrafficking activities.

The BiH State Prosecutor's office has exclusive jurisdiction over trafficking cases and can decide which cases to prosecute at the state level and which to send to the entity level. The State Antitrafficking Coordinator, whose mandate includes coordination of victim protection efforts among NGOs, police, and government institutions as well as law enforcement, reported directly to the Ministry of Security. A nationwide interagency investigative task force to combat trafficking, the antitrafficking strike force, was chaired by the chief state prosecutor and included prosecutors, police, and financial investigators and targeted trafficking and illegal migration. There were two major strike force investigations that resulted in indictments during the year.

In February the strike force raided three well-known "night bars" in central Bosnia, resulting in four arrests and the filing of criminal charges against 11 people suspected of involvement in trafficking. In April the State Court sentenced Nermin Cupina from Mostar, the first defendant in a major trafficking case from Herzegovina, to eight years in prison for trafficking. The judge also ordered seizure of Cupina's apartment and payment of compensation, a \$62,500 (93,750 convertible marks) total value believed to have been earned through trafficking during 2002 and 2003. Igor Salcin, the second defendant in the same case, agreed to a plea bargain in February and was convicted to 5° years of imprisonment. Predrag Leventic, the third defendant, was acquitted for lack of evidence.

If screening established that a person was a trafficking victim, authorities did not prosecute that person for immigration or prostitution violations. In most cases, foreign victims were voluntarily repatriated. Persons determined by law enforcement not to be trafficking victims were often deported and occasionally prosecuted for immigration and other violations.

There continued to be reports of police and other official involvement in trafficking, particularly at the local level. Victims' groups alleged that, because of strong local networks, local police often willfully ignored or actively protected consumers or perpetrators of trafficking activity, often accepting bribes in return. To date there have been only a few documented cases of official involvement in trafficking, and no official indictments have been made. In 2004 border police arrested a member of the RS interior ministry's elite special unit near Bijeljina while he was attempting to cross into the country from Serbia with two suspected trafficking victims in his car. Authorities immediately suspended him from duty and opened an investigation. The case was closed during the year due to lack of evidence, and the police officer was reinstated. In 2005 authorities charged a State Border Service officer with abuse of office for placing a false stamp in the passport of a suspected trafficking victim; the case was ongoing at year's end.

During the year authorities continued efforts to combat trafficking by producing an antitrafficking manual for teachers for use in the curriculum of all BiH schools. Authorities also continued their efforts to assist victims by working with local NGOs to support shelters and other services and by conducting extensive training for police, prosecutors, judges, teachers, and social workers.

In 2005 the Government adopted a formal victim referral mechanism and memorandum of understanding with six NGOs that ran shelters for trafficking victims. The local NGO Forum of Solidarity continued to operate the main shelter in Sarajevo and ran one safe house in Dobož where victims received medical care, counseling, repatriation assistance and limited vocational training. Other NGOs operated safe houses in Sarajevo, Banja Luka, Mostar, and Bijeljina. Although police provided protection for the shelters, victims told NGO employees that they did not trust local police and feared that traffickers would pursue them if they left.

During the year NGOs assisted trafficking victims by providing basic shelter and medical, psychological, and legal assistance. The Office of the UN High Commissioner for Human Rights published a manual on legal advocacy and trained local attorneys to assist trafficking victims on a range of criminal and civil issues, including victims' immigration status and legal rights if they chose to testify against their traffickers.

*Persons With Disabilities.*—The law in both entities prohibits discrimination against persons with disabilities; however, there was discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services.

Throughout the country, there was clear discrimination between different categories of persons with disabilities, though the vast majority of persons with disabilities were unemployed. For example, persons with disabilities resulting from service during the 1991–95 wars were given a *de facto* privileged status above the civilian war disabled and persons who were born with disabilities. Children with disabilities

were often hospitalized in residential institutions or confined to their homes, and they rarely had the opportunity to attend school. One NGO estimated that 30 percent of persons with disabilities residing in institutions were capable of independent living if housing and resources were available. Some institutions inappropriately housed mentally ill and developmentally disabled persons together.

In the Federation, the law mandates that all existing public buildings must be retrofitted to provide access to persons with disabilities by November 2007 and that new buildings must also be accessible. However, in practice, buildings rarely were accessible to persons with disabilities. The RS had comparable laws for building access, and progress on retrofitting older public buildings remained slow.

*National/Racial/Ethnic Minorities.*—Ethnic differences remained a powerful force in the country, although mixed communities existed peacefully in a number of areas. Nationalist Bosniak, Serb, and Croat politicians sought to increase the ethnic homogeneity of the population in areas they controlled by discouraging IDPs of their own ethnicity from returning to their prewar homes if they would be in the minority there (see section 2.d.). The RS and Federation governments were both supportive of minority returns, but there was a significant decrease in returns nationwide.

Attacks on ethnic and religious objects increased during the year, particularly in the period immediately before the October national elections (see section 2.c.). Police conducted investigations and sometimes apprehended and charged perpetrators of ethnically motivated hate crimes.

Recreational events were an additional forum for interethnic disputes. In June Bosnian Croats and Bosniaks clashed in Mostar following a World Cup soccer game when Bosniaks were perceived as cheering the defeat of the Croatian team. In August a clash between Bosnian Serbs and Bosniaks at a soccer game resulted in one Bosniak's serious injury in Bratunac. Also in August Bosnian Serb and Bosnian Croat fans watching a soccer game in Ivanica caused a fight, marking the first ethnic clash in the town since the end of the war. Also at a September soccer match in Zvornik between local team Drina and visitors Sarajevo, nationalist antagonists carried signs and chanted disparaging slogans at the visiting team comprising mainly Bosniaks.

Harassment and discrimination against minorities continued throughout the country, often centering on property disputes. These problems included desecration of graves, graffiti, arson, damage to houses of worship, verbal harassment, dismissal from work, threats, and assaults. In September unknown persons broke the glass of a Bosniak returnee's grill stand in downtown Zvornik. The grill's owner indicated that this was the ninth time his business had been attacked since he returned to the area. Members of the Association of Mothers of Srebrenica and Zepa Enclaves who live in returnee areas continued to receive death threats.

Ethnic discrimination in employment and education remained key obstacles to the return of residents (see section 5, Children). Widespread firing of ethnic minorities during and after the war was not reversed in most cases, and members of the ethnic majority in a region often were hired over minorities in places where the minorities had been employed. Amnesty International reported during the year on widespread ethnic discrimination in employment and cited failure on the part of state-level and entity-level officials to prevent such discrimination. Although privatization of large state-owned enterprises was conducted under the supervision of the international community, many smaller enterprises were sold to politically well-connected individuals, usually members of the majority group in their communities. These enterprises generally did not employ minorities. For example, only three of 120 municipality jobs in Foca were filled by returnees. In Zvornik, the town with the greatest percentage of returnees in the eastern RS, only four Bosniaks served in more than 100 positions available at the municipal level.

During the year the UN Committee on the Elimination of Racial Discrimination (CERD) issued observations on the situation in BiH, citing concern over distinctions in the law between "constituent peoples" (Bosniaks, Bosnian Serbs, and Bosnian Croats) and "others" that precluded members of non-constituent groups from fully enjoying the right to vote and stand for office. The CERD also registered concerns over an absence of comprehensive antidiscrimination legislation in the country and the condition of the Romani minority.

The Roma population, estimated at 40,000 to 80,000, faced serious difficulties in exercising the full range of fundamental human rights provided to them under the law. Access to employment, education, and government services was a particular problem. The BiH Helsinki Committee estimated that only 1 percent of the working-age Romani population was employed and indicated that Roma were usually the first to be let go during a reduction in force. Many Roma were also excluded from public life because they lacked birth certificates, identification cards, or a registered residence. Many Roma also could not access health care or register to vote. Only

a small number of adult Roma were officially employed, and Roma were often denied social support; some families sent their children out to beg or relied on other sporadic sources of income. During the year the Roma Council and the Ministry of Human Rights and Refugees worked to develop action plans for the employment, health and housing of Roma, in efforts to fulfill preconditions for eligibility in the “decade of Roma inclusion” initiative in Europe. However, by year’s end the Government had not completed the action plans for housing, health care, and employment, while the implementation of the education action plan had been implemented only partially.

While authorities permitted Romani children to attend schools in all areas of the country, their attendance was often low as the result of pressure from within their own community and from local non-Romani communities discouraging them from attending school (see section 5, Children).

*Other Societal Abuses and Discrimination.*—While the law prohibits discrimination on the basis of sexual orientation, it was not enforced in practice, and there was frequent societal discrimination against gay, lesbian, bisexual, and transgender persons.

The NGO Global Rights reported during the year on the country’s compliance under international and European legal frameworks to uphold the rights of sexual minorities. The report stated that the country did not provide the full range of protection envisaged under these instruments to members of sexual minority communities and that social and cultural stigma contributed to instances of discrimination. The report cited the limited means available for redress against discrimination on the grounds of sexual orientation, as well as a lack of legal provisions directly addressing discrimination based on gender identity or expression.

Sexual minorities who were open about their orientation were frequently fired from their jobs. In some cases, dismissal letters explicitly stated that sexual orientation was the cause of termination, making it extremely difficult for them to find another job. Some gay teens were harassed at school and were kicked out or ran away from home after revealing their orientation to their parents.

Some teachers described homosexuality as deviant behavior when presenting the public school curriculum on health and sexuality to their students.

According to unreliable government statistics, there were less than a hundred cases of HIV/AIDS in the country. There was a significant stigma against persons with HIV/AIDS.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers in both entities (except members of the military) to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. However, the BiH government refused to register an umbrella organization of entity-level unions (formed in mid-2005) at the state level, which effectively blocked the activity of the principal unions above the entity level.

The law prohibits discrimination by employers against union members and organizers; however, protections against retaliation for union activity were not strong and discrimination continued. Practical barriers to employees bringing complaints against employers included high unemployment, a backlogged court system, and the large number of workers in the gray economy.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the right to organize and conduct union activities without interference; however, authorities did not impose sanctions against employers who obstructed union organizing and activity in practice. Some unions reported that employees of private companies were threatened with dismissal if they joined a union.

The right to bargain collectively is provided by law in the RS and in a comprehensive collective bargaining agreement in the Federation. However, collective bargaining in both entities did not involve voluntary direct negotiation between a union and individual employers, but rather work agreements between the Government and workers in the public sector. In the Federation, there were no collective bargaining agreements between private employers and unions. In the RS, the general collective bargaining agreement applied to all workers and was negotiated between unions, the Government, and employers. This general agreement applied to private companies, regardless of whether their workers were union members. There is no law in the Brcko District on collective agreements, and workers there effectively did not have the right to bargain collectively.

The law provides for the right to strike, and workers exercised this right in practice.



There are no special laws or exemptions from regular labor laws in the country's six export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Entity-level labor laws restrict child labor, and the entity governments implemented these laws in practice. The minimum age for employment of children in the Federation and in the RS is 15 years; minors between the ages of 15 to 18 must provide a valid health certificate in order to work. The law prohibits children from performing hazardous labor, such as night work. Although child labor was not generally a problem, children sometimes assisted their families with farm work and odd jobs. Romani children often begged on the streets, particularly in larger cities.

Trafficking in children for sexual exploitation and sometimes for labor was a serious problem (see section 5).

Entity governments are responsible for enforcing child labor laws. Neither entity had inspectors dedicated solely to child labor inspections; rather, violations of child labor laws were investigated as part of a general labor inspection. Both entities' labor inspectorates reported that they have not found significant violations of child labor laws in the workplace, although they did not conduct reviews of children working on family farms.

*e. Acceptable Conditions of Work.*—The monthly minimum wage in the Federation was \$196 (308 convertible marks) and in the RS the "minimum price of work" used as a base for the salary scale of government employees was \$66 (100 convertible marks); however, neither provided a decent standard of living for a worker and family. Many workers had outstanding claims for back payment of salaries and pensions. The law requires employers in both entities to make substantial mandatory contributions to pension and health care funds; as a result, to avoid paying high social welfare benefits, employers often did not officially register their employees, leaving employees without access to public health care.

The legal workweek in both entities is 40 hours; however, seasonal workers may work up to 60 hours per week. The law limits overtime to 10 hours per week in both entities; the Federation has no provision for premium pay, while the RS requires a 30 percent premium. An employee in the RS may volunteer for an additional 10 hours in exceptional circumstances. Federation and RS laws require a minimum rest period of 30 minutes during the work day.

Authorities did not adequately enforce regulations related to acceptable work conditions. While entity labor inspectorates made some effort to enforce registration of employees, they limited most inspections to conditions affecting the officially registered workforce. Since the courts only served as recourse for complaints involving registered workers, the RS labor inspectorate had to submit fines and penalties for court approval; because of court backlogs, this system was not effective, and many workers for practical purposes worked without protections.

The law provides workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment; however, this right was not effectively enforced in practice. Worker's rights extended to all official, i.e. registered workers, including migrant and temporary workers in this status.

## BULGARIA

The Republic of Bulgaria is a parliamentary democracy with a population of approximately 7.5 million. Legislative authority is vested in the unicameral Narodno Sabranie (National Assembly). The country is ruled by a coalition government headed by Prime Minister Sergei Stanishev. Presidential elections held in October were deemed generally free and fair. While civilian authorities generally maintained effective control of law enforcement officers, there were some instances in which law enforcement officers acted independently of government authority.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Among the human rights problems reported were police abuses, including beatings and mistreatment of pretrial detainees, prison inmates, and members of minorities; harsh conditions in prisons and detention facilities; arbitrary arrest and detention; and impunity. There were limitations on freedom of the press; some restrictions of freedom of religion and discrimination against religious minorities; and corruption in the executive and judicial branches of government. Societal violence and discrimination against women, children, and

minority groups, particularly Roma; trafficking in persons; discrimination against persons with disabilities; and child labor also were reported.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, there were reports that police killed one person during the year.

On August 1, police officer Stoyan Pachalov accidentally shot Georgi Bozhanov, who was picking mushrooms nearby. Two officers were target-practicing when one of the bullets ricocheted and hit the victim in the eye. Bozhanov died en route to the hospital. The two officers were court-martialed and fined, and the chief of the regional police department resigned over the incident.

On January 19, the Sofia Military Appellate Court overturned the prosecutor's decision and ordered further investigation in the 2005 death of Angel Dimitrov while in police custody. Prosecutors had initially ruled that police used lawful measures in detaining Dimitrov, who died of severe blows to the head received during his arrest in a nationwide operation against organized crime. The case was pending before the Sofia Military court at year's end.

The Varna regional military prosecutor's inquiry into the April 2005 fatal beating of a 38-year-old homeless man in Varna resulted in an indictment against police officer Dian Vassilev. In November the Varna Military Court sentenced him to 16 years in prison but his appeal was pending before the Military Appellate Court at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, police commonly beat criminal suspects, particularly minorities.

Police often mistreated criminal suspects in police custody, usually during the initial interrogation. Human rights observers charged that police sometimes handled minor offenses by arresting suspects, beating them and releasing them within a 24-hour period so that no judicial involvement was required. Nongovernmental organizations (NGOs) reported receiving complaints of police brutality from Romani victims who were too intimidated to lodge an official complaint with the authorities.

On April 14, 20-year-old Anton Zlatanov was beaten by police officers and detained for 24 hours after he honked at a police tow truck blocking the road. The police interpreted Zlatanov's actions as an act of hooliganism. The military prosecutor's office launched an investigation on possible police abuse, which was ongoing at year's end.

On October 13, police used excessive force when raiding a Romani district in the town of Pazardzhik. Reportedly called to quiet a brawl, the police broke into houses and allegedly beat innocent bystanders. The raid was ordered by the Pazardzhik Chief of Police Emil Ganchev. NGOs reported that doctors, under police pressure, refused to issue medical certificates to the victims. The local government called for the resignation of the chief of police and established a commission to assess the damages. The Ministry of Interior's internal inquiry into the matter found no evidence of excessive force by police and confirmed that police acted within their authority.

The Ministry of Interior's internal inquiry into the May 2005 incident found no abusive behavior on the part of the two police officers in Pernik who reportedly beat Rossen Stoyadinov, a Rom. Stoyadinov was not informed of his rights as a detainee and forced to confess to thefts (see section 1.d.).

Human rights groups claimed that medical examinations in cases of police abuses were not properly documented, that allegations of police abuse were seldom investigated thoroughly, and that offending officers were very rarely punished.

The Sofia military prosecutor's office terminated the investigation into the charges of police brutality stemming from a January 2004 incident in which two Sofia police officers unleashed their dog on Assen Zarev, a Rom, after questioning him about the whereabouts of another person. The officers reportedly beat Zarev and threatened to shoot him. In 2005 the prosecution confirmed the results of an internal Ministry of Interior inquiry which found no abuse of police authority.

In April the Supreme Cassation Court rejected the appeal of two police officers, Vassil Popov and Hristo Chakmakov, who challenged their May 2005 sentence by the Plovdiv Military Court for their role in the March 2004 beating of 22-year-old detainee Boris Daskalov. The court sentenced the two officers to an 18-month suspended sentence each and fined their direct supervisor. In April 2004 the Ministry

of Interior inspectorate confirmed that the police officers had exceeded their powers, and seven police officers received disciplinary sanctions for the incident.

*Prison and Detention Center Conditions.*—Prison conditions generally did not meet international standards, and the Government did not allocate funds to make significant improvements.

Conditions in some prisons remained harsh and included overcrowding, inadequate lavatory facilities, and insufficient heating and ventilation. According to the Ministry of Justice, the average space allotted to each prisoner was two square meters, far below the international standard of up to six square meters (64.6 square feet). The daily food allowance amounted to \$.85 (approximately 1.3 lev) per day.

NGO prison monitors reported that brutality by prison guards against inmates continued to be a problem. There also were reports of brutality among inmates. Prisoners had the right to report substandard conditions or mistreatment to prison authorities; however, NGOs observed that corruption among the authorities continued to plague the system.

Overcrowding remained a problem, although the Ministry of Justice reported a slight decrease in the prison population following the introduction of a probation system. There were 11,165 prisoners in the country's 12 prisons, a figure that the Ministry of Justice estimated exceeded by three times the capacity of the prison system. NGOs received complaints from prisoners about the quality and quantity of food they were served.

Despite some infrastructure improvements, such as installing ventilation systems in 31 detention centers, most prisoners continued to share toilets and had infrequent restroom access. Despite the closure of six detention centers due to poor living conditions, many of the remaining detention centers still operated in basements with little or no access to sunlight.

There were 1,039 detainees in the country's 45 detention centers. The detention facilities operated below capacity, according to data from the Ministry of Justice.

In September 170 foreign prisoners in the Sofia prison went on a hunger strike seeking rights equal to their Bulgarian counterparts. Under the law, prisoners can shorten their prison sentences by working in prison, an opportunity not available to foreigners. The strike ended when prison management promised to look into their requests. The prison administration held meetings with the strikers to explain procedural requirements, including the right of preliminary release from suspended sentence. In November, 20 foreigners were granted early release. During the year the prison administration began renovations on a separate building where it plans to move the foreigners.

The Government generally permitted independent monitoring of prison conditions by independent observers.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, there were reports of infringement of these provisions by police.

*Role of the Police and Security Apparatus.*—The Ministry of Interior is responsible for oversight of internal law enforcement. The new Ministry of Interior Act, which came in force on May 1, demilitarized the institution and changed its structure. The ministry now oversees the activities of the National Security Service, National Fire Safety Service, and the National Police Service, which includes the Chief Directorate for Combating Organized Crime, the Chief Directorate of the Gendarmerie Service, the Chief Directorate of Border Police, and the Chief Directorate of Combating Crime and Protecting Public Order. Public order services, such as the National Intelligence Service and National Bodyguard Service, were directly subordinate to the President and were not subject to adequate judicial, executive, or legislative oversight of their activities or budgets.

A survey by the Center for Study of Democracy (CSD) published in 2005 found that a significant percentage of crimes committed in the country were not reported to the police. Although respondents offered varying reasons for not reporting the crimes, the most cited were the lack of confidence in police competence, dislike of police, and fear of reprisal. During the year the CSD published a survey indicating that one in four individuals stopped by police were not treated professionally and respectfully, with Roma consistently being treated worse than ethnic Bulgarians. Survey participants expressed fear that filing a complaint would earn them further abuse if they encountered the officer again.

The Ministry of Interior reported 451 complaints of police corruption, 179 of which were submitted to its hotline or website during the year. The complaints resulted in 57 officers being fired and 81 officers being administratively censured. During the year 38 officers were referred to the military prosecution service. Ministry of Inte-

rior investigations of criminal acts committed by police resulted in six convictions for extortion in 2004.

Impunity remained a problem; lack of accountability inhibited government attempts to address police abuses. Human rights groups claimed the structure of judicial authority represented a serious obstacle to the accountability of law enforcement officers for alleged human rights abuses. All complaints involving Ministry of Interior and other police forces are required to be heard through the military court system. The Sofia Military Appellate Court is the court of final appeal for cases involving Ministry of Interior personnel. NGOs claimed that this separate court system encouraged a latent bias in favor of police and resulted in halfhearted prosecutions by military prosecutors who were not eager to see their colleagues punished.

Human rights-related training is mandatory at the police academy and officers' schools.

In contrast with 2005, there were no reports that police failed to take action during outbreaks of violence.

*Arrest and Detention.*—While warrants are not always required for arrest, police normally obtained them from a prosecutor prior to apprehending an individual. If the person is released within 24 hours without being charged, no judicial involvement in the case is required. Some human rights groups claimed that police abused this provision by arbitrarily detaining persons, particularly Roma, but releasing them within 24 hours; however, such complaints were much less frequent than in previous years. Persons could be detained for no more than 24 hours at the request of an investigator or police officer; however, detention could last for up to 72 hours without charge if ordered by a prosecutor.

The law provides for bail, and it was widely used.

Although the law provides for access to legal counsel from the time of detention, a study by the Open Society Institute (OSI) showed that lack of timely access to legal counsel remained a problem. Legislation expanding access to legal aid for low-income defendants in criminal cases was adopted in 2005, although OSI's study reported that many police precincts did not have an accurate list of public defenders, thus effectively hindering the program's implementation.

Detainees were generally informed promptly of the charges against them. However, the OSI reported instances in which detainees were not informed of the charges against them or their rights under the law.

In 2005 two police officers in Pernik detained Rossen Stoyadinov, a Rom, for 24 hours after requesting that he accompany them to the police station without informing him of the charges against him (see section 1.c.). The Ministry of Interior's internal inquiry, completed in June 2005, found no abusive behavior on the part of the officers.

Although the Government generally observed the statutory limit of one year for pretrial detention or two years for pretrial detention in cases involving the most serious crimes, there were a few cases of more lengthy detention due to a backlog of cases. In the event of a conviction, time spent in pretrial detention was credited toward the sentence.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the effectiveness of the judiciary was hampered by corruption, inefficiency, and a lack of checks and balances.

Although many serious systemic flaws remained, observers noted modest improvement in the efficiency of moving cases through the criminal system. Long delays in trials were common, and investigators and police continued to struggle with a large backlog of outstanding investigations.

The Center for Liberal Strategies reported that, on average, civil cases lasted 350 days and criminal cases 835 days, with 541 days spent in pretrial proceedings. While the system's efficiency was improving, there were still an absence of convictions on charges of organized crime, corruption, and money laundering.

The court system consists of regional courts, district courts, appellate courts, military courts (on the district and appellate levels), the Supreme Cassation Court, and the Supreme Administrative Court. The Constitutional Court, which is separate from the rest of the judiciary, is empowered to rescind legislation that it considers unconstitutional, settle disputes over the conduct of general elections, and resolve conflicts over the division of powers among the various branches of government. The procedural codes determine which court hears a particular case.

Questions remained about the vast authority of the chief prosecutor's office, the immunity of magistrates, and the structure of the Supreme Judicial Council as factors that crippled the system's efficiency and left the magistrates open to influence.

In January Boris Velchev was appointed chief prosecutor and energetically began a wide-reaching campaign to introduce structural and personnel reforms in the pros-

ecution service. The internal inspection Velchev ordered resulted in three prosecutors' resignations, eight probes for abuse of office, and three requests for dismissal by the Supreme Judicial Council on grounds of undermining the prestige of the judiciary. However, observers believed further reform was needed to establish a fair, impartial, and efficient judicial system.

*Trial Procedures.*—The law stipulates that all courts conduct hearings in public unless proceedings involve safeguarding national secrets or public morals or are against juvenile defendants, and authorities generally respected this provision. Defendants have the right to know the charges against them, to have government-provided legal representation if they are indigent, and to have ample time to prepare a defense. Participation of a defense attorney is mandatory if the alleged crime incurs a punishment of at least 10 years in prison or if the defendant is a juvenile, a foreigner, a person with mental or physical disabilities, or is being tried in absentia. Defendants in criminal proceedings have the right to confront witnesses, to examine evidence, and to present their own witnesses and evidence. The law provides for the right of appeal, which was used widely.

Defendants have the right to be present at trial. Juries are not used, although cases involving more serious crimes are heard at the trial phase by one judge and two assessors or lay judges, who are ordinary citizens chosen to serve as representatives of the public. If a crime entails a punishment of more than 15 years in prison, the panel consists of two judges and three assessors. Verdicts are determined by majority vote of panel members.

Military courts handle cases involving military personnel (including Ministry of Interior personnel) and certain national security matters. As a part of the judiciary, military courts are independent from the military and provide the same rights as the civilian courts. Military prosecutors also investigate allegations of crimes committed by police officers.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The law provides for an independent and impartial judiciary in civil matters, although civil cases are plagued by the same long delays as criminal cases. Allegations of human right abuses can also be filed with the Commission on Protection Against Discrimination, which has the power to impose sanctions on violators. During the year reforms in the burdensome enforcement of judgments went into force that allowed private enforcement agents to collect claims, thus greatly improving the efficiency of collection. From January to July, approximately 20,000 collection cases were filed with private enforcement agents while only 600 were filed with the state enforcement agents.

*Property Restitution.*—While the Government generally respected the right to private property, the Jewish community reported difficulties in recovering some restituted buildings, including a hospital in central Sofia and a former rabbi's house in Varna. In 2002 the courts confirmed that Shalom, a Jewish community organization, was the hospital's rightful owner, but the building has yet to be returned pending completion of renovations on a new building for the hospital. The Varna property was under the control of the Ministry of Defense, which declined to return it for national security reasons, but was working with Shalom on finding comparable compensation. Both cases remained open at year's end (see section 2.c.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these provisions in practice.

In June the Sofia mayor's office came under international criticism for planned demolition of illegal housing in the Vazrazhdane neighborhood, home to over 200 Roma who lacked the proper titles and registration to the land. After receiving letters from four members of the European Parliament on July 29, municipal authorities halted demolition plans and entered into negotiations with the central government and NGOs to resolve the problem. On June 12, the previous year's demolition of illegal housing in the Hristo Botev neighborhood was judged by the Supreme Administrative Court to be legal, paving the way for future demolitions.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. There were reports, however, that journalists were threatened and intimidated by individuals with political interests. NGOs reported that significant numbers of journalists practiced self-censorship due to political influence, pressure from management, and organized crime. Some journalists allegedly accepted payments in

return for positive coverage of politicians, prominent businessmen, and organized crime syndicates.

Individuals criticized the Government freely without reprisal, and the Government did not attempt to impede criticism.

A variety of newspapers were published freely by political parties and other organizations representing the full spectrum of public opinion.

On October 10, leading journalist Ivo Indjev was fired from BTV Television for reporting unverified information on President Parvanov's real estate holdings. Observers alleged that his dismissal was the result of pressure from the President's office. Approximately 15 members of parliament wrote a letter of protest to foreign human rights observers, labeling the incident a violation of freedom of the press.

On April 6, unknown persons detonated a bomb in the apartment of investigative journalist Vasil Ivanov. There were no casualties, but the apartment had extensive damage. Ivanov, who had described wide-ranging abuses in Sofia's main prison prior to the attack, reported receiving death threats several months before the explosion. The Ministry of Interior opened an investigation into the attack, which was ongoing at year's end.

On May 18, unknown perpetrators broke into the offices of leading newspaper Novinar, stealing journalists' research on ties between the country's rich and its political parties. The police had no leads in the case, and the investigation was ongoing at year's end.

The investigation against unknown perpetrators into the 2005 fire in the Vratsa office of national daily newspaper Trud remained open. There were also no developments in the investigations into threats made in 2004 against the newspaper Naroden Glas, the news agency De Facto, or the national daily newspaper 24 Hours.

The change of leadership at the Ministry of Interior in August 2005 ended the practice of Ministry of Interior officials using the media to blame the judiciary for lack of progress in battling crime. In 2004 a group of judges protested the practice in a letter to the Prime Minister. In his response, the Prime Minister reaffirmed the importance of judicial independence and called for a direct dialogue between the branches.

Defamation is punishable under the law. In most cases the courts defined libel and interpreted the law in a manner that favored journalistic expression. Fines for libel ranged from approximately \$1,875 (3,000 leva) to approximately \$6,250 (10,000 leva); fines for slander ranged from approximately \$3,125 (5,000 leva) to \$9,375 (15,000 leva). Although observers noted a slight increase in the number of defamation suits brought against journalists in recent years, only a small number of cases resulted in journalists being fined. The majority of defamation cases were brought against reports about corruption or mismanagement, and the most frequent plaintiffs were government officials or other persons in public positions.

Television and radio provided a variety of news and public interest programming. Although the state-owned media presented opposition views, observers believed that the inadequacy of existing legislation left these media vulnerable to government pressure. Despite this vulnerability, Bulgarian Telegraph Agency (BTA), the state-owned news agency, was generally regarded as unbiased, and the state-owned Bulgarian National Radio (BNR) was often one of the most outspoken critics of the Government and its policies.

In 2005 the CEM noted 106 infringements of the radio and television act: 84 by television operators and 22 by radio operators. The CEM fined 73 of these operators for violations that were considered serious, including disclosure of personal information without the person's consent, airing programs that damage children's physical and mental development, and violating the right of a rebuttal.

In September 2005 the Ruse Regional Court reversed its 2004 decision to sentence Romanian television journalist George Buhnici for having used a microphone and a camera hidden in his glasses to film the illegal cigarette trade at the Bulgarian-Romanian border. In March the prosecution service withdrew its appeal of the court decision, thereby enforcing Buhnici's acquittal.

*Internet Freedom.*—There were no government restrictions on the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including electronic mail. International studies estimated that 28.5 percent of the population regularly used the Internet, although less-developed rural areas did not have the infrastructure to support Internet connections.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally

respected this right in practice. The law requires that groups requesting a permit for gatherings need to give 48 hours notice and that groups requesting a permit for a demonstration need to give five days notice.

During the year the Macedonian activist group, Ilinden, successfully held a public meeting to initiate its registration as a political party. In 2005 the European Court of Human Rights (ECHR) ruled that the country had violated the right of its citizens to peaceful assembly by dispersing Ilinden's demonstrations and preventing the group from holding peaceful meetings from 1998 to 2003. Despite the progress, the group reported difficulties registering as a political party.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. The law prohibits groups that endanger national unity or promote and incite racial, national, ethnic, or religious hatred, violate the rights of citizens, or seek to achieve their objectives through violent means. The Government generally respected the rights of individuals and groups to freely establish their own political parties or other political organizations.

The law prohibits the formation of political parties along religious, ethnic, or racial lines and prohibits citizens' associations from engaging in political activity. In practice this prohibition did not restrict political participation by ethnic minorities. The law requires all electoral campaigning to be conducted in the Bulgarian language. Several political groups complained that this law was arbitrarily applied during the 2005 parliamentary election campaign. In 2005 a new law took effect that obliged all existing parties to reregister by year's end and introduced a 5,000-person membership requirement (see section 3).

The Macedonian activist group Ilinden continued to report difficulties in registering as a political party. The courts refused it legal registration in 2001 on the grounds that it was a separatist group whose statute and program were directed against the unity of the country. In June Ilinden launched a re-registration campaign but was accused in some media reports of paying for signatures in order to reach the 5,000 threshold. Ilinden's appeal of the Sofia City Court's decision, which rejected its registration citing numerous procedural violations, was ongoing at year's end. Group members reported hostile treatment from the authorities, specifically prejudiced statements from the Blagoevgrad mayor and an aggressive campaign by the police, who went door to door to question members on their affiliation with Ilinden.

*c. Freedom of Religion.*—Although the constitution and law provide for freedom of religion, the Government restricted this right to public practice for unregistered religious groups. The law designates the Bulgarian Orthodox Church as the "traditional" religion and the Government provided preferential financial support to it, as well as to several other religious communities perceived as holding historic places in society, including the Muslim, Roman Catholic, and Jewish faiths. The law prohibits the public practice of religion by groups not registered through the court system.

In 2005 the ECHR granted an accelerated hearing to the Alternative Synod, which filed a complaint alleging that in 2004 the Government improperly intervened in an internal church dispute. The case was pending in the ECHR at year's end.

The law requires religious groups to formally register with the Sofia City Court if they wish to operate and be recognized as legal entities or to conduct worship in public. The 2002 Denominations Act gives Sofia City Court responsibility for registering religious groups. To register, groups are required to submit a statement of the denomination's beliefs. The Bulgarian Helsinki Committee (BHC) has expressed concern that this requirement constitutes an infringement on freedom of religion. The law specifically exempts the Bulgarian Orthodox Church from registration.

The Council of Minister's Religious Confessions Directorate provides "expert opinions" on registration matters upon the court's request. Only once, for the 2003 application of the Ahmadi Muslim Organization of the Muslim Ahmadi Community, has the directorate issued an advisory opinion that resulted in the rejection of registration for a denomination. After losing a two-year battle for registration as a religious group in 2004, Ahmadis resorted to registering as a local NGO in Blagoevgrad. In November the Religious Directorate took the group to court for carrying out religious activities without proper registration. The court case was ongoing at year's end. From January to August, 85 new religious groups were registered with the court.

Although the law does not require local formal registration, some local branches of nationally-registered denominations experienced problems with local authorities who insisted that the branches be registered locally. The registration provisions of the 2002 act did not provide the criteria which gives the Court a basis for registra-

tion, or the grounds for denying it. Furthermore, the act does not provide recourse for groups denied registration or state what the consequences are for failure to register.

Religious groups continued to report difficulties with gaining long-term status and ability to proselytize, although much less frequently than in previous years. Foreign missionaries reported difficulties adjusting their visa status to long-term residence, but this was more the result of the country's visa regime than a policy of discrimination on the part of the Government. The Law on Foreign Persons had no visa category for missionaries or religious workers. Jehovah's Witnesses reported incidents where local authorities prevented them from distributing leaflets and impeded their ability to proselytize.

The leadership of the Muslim community continued to be disputed in the courts. In 2005 the Sofia City Court attempted to settle the two-year dispute by formally registering Mustafa Alish Hadji as chief mufti. Rival Islamic leader Nedim Gendzhev filed an appeal, and in December 2005 the Sofia appellate court ordered Gendzhev's registration as the Muslim community's leader. Alish Hadji appealed, and the case remained unresolved at year's end. Many observers criticized the court procedures as opaque and politically influenced.

In August the Commission for Protection Against Discrimination (CPD) decided that school uniform requirements did not discriminate against female Muslim students. An NGO filed the complaint stating that the policy effectively banned headscarves.

The Jewish community, the Muslim community, the Catholic Church, and some Protestant denominations claimed that a number of their properties confiscated under the Communist government had not been returned. The Catholic Church reported that only 60 percent of its confiscated properties had been restituted. A central problem facing claimant groups was the need to demonstrate that they were the same organization or the legitimate successor of the organization that owned the property prior to 1944. This was difficult because Communist hostility to religion led some groups to hide assets or ownership and because documents had been destroyed or lost over the intervening years.

The Government formed a special commission to review outstanding claims of the Jewish community for restitution of properties confiscated by the Communist regime. The commission's report, presented to the Prime Minister in October, found that the community had valid claims to several properties and recommended the Government either return them to the community or find comparable properties as compensation. The commission chose not to review the controversial 2005 court decision on the Rila Hotel, which held that the expropriation procedure was properly executed by the Communist government and that the community was not legally entitled to any further compensation. At year's end the Jewish community was still working with the Government to implement the recommendations.

*Societal Abuses and Discrimination.*—Discrimination, harassment, and general public intolerance of nontraditional religious groups remained an occasional problem. Human rights groups reported that societal discrimination against nontraditional religious groups gradually lessened over the last few years.

The country's small Jewish community and the Muslim community became targets of the extremist political party Ataka, which employed racist and discriminatory rhetoric during the 2005 parliamentary campaign and the 2006 Presidential campaign. Both the newspaper launched by Ataka in October and the group's Web site, as well as its cable television mouth-piece Skat, contained strong anti-Semitic and anti-Muslim material.

According to Shalom, a Jewish organization, anti-Semitism was not wide-spread. The country's small Jewish community has traditionally enjoyed long standing tolerance and is a respected minority. Ataka's discriminatory rhetoric increased anti-Semitic statements in the media in 2005, but has had limited impact on the overall tradition of tolerance.

The law protects freedom of religion and prohibits discrimination. In an effort to promote inter-faith and inter-ethnic education, the Government supported programs that taught classes on religion and the history of minorities in at schools. Two watchdog institutions, the Office of the Ombudsman and the Commission to Protect Against Discrimination, were responsible for hearing and acting on complaints of discrimination.

On July 25, unknown persons set fire to a mosque in the town of Kazanlyk, damaging a small part of the officially-designated cultural monument. The parliament criticized the attempted arson, noting that such violations of religious tolerance were atypical for the society. The investigation into the crime was ongoing at the year's end.



The investigation into the 2005 desecration of over 100 Turkish graves in Haskovo by three teenagers was ongoing at year's end.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it in practice.

*Internally Displaced Persons (IDPs).*—The Government continued to work with NGOs to provide assistance to people displaced by 2005 summer floods. Over 5,000 persons were displaced when their homes were destroyed or rendered uninhabitable. While many were able to return, some continued to live in temporary housing while media allegations mounted that local officials misused and misappropriated relief funds.

*Protection of Refugees.*—The constitution and law provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. The Government provided some protection against refoulement, the return of persons to a country where they feared persecution; however, the UN High Commissioner for Refugees (UNHCR) and NGOs, including the BHC, expressed concern over the Government's handling of claims for refugee and asylum status and reported that there may have been cases in which possible bona fide refugees were turned away at the border. The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The law requires that persons seeking refugee status request and file an application within 72 hours after entering the country legally.

The Government also provided temporary protection to persons who may not qualify as refugees under the 1951 Convention and 1967 Protocol. This protection, known under Bulgarian law as "humanitarian status," was provided to 82 persons before December 1.

The UNHCR, in cooperation with the International Organization for Migration (IOM), operated three transit centers near the Greek, Turkish, and Romanian borders to interview refugee applicants and assisted the Government with a small reception center in Banya.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—On October 22, national Presidential elections were held. The incumbent President, Georgi Parvanov, won a landslide victory against Volen Siderov, leader of the ultra-nationalist Ataka party. The elections were widely deemed free and fair.

The law prohibits the formation of political parties along religious, ethnic, or racial lines and prohibits citizens' associations from engaging in political activity. In practice, this prohibition did not restrict political participation by ethnic minorities, and political parties representing minority groups were active on the local and national level. The law requires all electoral campaigning to be conducted in the Bulgarian language. Several political groups complained that this law was arbitrarily applied during the 2005 parliamentary election campaign.

In 2005 a law took effect obliging all existing parties to reregister by year's end and introducing a 5,000-person membership requirement (see section 2.b.).

There were 51 women in the 240-seat National Assembly. A number of women held elective and appointive office at high levels in the Government, including one deputy prime minister and two ministers. Women held key positions in the National Assembly, including one deputy speaker and the chair of one of the 24 standing committees. The leader of one of the seven parliamentary groups was a woman.

There were 31 members of minorities in the 240-seat National Assembly, of whom 28 were ethnic Turkish, one was Romani, and two were ethnic Armenian. There were three ethnic Turkish ministers in the cabinet and one Romani deputy minister. While the ethnic Turkish minority was well-represented, Roma were under-represented, particularly in appointed leadership positions. Pomaks (Slavic Bulgarians who are Muslims) held elected positions at the local level.

In the 2003 local elections, 3 percent of municipal councilors elected were Romani, and advocacy groups reported that a considerable number of Romani mayors also

were elected. The National Association of Municipalities reported that Muslim candidates accounted for 12.5 percent of municipal mayors and 15.2 percent of municipal councilors elected in 2003.

*Government Corruption and Transparency.*—Government corruption was a problem. During the year, the country received a score of 4.0 on Transparency International's 10 point composite index of the degree to which corruption is perceived to exist among a country's politicians and public officials, indicating a perception that the country had a serious corruption problem. While high-profile firings and investigations somewhat improved the Government's image, widespread concern over government corruption remained.

The European Commission's September monitoring report noted that the Government had strengthened the legal framework necessary to battle corruption but that it needed to do more to erase high-level corruption. In particular, the commission called for more indictments, trials, and convictions of the guilty. The report also noted the lack of significant government progress in battling organized crime and money-laundering.

During the year the Government undertook efforts to combat corruption. The interministerial anticorruption commission was responsible for coordinating government efforts to fight public sector corruption and engaging in public awareness campaigns; however, representatives of the business community criticized the commission as ineffectual. In June the commission reported that a total of 248 civil servants had been punished for corruption and 102 of them were dismissed.

During the year the Ministry of Interior and the chief prosecutor's office launched extensive anticorruption campaigns. Several high-placed government officials, including the heads of the state reserve and fire protection, the chief of Sofia traffic police, and the head of the Sofia heating utility, were under investigation for misuse of government funds. Numerous mid-level officials in customs, the police, and the prosecutor's office were fired or sanctioned for abuse of position. Up to September the Ministry of Interior's corruption hotline received more than 3,000 tips.

The law provides for public access to government information; however, in practice the Government often restricted such access. In 2005 the NGO Access to Information Program reported approximately 350 cases in which government institutions denied access to information. During the year the Supreme Administrative Court reviewed more than 40 appeals of denials.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Human rights observers reported uneven levels of cooperation from various national and local government officials during the year.

In 2005 after a one-year delay and two failed attempts, the National Assembly appointed the country's first national ombudsman. By law the ombudsman receives and reviews complaints filed by individuals of rights or freedoms abridged by government institutions. The ombudsman can request information from state authorities, act as an intermediary in resolving disputes, make proposals for terminating existing practices, and refer information to the prosecution service. Since January the office received over 2,000 complaints on violations of citizens' rights and freedoms by the administration. Only a small part of them fell within the office's jurisdiction.

The nine-member antidiscrimination commission began its work during the year. The commission has the power to receive and investigate complaints, issue rulings, and impose sanctions on violators. During the year the commission reviewed approximately 400 cases, the majority of which dealt with discrimination on the basis of ethnicity or disability.

The ECHR passed 38 sentences against the country during the year, compared to 20 in 2005. In 2005 the Government paid over \$144,100 (218,675 leva) in compensation for damages suffered as a result of the Government's denial of fair trial, an unreasonably slow judicial process, inadequate prison conditions, maltreatment of detainees or prisoners, and other restrictions of liberty.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination on the grounds of race, gender, disability, social status, and sexual orientation; however, the law does not prohibit discrimination on the basis of language. Societal discrimination continued to occur, particularly against women, practitioners of nontraditional religions, sexual minorities, and ethnic minorities such as the Roma.

The Government took steps during the year to implement administrative provisions of the 2004 antidiscrimination law, but progress was slow. A number of potentially groundbreaking court rulings against discrimination were issued under the new law, but questions remained about implementation and the outcome of possible appeals.

*Women.*—Domestic violence was a serious problem, according to NGOs. Although there were no precise statistics on its occurrence, police believed that one of every four women had been a victim of domestic violence. Courts and prosecutors tended to view domestic abuse as a family matter rather than a criminal act. As a result, police often were reluctant to intervene in cases of domestic abuse, even if a woman sought police protection or assistance.

The law defines domestic violence as any act or attempt of physical, psychological, or sexual violence against members of one's family or between cohabitating persons. It empowers the court to deal with offenders by imposing fines, issuing restraining or eviction orders, or requiring special counseling. However, according to NGO observers, only one-third of the cases heard under the law resulted in restrictive measures against the offender.

The Government did not provide shelter or counseling for women, although in October the cabinet voted to provide approximately \$180,000 (270,000 leva) to establish shelters for domestic violence victims. In 2005 the Bulgarian Gender Research Foundation reported having trained over 300 police officers and judges on the provisions of the domestic violence law.

Police and social workers actively referred victims of domestic violence to NGO-run shelters. The country had 15 crisis centers to provide victim assistance and short-term shelter. The NGO Animus Association Foundation (AAF) operated a 24-hour hotline for women in crisis, including victims of trafficking, providing them with access to professional therapists and assisting them in obtaining medical exams and treatment, identity documents, and information on housing and employment opportunities.

The law criminalizes rape, which was underreported due to the stigma that society attached to the victim. Spousal rape, although not specifically addressed in the law, can be prosecuted under the general rape statute; it was rarely prosecuted in practice. Sentences for rape range between two and eight years in prison, and between three and 10 years in prison if the victim is a descendent relative. In cases where rape results in serious bodily injury or suicide of the victim, sentences range between 10 and 20 years' imprisonment. The Government generally enforced laws against rape, and sentences tended to conform to statutory guidelines. According to NGOs, the social taboo experienced by rape victims discouraged them from reporting the crime and was a far more serious obstacle to prosecution than police reluctance to investigate.

Prostitution is legal and was commonly practiced; however, a variety of activities associated with prostitution, such as pimping, are illegal. Forced prostitution is illegal and remained a serious problem. Poor socioeconomic conditions contributed to a disproportionately higher number of Romani women engaged in organized prostitution.

Trafficking in women was a serious problem (see section 5, Trafficking).

Sexual harassment is prohibited under the antidiscrimination law, which also outlines the process for redress. However, sexual harassment remained a widespread problem, and the Government did not effectively enforce the law.

The Antidiscrimination Committee reported an increasing number of sexual harassment cases, approximately 5 percent of all complaints. In January the court heard the first sexual harassment case under the antidiscrimination act. The plaintiff, an actress, brought suit against her director, alleging that she was fired because she refused his sexual advances. The case was ongoing at year's end.

During the year the Sliven military court reviewed another sexual harassment case against Colonel Alexander Petkov for sexually harassing five female soldiers in his brigade. The colonel was dismissed following the allegations, and the case was ongoing at year's end.

In 2005 the former chief of the Plovdiv sanitary control inspectorate was charged with coercion, which is punishable by up to six years' imprisonment, for allegedly threatening to dismiss two of his female subordinates for declining his sexual advances. In February the court ruled in favor of the plaintiff and fined the defendant. The decision was being appealed at year's end.

Under the law women enjoy the same rights as men, including under family and property law, and in the judicial system; however, women faced some discrimination in terms of job recruitment. In 2004 a national council on equality between women and men, headed by the minister of labor and social policy, was established under the Council of Ministers to ensure that the rights of women were being protected.

Primarily a consultative body, the council is charged with promoting cooperation and coordination among NGOs and government agencies. In November the Government adopted a national plan for equal treatment of men and women, which the council had developed over the course of the year.

Women experienced some economic discrimination. According to the NGO Bulgaria Gender Research Foundation, women's salaries in 2005 were 28 percent lower than men's.

The Ministry of Labor and Social Policy operated a number of programs to address economic discrimination and integrate women into the mainstream of society and the economy. In August the National Assembly adopted legislation stipulating that in hiring for government positions, all other factors being equal, the candidate of the minority gender should get preferential consideration.

*Children.*—The Government generally was committed to protecting children's welfare; however, government efforts in education and health were constrained by serious budgetary limitations and by outmoded social care structures.

The law provides for compulsory public education until the age of 16; however, the Government did not effectively enforce attendance requirements. Although public education is free through the 12th grade, children were required to pay for books, which was a problem for poor families.

The UN Children's Fund (UNICEF) reported that net school attendance from 2000 to 2005 was approximately 95 percent. Most students completed some secondary school. According to a 2006 study, 76 percent of students completed high school. The study reported that children primarily left school due to low household income, parental lack of interest, lack of motivation, or immigration. The number of school dropouts was highest in the regions with a large Romani population.

Romani children generally received an inferior quality of education. Romani children generally attended separate schools from ethnic Bulgarian children, partly due to a legacy of segregation and official discrimination. Government figures for 2006 indicated that 30 percent of Romani students attended completely segregated schools. Nearly 10 percent of Roma had never attended school, and less than 1 percent had a university degree.

In 2005 a Sofia court found the city guilty of discrimination for failing to provide equal educational opportunities to Romani children, many of whom attended Sofia's three ethnically segregated Roma schools. The Government's appeal of the ruling was pending at year's end.

Conditions for children in state institutions were poor. Social prejudice against children with disabilities led families to institutionalize these children. The provisions of a 2003 national action plan on children in institutions have led to an annual decline in the number of child wards. According to the State Agency for Child Protection, 9,590 children were housed in institutions, down from 9,776 in 2005. Human rights monitors sharply criticized the serious deficiencies in government-run institutions, including orphanages, educational reform boarding schools, facilities for children with mental disabilities, and shelters for homeless children. Inadequate budgets, poorly trained or unqualified staff, and insufficient oversight plagued these facilities. Standards of hygiene and access to medical care were poor.

In October police broke up a prostitution ring involving children from the Berkovitsa orphanage. The orphanage teenagers reportedly worked for the arrested ringleader in their time off from school. The police blamed the lack of proper oversight at the institution for the incident. The case was under investigation at year's end.

In October a nine-year-old girl died of complications from eating garbage after being left unattended. An investigation into negligence on the part of the institution was ongoing at year's end.

In 2005 a five-year-old blind child died from hot water burns sustained while left unattended in the bathroom of an institution for children with disabilities in Dobromirici. A police investigation into staff negligence was ongoing at year's end.

According to NGOs, living conditions in reform boarding schools run by the Ministry of Education and Science remained poor, offering few medical, educational, or social services (see section 1.e.). At most of these institutions, the Government failed to provide for residents' needs for food, clothing, and instructional materials. Mixed-age classes and low levels of staff motivation considerably impaired the teaching process. However, due process procedures for juveniles in these institutions improved.

Violence against children was a problem. The National Statistical Institute reported 824 cases of child abuse in 2005, a 3 percent decrease since 2004. The Government removed children from abusive homes and prosecuted abusive parents.

Although no official statistics were available, the State Agency for Child Protection reported that child marriage was relatively uncommon nationwide but preva-

lent in the Romani community. The agency also voiced its concern that arranged marriages, a traditional aspect of Romani culture, were resulting in trafficking in persons.

The Ministry of Interior identified 255 children as “at risk” of being forced into prostitution between January and October, compared to 398 in 2005. Child prostitution reportedly was particularly common among Romani girls; there were no known cases of boys engaged in prostitution.

Trafficking in children was a problem (see section 5, Trafficking).

Widespread poverty led many Romani children to turn to begging, prostitution, and petty crime on the streets. There were reports of child smuggling rings paying Romani women for babies that were later sold to couples in Western and Southern Europe, particularly Greece. Over the past three years, the authorities have pressed charges against 33 people for forcing pregnant women to sell their children abroad. The trafficking of pregnant women remained an elusive problem because the women were free to travel abroad and could not be stopped by border police. An amendment to the Criminal Code, which went into effect in October, criminalizes the sale of unborn children.

In December 2004 the State Agency for Child Protection reported that 625 children were known to be either living or working on the streets. The children were primarily involved in begging, prostitution, or car window washing and approximately 400 of these children were believed to be exploited for labor by adults. The National Statistical Institute reported a 68 percent increase from 2003 to 2004 in the number of children registered by police for vagrancy and begging. The Chief Directorate for Combating Organized Crime reported a growing number of children being sent as beggars and pick-pockets to Western countries, such as Austria; in one example, 600 Bulgarian children were apprehended in Vienna between January and March and repatriated. The children were placed in homes for juvenile delinquents upon return to the country.

As part of the national strategy for street children, the State Agency for Child Protection continued placing street children in protective custody. Between January and October, the Ministry of Interior placed 301 children involved in begging and vagrancy in five special shelters for street children; in 2005, 274 such children were sent to these shelters. The shelters were intended to serve more as immediate protective resources than facilities for long-term or intermediate care. They provided food, bathing facilities, and basic medical care, but children were usually not kept for more than 24 hours unless remanded to protective custody by the special order of a prosecutor.

Child labor was a problem (see section 6.d.).

*Trafficking in Persons.*—The constitution and law prohibit trafficking in persons; however, trafficking was a serious problem. The country remained primarily a point of transit and, to a lesser extent, of origin and destination, with most victims trafficked for the purpose of sexual exploitation. Police reported an upward trend in the number of persons being trafficked from the country. A number of individual law enforcement officers and other government authorities were reportedly involved in trafficking.

The Chief Directorate for Combating Organized Crime and the IOM reported that victims came from within the country, as well as from Romania, Moldova, Russia, Ukraine, and the countries of central Asia. The destinations of victims trafficked from and through the country were Greece, Turkey, the Czech Republic, Poland, Macedonia, Kosovo, and countries in Western Europe. Victims overwhelmingly were women and girls trafficked for the purposes of sexual exploitation. Young women between the ages of 16 and 24, with less education, and with problematic family relations were most vulnerable to being trafficked, according to NGO and government sources. Minorities, particularly Roma, and prostitutes also were at particular risk. The IOM reported that 34 percent of the victims it assisted in 2004 were Roma. According to the IOM and AAF, there also were cases of trafficking in male children.

The IOM reported that it identified and assisted approximately 100 victims of trafficking per year. The actual number of victims may have been much higher. Police reported dismantling at least 16 trafficking rings and arresting 175 alleged traffickers during the first nine months of the year. Of the dismantled rings, 12 were trafficking women for sexual exploitation, one trafficked pregnant women, two engaged in trafficking for labor exploitation, and one trafficked persons for begging and petty theft.

The punishment for trafficking in persons includes prison terms of one to eight years and fines up to approximately \$5,000 (8,000 leva). Aggravated circumstances increase the penalties to up to 15 years in prison and fines of up to approximately \$12,500 (20,000 leva), and the court may confiscate the trafficker’s assets. A variety of additional laws may be used to prosecute persons for activities often associated

with trafficking, such as inducement to prostitution. Law enforcement officers complained that because the minimum penalty for trafficking is less than five years' imprisonment, the law does not permit them to fight trafficking with special investigative techniques, such as wiretapping.

Two police units, one within the National Border Police and the other within the Chief Directorate for Combating Organized Crime, specifically addressed the problem of trafficking. The Government participated in multinational anti-trafficking activities, particularly within the Southeast Europe Cooperation Initiative. In 2005 the National Assembly adopted an amendment permitting the extradition of citizens for crimes committed abroad, including trafficking.

Some law enforcement officers and other government authorities, including local authorities and customs officials, allegedly facilitated trafficking, although there was no evidence of a pattern of official complicity. Officials often accepted bribes to ignore trafficking, although some officers may have been more involved. Those involved in facilitating trafficking overwhelmingly were low-level, low-paid officials in the rural and border regions.

As of year's end, the National Antitrafficking Commission, the primary coordination and policy-making body for trafficking issues, had not met regularly, appointed a functioning secretariat, or established the regional antitrafficking commissions foreseen by the national strategy. The Government also had not implemented witness protection legislation adopted in 2004.

In association with NGOs, the Government conducted trafficking awareness programs for law enforcement personnel and consular officers posted to Bulgarian embassies. NGOs reported excellent working relationships with law enforcement in identifying and assisting trafficking victims. The IOM continued a trafficking awareness campaign begun in 2000, which has developed several regional networks of police, prosecutors, and concerned NGOs to raise awareness of trafficking. The program included a referral mechanism to provide protection and assistance to returning victims. The IOM operated several local shelters and safe houses where it provided free housing, protection, and reintegration assistance to victims, including those willing to testify in the prosecution of traffickers. The Government supported information campaigns organized by local and international NGOs. During the year the IOM reported sheltering approximately 100 women and girls, and the AAF sheltered more than 50 women.

During the year the Government opened one shelter for child victims of violence and trafficking.

The AAF operated a 24-hour hotline for women in crisis that received 109 calls regarding trafficking of women and children, down from 142 in 2005.

*Persons With Disabilities.*—Although the constitution and law prohibit discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, the Government did not effectively enforce these provisions in practice. Societal discrimination against persons with disabilities persisted.

The law requires improved access to buildings for persons with disabilities, and public works projects have taken this into account; however, enforcement of this law lagged in existing, unrenovated buildings. According to the Psychological Center for Research, an advocacy group for rights of people with disabilities, only 3 percent of the country's municipalities have fully complied with the legal requirements for accessibility.

Conditions in institutions for persons with disabilities were poor. NGOs reported that staffing problems, particularly on night shifts in institutions for adults, posed a significant risk to residents, who complained of mistreatment and theft by staff.

In June 2005 24-year-old Ivailo Vakarelski was found beaten and strangled to death in the state psychiatric hospital in Karlukovo. By the end of 2005, hospital authorities had reportedly neither conducted an internal investigation nor performed a post mortem examination, which is generally mandatory in such cases. In December the regional prosecutor's investigation into the incident was terminated due to lack of evidence.

Laws exist to promote the hiring and employment of persons with disabilities; however, the Government's enforcement of these provisions was poor, and some provisions resulted in employer discrimination against persons with disabilities in the hiring process. An overwhelming majority of persons with disabilities were unemployed.

Persons with mental and physical disabilities, including very young children, often were segregated from the rest of society; the segregation of children with disabilities into special schools lowered the quality of their education. The Ministry of Labor and Social Policy (MLSP) operated 26 institutions for children and youth with disabilities. An MLSP study during the year reported that the facilities and admin-

istration of 25 of the institutions had to be reformed or restructured, with one recommendation for closing. NGOs complained that conditions in these institutions were poor, despite slight improvements during the year.

*National/Racial/Ethnic Minorities.*—Societal discrimination against Roma and other minority groups remained the same as in 2005, occasionally resulting in incidents of violence between members of the ethnic Bulgarian majority and the ethnic Romani minority.

Although the Roma were officially estimated to make up 4.6 percent of the population, their actual share was more likely between 6 and 7 percent. According to a 2002 Council of Europe report, there were 600,000 to 800,000 Roma in the country. According to a 2001 census, ethnic Turks made up 9 percent of the population. Ethnic Bulgarian Muslims, often termed Pomaks, are a distinct group of Slavic descent, whose ancestors converted from Orthodox Christianity to Islam; they constituted 2 to 3 percent of the population.

There were reports that police harassed, physically abused, and arbitrarily arrested Roma, although no fatal attacks were reported during the year (see section 1.d.). The Government made little progress in resolving cases of police violence against Roma. Human rights groups complained that magistrates sometimes failed to pursue crimes committed against minorities.

Ethnic prejudices against and negative stereotypes of Roma continue to play a significant role in society. According to a study by the Center for Liberal Studies, 86 percent of ethnic Bulgarians viewed Roma as irresponsible and lazy, 87 percent believed Roma were inclined to criminal acts, and 63 percent believed Roma should live separately from others.

In September a Bulgarian observer to the European Parliament, Dimitar Stoyanov, sparked an international controversy when he made racist and sexist remarks against a Hungarian member of the European Parliament of Roma origins, Livia Jaroka. Stoyanov, an Ataka party member, protested Jaroka's nomination as parliamentarian of the year in an e-mail sent to all European Parliament members, stating that "there are tens of thousands of gypsy girls way more beautiful than this—and the best of them are very expensive." His statement was unanimously criticized by the Bulgarian parliament; however, because of a legal technicality, the parliament could not recall Stoyanov without recalling all Bulgarian observers.

In October Minister of Health Radoslav Gaidarski told journalists that he would initiate a law to ban underage motherhood. His statement was widely taken as a proposal to limit births among Roma girls and invoked sharp criticism from NGOs and several members of parliament. Gaydarski attempted to withdraw his comment later, saying that it was taken out of context and that there was no need for such a law at the moment.

At year's end authorities continued the investigation into the highly publicized death of Stanimir Kaloyanov, an ethnic Bulgarian who died of head injuries sustained during a race-related brawl in Sofia in May 2005. Three ethnic Romani suspects were arrested immediately following the incident and were released without charge.

There were no developments relating to cases of skinhead violence against Romani residents of Sofia in 2004.

There were no developments in the April 2004 case in which two men reportedly brutally beat Georgi Angelov, a Rom, and cut off his ear with a razor blade. Human rights groups reported that the police failed to effectively investigate this and similar incidents.

Many Roma and other observers made credible allegations that the quality of education offered to Romani children was inferior to that afforded most other students (see section 5, Children).

The unemployment rate among Roma was nearly 65 percent, reaching up to 80 percent in some regions. Approximately 10 percent of Roma graduated from high school and only 1 percent had a university degree. Severe unemployment and poverty among Roma, combined with generally unfavorable attitudes toward Roma among ethnic Bulgarians and Turks, contributed to strained relations between Roma and the rest of society. Workplace discrimination against minorities, especially the Roma, continued to be a problem.

Many Roma lived in substandard housing and lacked legal registration for their places of residences. This situation rendered them particularly vulnerable in June, when Sofia city officials ordered the demolition of the houses of 16 Romani families lacking legal deeds in the Vazhrazhdane district of Sofia. The demolition was halted when local NGOs and the international community publicly criticized the mayor's office. The previous year, approximately 150 Roma were left homeless when the Government destroyed their illegal houses in the Hristo Botev neighborhood.

Roma were disproportionately affected by the 2005 summer floods that destroyed vital infrastructure and displaced more than 5,000 persons (see section 2.d.). Observers attributed the greater vulnerability of Roma to preexisting economic hardship and harsh living conditions.

With the support of the European Bank for Reconstruction and Development, the Government attempted to provide housing for Romani families displaced in 2001 by the construction of new apartment blocks in Sofia and Plovdiv. However, NGOs reported that only 80 Romani families had been resettled in Sofia. In Plovdiv, 80 percent of the allocated funds were used to build 30 percent of the planned housing, causing local officials to allege corruption in the central government and prompting the international donors to withdraw from the project.

NGOs reported that Roma encountered difficulties applying for social benefits, and local officials discouraged rural Roma from claiming land to which they were entitled under the law disbanding agricultural collectives. Many Roma suffered from inadequate access to health care.

During the year Romani rights organizations successfully used the 2003 anti-discrimination act to win several cases in court. In June the Plovdiv Appeals Court ruled against a local discotheque for denying entrance to Kiril Mitkov in 2004. The court ruled that the business practiced direct discrimination when it refused to let Mitkov enter because “no Roma were allowed.” In another 2006 case, the Sofia city court held employers directly responsible for the discriminatory behavior of their employees. In the case, the court found that a company became liable when its employee advised Angel Assenov not to apply for a position because he was Roma and would not be hired.

With the support of local NGOs and foreign donors, the Government implemented a program to teach Romani folklore and history to over 5,000 children in an effort to increase interethnic understanding and fight prejudice. Government integration programs also included busing over 2,000 Romani children from ghettoized neighborhoods to mixed-ethnicity schools. Assistant teachers from minority backgrounds were hired to assist children from Turkish and Romani linguistic minorities to learn Bulgarian and to integrate into mixed classes.

The country’s small population of Pomaks remained in an ambiguous position. In the town of Yakoruda, local officials refused to recognize the Pomak identity, and those calling themselves Pomaks alleged discrimination by government officials.

*Other Societal Abuses and Discrimination.*—Although the law prohibits discrimination on the basis of sexual orientation, the Government did not effectively enforce this provision in practice. Although incidents of violence against sexual minorities were rare, societal discrimination was a problem, manifesting itself primarily as discrimination in employment. Members of the lesbian, gay, bisexual, and transgender community were sometimes refused employment on the grounds of sexual orientation or fired after revealing their sexual identity, although gay rights activists reported that such incidents were becoming less common.

According to the Bulgarian Foundation for Aiding HIV/AIDS Patients, several HIV-positive patients were denied appropriate medical treatment. The main reason cited by doctors was the lack of the legislatively-mandated isolation room. Patients reported hiding the fact that they are HIV positive in order to receive medical care.

Gemini, a gay-rights organization, filed three cases with the Committee on Protection Against Discrimination on the basis of sexual orientation discrimination. The committee ruled in Gemini’s favor in all three cases.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution and law provide for the right of all workers to form or join trade unions of their choice, and workers exercised this right in practice.

Approximately 18 percent of the workforce was unionized; according to individual trade unions and the Democratic Trade Unions Association, the percentage of the workforce that was unionized continued to decrease.

The law prohibits antiunion discrimination and includes a provision for a six-month salary payment as compensation for illegal dismissal. Employees could use mediation and the judicial system to resolve complaints, although the burden of proof in such cases rested entirely on the employee.

There were reports of discrimination and harassment against trade union activists and members, who were relocated, downgraded, or fired. In the private sector, a few employers had a policy of illegally prohibiting trade union membership within their enterprises. Although less frequent than in previous years, there were credible reports that some private employers also forced newly employed workers to sign declarations that they would not establish or join trade unions. There were reports of



employers deducting dues from workers' salaries and not passing them on to the unions.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government generally protected this right in practice. The law provides an adequate legal structure for collective bargaining, which was practiced nationally, regionally, and on the local level; however, labor unions alleged that many employers failed to bargain in good faith or to adhere to agreements that were concluded. NGOs reported that collective bargaining was not always effective in practice. Private employers reportedly often refused to negotiate collective agreements, delayed negotiations unnecessarily, or refused to sign agreements; in other cases, private employers signed agreements but did not apply them. A 2003 study published by the European Industrial Relations Observatory estimated that 40 percent of employees worked under collective bargaining agreements.

The law provides for the right to strike, and workers exercised this right in practice; however, key public sector employees (primarily military and law enforcement personnel) were subject to a blanket prohibition against striking. These employees were able to take the Government to court as a means of ensuring due process in protecting their rights.

There are no special laws or exemptions from regular labor laws in the country's six export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5). Children were sometimes forced to work due to economic conditions or because of pressure from family members or criminal organizations.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, including a prohibition on forced or compulsory labor and policies regarding acceptable working conditions. The Government was somewhat effective at implementing these laws and policies in practice. The law sets the minimum age for employment at 16 years and the minimum age for dangerous work at 18 years; employers and the MLSP are responsible for enforcing these provisions. Child labor laws generally were enforced well in the formal sector, but NGOs reported that children were exploited in certain industries (particularly small family-owned shops, textile factories, restaurants, family farms, construction, and periodical sales) and by organized crime (notably for sexual exploitation and the distribution of narcotics). During the year the Ministry of Labor and Social Policy's general labor inspectorate found 219 violations of child labor regulations, all of which were forwarded for prosecution. By October the prosecution service declined to prosecute 34 cases and continued to review the rest.

Few official statistics on child labor were available. The latest statistics, published by the International Labor Organization (ILO) in 2000, showed that 14 percent of children ages five to 17 years were working. Children were engaged in paid work outside of the home in the commercial and service sectors, agriculture, forestry, transportation, communications, industry, and construction. According to the ILO, children's workdays often exceeded the seven-hour legal maximum, and sometimes children did not receive overtime pay for hours worked. Local NGOs reported that children worked on nonfamily-owned farms for meager monetary or in-kind wages, such as food, and that institutionalized children often sought modestly paid agricultural labor during periods when they were allowed out of residential facilities.

The worst forms of child labor occurred infrequently, but included heavy physical labor and health hazards on family tobacco farms, particularly among the ethnic Turkish minority. The Government continued programs to eliminate the worst forms of child labor, using educational campaigns about the effects of child labor and implementing interventions aimed to protect, withdraw, rehabilitate, and reintegrate children engaged in the worst forms of child labor. Trafficking of children was a problem (see section 5).

In accordance with a memorandum of understanding with the ILO, the Ministry of Labor and Social Policy established a child labor unit to coordinate child labor issues and to develop a national database on child labor in the country.

*e. Acceptable Conditions of Work.*—During the year the Government approved and implemented an increase in the national minimum wage to approximately \$94 (150 leva) per month. While this wage does not provide a decent standard of living for a worker and family, many workers were paid more under the table for tax purposes.

The law provides for a standard workweek of 40 hours with at least one 24-hour rest period per week. The Ministry of Labor and Social Policy is responsible for en-

forcing both the minimum wage and the standard workweek. Premium pay for hours worked over 40 per week was supposed to be negotiated between employers and employees. The law stipulates that premium pay for overtime could not be less than 150 percent during workdays, 175 percent during weekends, and 200 percent during official holidays. The law prohibits overtime for children under age 18, pregnant women, and women with children up to age six. Enforcement generally was effective in the state sector but was weaker in the private sector.

There was a national labor safety program, with standards established by the law, which states that employees are entitled to healthy and nonhazardous working conditions. The Ministry of Labor and Social Policy is responsible for enforcing these provisions. However, conditions in many cases continued to worsen. In one case, the general labor inspectorate inspected a Dupnitsa shoe factory after two seamstresses died on the job. Both suffered from high-blood pressure, which was worsened by the harsh working conditions at the factory. The inspectors found numerous violations, including substandard ventilation, excessive overtime, lack of proper protective gear, and failure to observe statutory medical requirements. The law requires joint employer and labor health and safety committees to monitor workplace conditions; however, implementation was slow and these committees remained in the developmental stages at year's end.

The law gives employees the right to remove themselves from work situations that present a serious or immediate danger to life or health without jeopardy to their continued employment; however, refusal to work in such situations could result in the loss of employment.

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## CROATIA

The Republic of Croatia is a constitutional parliamentary democracy with a population of 4.4 million. Legislative authority is vested in the unicameral Sabor (parliament). The President, Stjepan Mesic, serves as head of state and commander of the armed forces, cooperating in formulation and execution of foreign policy and directing operations of the intelligence service; he also nominates the Prime Minister, who leads the Government. Presidential and local elections held in February and May 2005 were generally conducted in accordance with electoral legislation. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The judicial system suffered from a severe backlog, although during the year it made headway in reducing the number of cases awaiting a hearing. Intimidation of some witnesses in domestic war crimes trials remained a problem, with one notably high-profile case involving parliamentarian Branimir Glavas. Courts largely discontinued the practice of in-absentia trials, although some trials continued against large groups for war crimes. The Government made little progress in restituting property nationalized by the Yugoslav communist regime to non-Roman Catholic religious groups. The Orthodox Church was particularly critical of the Government's reluctance to consistently implement laws and speed up return of confiscated property. The Government did not fully implement programs providing housing to ethnic Serb refugees who lost access to socialized housing. While NGOs noted a significant decline in violence against ethnic Serbs, societal violence and discrimination against ethnic minorities, particularly Serbs and Roma, remained a problem. The 2002 Constitutional Law on National Minorities remained largely unimplemented, particularly relating to public sector employment. In addition violence and discrimination against women continued. School officials continued to segregate Romani students into substandard schools. Trafficking in persons remained a problem.

During the year the Government, in particular offices of the state prosecutor, demonstrated continued willingness to prosecute war crimes committed by ethnic Croats and continued strong cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). Although Serbs continued to represent the majority of individuals prosecuted, international trial monitors reported that Serb defendants generally had a better chance of receiving a fair trial than in the past.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

During the year one civilian was killed by a landmine in the Vukovar region. During the year there were mine incidents in which one person was killed, two heavily injured, and four lightly injured. The incidents happened in Vukovar-Srijem, Sisak-Moslavina, Brod-Posavina, and Karlovac counties.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Government figures showed that 1,122 persons, mostly ethnic Croats, remained missing from the 1991–95 military conflict. In addition the Government collected information on 930 missing ethnic Serbs. During the year the bodies of 176 missing persons were exhumed, while the remains of another 74 persons found earlier were identified. In March, for the first time, parliament accepted the Office of Missing Person's total calculations on missing persons of all ethnicities. Previously, international organizations criticized the Government for failing to recognize this number, which now coincides with calculations of the International Committee of the Red Cross (ICRC) and International Committee for Missing Persons (ICMP).

To date, 4,155 persons have been exhumed, and 3,366 missing persons have been identified. During the year Serbia and Montenegro provided to the Government a list of approximately 400 military members who allegedly were missing in the country. In June there was reportedly a discovery of a mass grave with the remains of six persons in Trokut Novska. In October the Government discovered two caves in the Plitvice area with remains of at least 100 persons. The Government had not determined whether they originated from World War II or a later period. The Government handled all exhumations and identifications, with the ICTY monitoring only the sites related to cases it investigated. The ICMP assisted in the recovery and identification of remains. The ICRC, which closed its Zagreb office in December, and the Government signed a memorandum of understanding in August which allowed sharing of databases and the handing over of all remaining ICRC missing persons cases to the Croatian Red Cross.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—In March the Government's human rights ombudsman and the European Court of Human Rights (ECHR) found substandard conditions in the country's prisons. The ombudsman identified overcrowding as a primary problem. Prisons in Varazdin, Osijek, and Split held twice their stated capacity. Prisons were overpopulated due to the number of pretrial detainees awaiting verdicts rather than convicted persons serving sentences. The ombudsman also found that basic hygienic conditions were lacking in some facilities and that medical care was poor.

The 2006 Prison System Administration report, published in November, showed a deterioration of the conditions in detention centers. Overcrowding, poor staffing, corruption, and an increasing number of young inmates existed in many of the country's prisons. In 2005 the average occupancy of Croatian prisons was approximately 122 percent of intended capacity.

Similar concerns were raised by the ECHR in the Miroslav Cenbauer case, in which the country was found to be in breach of the European Convention on Human Rights, which prohibits inhumane or degrading treatment and punishment. The Court ruled unanimously that there had been a violation of the ECHR and awarded the applicant \$3,700 (3,000 euros) for non-pecuniary damage. The ECHR noted that Cenbauer was not allotted the minimum space required for inmates as prescribed by domestic law and international standards, and that he was confined to his cell for at least two years. In addition, the court found that Cenbauer was subjected to unhygienic living conditions. In 1993 the applicant was found guilty of several criminal offences, including murder, and sentenced to 12 years' imprisonment. He was released in 2003.

The Government permitted visits by independent human rights observers. The ICRC had free access and reported full cooperation on the part of the authorities during its tour of prisons during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and the law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The intelligence service is under the authority of the Prime Minister and President. The national police have primary responsibility for national security; in times of disorder, the Prime Minister and the President may call upon the military to provide security. An independent oversight board monitors intelligence service performance.

There were approximately 21,000 police officers under the authority of the interior ministry. Minorities made up approximately 4.2 percent of the national police force and approximately 4.8 percent of the interior ministry administration.

Police corruption and dereliction of duty were problems. During the year, the police received negative media attention for several incidents. In June two individuals beat Dutch photographer and journalist Ad van Denderen who they falsely suspected of taking inappropriate pictures of children. In August the photographer reported the Split police to the European Parliament for mistreatment and failure to grant protection, alleging that he was treated as a suspect rather than a victim. Police began disciplinary proceedings against the officers in August. In July, in Korcula, two police officers arrested a suspected narcotics dealer and then had coffee with the individual, during which time he escaped and was subsequently recaptured. The officers were temporarily suspended.

Under the European Union, the Organization for Security and Cooperation in Europe (OSCE), and other international guidance, the interior ministry continued to update and codify rules of ethical police conduct and to improve the capabilities of the police internal control section.

Weak police performance, including poor investigative techniques, insensitivity to ethnic issues, indecisive middle management, and susceptibility to pressure from hard-line local politicians remained problems despite government efforts to address them. During the year the Ministry of Interior, in cooperation with the OSCE, continued a comprehensive program of police reforms, in part to extend community policing pilot programs throughout the country. The Ministry of Interior also expanded programs to provide training for all active police officers.

*Arrest and Detention.*—Police normally obtained arrest warrants by presenting evidence of probable cause to an investigative magistrate; however, police can make arrests without a warrant if they believe a suspect might flee, destroy evidence, or commit other crimes. The police have 24 hours to justify an arrest to a magistrate.

Police must provide detainees' access to an attorney of their choice within 24 hours of their arrest. If a detainee does not have an attorney and is charged with a crime for which the sentence is over 10 years' imprisonment, the magistrate is required to appoint counsel. The Government generally enforced this in practice. The magistrate must decide whether to extend a detention for further investigation within 48 hours of an arrest. Investigative detention generally lasted up to 30 days; however, trial courts could extend the period up to 12 months in certain cases. Detainees may be released on their own recognizance pending further proceedings, although most criminal suspects were held in custody pending trial. The option of posting bail after an indictment is available but was not commonly exercised. Detainees are also allowed visits by family members.

During the year authorities apprehended 20 individuals (13 Serbs, six Croats, and one Bosniak) for war crimes based on court orders or arrest warrants. Nine remained in detention pending ongoing investigation, and three of the individuals were returnees.

According to a state prosecutor's survey conducted in 2005, the average length of pretrial detention varied between four and five months. The law allows six months standard maximum pretrial detention, but the court can extend it to 12 months in certain cases, primarily for war crimes and organized crime cases, at the request of the state prosecutor.

Mitar Arambasic, an ethnic Serb, was arrested in 2002 in the United States and extradited to the country in January based on a 1997 in-absentia war crimes conviction. He immediately requested and was granted a retrial, but the court has delayed his retrial pending extradition of fellow indictee Dragan Arnaut from Russia. In June Arambasic's attorney filed a complaint with the Constitutional Court arguing that any further detention would be excessive when combined with the more than three years the defendant spent in detention prior to his extradition. In November the Constitutional Court upheld the Supreme Court decision from September that the previous detention period was not part of the pretrial detention period.

*Amnesty.*—The law provides for amnesty except for war crimes. In practice when investigations fail to substantiate original charges of war crimes, courts have lowered the charges and convicted defendants, allowing them to grant the defendants amnesty. This practice resolves the case for the court without further investigation and allows the defendant to go free, but disregards the future repercussions that a criminal record may have on potentially innocent defendants, particularly with regard to employment.

Five Serbs were granted amnesty during their trial, since charges against them were reduced to armed rebellion and amnesty subsequently applied.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary. The judiciary continued to suffer from a backlog of approximately 1.5 million cases as of 2005. During the first six months of the year, case backlogs in municipal courts decreased by approximately 400,000. In a September survey, ac-

according to the marketing agency GFK, the public perceived the judiciary as one of the main sources of corruption in the country.

The judicial system consists of municipal and county courts, commercial and misdemeanor courts, an administrative court, and the Supreme Court. The Constitutional Court determines the constitutionality of laws, governmental acts, and elections. A parallel commercial court system adjudicates commercial and contractual disputes. The State Judicial Council is responsible for appointing, disciplining, and, if necessary, removing judges. Parliament appoints the chief state prosecutor, who appoints chief state attorneys at the county and municipal level; the State Prosecutorial Council, a disciplinary body appointed by parliament, appoints and disciplines deputy prosecutors.

During the year Serb leaders continued to express concern about discrimination in the appointment of judges and reported that, on occasion, the State Judicial Council either refused candidates or left positions vacant rather than appoint ethnic Serbs. In February, according to a government report, 34 out of 1,492 judges, or 2.3 percent, were ethnic Serbs. At year's end 96.1 percent of the 7,782 judicial employees, including courts and the prosecution, were Croat, 2.3 percent were Serb, and 1.5 percent belonged to other national minorities.

*Trial Procedures.*—The constitution and law provide for the right to a public trial, and an independent judiciary generally enforced this right. The legal system uses panels of judges, which in some cases include lay judges, rather than juries, to make convictions. Defendants have the right to be present and consult with an attorney in a timely manner and could confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants have access to government held evidence relevant to their cases and enjoyed the presumption of innocence and the right to appeal.

Excessive court delays remained a problem, and the Constitutional Court increasingly awarded damages to persons who had experienced unreasonable court delays. During the year the Constitutional Court issued 963 judgments finding unreasonable delays in lower and Supreme Court rulings and ordered the Government to pay fines in 725 of these cases. The Supreme Court increased the fines which totaled \$1.3 million (7.3 million kuna). The Supreme Court noted that such delays threatened the integrity of the legal system and called into question the court's ability to provide effective remedies. In 2005 the ECHR called the delays excessive and a violation of citizens' right to trial in a reasonable time. During the year a new system for review of judicial delays was implemented to reduce the Constitutional Court's supervisory role and increase time spent on human rights issues. The amended law authorizes regular courts to adjudicate lawsuits related to delayed trials. The Constitutional Court was previously the only court of instance that could rule in such cases.

The OSCE reported that state institutions, such as police officers and county state prosecutors, increasingly investigated possible crimes by the armed forces, including by persons in supervisory positions. However, political interference in judicial matters continued to be a concern in two ongoing investigations into war crimes committed in Osijek in 1991–92, that implicated Branimir Glavas, a Member of Parliament (MP) and Osijek city council President. In May, following an initial police investigation in Osijek, in late 2005 and early 2006, parliament removed Glavas' immunity from criminal prosecution and the Supreme Court approved a change of venue for the full investigation from Osijek to Zagreb. In July Glavas posted the full testimony of several witnesses before the investigative judge as well as documents to discredit them on his Web site. To avoid possible witness intimidation, the court ordered prosecutors and Glavas' legal counsel to sign a binding non disclosure agreement. Osijek-based journalist Drago Hedl cited incidents in which Glavas' supporters directly intimidated potential witnesses, including himself. In October, after parliament removed Glavas' immunity from detention, the Zagreb County Court re-ordered his detention to prevent further witness tampering. Glavas voluntarily entered detention but immediately went on a hunger strike to protest what he called political charges against him. He was released after 37 days on a hunger strike and sent to the hospital. At year's end Glavas remained in the hospital due to his critical health condition, and both procedures against him were temporarily suspended.

To improve management standards and increase knowledge and expertise among the judiciary, the Ministry of Justice, with international assistance, expanded the number and scope of programs at the judicial academy to improve professional training for judges.

During the year domestic courts continued to try cases arising from the 1991–95 war, including several partially in absentia trials with large groups of defendants. State prosecutors continued to review all open war crimes cases, eliminating unsubstantiated charges. As of December 1,092 pending war crimes cases remained, most

involving defendants currently living outside the country. As most constitutions in the region prohibit the extradition of a country's own citizens, the chief state prosecutor signed agreements with his counterparts in Montenegro and Serbia to enable the transfer of evidence in such cases, allowing suspects to be tried where they lived rather than where the crime was committed.

In August the OSCE reported that the Supreme Court reversed trial court verdicts and remanded the case for retrial in 75 percent of individual appeals, reflecting a continued upward trend in reversal rates. During the year the OSCE followed 48 cases at the Supreme Court involving appeals of trial court verdicts involving 119 individuals (90 ethnic Serbs, 26 ethnic Croats, two ethnic Bosniaks, and one ethnic Hungarian). Of these, the court decided on 13 appeals involving 36 people (32 Serbs, two Bosniaks, one Croat, and one Hungarian), confirming 11 trial court verdicts involving 24 individuals, and reversing two trial court verdicts involving 12 individuals. In the majority of cases, the Supreme Court took more than three years to reach a verdict. Similar to previous years, at least one case of substantial delays involved accused persons who were convicted in absentia and remained at large.

Persons convicted in absentia regularly made use of their guaranteed right for a retrial. Some ethnic Serbs voluntarily returned to the country to be arrested for pending war crimes charges or in absentia convictions, since this was the only way they could challenge a conviction under the law.

While the atmosphere surrounding domestic war crimes trials generally improved, inadequate training, shortcomings in the legal code, witness intimidation, and an often-hostile local public hampered the war crimes adjudication process. While the Ministry of Interior's witness protection unit provided effective witness protection to at-risk witnesses outside the courtroom, observers noted that courts were not sufficiently proactive in sanctioning defendants or members of the public who attempted to intimidate witnesses inside the courtroom.

Many observers questioned the impartiality of trials held in the jurisdiction where war crimes occurred, since judges, prosecutors, and witnesses could be more exposed to external influences there. Courts trying domestic war crimes continued to display bias toward defendants based on their ethnic origin, although the OSCE noted that Serb defendants had a better chance of receiving a fair trial than in the past. The most noticeable problem was the difference in charges filed against Serbs and Croats, with Serbs being accused of a wide range of misconduct while Croats were almost exclusively charged for killings. In at least three cases, courts continued to prosecute Serbs for genocide on the basis of acts that were not of the gravity usually associated with verdicts of international tribunals ascribing genocidal intent and conduct.

Most persons on trial for war crimes were ethnic Serbs, nearly three-quarters of whom were tried in absentia in group trials in Vukovar County where some defendants were present.

In March the Split County Court found eight former soldiers guilty of the torture and murder of ethnic Serb civilians in Lora prison in 1992. Their sentences ranged from six to eight years in prison.

In June the retrial of Mihajlo Hrastov resumed in Karlovac after a year-long suspension due to the defendant's mental health. Hrastov, an ethnic Croat and former member of the Karlovac special police, was charged with the murder of 13 unarmed Yugoslav National Army prisoners in 1991. The Supreme Court overturned two previous acquittals.

In August the Vukovar County Court ordered the detention of three former soldiers and one soldier still on active duty pending an investigation of the 1992 murder of the Olujic family, who were ethnic Serbs, in the village of Cerna.

In August, upon request of the chief state prosecutor, the Ministry of Interior began an investigation of alleged war crimes captured on video near Dvor na Uni in 1995. After reviewing the video, the prosecutor determined it contained evidence of crimes against civilians and prisoners of war. The state prosecutor initiated cooperation with counterparts in Bosnia and Herzegovina and Serbia and Montenegro to identify perpetrators and pursue investigations.

In May the Supreme Court upheld in part the Zagreb County Court in absentia conviction of fugitive Munib Suljic. Based on this verdict, the Netherlands extradited Suljic in June; in August, Suljic died of natural causes in a prison hospital.

The appeal of the acquittal of four soldiers charged with killing two elderly Serb civilians near Sibenik in 1995 remained pending before the Supreme Court at year's end.

The Vukovar County Court trial of 16 former members of a Serb paramilitary unit, 15 in absentia, who were charged with genocide and war crimes in the town of Lovas in Eastern Slavonia remained ongoing at year's end. In 2005 the OSCE trial monitors cited the trial was an example of genocide charges being brought for

acts that were not of the gravity associated with international genocide verdicts. The indictment alleged that defendants took actions intended to exterminate ethnic Croats. One defendant died. Only one of the accused was present during the trial.

The trial continued in Vukovar against 25 persons, 15 Serbs, five Ruthenians, four persons of unknown ethnicity, and one Roma, accused of war crimes against civilians from Miklosevci, a mainly Ruthenian-populated village. Two defendants died, one from cancer. Some defendants were present at hearings while others were on provisional release. The defendants were accused of genocide, murder, and intimidation of non-Serbs in 1991 and 1992.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There was an independent and impartial judiciary in civil matters.

*Property Restitution.*—During the year the Government neared completion of its program to return illegally occupied homes to their owners; however, the property law implicitly favors ethnic Croats over ethnic Serbs by giving precedence to the right of temporary occupants, who are mainly ethnic Croats, to that of original owners, predominantly ethnic Serbs. Owners generally could not repossess their property unless housing was secured for the temporary tenants. At year's end the Government estimated that 18 private houses belonging to ethnic Serbs remained occupied, down from 55 houses in December 2005. In addition 173 properties remained unclaimed or disputed in the court system. Backlogs in the judicial system impeded the resolution of housing disputes.

In March the ECHR Grand Chamber declared inadmissible the landmark case related to termination of tenancy rights in the apartment of Krstina Blečić. Blečić left her apartment at the outset of war and did not return within the six months required by law to maintain her tenancy right. Without entering into the case's merit, the court decided that the ECHR did not apply because the termination of right happened before the convention entered into force in 1997.

Property restitution remained a problem for all major religious groups except the Islamic Community. The Serbian Orthodox community, the second largest claimant of property in the country, reported that its joint commission with the Government convened in December after repeated requests and achieved no results on restitution by year's end. The Government also had not returned Jewish properties, including some buildings in Zagreb, although it did return properties in Osijek and Vukovar.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and the press; however, government officials occasionally interfered with the media and attempted to influence national television.

A wide range of private newspapers and magazines were published without government interference. The privately owned Tisak distributed approximately 75 percent of the print media. Political parties, private companies (some foreign owned), and the Government owned or influenced various newspaper and magazine outlets. Foreign newspapers and journals were available in urban areas throughout the country; however, they remained largely inaccessible to many persons due to their high cost. Despite the three-year-old media law, media ownership was not fully transparent, making it possible for political or other interests to conceal their influence on media outlets.

The government-owned and operated the national television and radio network (HRT). Independent television and radio stations operated in the country, and two of the three national television stations were private.

Local broadcast media were vulnerable to political pressure since most stations were at least partially owned by local governments. Approximately 70 percent of the media was partly or fully owned by local governments and approximately 46 percent of local radio stations depended on the financial support of local authorities. The Croatian Journalists Association (CJA) proposed privatization of approximately 100 local and regional radio stations owned by municipalities, towns, and counties, warning in July that local authorities were using them as "propaganda machines." In October CJA President Dragutin Lucić stated that approximately 100 partly state-owned local radio stations remain a serious problem, as they acted as a propaganda service to the ruling party in local self-government. In October, in a separate statement, CJA also expressed concern over censorship in the government-owned national daily Vjesnik.

In late October the CJA and the journalists' trade union stated that journalists' labor rights had lately been "increasingly violated" and "media freedoms infringed." They warned of numerous violations in Vjesnik, Pula-based daily Glas Istre, and other local media. Among cases cited were the decision by Glas Istre management to fire a number of journalists, who complained that they were being targeted for their reporting on the activities of a local political party leader, and the case of a Karlovac local radio station journalist, Vlado Drazic, whose salary had been cut by 5 percent allegedly because he opposed the Croatian Democratic Union's (HDZ) deputy mayor in Karlovac.

In December HRT management suspended two HTV news editors, Danko Druzijanic and Goran Rotim, and publicly warned a third editor, Petar Stefanic, for broadcasting a speech by President Stjepan Mesic in the early 1990s, where he appeared to condone the country's fascist government during World War II. The editors were suspended on the grounds that they had lacked critical judgment and professionalism in broadcasting the speech. The CJA described the suspension as a "serious violation of the right of free expression and speech," and Reporters Without Borders also condemned the HRT decision. Rotim and Druzijanic were allowed to return to work on December 14, after HRT's Ethics Council decided that they and Stefanic did not violate the HRT's code of conduct.

War crimes issues were a sensitive issue for media, and journalists faced pressures because of their reporting. In May the CJA condemned death threats against Feral Tribune journalist Drago Hedl, who had reported alleged war crimes by current officials. According to media reports, the police provided 24-hour police protection for Hedl and arrested two individuals. The alleged threat came from local politician Davor Boras, President of HDS-SB Youth (Croatian Democratic Council of Slavonia and Baranja) and Dalibor Zizanovic.

In May police detained both Boras and Zizanovic. In September Boras pleaded not guilty, adding that he cursed Hedl but did not threaten him. He also added that Hedl's reports about the "homeland war" and war veterans were the motive of his action. Hedl said that in addition to curses, Boras told him he would "kill him like a dog."

On July 19 after parliament appointed four members of the new five-member steering council of state-owned news agency Hina, the International Federation of Journalists released a statement calling for new and transparent executive appointment procedures for public media. The CJA and Croatian Journalists Trade Union also protested and accused the Government of selecting unsuitable candidates. They expressed fear that the new council was controlled by political appointees who would select government-friendly editors. The fifth council member represented Hina employees; however, Vladimir Lulic, who was to be appointed as the representative of the Hina staff, was not endorsed by the Government, which claimed his nomination had breached procedural regulations. In October, one day after Hina news agency management council appointed Smiljanka Skugor-Hrnecic as the new general manager, the Government proposed the dissolution of the board, thus invalidating the appointment. The Government suggested that parliament dissolve Hina's management council because employees had been denied the opportunity to state their opinion.

Three of four council members resigned in protest. The former general manager's mandate was at the same time extended until January 1, 2007. Parliament dismissed the four members of Hina's management council on December 1. New Hina management council members were not appointed by the end of the year. In October CJA President Lucic stated that freedom of the media was "jeopardized by the vague wording of the law on public media, which has resulted in recent cases such as Hina and Vjesnik."

In early March the minister of interior, in reaction to media reports of a physical fight between officials of the majority Croatian Democratic Union (HDZ) in Virovitica, announced that he would initiate legal action against anonymous letters appearing in the press. The President of the CJA noted that the media law prohibits the media from publishing certain information, even if its source was anonymous. The minister later stated that his words were misinterpreted and that he had not requested a legal ban on publishing anonymous letters, but the end of such information leaking from the Ministry of Interior and state prosecutor's office.

The press reported a number of attacks and efforts to apply pressure against journalists during the year. In February the media reported that former Makarska municipal court judge Predrag Trutin physically beat Andjelko Erceg, editor-in-chief of the local weekly Makarska Kronika, because of articles that the newspapers published about him. In April the Karlovac County deputy prefect Marinko Milcic was accused by Radio Mreznica journalist, Arijana Kekic, Vecernji List journalist, Tomo Vivic, and Karlovacki List journalist, Marinko Ivka of verbally threatening three



Karlovac-based journalists. The CJA criticized the incident. In July the CJA and Nova Television also criticized Novalja Mayor's Ivan Dabo who allegedly made verbal and physical attacks on a Nova Television journalist to prevent her reporting on shortage of water on the island of Pag.

According to the CJA, the Sinj Social Democratic Party (SDP) President Velbert Milosevic and Sinj ruling coalition official tried to intimidate Jutarnji List newspaper correspondent and a radio journalist to prevent them from reporting on alleged manipulation of Sinj SDP convention election ballots. Croatian Radio journalist, Vito Peric, twice called the police due to threats he received after his reports.

Libel is a criminal offense; in recent years there were no reports of politically motivated libel cases. However, a large number of libel cases from previous years remained unresolved due to judicial backlogs. In June parliament amended the criminal code to remove imprisonment as a punishment for criminal slander and libel. Courts may fine persons convicted of slander and libel.

In February the Zagreb Municipal Court acquitted HTV journalist Ljubica Letinic in a case in which Miroslav Tudjman, the son of the country's former President, sued her for slander in connection with a March 2003 story by Letinic for HTV's "Latinica."

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet access is widely available and used by citizens throughout the country.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice; however, the law grants discretionary power to the Ministry of Justice over the establishment and internal governance of foundations. While it was applied equally to all organizations, the law itself is restrictive and controlling. For example, the law provides that organizations will not be registered if their statutory goals are deemed trivial or if their property is not deemed sufficient to carry out their statutory activities. The law also permits the Government to influence the appointment of an organization's management body.

*c. Freedom of Religion.*—The constitution and law provide for freedom of conscience and religion, and free public profession of religious conviction. There is no official state religion; however, the Roman Catholic Church has an historic and close relationship with the state that was not shared by other religious groups. The Catholic Church signed concordats with the state granting it a number of benefits. Similar agreements were subsequently reached with the Serbian Orthodox Church, Islamic community, and other smaller Christian denominations, but the Jewish community has not signed such an agreement, pending the return of nationalized property.

The law requires a group to have at least 500 members and to have been registered as an association for five years in order to register as a religious community. However, all religious groups in the country prior to the 2003 passage of the law were in the process of being registered without conditions. A total of 42 religious communities were registered and 15 additional communities were awaiting registration. The Montenegrin Orthodox Church and Jewish religious community, Bet Israel, were registered in June.

In December 2005 three churches, the Church of the Full Gospel, the Alliance of Churches "Word of Life," and the Protestant Reformed Christian Church challenged in the Constitutional Court the Government's refusal to conclude agreements providing them benefits similar to those provided by agreements with the Catholic, Serbian Orthodox, Islamic, and other communities. The Government maintained that the three churches did not meet government requirements to have a minimum number of members and to have been continuously active in the country since 1941. The appeal was pending in the Constitutional Court at year's end. Registered communities have the status of a legal person and enjoy tax and other benefits. Some international groups have criticized the restrictiveness of the Government conditions for registration of new religious communities.

The law does not explicitly prohibit photographs with a headscarf on identification documents. However, the Constitutional Court was reviewing a case in which police in the coastal town of Crikvenica refused in 2004 to issue identification documents

to a Muslim woman because she was wearing a headscarf in her photograph. Police standards were not consistent, and the police reportedly accepted such photographs in other locations in the country. The case was pending before the Constitutional Court.

The Government required that schools provide religious training, although attendance was optional. Because 85 percent of the population is Roman Catholic, the Catholic catechism was the predominant religious teaching in public schools. Schools that met the quota of seven students per class of a minority faith allowed separate religion classes to be held for the students.

National broadcaster HRT in 2005 signed an agreement with eight minority religious communities guaranteeing equal representation in its program. HRT agreed to live broadcasts of important annual celebrations and minimum weekly and monthly coverage. Under an agreement with the Roman Catholic Church, HRT provided up to 10 hours per month of regular coverage of Roman Catholic events.

The Government made little progress restituting property nationalized during the World War II era to most major religious communities. In May the Prime Minister and the Zagreb Archbishop Josip Bozanic agreed to sign a contract under which government property would be given as compensation for an unspecified Catholic Church property in Zagreb. The City of Zagreb returned theater property to the Franciscan monastery, while the City of Varazdin returned a monastery building to the order of Ursuline nuns. The Serbian Orthodox Church, the second largest claimant of property after the Catholic Church, reported that its joint subcommission had difficulty in convening, despite repeated requests to meet with the Government. In July the Serbian Orthodox Church Metropolitan Jovan Pavlovic met with Prime Minister Sanader to discuss finding modalities to enable faster property restitution, but made no progress by year's end. The church stated that resolution of most of its outstanding issues, including property restitution, had stalled. There was no progress returning nationalized property to the Jewish community. In September the Prime Minister announced partial government funding for the reconstruction of the synagogue in Zagreb, which was destroyed during World War II. The Muslim community had no property claims.

After years of delays, an acceptable site to build a mosque in Rijeka was found in cooperation with local authorities, and in June local authorities adopted a zoning plan for construction.

*Societal Abuses and Discrimination.*—Societal violence and physical abuse of religious minorities were problems.

Incidents involving harassment of clergy and desecration and vandalism of Serbian Orthodox Church property continued to occur sporadically. Orthodox Church sources from the Dalmatian hinterlands assessed that violence was at similar levels as in the past year, citing several examples of vandalism and one instance of harassment of clergy.

In March abusive graffiti including "Death to Serbs," the Ustasha "U" symbol, and "This is ours, not Serb" appeared on the walls of the St. Ilija church in Zadar. The unidentified suspects also broke into the belfry and damaged its electrical wiring.

In June, in Obrovac, three young men verbally abused and threatened the local priest's wife. The police reported the incident; however, the suspects had not been charged by year's end.

In August police received reports and investigated cases of vandalism and looting of several Orthodox churches. For example, church bells were stolen from the St. Dimitrije the Martyr church in Bjelovar and from another church in the village of Toranja near Pozega. In the same month, copper drainpipes were removed from the Orthodox Church in Novi Pavljani near Bjelovar and a window was smashed on the Bogorodicin Pokrov church in Knin.

The St. George church, near Knin, was vandalized twice, once in October and again in December; both times there was an attempt to forcibly enter the church, which resulted in damage to the doors and smashed windows. Police had not identified the suspects by year's end.

In 2005 the Orthodox Church and Serb NGOs reported a series of attacks against the Orthodox Church during the Orthodox Christmas season. For example, a group of young men smashed the entrance to the St. Sava Church in Split and shouted threats such as "kill the Serbs," and continued to cause damage on nearby streets. In Zadar, also in December 2005, offensive graffiti referring to a Serbian Orthodox saint and Ustasha symbols were sprayed on the fence of the St. Ilija Church. Police investigated but did not identify perpetrators in any of these cases.

In 2005 an Orthodox chapel was set on fire at the Osijek cemetery; police investigated the case, but had not released their findings by the end of the year.

There were no developments or arrests in the following cases from 2005: the attack by HDZ supporters on the car of an imam who supported the SDP party in

Vojnic; the arson attack against a plaque on an Islamic community building in Dubrovnik; the detonation of a bomb in front of a Serb house in Glavinja Donja on a Serbian Orthodox holiday; vandalism of an Orthodox Church in Knin; and vandalism of the Orthodox eparchy in Sibenik.

Serbian Orthodox clergy in Dalmatia and ethnic Serb leaders remarked on several occasions in 2005 that the positive overtures of the central government stood in stark contrast with that of local authorities, law enforcement, and judiciary, who persistently discriminated against Serbs. For example, cases involving two church-owned flats that were occupied illegally remained pending at county courts in Zadar and Split for over a decade. Also, Serbian Orthodox clergy who arrived from Serbia, Bosnia and Herzegovina, and Montenegro faced bureaucratic obstacles in obtaining a longer-term residency permit that entitled holders to benefits such as health care and pensions. The priests were required to renew their status at relatively short intervals that interrupted their stay, preventing them from accumulating the years of residency needed for a more permanent status.

The Jewish community has approximately 2,000 members.

In June police pressed charges against a 21-year-old student for sending two threatening e-mails to the Zagreb Jewish Community. In the messages the author denied the Holocaust made offensive statements about Jews and Africans. He also expressed hope for "the Iranians to complete a nuclear bomb as soon as possible and launch it on Haifa and Tel Aviv," after which celebrations would be held in Zagreb's streets.

Also in June two youths wearing shirts with Nazi insignia verbally and then physically assaulted Avi Eliezer Aloni, the rabbi of the Jewish Community in Zagreb, yelling "Jews out." Police were still investigating at year's end.

There were no developments in the police investigation of the April 2005 anti-Semitic threat letter sent to the Jewish community and some international organizations.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

Refugees returning to the country encountered obstacles obtaining permanent residency status. The law permitted former habitual residents who returned by June 2005 to be reinstated to their prewar status as habitual residents without further requirements, such as meeting housing and financial criteria, and could subsequently apply for citizenship. During the year the interior ministry agreed to regularize, on humanitarian grounds, the status of individuals who still wished to apply. Due to poor communication, many potential claimants were unaware that they could regularize their status. The OSCE estimated there were approximately 2,000 potential claimants in Bosnia and Herzegovina, Serbia, and Montenegro.

Observers continued to note that fear of arrest among ethnic Serbs for war crimes, often based on weak evidence, dissuaded some refugees from returning. The state prosecutor continued to review the list of war crime suspects to address this concern. During the year authorities arrested 20 individuals (13 Serbs, six Croats, and one Bosniak) for war crimes based on court orders or arrest warrants. Nine remained in detention pending ongoing investigation, and three of the individuals were returnees.

While the Government continued to verify and document citizenship during the year, there were continued reports that some local officials obstructed the process by applying procedures inconsistently.

The Government did not take steps to recognize or "convalidate" legal and administrative documents issued by entities not under Croatian control during the 1991–95 conflict. Without such recognition, citizens (almost exclusively ethnic Serbs) remained unable to resolve a wide range of problems accessing pensions and disability insurance, establishing work experience, and in other areas.

By year's end the Office of the UN High Commissioner for Refugees (UNHCR) registered a total of 140,544 minority returns to the country, with 4,616 returning in during the year. The UNHCR noted that the number of returnees was at similar levels as in past years. According to the UNHCR the return process slowed considerably due to limited progress in providing housing for the former holders of the tenancy rights in state owned flats. Approximately 9,000 former tenancy rights holders who applied for housing represent the bulk of potential returnees. International organizations that monitored return of refugees considered the decline in returnees to be within expectations, since most of the remaining refugees willing to return were former tenancy rights holders who were waiting to be provided housing. According

to a UNCHR study during the year, approximately 60 percent of returns were sustainable, and the remainder were either one time or "commuter" returns.

The largest disincentives to returns were the poor state of the regional economy, ethnic incidents in return areas, resistance of local authorities, and slow implementation of return programs. Ethnic tensions directed against returning ethnic Serb refugees continued to be most pronounced in parts of Dalmatia and its hinterlands (see section 5).

The ability of refugees to return to the country was hampered by limited access to housing, slow resolution of some bureaucratic obstacles, and lack of employment opportunities. Repossession and reconstruction of Serb houses continued. During the year the Government began reconstruction of 2,450 houses and provided cash grants to 2,370 individuals. To date the Government has rebuilt approximately 142,000 properties. An additional 901 claims remained unprocessed, and approximately 14,000 owners who were denied reconstruction filed appeals; those appeals remained unresolved. Two-thirds of the remaining properties were located in Dalmatia. An estimated one-fifth of houses returned to their owners were looted beforehand. In 2005 the Government adopted a protocol for looted properties but did not define instructions for its implementation. It recognized claims for damages only when they were officially recorded. At the end of 2005 the Government selected 400 properties as eligible for damage repair; however, the Government had repaired 89 of the 400 properties by year's end.

There were cases of persons attempting to use the courts to recover alleged investments they had made while illegally occupying property. As of December there were 24 such cases pending in the courts. During December the Government adopted a process to resolve those cases out of court with investors.

The Government slowly began to resolve the claims of persons who, prior to the war, held tenancy rights in socially owned apartments. Without such rights, claimants, who were mainly ethnic Serbs, were unable to return to their prewar apartments (see section 1.e.). Approximately 8,101 claims have been submitted, 4,425 of which were in urban areas; by December about 40 humanitarian cases identified by the international community were provided with housing. In August the Government announced its plans to construct or purchase 4,000 apartments to be leased to tenancy rights holders in urban areas.

*Internally Displaced Persons (IDPs).*—Authorities took an inconsistent and non-uniform approach to minority IDPs, hampering their return. A significant number of IDPs remained in the country, although not all were under the Government's direct care. At year's end the UNHCR reported that there were 3,975 IDPs in the country. Of these, 2,327 were Croats originating from the Danube region, while 1,648 were ethnic Serbs in the Danube region who did not hold official IDP status.

The Government allowed free access to all displaced persons by domestic and international humanitarian organizations and permitted them to provide assistance.

*Protection of Refugees.*—The law generally provides for the granting of asylum in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. At year's end, 94 new asylum applications were submitted to the Government. During the year 80 persons were rejected, 11 persons had their cases dismissed, and 70 persons appealed. Two persons were pending first instance decision, and 11 persons re-applied.

In June the Government temporarily established a reception center for asylum seekers in Kutina, near Zagreb. At year's end 23 persons resided in Kutina; 15 were asylum seekers, and eight persons were rejected asylum seekers who had the status of foreigners (pending return or deportation). The Government cooperated with the UNHCR and other humanitarian and international organizations in assisting refugees and returnees.

In November, for the first time, authorities granted asylum to a 27 year-old woman from an eastern African country. A UNHCR representative commended the country for making this important step toward a fully functioning asylum system.

A government appeals commission conducted substantive reviews of cases of asylum seekers who were initially rejected; however, the UNHCR expressed continued concern that the Government commission influences appointments. The UNHCR closely followed cases of individuals who were deported or returned by authorities to their country of origin.

There were no reports of persons requesting temporary protection during the year.

*Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections on the basis of universal suffrage.

*Elections and Political Participation.*—Stjepan Mesic was elected President in January 2005. Citizens Organized to Monitor Elections (GONG), the leading local election-monitoring NGO, reported that the January 2005 Presidential elections were conducted in accordance with electoral legislation, with some irregularities, including breaches of procedure by individual polling committees and inaccurate voter lists. There were more serious problems in the first round of Presidential elections at polling stations established for citizens who lived in Bosnia and Herzegovina, including cases of partisan polling officials, voting under names of deceased persons, and inaccurate voter lists.

Early local elections were held in April in the counties of Dubrovnik-Neretva and Pozega-Slavonia, as well as in the city of Velika Gorica. GONG described the course and atmosphere of these elections as peaceful, democratic, and lawful. However, GONG repeated its concerns about the lack of transparency in campaign financing and called on the Government to regulate this matter by law. The media reported that public resources were used for campaign purposes in Pozega-Slavonia County and the city of Velika Gorica.

In December parliament passed a law governing the funding of political parties and independent candidates. The law limits individual and corporate contributions to a political party during the year. It also bans political party financing by foreign entities and domestic public institutions. However, GONG objected that those limits still were too high and continued to argue that election campaign financing should be regulated by a separate law.

In 2005 the Prime Minister announced that a dual citizenship agreement with Bosnia and Herzegovina would resolve problems related to the right of citizens who are residents there to vote. Bosnian Croats, as well as other citizens living abroad, elected their representatives in parliament in a special worldwide district. Preliminary reports of the agreement indicated that the existing situation would continue.

There were 33 women in the 152-seat parliament, including two women in positions of deputy speaker. There were four women in the 15-seat cabinet, including the deputy prime minister, the minister of justice, and the foreign minister. There were four women among the 13 Constitutional Court justices and 18 women among the 40 Supreme Court justices.

The law requires that ethnic minorities be represented in local government bodies if the census shows that a minority group constitutes at least five percent of the local population. While authorities generally implemented this provision, the Government did not take updated voter lists into account in calculating the number of elected minority representatives, as required by law. Use of the voters' lists would have resulted in greater minority representation due to the return of refugees since the 2001 census.

In July 2005 the Government instructed local authorities to exclude voters' lists in determining the proportion of minorities in these communities. The National Minorities' Council subsequently asked the Government to withdraw the instruction on grounds that it contradicted the law. The Serb community and NGOs expressed similar concerns, and GONG challenged the Government's instruction in the Constitutional Court. At year's end the decision was still pending before the Constitutional Court.

*Government Corruption and Transparency.*—Public perception in the country held that corruption was widespread. According to a poll reported in the local press, 92 percent of those polled believed they lived in a corrupt state. Citizens were convinced that corruption existed in public institutions, particularly in the health care system and the judicial system. The European Commission, in its "Croatia 2006 Progress Report," issued on November 8 in Brussels, stated that corruption and a flawed judicial system were the greatest problems the country faced. Local NGOs consistently criticized the Government for not taking decisive action against corruption in the country.

In March the Government presented a public strategy for battling corruption that proposed to overhaul the judicial system, health system, local government, political party financing, public administration, and the economy. However, a local NGO and Transparency International (TI) criticized the strategy as lacking specificity and deadlines for action.

Law enforcement investigated a number of allegations of corruption by senior government or former government officials, including former foreign minister Mate

Granic and Nevenka Tudjman, daughter of the late President Franjo Tudjman. Although Tudjman was acquitted, in 2005 the Supreme Court overturned the lower court ruling that one of the previous four charges for unauthorized consulting, with which Tudjman was charged, was not a criminal abuse of official duty and ordered a retrial. The retrial was scheduled for late October 2005, but was postponed due to Tudjman's serious illness and chemotherapy treatment. The Supreme Court rejected the proposed indictment of Mate Granic due to lack of evidence.

The Government's Office for the Prevention of Corruption and Organized Crime (USKOK) continued to improve its capacity and authority to manage criminal investigations. Most recently USOK was involved in the arrest of a prominent heart surgeon who was suspected of taking bribes in return for timely surgical procedures. The case was under investigation and being watched closely by the public. In a separate case, the former prefect of Pozega-Slavonia county was arrested and placed in detention on charges of defrauding the county of \$48,096,890 (278 million kunas), leading to its bankruptcy. There have been other lower profile bribery cases. However, there were few cases of high-ranking officials being formally charged with corruption, despite frequent allegations.

During the year, USOK continued its February 2005 investigation to possible large-scale illegal sales of refugee Serb houses to the Government's Agency for Refugee Property (APN).

As of November 26 individuals brought charges against the Government for APN's sale of houses through intermediary agencies, based on falsified documents. One local NGO that represented ethnic Serb refugees and assisted them in filing charges complained that the agency had violated the law by refusing to allow refugees access to files, including to contracts that might reveal fraud. The NGO provided legal assistance to more than 250 individuals whose houses were allegedly sold without their knowledge or at prices different from those in specified contracts. The NGO also asserted that the state prosecution was slow to respond to related charges that it had filed in 2005 against the head of the APN. In April prosecutors agreed not to appeal county court verdicts, which will speed up the process and permit compensation. In September courts reached three verdicts in favor of plaintiffs, two of which were appealable. The USOK investigated allegations that some APN employees, along with intermediary agencies based in Serbia, were accomplices to this fraud. In November the Zagreb Municipal prosecutor's office charged former APN manager, Damir Rajcic, for unlawful operation of the APN and causing damage to the budget exceeding \$1.8 million (10 million kuna).

The effectiveness of the parliamentary Commission for the Prevention of Conflict of Interest, which required officials to publicly declare their assets, increased, and all government officials disclosed their assets, which were made available on the Internet. TI expressed concern that due to the incomplete land register, there was ample room for evasion of this new requirement.

The law provides the right to access government information, but was unevenly applied in practice and only had limited effectiveness. Inquiries were rarely answered in a timely fashion and often not at all. During the year the Coalition of NGOs "The Public has the Right to Know" conducted an opinion poll that indicated lower official compliance with the law than indicated by the Government report. In May TI reported that government institutions were reluctant to share information.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views.

The office for cooperation with NGOs and other government ministries and offices was active in coordinating and promoting NGO and governmental efforts on human rights and civil society. The Human Rights Center, which was integrated into the public sector in 2005, received both UN and government funds during the year.

In December 2005 two men from Vukovar, one of whom was a former special police force member, physically and verbally assaulted the President of the NGO Citizens Human Rights Committee and his wife. The NGO President did not press charges but the police initiated misdemeanor proceedings against one of the attackers. There was no information about the status of the case at year's end.

The Office for Human Rights was the primary government body responsible for developing, coordinating, and implementing the Government's human rights policies. While the office did not have authority to investigate alleged human rights abuses, it cooperated effectively with NGOs and the international community to conduct awareness campaigns to promote gender equality and women's rights, encour-

age general tolerance, and prevent trafficking in persons. The office also awarded project grants to NGOs to address various human rights problems. It was adequately funded and enjoyed the cooperation of other government agencies.

During the year the Government fully complied with all requests by the ITCY for information and evidence.

During the year the chief state prosecutor continued to accept additional evidence from the ICTY as part of the transfer of the case against Mirko Norac and Rahim Ademi from ITCY to the country. In 2006 the Office of the Chief State Prosecutor drafted several draft indictments, which were discussed with the Office of the ICTY Prosecutor. In November full agreement about the content of the indictment was made between Croatian prosecutors and the Office of the ICTY Prosecutor. On December 28, the Chief State Prosecutor filed the indictment with the County Court in Zagreb. The state prosecutor continued to work closely with the ICTY prosecutor on the transfer of investigative materials from unindicted cases.

In August the Government detained journalist Domagoj Margetic at the ICTY's request after he refused to obey an injunction ordering him to stop publishing on his Web site the names of 102 protected witnesses from the ICTY trial of Bosnian Croat Tihomir Blaskic. After a month in detention, Margetic agreed to abide by the injunction and was released. In September the ICTY indicted Margetic for contempt of court.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on gender, age, and race, disability, language, or social status; however, discrimination against women, ethnic Serbs, and Roma continued.

*Women.*—Violence against women, including spousal abuse, continued to be a problem. In 2005 police recorded an increase of almost 30 percent in cases registered over with the previous year. In the first eight months of the year police reported that 1,339 acts of family violence qualified as criminal acts, and another 8,238 acts qualified as misdemeanors. According to the Ministry of Interior, one third of the murders committed over the past four years resulted from family violence.

Provisions in the legislation regarding family violence provide that a domestic violence case may be initiated by persons other than the victim, including police. The law treats family violence as a misdemeanor: Penalties range between \$166 to \$1,660 (1,000 to 10,000 kunas) or up to 60 days in prison. Under the criminal law, perpetrators can face up to three years in prison for the same acts. NGOs complained that the courts were slow to schedule hearings, issued few convictions, and administered only minimum prison sentences and fines in family abuse cases. In 2005 NGOs specializing in domestic violence criticized police procedures that gave police discretion to assess threat levels when administering restraint orders and other measures. Police officers were trained to handle family violence at every police station in the country to provide quick intervention, secure victims' safety, and remove perpetrators from families.

Police officials tended to classify violent acts against women as misdemeanors, resulting in minimal sentences. Minimal sentencing was particularly frequent in cases of rape. During the year police began keeping gender-specific statistics, which allowed them to better track violence against women. The Central Bureau of Statistics issued a separate publication with gender-related statistics including participation in political power, distribution of salaries and education. The publication reported that women comprised approximately 57 percent of the unemployed population. However, salaries for women and men with the same qualifications differed. For example, in education, health care, and public administration, women received approximately 80 percent of men's earnings.

The Office of the Ombudswoman for Gender Equality and women's NGOs reported in 2005 that courts were consistently too lenient towards perpetrators. Women's NGOs and the media also criticized the courts for unequal sentencing of males and females. In one highly-publicized case in September, the Zadar County Court sentenced Ana Magas to eight years in prison for killing her husband while he tried to strangle her, ruling that Magas had exceeded force necessary for self-defense. The court's decision contained statements that she "provoked the strangling, took away the father from their child," and that "calling her a whore was logical." NGOs and the media contrasted the Magas verdict with a verdict issued the same month in which a man who killed his aggressive wife by beating her received a one-year prison sentence. The verdict initiated public discussion on double standards and unpredictable criteria in the courts.

In September 2005 the Government adopted the protocol of action in domestic violence cases. While the definitions of violence are generally broad, the harshest sentence is 60 days in prison, and violent acts remain a misdemeanor in many cases.

During the year the Government expanded the authority of courts to issue restraining orders when social services submit a request in the interest of the family member. In September the Ministry of Family, War Veterans, and Intergenerational Solidarity adopted changes to the protocol on Conduct in Domestic Violence Cases. The changes state that social care centers can propose restraining orders against an absent parent when it is in the best interest of the child. The changes followed two high-profile cases of family violence against women and children during the summer.

In June a husband killed his wife and then committed suicide in front of a children's home in Zagreb. The killings took place after months of repeated death threats against both the wife and the child, which the wife reported to local social services and the court. However, the courts and social service never issued a restraining order, and the perpetrator was repeatedly released immediately after being questioned by the police. A similar incident occurred in the north, where a husband killed his wife and daughter and then committed suicide. The perpetrator earlier served a prison sentence for family violence and was ordered to undergo psychiatric treatment, which was later reversed by the county court. The leading women's NGO, Autonomna Zenska Kuca, protested to the Ministry of Justice against the lenient attitude courts displayed toward offenders. Women activists demanded family violence be treated as a criminal act, requested obligatory prison sentences for offenders, insisted on the application of restraining orders for offenders, urged the establishment of family courts, and advocated for that victims of domestic violence be treated as protected witnesses. Support measures for victims of violence were limited, as were shelters and counseling facilities. In general, private donations financed most services, with limited government spending. The Government began a program to increase employment opportunities for victims of violence, single parents, and unemployed mothers of three or more children.

The Government cooperated with NGOs to promote gender equality; however NGOs remained concerned that the budget for such programs was small and unstable. NGOs complained that, while the Government organized conferences and public events to raise public awareness, it did not make significant substantive changes.

There were 10 shelters operated mainly by NGOs and financed by donations for victims of domestic violence. The Ministry of Health and Social Welfare signed a contract with six organizations to increase the number of beds in women's shelters by approximately 120 beds. The Government provided \$237,000 (1.3 million kuna) to finance consultation centers that operated either independently or in the shelters for female victims of domestic violence run by NGOs. Hotlines, counseling, and legal assistance were available to victims of domestic violence.

Rape, including spousal rape, is a crime; however, according to NGOs, many women did not report rape or spousal rape. In June changes to the criminal code increased the minimum sentence for rape from one to three years, with the maximum sentence remaining unchanged at 10 years. Under the same law, sentences were increased for various acts of physical and sexual violence against disabled persons. In rape cases under aggravated circumstances, such as rape that resulted in death or pregnancy or if the victim was a minor, the sentence remained unchanged, ranging between three and 15 years. NGOs estimated that on average 100–140 cases of sexual violence and rape occurred annually. Due to social pressure stigmatization, rape and sexual violence were underreported. Some NGOs that specialized in sexual violence were concerned that there appeared to be no uniform application of rape kits or a uniform gynecological protocol for the treatment of rape victims.

In the first eight months of the year, the Ministry of Interior registered 70 reports of rape and 14 for attempted rape. The state prosecutor reported 45 rape convictions during the year, an increase from 38 the year before. The NGO Women's Room stated that in previous years women frequently did not report rape and spousal rape because they lacked information about available legal protections, felt ashamed, feared reprisal, or, in case of spousal rape, were concerned over the economic consequences. Women's NGOs noted that victims were also reluctant to report rape, particularly spousal rape, because it was difficult to prove in court and because medical staff, police, and judiciary were not trained to treat such victims. They also alleged that sentences for spousal rape tended to be too lenient.

Prostitution is illegal but widespread. According to a 2005 estimate by the Croatian Trade Unions' Association, approximately 3,500 women were involved in prostitution. According to the state prosecutor's statistics, authorities initiated 301 misdemeanor procedures for prostitution in 2005.

Trafficking in women for the purposes of sexual exploitation remained a problem (see section 5, Trafficking).



The law prohibits sexual harassment in the workplace; however, it was a problem. According to a 2004 survey by Poslovni Forum, over 17 percent of female employees reported experiencing sexual harassment in the workplace at some point in their career. During the year the International Unions' Confederation conducted a regional survey that showed similar results with 18 percent of women reporting different forms of harassment at work. According to trade unions, the problem was most pronounced in the textile and leather, trade, and catering industries. The Office of the Ombudswoman for Gender Equality and unions reported that they worked on sexual harassment cases, although many women were reluctant to take action for fear of reprisal.

The constitution and law prohibit gender discrimination. In practice women generally held lower paying positions in the work force. In January Croatian Women's Network, a group of women's NGOs, reported that 59.3 percent of unemployed persons were women, an increase from the beginning of 2005. The group reported in January that women's wages were on average 19.4 percent below men's, double the difference reported by the State Bureau of Statistics in 2003. Women held the preponderance of low-level clerical, labor, and shop-keeping positions.

Gender-based discrimination occurred in the educational system, which does not include sex education or education on gender equality. Textbooks often displayed a masculine bias, discriminatory patterns, and gender stereotypes. According to the Center for Women's Studies, in a physics textbook for primary school, there were images of a woman ironing while a man sat in an armchair reading papers as well as other images where a man appeared angry because he had to vacuum floors. In many textbooks, women appeared as mothers and housewives, and professionally only as teachers, nurses, or working on farms. In yet another example, there was a complete absence of women as historical figures in the history book for eighth graders. In June the Government formed a committee for sex education with the goal of offering a sex education curriculum in the schools. NGOs complained that the committee was not balanced and tended to favor more conservative approaches towards sexual education. In addition concerns about lack of transparency and religious bias in sex education have raised concern among some NGOs.

The Office for Gender Equality is responsible for implementing the Gender Equality Law and formulating the Government's gender policy; the Office of the Ombudswoman for Gender Equality monitors implementation of the law, including the submission of mandatory action plans for state institutions and public companies. During the year the office received a small increase in government funding, doubling its budget from the previous year \$630,000 (3.5 million kuna). It provided financial assistance to the NGO Be Active, Be Emancipated (B.a.b.e.) for a project on the treatment of women in the media, which included a study of media legislation. It also supported a publication for Roma women activists in their language and the first bilingual magazine for ethnic Albanian women.

In September the Government adopted the national gender equality policy for 2006–10 which was drafted with active participation of prominent women's NGOs. The document focuses on improvements to women's status in human rights protection, securing equal treatment on the labor market, introduction of gender-sensitive education, suppression of all forms of violence against women, and increased female participation in political power. The document introduces "gender-mainstreaming issues" and gender budgeting in line with EU standards.

The Office of the Ombudswoman for Gender Equality took an active role in public debate on sexual education and in raising the profile of women's human rights. While women made up over 50 percent of the population, according to 2005 NGO statistics, women's participation in representational bodies averaged 10.8 percent, with city councils having the highest average representation at 14.7 percent. Representation in local and regional governments increased slightly overall in the past few years to 13 percent. According to government statistics, participation of women in senior government positions rose from 20 percent in 2000 to 31 percent in during the year.

*Children.*—The Government was generally committed to the rights and welfare of children.

Education is free and mandatory through grade eight (generally age 14); boys and girls had equal access to education. The majority of students continued their education until the age of 18, with Roma being the only notable exception. Romani children faced serious obstacles to continuing their education, including discrimination in schools and a lack of family support. An estimated 10 percent of Romani children graduated secondary school, while up to 39 percent were illiterate. According to a survey financed by the UN Development Program (UNDP) in 2005, 17 percent of Romani children over the age of 12 completed primary education, compared to 74 percent of the non-Roma population living close to Romani settlements.

International organizations and local NGOs reported that school authorities continued to provide segregated, lower quality classes for Romani students in the northern part of the country. A 2003 lawsuit challenging the segregation of primary school classes in the northern Medjimurje region remained pending before the Constitutional Court. By year's end the ECHR had not reached a decision on a December 2004 lawsuit filed by the European Center for Roma Rights and Croatian Helsinki Committee (HHO) on behalf of 15 Romani children who were allegedly subjected to discrimination in elementary schools. In September the HHO repeated its concern over the prolonged silence of the Constitutional Court, which had been its primary motive for filing the lawsuit with the ECHR.

The HHO noted in 2005 that at least four primary schools included in the indictment continued segregating classes during the year. One Romani NGO, Croatia's Umbrella Association of Bajasi, noted that this practice continued in 2006. The same NGO based in Medjimurje reported in September that the segregation of classes did not decline and that 20 Roma assistants in this school system could not substantially help students overcome the language barrier and acquire psychological and social skills because the students had not received sufficient preschool education. The Ministry of Science, Education, and Sports worked to improve the status of Roma assistants by paying their salaries during summer vacations and financing their training to obtain a high school education.

The Council of Europe Human Rights Commission noted that under the Government's 2005 action plan for the social integration of Roma, efforts have continued to promote preschool education with the aim of fully integrating Roma children into the school system. Government desegregation efforts were sometimes still met with opposition from parents or non-Roma children. The Ministry of Science, Education, and Sports reported that approximately 350 children, mostly from Medjimurje and some from Istria, received preschool education which was lengthened to an average of six months compared with three months in 2005. With an additional \$700,000 (3.9 million kuna) funding from the Roma Education Fund, the Government planned to extend preschool education to the entire school year. In March the ministry established a special department for educational needs of ethnic minorities.

Medical care for children was free, and boys and girls had equal access.

Child abuse, including sexual abuse, was a problem. According to state prosecution statistics, 1,058 persons were reported for criminal acts against children in 2005. The prosecution dismissed 323 reports and initiated proceedings against 721 persons. During 2005 509 persons were convicted for neglect and abuse of children and minors, while 19 persons were convicted for explicit sexual crime, 57 for lewd behavior, and 16 for sexual exploitation of children.

In June parliament amended the Criminal Code to provide harsher sentences for employees of government institutions in charge of children and juveniles who failed to meet their legal obligations, thus endangering their health and development. The minimum sentence for such crimes was raised from a fine to three months in prison. The minimum sentence for child desertion was increased from six months to one year, and similar changes were introduced for neglect and maltreatment of a child or a juvenile.

Trafficking in children was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

There were no nationwide statistics on child marriages among Roma, but social welfare services in Medjimurje county, where a substantial Romani minority resides, reported that common-law marriages were customary among partners at the age of 16 and above. According to their estimates, as many as 60 percent of female teenagers entered such marriages, which were often prompted by pregnancies. These marriages were in some cases made official when partners reached adulthood.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, women and minors were trafficked to, from, and within the country.

The country was a transit country for women and girls trafficked to other parts of Europe for prostitution and increasingly a source and destination country for trafficked women. Women from Romania, Bulgaria, Bosnia and Herzegovina, and other countries were trafficked through Bosnia and Herzegovina, Serbia, and Montenegro to the country, where some remained to work as prostitutes while others were trafficked onward. Women were transported through the country by truck or boat. Women from Albania, Bosnia and Herzegovina, Bulgaria, Hungary, Macedonia, Moldova, Montenegro, Romania, Slovenia, and Serbia were detained for illegal entry into the country; some of these were believed to be trafficking victims. The Government reported 10 new victims during the year: two Serbian, three Bulgarian, one Romanian, two Ukrainian, and two Croatians. All victims were women, one was a minor victim. Since 2002, 51 victims have been identified. The Government reported that all victims cooperated with police investigations. As of September the Inter-

national Organization for Migration (IOM) identified one additional potential trafficking in persons victim, who was a minor.

The law defines trafficking in persons as a crime separate from slavery and provides penalties between one and 10 years' imprisonment for traffickers. The minimum penalty for trafficking crimes committed against a minor is five years' imprisonment. In addition, if the crime was committed by a criminal organization and resulted in a death, the penalty is five years' to life imprisonment. In June parliament passed amendments to the Penal Code, criminalizing users of trafficked services. Perpetrators are subject to three months to three years' imprisonment. During the year the Government also began implementing its operational plan for the suppression of trafficking in persons. By year's end, the Ministry of Interior reported that 10 criminal charges were filed for trafficking in persons related crimes against 17 individuals. Police arrested all individuals. The state prosecutor filed two indictments against four defendants. The National Coordinator for trafficking in persons, reported one appealable conviction and two related convictions for international prostitution, slavery, and illegal capture crimes. As the crimes in the second and third cases occurred prior to the implementation of the trafficking in persons provision in October 2004, these cases were prosecuted and convicted under the legal provisions that existed prior to adoption of the specific trafficking in persons provision. Police also identified five suspects who were involved in related crimes (international prostitution and pimping), but did not consider these cases to be trafficking.

A witness protection law provides for granting government protection when a witness' life, health, freedom, or property is threatened; however, it was not used in any trafficking-related case during the year.

The Government has a national committee for the suppression of trafficking in persons and a national coordinator for trafficking in person's issues who is the head of the Government's human rights office. Ministries and agencies responsible for the suppression of trafficking included the ministries of foreign affairs, justice, interior, health and social care, and education and the Office of the State Prosecutor. Police participated in international investigations through the Southeast European Cooperation Initiative regional center in Bucharest.

Police awareness of the problem of trafficking in persons continued to improve; however, according to NGOs, failure to identify trafficked women among illegal aliens smuggled into the country remained a problem that resulted in the significant underestimation of the trafficking problem in the country. The police academy continued to teach antitrafficking as a regular part of its curriculum, offering 18 hours of instruction per semester. The Ministry of Interior reported that it provided trafficking in persons related education to 33 police officers, 16 illegal migration officers, and 17 organized crime officers. The ministry reported that the 26 police officers who became trafficking in persons trainers educated other officials and members of civil society. In addition police participated at various TIP related regional conferences. The Department for Illegal Migration hired new staff and continued education for its officers to strengthen border controls. The ministry continued its regional cooperation and signed in January a cooperation agreement with EUROPOL to further enhance existing cooperation and investigations.

Young women, IDPs, and foreign nationalities were most at risk of being trafficked. Anecdotal information indicated that international organized crime groups, local groups, and travel or marriage agencies were responsible for trafficking. Victims were subject to violence, intimidation, withholding of documents, and threats by traffickers.

There were no reports that government officials were involved in trafficking.

During the year the Government did not deport or punish victims of trafficking and cooperated with NGOs and with the IOM mission to offer all necessary assistance to victims. While the law criminalizes international prostitution and unauthorized border crossings, it exempts trafficking victims from prosecution. Similarly, the law allows authorities to charge foreign prostitutes with a misdemeanor and initiate deportation proceedings if they do not fulfill legal requirements for their stay in the country but exempts trafficking victims from deportation.

The Government has a legal framework to provide for victim assistance, and there were support services available for trafficking victims. The Government continued to finance a shelter for trafficking victims. The Croatian Red Cross (CRC), in cooperation with the Government, operated four reception shelters for victims. Although the Government offered assistance to all victims, some refused services. For those who sought assistance, the Government provided services jointly with local NGOs and IOM. In one case involving a minor, the Government cooperated with IOM and Interpol to ensure the minor's repatriation to a safe environment. One for-

eign victim requested and received a residence permit; other victims were resettled or repatriated outside the country, as requested.

The Government conducted trafficking in persons public awareness campaigns and continued to support an NGO hotline and alternative shelter. One government information campaign targeted children as potential trafficking victims.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services; however, discrimination occurred.

By November the Government had established 10 counseling centers that offered assistance to persons with disabilities and their families and reported that 1,012 persons with disabilities were employed through the Employment Institute.

MP Vesna Skulic continued to criticize the Government for slow implementation of the three-year national strategy for persons with disabilities, which expired in December. For example, the practice of placing personal assistants with persons with grave disabilities, which should have been widespread under the strategy, was still reduced to its current status as a pilot project. Skulic also criticized the lack of transparency in the management of the Government's fund for professional rehabilitation and employment and the lack of progress in employing persons with disabilities outside Zagreb.

The law mandates access to buildings for persons with disabilities; however, the Government did not always enforce these provisions, and the law did not mandate that facilities be retrofitted. As a result, access to public facilities was limited.

In August a blind man and his guide dog were prevented from boarding a train in Karlovac. Railway officials asserted that, according to regulations, only trains with compartments were available to blind persons accompanied by dogs. Deputy Prime Minister Jadranka Kosor condemned the incident, stating that all means of transport should be available to persons with this kind of disability.

In 2005 charges for neglect of children were brought against five nuns and another employee for sexual abuse in a home for mentally incapacitated children operated by the Catholic charity Caritas. Most charges were dropped because of a statute of limitations. In September the state attorney's council considered additional evidence and dishonorably dismissed the deputy state prosecutor in charge of children and youth for disregarding evidence and terminating an investigation into the case in 2004.

*National/Racial/Ethnic Minorities.*—Constitutional protections against discrimination are applied to all minorities; however, open discrimination continued against ethnic Serbs and Roma.

In comparison with the previous year, violence against ethnic Serbs generally declined. During the year the Croatian Helsinki Committee (HHO) reported that the number of interethnic incidents dropped by 45 percent. The HHO also noted that the improvement was partly due to leadership following a high profile incident in Zadar in August as well as administrative changes in the Ministry of Interior and personnel changes in the police directorate. Human Rights Watch (HRW) reported 17 incidents in Zadar hinterlands in the first six months of the year. However, the largest Serb NGO, Serb Democratic Forum (SDF), noted no major instances of violence against ethnic Serbs in the second half of the year. The SDF noted better police performance and the general improvement of the political climate as factors that led to more stability.

In August four persons from the nearby Croat village of Skabrnja threw stones at houses and attempted to torch courtyards of three Serb returnee families in the village of Biljane Donje near Zadar. The President and Deputy Prime Minister Jadranka Kosor traveled to Biljane Donje the day after the incident and condemned the attacks. Police presence was increased for days after the attack, and the four suspects were promptly identified and detained. However, the Serb families dropped all charges.

In 2005 the Ministry of Interior appointed an ethnic Serb advisor in Zadar to collect information and to monitor police response to ethnically related incidents in Dalmatia. A similar advisor has been posted in eastern Slavonia since 2004.

According to police statistics, in areas of more intense refugee return, agricultural land issues remained the primary cause of interethnic incidents. In June the Serb Democratic Forum reported that 127 plots of land in the area of Zadar were used by persons other than the owners. They expressed concern that the increased number of incidents deterred permanent return of refugees.

In April and May the Serb Democratic Forum reported several incidents in the wider Benkovac area. In Smokovic unknown persons poured paint over the door and a window of a Serb returnee's house and set them on fire. Police investigated but identified no suspects. In April a Serb returnee and his daughter were threatened

in front of the Benkovac police station. The perpetrator threatened to kill the returnee, asking him who murdered his father. In May a Serb returnee from Zemunik Donji notified the Serb Democratic Forum that four Roma youth threatened to loot their property claiming that "this was their state" and that the Serbs had no right to be there. Later in September, in Ostrovica, an elderly Serb returnee suffered an arm fracture after a group of Roma attacked him with wooden beams over a land dispute.

In May the Serb Democratic Forum and HRW reported that, at a soccer match between Knin and Zagreb teams, fans chanted songs and shouted slogans about killing Serbs, such as "we do not drink wine, we drink Serbs' blood" and "kill the Serb, kill the donkey." After the match, similar slogans were painted on the nearby walls. There was no official reaction to the event and police told their superiors they did not hear any songs or slogans. However, the police investigated the incident but the perpetrators were not identified.

Ethnic Serb MP Ratko Gajica informed the media about 29 incidents against ethnic Serbs across the country during August. Those incidents ranged from the appearance of graffiti with ethnic slurs in the Zadar region (Sukosan, Zemunik Donji, and Miranje villages) to damaging cars with Belgrade, Serbia plates in Knin and Zadar. Offensive graffiti such as "Ustasha Youth" and "Serbs should hang" were also noted on several locations in Zagreb.

In November the media reported two incidents involving the removal and burning of flags directed against the ethnic Croat majority. Police identified a teenage boy who set fire to a Croatian flag hoisted on the building of a local paper in Karlovac on Independence Day. The boy was reportedly charged with damaging the reputation of the country. In the same month unidentified persons stole a flagpole in front of the Skabrnja Municipal building in the Zadar hinterland. The incident took place two days before commemoration of the Skabrnja massacre in which dozens of Croats perished during the 1991-95 war. Police investigated but no one had been charged by year's end.

In December four three-foot tall "S" letters in Cyrillic script, symbolizing Serb rebellion, appeared on the monument to the Croatian war victims in Lovas near Osijek. The police investigated the incident but had not identified the suspects by year's end.

As of September, police had not identified any suspects in connection with the following incidents against ethnic Serbs: the 2005 murder of an elderly Serb in Karin; the 2005 beatings of two elderly Serbs in Ostrovica; and 2005 killings of two Serbs in Lipik.

The Serb Democratic Forum and others asserted that police were not always impartial when investigating property disputes between ethnic Croats and ethnic Serbs. The OSCE reported on several ethnically related incidents where the perpetrators were charged with misdemeanor offenses, such as disturbing public order, rather than criminal offenses. In a majority of the cases, police and prosecutors were reluctant to identify cases as ethnic discrimination. However, in cooperation with the OSCE, police provided ongoing training to officers on identifying and prosecuting hate crimes.

Discrimination continued against ethnic Serbs in several areas, including in administration of justice, employment, and housing (see sections 1.e. and 2.d.). Ethnic Serbs in war-affected regions continued to be subject to societal harassment and discrimination.

Four years after the Constitutional Law on National Minorities was passed authorities have not implemented its provision on proportional minority employment in the public sector in places where a minority constitutes at least 15 percent of the population. The largest Serb NGO, Serb Democratic Forum, published a survey in June covering 23 municipalities in five regions where Serbs constituted a prewar majority and remained a significant part of the population. In the towns of Glina, Petrinja, Topusko, and Vojnic in the central area of the country, the report found that Serbs made up 22 percent of the population but held only 3 percent of public administration jobs. In Benkovac, Drnis, Knin, and Skradin in Dalmatia, Serbs made up 13 percent of the population but held only 4 percent of public sector jobs. Of the five regions covered in the survey, the situation was significantly better only in eastern Slavonia, where Serbs were adequately represented in the police and only slightly underrepresented in the judiciary. However, even in eastern Slavonia, overall employment in state administration remained low; while Serbs made up 51 percent of the population in eastern Slavonia, they held only 26 percent of state administration jobs.

In October the National Council for National Minorities filed a complaint against the city of Daruvar over an alleged violation of the Law on National Minorities and the Law on the Use of the Minority Language and Script. While the Czech minority

comprised approximately 20 percent of the local population, the scripts on the street signs and on public buildings largely remained in Croat.

In December 2005 the Law on Courts was amended to stipulate that minority participation be taken into account when appointing judges in regions where minorities constitute a significant percentage of the population. The amendment was a rare example in which an individual law was amended to reflect rights protected under the Constitutional Law on National Minorities.

Human rights and Serb NGOs pointed out several cases of ethnic Serb judges who, although fully qualified, were unable to secure positions in areas with a significant Serb minority population. Persons without experience or from other towns were appointed instead. One ethnic Serb judge in 2005 appealed the State Judicial Council's decision when it turned down his bid for the position at the Municipal Court in Gvozd. The administrative court wrote in its response that the applicant indicated his Serb ethnicity, but did not indicate that he was a minority member, and thus failed to invoke his minority rights. His appeal was still pending. The same judge applied for and was refused a position at the Vojnic municipal and misdemeanor courts. His case was pending before the Human Rights Court in Strasbourg.

In June the parliament amended the criminal code, introducing a definition of hate crime as any criminal act committed against another person due to their race, gender, religion, ethnicity, sexual orientation, or affiliation to certain social groups. The article on grave murders in the criminal code, which carries a minimum 10-year sentence was amended by adding hatred as one of the motives that defines the criminal act. However, legal experts, including Zagreb County Court Deputy President Marin Mrcela warned that hate crime was mentioned in part of the criminal code which could lead to difficulties in its application for prosecutors. NGOs and international organizations earlier complained that crimes motivated by ethnic, religious, gender, and sexual orientation were often seriously under-sanctioned.

In June parliament increased penalties for hate speech to no less than six months' and no more than five years' imprisonment. For the crime of hate speech committed over the Internet, penalties range from six months to three years imprisonment.

During the year the *Vecernji List* newspaper repeatedly made derogatory and inflammatory statements about minorities, including ethnic Serbs and Muslims. In July the paper printed a story with the headline "Chetnik Sniper Fires Shots in Zagreb," containing the allegation, which the police later denied, that a Serb from Vukovar who was accused of war crimes took part in a sport shooting competition. Observers noted the newspaper's coverage of some minority issues bordered on hate speech.

Some discrimination occurred against minorities in schools (see section 5, Children). In September local authorities in Vukovar and the Ministry of Education integrated four secondary schools that previously held separate classes for over 2,000 ethnic Croat and Serb children. With the exception of one school that continued to divide students into separate shifts according to language and ethnicity, all of Vukovar's primary schools had integrated joint shifts.

In November several students of the Technical School in Vukovar accused their language teacher of insulting them on ethnic grounds. According to the students, the teacher insulted them by saying "this is not Serbia" and "go across the Danube." The teacher denied all allegations.

Societal violence, harassment, and discrimination against Roma continued to be a problem. While only 9,000 persons declared themselves to be Roma in the 2001 census, according to an OSCE report this year, the country's Roma population was widely estimated to be much larger. Officials and NGOs estimated that the Romani population was between 30,000 and 40,000. In June the European Court of Human Rights agreed to review a complaint against the country for allegedly failing to adequately investigate skinhead violence against Roma.

Roma faced many obstacles, including language (many Roma, particularly women, had only limited Croatian language skills), lack of education, lack of citizenship and identity documents, high unemployment, and widespread discrimination. Romani NGOs estimated that 25 percent of Roma did not have citizenship documents and thus could not obtain social benefits, employment, voting rights, and property restitution. According to the Council of Europe, only 6.5 percent had permanent jobs, while the Ministry of Social Welfare estimated that 20,000 to 30,000 Roma were receiving some form of social assistance. The Ivo Pilar Institute for Social Research in 2005 estimated that only 17 percent of Roma had permanent employment and over 50 percent lived exclusively on social welfare.

International organizations and local NGOs continued to report that school officials segregated Romani pupils in lower quality classes in the northern part of the country (see section 5, Children).

In March 2005 the Government adopted an action plan to invest approximately \$10 million (62.5 million kunas) over the next 10 years to improve conditions for Roma in education, health, employment, housing, and other areas. During the year the Government increased its budget for Roma programs five fold compared with 2005, to \$2 million (12 million kunas). The European Commission provided additional funding for programs, including for Roma employment through the State Employment Bureau, education, improvement of Romani settlements, free legal aid, and health care. In August the Government organized an employment seminar for 20 young Roma. In Bjelovar the first Roma was employed as an advisor to the regional state employment bureau. In August the Government launched a website in Croatian, English, and Romani on the implementation of its programs for Roma. The Government's Office for National Minorities asserted that progress was most visible in the preparation of zoning plans for municipalities with Roma settlements, which is a precondition for their legalization and reconstruction. The Ministry of Health continued to deploy mobile teams to provide basic health care to Romani communities. In July the Ministry of Education approved specialized training for some teachers in the Roma language to facilitate their communication with Romani students.

On occasion ethnic Croats were targets of interethnic violence. In September the media reported that a Serb youth attacked a younger Croat teenager, pointing a knife against his throat while they rode on a bus from school in Vukovar. The attacker cut the boy on his fingers and threatened a group of boys to "slaughter all Ustasha." The police charged the attacker with violent behavior and disturbing public order.

*Other Societal Abuses and Discrimination.*—There was some societal discrimination against homosexuals.

In July the media reported that a dozen persons attacked two homosexual British tourists in a bar. The tourists sustained a concussion, ear injury, and loss of teeth. The attackers accused them of making inappropriate comments and behavior. The same month Croatian Party of Rights MP Tonci Tadic compared homosexual tourists with concentration camp guards and cannibals, and suggested they would not be welcome in the country. The Government ombudswoman for gender equality and human rights groups criticized the statement. In September at least three unidentified persons attacked two German homosexual tourists in Split while they walked on the waterfront holding hands. One of the victims sustained a nose fracture and the other a slight chest injury. The police investigated but did not identify the perpetrators.

Legal experts from Iskorak and Kontra, two NGOs that represent sexual minorities, drafted the definition of hate crime that was introduced in the Penal Code in June and participated in a seminar for nine police officers at the Police Academy in Zagreb that month. The nine officers were expected to train colleagues in prosecuting this type of crime.

In August 2005 one NGO reported that authorities initiated 11 criminal proceedings for physical assaults against homosexuals during that year. In one, a group of teenagers attacked a homosexual couple by shouting offensive remarks and then severely beat the couple. The victims, who immediately reported the incident, complained that the police were slow to react.

Societal discrimination against persons with HIV/AIDS remained a problem. The Croatian Association for HIV reported that dentists and general practitioners often refused treatment of HIV positive patients and some hospitals postponed surgeries because doctors were reluctant to operate. If an HIV patient did not go through the infectious disease hospital, they often had to wait for treatment, and surgery could be delayed indefinitely. Transplant centers have also refused to put HIV patients on their list of potential organ recipients.

In March a daily paper reported the death of an individual, printing his name and photograph and stating that the cause of death was AIDS. The newspaper published the article without official confirmation of the cause of death. The same paper republished the details again in September, in an article about a company director that allegedly intentionally infected employees with HIV. According to the Croatian Association for HIV, the paper did not officially confirm the facts surrounding the article, which accused the newspaper of running a campaign against persons with HIV.

A daily newspaper published a report with photographs concerning two juveniles, who were the focus of media attention in prior years due to their HIV status. The country does not have separate regulations on the protection of data confidentiality for children with HIV.

According to the UN theme group on HIV/AIDS, analysis of laws regarding HIV indicated that they contain discriminatory provisions. The group cited legal provi-

sions that require: testing under medical supervision for certain professions and in certain cases involving prisoners and restrictions on HIV-positive persons with regard to performing certain jobs. Otherwise, according to the analysis, most cases of discrimination occur outside the scope of legislation or due to a lack of sufficient enforcement of privacy laws, lack of consistent adequate medical care and discrimination in school or the workplace.

The UNDP reported that one weekly in May published the initials and other personal information in detail sufficient to identify a cafe owner in Split suspected of being HIV positive and alleged that he was allegedly spreading AIDS. The damaged party did not take legal action against the weekly.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers are entitled by law to form or join unions of their own choosing, and workers exercised this right in practice. Approximately 50 percent of workers were members of unions; however, not all the unions were associated with each other and this percentage could vary. Unions generally were independent of the Government and political parties.

The law prohibits antiunion discrimination and expressly allows unions to challenge firings in court. However, in general, citizens' attempts to seek redress through the legal system were seriously hampered by the inefficiency of the court system.

*b. The Right To Organize and Bargain Collectively.*—The constitution and law protect collective bargaining and the right to organize, and workers exercised these rights in practice.

The law provides for the right to strike, with some limitations, and workers exercised these rights during the year. Members of the armed forces, police, government administration, and public services were not permitted to strike. Workers may only strike at the end of a contract or in specific circumstances mentioned in the contract after they have gone through mediation. When negotiating a new contract, workers are required to go through mediation before they can strike over a new contract. Labor and management must jointly agree on a mediator if a dispute goes to mediation. If a strike is found to be illegal, any participant may be dismissed and the union held liable for damages.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits all forced or compulsory labor, including by children; however, there were reports that it occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws and policies to protect children from exploitation in the workplace and provide for acceptable working conditions. While the Government for the most part implemented these laws and policies effectively, child labor remained a problem.

In 2005 the State Inspectorate recorded 271 violations of the labor law involving 188 children under the age of 17. Approximately 35 percent of the total violations involved children under the age of 15, mostly in the entertainment industry. The children were employed in the hospitality, tourism, retail, industrial, construction, and media sectors.

The minimum age for employment of children is 15 years. The Ministry of Economy, Labor, and Entrepreneurship in conjunction with the ombudsman for children and the State Inspectorate was responsible for enforcing this regulation. Minors under the age of 15 may work if they receive prior approval from the Labor Inspectorate and if it is determined that the child will not suffer physically or mentally from the work. Approval is usually requested for filming movie scenes or play rehearsal. The law prohibits workers under the age of 18 from working overtime, at night, or under dangerous conditions.

The law prohibits trafficking in children; however, it occurred (see section 5).

The law proscribes the worst forms of child labor. Recent changes to the criminal code criminalize trafficking in children for purposes of sexual exploitation and labor. The national ombudsman for children coordinates the country's efforts to prevent the exploitation of children and to assist in removing children from exploitative situations. The State Labor Inspectorate has 92 inspectors whose duties include inspection for illegal employment of minors. The inspectorate forwards all cases of violations involving minors to the office of the ombudsman for children.

*e. Acceptable Conditions of Work.*—Minimum wage, as determined by the Government, is \$368 (2,100 HRK gross), net is between \$245-\$262 (1,400-1,500 HRK) depending upon exemptions, and does not provide a decent standard of living for a working family. Government statistics from August indicated the average wage was \$812 (4,633 HRK) and the minimum cost of living for a family of four in rented



housing was \$1097 (6,256 HRK). The labor inspectorate enforces the minimum wage while the Ministry of Finance determines the level.

Nonpayment and late payment of wages continued to be a problem, although it lessened in recent years. Nonpayment of overtime or for work on holidays was also a problem. According to the State Labor Inspectorate, 1,809 workers did not receive payment for their work between January 1 and October 31.

The Labor Inspectorate reported that employers did not register 4,046 employees with the health and pension insurance funds, thereby denying health or pension benefits. The law allows labor inspectors to immediately shut down a work site where illegal or unregistered workers are discovered. Between January 1 and October 31, the inspectorate shut down 327 employers for violating labor regulations.

The law provides for a standard workweek of 40 hours. Workers are entitled to a 30 minute daily break, one day off out of seven, and a minimum of 18 days of paid vacation annually. The law provides that workers are entitled to time-and-a-half pay for overtime and limits overtime to 10 hours per week. The labor inspectorate must be notified if overtime work for an individual employee continues for more than four consecutive weeks, for more than 12 weeks during a calendar year, or if overtime work of all employees of a certain employer exceeds 10 percent of the total working hours in a particular month. Between January 1 and October 31, the inspectorate processed 12,984 violations of labor law. After processing the inspectorate sent 5,311 violations to misdemeanor courts for proceedings. Infractions included labor contract, payment, and annual leave violations, and unpaid and unreported overtime. Pregnant women, mothers of children under three years of age, and single parents of children under six years of age, may work overtime only if they freely give written consent to perform such work.

The Government set health and safety standards, which were enforced by the Ministry of Health; the ministry's inspectorate has jurisdiction over enforcement of health and safety laws at the workplace and compiled annual data on injuries and health and safety code violations. In practice, many industries often did not meet the standards for worker protection. In 2005 the inspectorate investigated 6,773 worksites and entered 1,750 misdemeanor reports covering a total of 3,483 violations of safety standards. During 2005 misdemeanor courts issued 1,267 violations of which five were declared criminal acts and referred to municipal or county courts. However, under the law, workers may remove themselves from hazardous conditions and have recourse through the courts if they believe that they have been dismissed wrongfully for doing so; however, according to the state inspectorate, workers did not exercise this right in practice and normally only reported employers after they had left their job.

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## REPUBLIC OF CYPRUS

The Republic of Cyprus is a constitutional republic and multiparty Presidential democracy. The area under control of the Government has approximately 780,000 inhabitants. On May 21, 56 representatives were elected to the 80-seat Vouli Antiprosopon (House of Representatives) in free and fair elections. This election marked the first time in decades that Turkish Cypriots residing in the government-controlled area were permitted to vote in elections and run for office. President Tassos Papadopoulos was elected in 2003 in free and fair elections. Civilian authorities maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were some reports of police abuse and degrading treatment of persons in police custody and of asylum seekers. Violence against women, including spousal abuse, was common. Trafficking of women to the island, especially for sexual exploitation, continued to be a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings during the year.

The chief of police reported that the May 2005 killing by the police of a Syrian asylum seeker was in self-defense (see section 2.d.).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

The Government participated in the autonomous, tripartite (UN, Greek Cypriot, Turkish Cypriot) UN Committee on Missing Persons (CMP) in Cyprus as part of its

continuing efforts to account for persons missing as a result of the intercommunal violence in 1963–64 and the conflict in 1974.

In August the CMP launched its project to exhume, identify, and return remains. On December 21, the CMP announced that it would perform DNA tests on the remains of 160 individuals held at its Anthropological Laboratory. The CMP anticipated returning the first remains to families of the deceased by April 2007. Exhumations continued in different parts of the island. According to the CMP, 1,468 Greek Cypriots and 502 Turkish Cypriots remained missing.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that police abused detainees.

There continued to be reports that police engaged in heavy-handed tactics and degrading treatment of suspects.

In an incident not previously reported, on December 20, 2005, plainclothes police officers stopped two cars in Nicosia and proceeded to handcuff and beat the drivers, 27-year-old students Marcos Papageorgiou and Yiannos Nicolaou. The 40-minute beating was videotaped by an unidentified witness. The police then took the students to a police station, where they allegedly continued to beat them, causing serious injuries requiring hospitalization. The police officers involved claimed that the students were drunk and resisted arrest and that force was necessary to restrain them. They further claimed that the students suffered the injuries by throwing themselves on the ground. The chief of police appointed an investigator; however, the police investigation was suspended a few days later when the Attorney General appointed an independent criminal investigator. Eleven police officers (Andreas Efstathiou, Haris Haritou, Andreas Panayi, Georgios Pavlou, Giorgios Kylilis, Costas Toumbas, Iordanis Iordanous, Andreas Christou, Christiana Antoniou, Tefkros Charalambous, and Georgios Vanezis) were charged with numerous offenses, such as assault and torture. At year's end, the trial was ongoing; however, the police had initiated disciplinary procedures against 13 police officers involved in the incident. The April 7 report by the Office of the Commissioner for Administration (ombudsman) on the incident concluded that the victims suffered inhuman and degrading treatment tantamount to torture.

On January 13, the press reported that a Nicosia police sergeant was charged with forcing a Bulgarian woman to perform a sex act. According to press reports, the officer offered to give her a ride home from the pub where she worked but, as soon as she got in the car, allegedly became violent and demanded oral sex. A disciplinary committee appointed by the chief of police demoted the officer to police constable.

Also in January, members of the police antinarcotics unit (YKAN) allegedly beat a Turkish Cypriot suspect during the execution of a search warrant at his house in Larnaca. The chief of police ordered two criminal investigations, one against the members of YKAN and one against the suspect. The results of the investigations have not been made public, and the files were with the Attorney General for evaluation at year's end.

On March 30, a police officer allegedly beat prisoner Georgios Georgiou in his cell. The police officer was charged with assault causing actual bodily harm. The case was set for a February 20, 2007, hearing. The police initiated disciplinary procedures against the officer, but they were interrupted on August 21 when the ombudsman asked to review the case.

The Attorney General decided that the alleged victim of a police beating following a car accident in Limassol, reported in April 2005, had not been treated in a discriminatory or racist manner, and he ordered the police to proceed with the individual's prosecution. The alleged victim was charged with attacking and hitting a police officer on duty.

The police investigation into the September 2005 death of a Polish laborer who had been held in police custody revealed that the death was due to a pre-existing condition. No external or internal injuries were found during the post mortem examination. However, the coroner had not yet completed his own investigation at year's end.

The police officer acquitted of raping a Moldovan woman in her prison cell in 2004 was required to resign on April 7.

The disciplinary committee investigating the 2004 case of two police officers who forced an Afghani man to pose with two women in sexually suggestive photographs found them guilty on the charge of misconduct. One officer was fined 10 days' salary, amounting to approximately \$1,000 (462 pounds), and the other was penalized with a two-year deferment of salary increases, amounting to approximately \$33,000 (14,800 pounds).

The second police investigation into the allegations made by a detainee that police mistreated him during his 2003 detention in Limassol was suspended because the complainant did not respond to repeated police calls for an interview.

*Prison and Detention Center Conditions.*—Conditions in prisons, detention centers, and other government institutions generally met international standards, although there were some problems.

In February police reported that final toxicological results showed that the January 2005 death of prisoner Jevor Hakorian in police custody was caused by drug use and suffocation induced by the swallowing of stomach fluids. The coroner's report was pending at year's end.

Both the ombudsman and nongovernmental organizations (NGOs) received complaints that police and prison officials subjected foreign inmates in the Nicosia central prison to discriminatory treatment as well as beatings and other forms of abuse. Foreign inmates also claimed that prison officials did not answer their calls for protection from fellow inmates and prevented them from reporting mistreatment without prison officials also being present. NGOs further reported that inmates incarcerated for nonviolent crimes were confined with dangerous criminals and rapists. Unlike in previous years, there were no reports that prison officials subjected Turkish Cypriots to discriminatory treatment.

During the year overcrowding remained Nicosia central prison's greatest problem despite renovation and expansion. The prison's capacity was 340, although at times it held up to 670 inmates. Approximately 14 percent of the inmates were foreigners imprisoned for entering or living in the country illegally. The Government provided no assistance for the rehabilitation of drug abusers and only limited support for reintegration for former inmates.

A March 29 report by the Council of Europe's (COE) commissioner for human rights noted that, while prison conditions were generally satisfactory, overcrowding remained a problem. The report also expressed concern over the Government's failure to provide facilities and resources for the psychiatric treatment of prisoners. The report noted government efforts to improve the professional training of the prison staff and the abolition of imprisonment for nonpayment of civil debt.

A May 16 report by the COE's European Commission against Racism and Intolerance (ECRI) stressed that the continuing lack of a comprehensive immigration and integration policy resulted in a particular vulnerability for migrants, including domestic and other foreign workers, to human rights violations, exploitation and discrimination in detention centers. The report further stated that similar problems were experienced by asylum seekers, who confronted serious difficulties in exercising their rights. ECRI expressed concern with the extensive use of detention for both migrants and asylum seekers and the conduct of law enforcement officials, which included alleged cases of ill treatment.

Juveniles were generally held separately from adults, although there were isolated exceptions due to overcrowding.

The Government permitted prison visits by independent human rights observers, and such visits, unrestricted and unannounced, occurred during the year.

In September Cyprus Mental Health Commission President Christodoulos Messis criticized conditions at the Athalassa Psychiatric Hospital (see section 5).

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The Cyprus police maintain internal security. The Greek Cypriot National Guard (GCNG), backed by a contingent of Greek military forces, is responsible for external and domestic security. The GCNG reports to the Ministry of Defense, which in turn reports to the President. The police report to the Ministry of Justice and Public Order. The President appoints the chief of police. The police force is composed of a headquarters with six functional departments, six geographic district divisions, including one inactive district for the area administered by Turkish Cypriots, and seven police units that provide specialized services. Although there were reported cases of misconduct, there were no serious cases of police corruption or bribery.

On April 5, the Council of Ministers appointed an independent committee charged with investigating complaints against the police concerning bribery, corruption, unlawful financial gain, violation of human rights, abuse of power, preferential treatment, and conduct unbecoming of police officers. Previously, the assistant chief of police for administration handled investigations and recommended appropriate disciplinary measures to the chief of police. In August the committee chair complained that the body could not handle the workload and suggested that it instead supervise investigations to be carried out by the police. In the first five months after its incep-

tion, the committee received 40 complaints. More than half of the complaints were dismissed because they could not be substantiated.

There were 34 criminal investigations against members of the police during the year. Ten of the investigations were presented to a court; however, there was no information regarding the outcome of these cases.

*Arrest and Detention.*—The law requires judicially issued arrest warrants, and authorities recognized this requirement in practice. Persons may not be detained for more than one day without referral of the case to a court for extension of detention. Most periods of investigative detention did not exceed 10 days before formal charges were filed. The Attorney General generally made efforts to keep pretrial detention to a minimum, especially in cases of serious crimes; however, aliens arrested for illegal entry without identification were detained indefinitely when authorities did not know where to deport them. Attorneys generally had access to detainees. Bail was permitted. The Government claimed the right to deport foreign nationals for reasons of public interest whether or not they had been charged with or convicted of a crime.

By year's end there were fewer than 10 persons in detention awaiting trial.

The Government arrested persons crossing the green line in possession of evidence of purchasing or developing Greek Cypriot property in the area administered by Turkish Cypriots. On June 27, the Government arrested Turkish Cypriot architect Osman Sarper, crossing from the north to the south, who was allegedly found to be in possession of architectural blueprints for structures being built on Greek Cypriot properties in the area administered by Turkish Cypriots. He was charged with intent to commit a crime, illegal possession and use of property, and attempt to conceal a crime, and was released on bail.

On October 20, the Government passed a law making the purchase, rent, or sale of property without consent of the registered owner a felony. On November 18, the Government arrested a Russian couple in possession of a contract for the purchase of Greek Cypriot property in the area administered by Turkish Cypriots. The wife, who had signed the documents, was charged under the new law with conspiracy to commit a felony and could face up to seven years' imprisonment. She was released on November 23 after paying bail of approximately \$100,000 (50,000 pounds). Her trial began on December 15 and was ongoing at year's end.

*e. Denial of Fair Public Trial.*—The law and constitution provide for an independent judiciary, and the Government generally respected this provision in practice.

Most criminal and civil cases begin in district courts, from which appeals may be made to the Supreme Court. There are no special courts for security or political offenses. There are military tribunals that have jurisdiction over members of the GCNG.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The constitution provides for public trials, albeit not by jury, and defendants have the right to be present and to consult with an attorney in a timely manner. An attorney is provided for those who cannot afford one, and defendants are allowed the right to question witnesses against them and present evidence or witnesses on their behalf. The law also guarantees that defendants and their attorneys have access to government-held evidence related to their cases. Defendants enjoy a presumption of innocence and have a right of appeal. The Government generally respected these rights in practice.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters, permitting claimants to bring lawsuits seeking damages for human rights violations.

*Property Restitution.*—By year's end, Turkish Cypriots had filed 35 cases in the courts in an effort to reclaim property located in the government-controlled area.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals could criticize the Government publicly or privately without reprisal, and the Government did not attempt to impede criticism.

Opposition newspapers frequently criticized the authorities. Independent newspapers and periodicals proliferated. There were seven major daily newspapers, one

weekly, and six major magazines. Several private television and radio stations competed effectively with government-controlled stations. International broadcasts were available without interference throughout the island, including telecasts from Turkey and Greece.

On September 11, a customs officer at the Ledra Palace checkpoint searched the bag of Turkish Cypriot journalist Murat Kanatli. The chairman of the Cyprus Journalists' Union demanded a formal investigation into the incident, alleging that the journalist was being harassed for simply being Turkish Cypriot. Police said they suspected the journalist of carrying drugs.

There were multiple reports of verbal harassment of Turkish Cypriot journalists by members of ultranationalist Greek Cypriot groups.

In early November the Council of Ministers rejected a December 2005 decision by the Board of Cyprus News Agency to appoint Christoforos Christoforou as its new director. Some newspapers and opposition parties attributed the rejection to Christoforou's authorship of articles criticizing the Government's policies regarding UN efforts to reunify the island culminating in 2004. The Cyprus Journalists' Union called on the Government to reverse its decision and approve the appointment.

The Government imposed significant restrictions on Turkish (as opposed to Turkish Cypriot) journalists crossing the green line to cover news events in the government-controlled area.

During the year Turkish Cypriot advertisers repeated claims initially made in 2004 by the vice chairman of the Turkish Cypriot Advertisers Association that Greek Cypriot newspapers refused to carry advertisements for businesses located in the area administered by Turkish Cypriots.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were generally no government restrictions on academic freedom or cultural events; however, certain oversight efforts threatened academic independence and activities (see section 2.b.).

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law and constitution provide for freedom of assembly, and the Government respected it in practice.

*Freedom of Association.*—The law and constitution provide for freedom of association, and the Government generally respected it in practice. However, parliamentary hearings purportedly aimed at providing government oversight over NGOs, especially those involved in bicomunal programs, threatened the independence and activities of such civil society groups, as well as academic institutions.

Referring in part to the parliamentary hearings, the UN Secretary General's December report on country operations stated, "[T]here has been a disturbing trend impinging on the ability of organizations and individuals to carry out activities and projects designed to contribute to bi-communal contacts and cooperation throughout the island. As a result, the UN, particularly [the UN Development Programme], has been hampered in its ability to support and implement such projects benefiting both Greek Cypriots and Turkish Cypriots in areas of common concern."

*c. Freedom of Religion.*—The law and constitution provide for freedom of religion, and the Government generally respected this right in practice.

The law and constitution specify that the Greek Orthodox Church of Cyprus, which is not under the authority of the mainland Greek Orthodox Church, has the exclusive right to regulate and administer its internal affairs and property in accordance with its holy canons and charter. The law also states that the Turkish Cypriot religious trust, the Vakif, the Muslim institution that regulates religious activity for Turkish Cypriots, has the exclusive right to regulate and administer its internal affairs and property in accordance with Vakif laws and principles. No legislative, executive, or other act may contravene or interfere with the Orthodox Church or the Vakif. Armenian Orthodox, Maronite Christians, and Roman Catholics ("Latins") are also recognized by the law and constitution.

The Government required other religious groups to register as nonprofit companies if they desired to maintain a bank account or engage in other financial transactions.

Missionaries have the legal right to proselytize, but the Government closely monitored missionary activities. It is illegal for a missionary to use "physical or moral compulsion" to make religious conversions. The police may investigate missionary activity based on a citizen's complaint. Police can also open an investigation if missionaries are suspected of involvement in illegal activities threatening the security

of the Government, constitutional or public order, or public health and morals. No detentions or arrests were reported under these laws during the year.

The Government required children in public primary and secondary schools to take instruction in the Greek Orthodox religion. Parents of other religions may request that their children be excused from such instruction and from attending religious services.

*Societal Abuses and Discrimination.*—In May an NGO reported that it had filed complaints with the ombudsman's office and an independent investigatory committee regarding police treatment of Muslim asylum seekers. Some asylum seekers reportedly had difficulty securing employment, and one asylee alleged that he could not secure housing because of religious discrimination.

On November 22, 15 to 20 Greek Cypriot teenagers, believed to be members of an ultranationalist group, National Voice of Youth with a Greek Soul, entered the grounds of the English School in Nicosia wearing masks and armed with planks of wood. They attacked a group of the school's Turkish Cypriot students, causing minor injuries. Incendiary reports in the Greek Cypriot press about an earlier incident at the same school, in which an 11-year-old male Turkish Cypriot student verbally insulted a Greek Cypriot student wearing a Christian cross, were blamed for inciting the latter event. The Government condemned the November 22 attack as an aberration, not indicative of a broader atmosphere of discrimination or racial hatred against Turkish Cypriots. Criminal charges were pending against 13 suspects in the case at year's end.

Although Turkish Cypriots claimed that unused mosques in the government-controlled area had been vandalized, the Government routinely carried out maintenance and repair of mosques in the area under its administration. At year's end authorities still had not identified any suspects in an April 2005 vandalizing of a recently rehabilitated Turkish Cypriot cemetery in Larnaca.

There were no reports of anti-Semitic acts. The Jewish community included approximately 300 expatriate residents and fewer than 10 Cypriots.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Government did not restrict Greek Cypriots from traveling to the area administered by Turkish Cypriots, but it generally discouraged them from spending the night at Greek Cypriot properties, gambling in the area administered by Turkish Cypriots, or buying or developing property there. The Government in many cases prohibited Turkish nationals from crossing from the area administered by Turkish Cypriots to the government-controlled area in the south (see section 2.a.).

The Government allowed European Union citizens and citizens of other countries not subject to a visa requirement who entered Cyprus from ports of entry in the area administered by Turkish Cypriots to cross the green line into the government-controlled area; however, the Government maintained that all ports of entry in the area administered by Turkish Cypriots are illegal.

Greek Cypriots and Turkish Cypriots were required to show identification cards when crossing the green line. Members of each community were required to obtain insurance coverage in the community where they planned to drive their vehicles. Turkish Cypriots flew in and out of Larnaca and Paphos airports without obstruction.

The Government arrested persons crossing the green line in possession of contracts or blueprints related to purchasing or developing Greek Cypriot property in the area administered by Turkish Cypriots (see section 1.d.).

The Government issued 6,353 passports to Turkish Cypriots during the year.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—Although persons who were displaced as a result of the 1974 division of the island fall under the UN definition of IDPs, the Government considered them refugees. At year's end these people and their descendants numbered approximately 238,000. Depending on their income, IDPs and their descendants are eligible for financial assistance from the Government. They have been resettled, have access to humanitarian organizations, and are not subject to attack, targeting, or return under dangerous conditions.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecu-

tion, although one NGO claimed that asylum seekers were deported. The Government granted refugee status or asylum.

Qualified refugees were permitted to stay and given temporary work permits but were not granted permanent resettlement rights. During the year no refugees were deported, and authorities granted refugee status to 36 persons.

The Government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to 160 persons during the year. The Government generally cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

According to the ombudsman and NGOs, the inmates in detention centers were exclusively foreign and often asylum seekers who were arrested for illegal entry. Similar to the previous year, the NGO Action for Equality, Support, and Anti-Racism maintained that police violated the law and the human rights of asylum seekers by carrying out illegal arrests, detentions, and deportations. The group claimed that authorities treated asylum seekers as illegal immigrants or economic migrants and jailed or deported them. Another local NGO reported that several asylum seekers made complaints to the ombudsman alleging they were physically and psychologically abused by police, and a third NGO claimed that asylum seekers complained about the denial of state medical care.

In February 2005 the ombudsman recommended that the Government increase access to lawyers for detained asylum seekers, and in 2004 he recommended that the Government provide detained asylum seekers increased access to places where they could apply for asylum. Neither recommendation had been implemented by year's end.

On May 4, Asian and Middle Eastern detainees, some of whom were asylum seekers and all of whom were being held as illegal immigrants, set fire to their cells in Nicosia central prison in protest of their long detention, more than 20 months for some. Five detainees and two police officers were sent to the hospital with injuries.

A Kurdish man arrested in March 2005 when he applied for asylum was released. His asylum application was accepted, and he continued to reside in the country with his family.

The May 2005 police shooting, allegedly in self-defense, of a Syrian asylum seeker was pending investigation by an independent criminal investigator appointed by the Attorney General. The coroner's investigation had not yet been completed at year's end.

The May 2005 appeal of the Somali asylum seeker who claimed that he was illegally arrested and deported to Israel despite a pending asylum application was awaiting a decision by the Supreme Court at year's end.

In December 2005 the press reported that three asylum seekers who married Cypriots were arrested when they withdrew their asylum applications after allegedly being advised by police or migration authorities to do so. The police denied having provided such advice. There were no further accounts regarding these asylum seekers, although a local NGO reported that some asylum seekers in the same situation were deported.

The reception center for asylum seekers at Kofinou continued to accept only families in an attempt to increase the safety of women and children living in close quarters at the center.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law and constitution provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—On May 21, elections were held for the 56 seats assigned to Greek Cypriots in the 80-seat House of Representatives. These elections marked the first time in decades that Turkish Cypriots residing in the government-controlled area could vote and stand for election, in accordance with a 2005 European Court of Human Rights (ECHR) ruling. However, no Turkish Cypriot residing in the government-controlled area ran for the 24 seats reserved for the Turkish Cypriot community, and the Attorney General denied 78 Turkish Cypriots residing in the area administered by the Turkish Cypriots the right to run. The law affords the right to participate in elections only to Turkish Cypriots who habitually reside in the government-controlled area. On April 28, two leading members of the group of 78, Ali Erel and Mustafa Damdelen, sued the Government for failure to fully reinstate the Turkish Cypriot community's rights to vote and run for election.

Free and fair elections for local authorities were held on December 17.

Women held eight of the 56 seats filled in the House of Representatives as well as senior positions in the executive and judicial branches.

There were no members of minorities in the House of Representatives, and the 24 seats assigned to Turkish Cypriots went unfilled. However, the small Armenian Orthodox, Maronite Christian, and Roman Catholic ("Latin") communities elected special nonvoting observer representatives from their respective communities to the House of Representatives.

*Government Corruption and Transparency.*—There was one high-profile report of government corruption during the year. In November a local newspaper published the names of politicians who allegedly had asked the Ministry of Defense for favorable transfers of National Guard recruits. The list included prominent officials such as the President of the House of Representatives, members of the Council of Ministers, party leaders, and members of parliament. The President asked the minister of defense to investigate whether such requests constituted nepotism.

The Government made no progress in the investigations of the May 2005 allegations of nepotism directed at the former justice minister with regard to the hiring of prison staff or of the Government mismanagement outlined in a December 2005 auditor general's report.

The 2004 charge against European Parliament member Marios Matsakis that he solicited a bribe from a police officer was dropped on October 9; however, Matsakis continued to face the charge of illegally exporting historical artifacts.

The constitution provides for the right of access to government information; however, there are no specific laws that assure public access. Civil servants were not allowed to give access to government documents without first obtaining permission from the relevant minister. There were no reported cases during the year of persons being denied access to government information.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. There is a government ombudsman, whose portfolio includes human rights, and a legislative committee on human rights.

A number of NGOs considered themselves human rights groups; most, however, were concerned exclusively with alleged violations of the rights of Greek Cypriots by Turkey. NGOs with a broader human rights-related mission included groups promoting migrant support and awareness of domestic violence and those concerned with allegations of police brutality. Domestic NGOs were numerous but had limited impact on public opinion or specific legislation. International NGOs active in Cyprus were few.

The UN, through the CMP, continued its efforts to account for persons missing after the intercommunal violence in 1963–64 and the conflict of 1974 (see section 1.b.).

On May 16, the ECRI released a report on trafficking in women and the rights of minorities and other vulnerable groups in the country.

During the year the ombudsman received complaints from citizens and foreigners living on the island who believed their rights had been violated by the Government. During his independent investigations, the ombudsman generally enjoyed good cooperation with other government bodies. The ombudsman's annual reports focused on police brutality, treatment of patients at state hospitals and of asylum seekers and foreign workers, and gender equality in the workplace. The office of the ombudsman was well respected and considered effective; however, the Government had not implemented many of its recommendations.

The legislative committee on human rights, which is generally considered by most local NGOs as effective, is made up of 10 members of the House of Representatives who serve five-year terms. The committee discusses wide-ranging human rights issues, including trafficking in persons, prison conditions, and the rights of foreign workers. The executive branch does not exercise control over the committee.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally effectively enforced it. However, violence against women, child abuse, trafficking in persons, discrimination against Turkish Cypriots living in the government-controlled area, and discrimination against Roma were problems.

*Women.*—Violence against women, including spousal abuse, was common. The law establishes clear mechanisms to report and prosecute family violence and provides that the testimony of minors and experts, such as psychologists, may be used as evi-



dence to prosecute abusers. The law provides for prison terms for the abuse of family members. In contrast with previous years, a larger percentage of cases related to domestic violence charges resulted in convictions. Doctors, hospital workers, and education professionals are required to report all suspected cases of domestic violence to the police. However, many victims refused to testify in court, and by law spouses cannot be compelled to testify against each other. In cases of domestic violence where the spousal victim was the only witness and refused to testify, the courts were forced to drop the case.

An NGO working with domestic abuse victims estimated a 7 to 8 percent decrease in the number of telephone calls to its hot line compared to 2005. The NGO reported that, from January 1 to October 30, 521 individuals, of whom 74 percent were women, 19 percent children, and 7 percent men, called claiming to be victims of domestic violence. The NGO also operated a shelter in Nicosia that served 51 victims of domestic violence during the same period.

The law criminalizes rape and spousal rape with a maximum sentence of life in prison. Most convicted offenders received considerably less than the maximum sentence. The police indicated that there were 11 convictions related to sexual assault charges during the year.

The law does not prohibit "voluntary" prostitution; however, it is illegal to live off the profits of prostitution, and police routinely arrested pimps under this section of the criminal code. Procuring a woman for prostitution is a misdemeanor. The police reported five convictions on prostitution-related charges.

Women were trafficked for sexual exploitation (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace, but there were reports that it was a widespread problem with most incidents going unreported to authorities. During the year authorities investigated one of the country's ambassadors for sexually harassing two female employees at the overseas mission he headed. On December 20, the court found him guilty, and he was awaiting sentencing at year's end.

Women generally have the same legal status as men under family law, property law, and in the judicial system. The Government agency tasked with the promotion, protection, and coordination of women's rights is the National Mechanism for Women's Rights under the Ministry of Justice and Public Order. Laws requiring equal pay for men and women performing the same work were enforced effectively at the white-collar level, but, despite a strong legal framework, the Ministry of Labor's enforcement was ineffective at the blue-collar level. Research from one NGO suggested that remuneration for female blue-collar workers was 25 to 30 percent less than for their male counterparts.

In February an NGO representing divorced mothers asked the legislative committee on human rights to approve new legislation to tackle the problem of collecting child support payments from delinquent fathers. During the year the same NGO worked with police to encourage collection efforts. The courts may garnish wages and assets and ultimately imprison persons to enforce child support payments.

*Children.*—The Government was strongly committed to children's rights and welfare.

The Government provided free education through the age of 18. Education was compulsory up to the age of 15, or nine years of education. Approximately 60 percent of children completed some form of university or other post-secondary education.

Approximately 85 percent of the population was eligible to receive free public health care, and boys and girls had equal access to health care.

Child abuse was a problem. The Welfare Department said the majority of cases, which increased over previous years, were linked to domestic violence, alcohol abuse, and psychological illness. The police reported that, as of the end of August, there were 18 criminal prosecutions pending before the courts for child abuse or sexual exploitation. In 2005 a total of 44 cases of child abuse were prosecuted, resulting in 26 convictions, four acquittals, and three dismissals. The rest were pending in the courts at year's end.

*Trafficking in Persons.*—The law prohibits trafficking in persons, with a specific focus on countering trafficking for sexual exploitation. It does not address internal or labor trafficking. Nevertheless, there were widespread reports that persons were trafficked to the country, and trafficking of women to the country for sexual exploitation continued to be a problem. There were also allegations of police corruption related to trafficking.

The country was primarily a destination point for women trafficked for sexual exploitation, and authorities were aware of and generally tolerated the situation de-

spite adoption in 2005 of a plan of action to combat trafficking in persons and sexual exploitation of children. Unlike the previous year, there were no reports of the country being used as a transit point for trafficking. The country was a destination for women trafficked from Eastern Europe, primarily Ukraine, Romania, Moldova, Russia, Belarus, and Bulgaria, as well as the Philippines and the Dominican Republic. There was also one reported case during the year of a woman from Morocco. There was evidence that female victims coming from China on student visas engaged in prostitution and, in some cases, were victims of sexual exploitation. NGOs reported that female domestic workers from India and Sri Lanka were forced to work long hours. There were no reliable statistics on the number of trafficking victims; however, 81 women pressed charges during the year.

Traffickers fraudulently recruited victims using the artiste employment permit category and often rotated victims between different cabarets and cities. In some cases, women reportedly were arbitrarily denied part or all of their salaries, forced to surrender their passports, and pressed into providing sexual services for clients. Some NGOs alleged that government officials with oversight and policing responsibility over the sex industry themselves frequented cabarets and nightclubs.

It is a felony to engage in the sexual exploitation and trafficking of persons. The court may order persons convicted of trafficking to pay part or all of the expenses incurred for the provision of protection, temporary shelter, medical care, and psychiatric care for victims, as well as compensation to the victim, including repatriation expenses. The Ministries of Interior, Labor, Justice, and Commerce, and the Attorney General, share responsibility for combating trafficking, with the Ministry of Interior as the lead.

During the year police arrested 110 individuals involved in cases related to prostitution and sexual exploitation. Of those, 83 were arrested specifically on trafficking charges. Police statistics showed that 41 cases were prosecuted, and police investigated an additional 17 cases for possible prosecution. Of the 41 prosecutions, three resulted in acquittals, two were *nolle prosequi*, and five concluded in convictions with prison sentences ranging from four to 14 months. The remainder were being tried at year's end.

The police participated and assisted in 24 international trafficking investigations.

The law obligates the Government to provide protection and support for trafficking victims by allowing them to remain in the country to press charges or by facilitating their return to home countries. Victims may sue traffickers for damages. The law also requires the Government to provide shelter, medical, and psychiatric care to trafficking victims. The Government may appoint a guardian to advise, give counsel to, and represent the victim with the appropriate government agency. By year's end, police had identified 90 victims of trafficking, 81 of whom testified or pressed charges against their traffickers. As of October 31, government welfare services had provided financial aid, counseling, and temporary shelter to 84 victims.

The Government maintained that most women who qualified as trafficking victims chose to return voluntarily to their home countries without testifying in court. There were reports that cabaret owners and agents for dancers pressured women to withdraw complaints to police or not to follow through with their intention to testify in court. Of 90 women who requested police protection during the year, the Government reported that 59 returned to their home countries and 31 were waiting to testify at trials.

NGOs that protect the rights of women and immigrant workers were available to assist trafficking victims and reported that they received one to two requests for assistance per month.

The NGO Stigma in Limassol operated a shelter for trafficking victims funded in part by the Greek Orthodox Church of Cyprus. A Russian-speaking psychiatrist was available to assist victims. During the year a total of 71 trafficking victims stayed in the shelter. Of these, 35 cooperated with the police and testified in court against their traffickers, nine gave testimony to police but chose repatriation before appearing in court, six were involved in cases under investigation, and the remaining 24 cooperated with police, but their testimony was not deemed adequate for substantiating cases against their traffickers. There was no formal referral process between the police and the shelter. Social welfare services typically housed victims in government-subsidized homes for the elderly or in hotels.

An 18-year-old Ukrainian who in 2005 was fraudulently recruited to work in a rural cabaret and forced to have sex with clients testified in court against her employer. However, after the completion of her testimony, the Government did not respond to her request for a residency permit to remain and to work in the country. The trial was ongoing at year's end, and the Government had not yet responded to her request.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and in practice the Government generally enforced these provisions. The law mandates that public buildings and tourist facilities built after 1999 be accessible to all; however, government enforcement of the law was ineffective, and older buildings frequently lacked access for persons with disabilities. Further, there are no appropriate institutions for adults who suffer from mental disabilities and are in need of long-term care.

The amended People with Disabilities Law, which extended the ombudsman's authority to cover discrimination based on disabilities in both the private and public sectors, had not been fully implemented by year's end. Problems facing persons with disabilities included narrow or nonexistent sidewalks, lack of transport, and absence of parking spaces, accessible toilets, and elevators. The Government budget reportedly included approximately \$90,000 (40,000 pounds) to improve access to government buildings.

There were no long-term care facilities specifically for persons with mental disabilities, but many such persons were housed at the Athalassa psychiatric hospital. In September Cyprus Mental Health Commission President Dr. Christodoulos Messis criticized the hospital, calling it "unacceptable."

The Ministry of Labor and Social Insurance's Service for the Care and Rehabilitation of the Disabled was responsible for protecting the rights of persons with disabilities. In addition, the minister chaired the Pancyprian Council for Persons with Disabilities, which included representatives of government services, organizations representing persons with disabilities, as well as employer and employee organizations. The council monitored action for the protection of the rights of persons with disabilities and served as a forum for persons with disabilities to contribute to public policy.

*National/Racial/Ethnic Minorities.*—There were reported incidents of government and societal discrimination against members of national and ethnic groups, particularly Turkish Cypriots and Roma.

The 1975 Vienna III Agreement remains the legal source of authority regarding the treatment of Turkish Cypriots living in the government-controlled area. The Government generally effectively enforced the agreement, which provides for the voluntary transfer of populations, free and unhindered access by UNFICYP to Turkish Cypriots living in the south, and facilities for education, medical care, and freedom of religion.

Some Turkish Cypriots living in the government-controlled area reportedly faced difficulties obtaining identification cards and other government documents, particularly if they were born after 1974. Turkish Cypriots made few formal complaints to UNFICYP about their living conditions in the south. Complaints most often concerned the lack of affordable accommodation.

After complaining repeatedly about the lack of a Turkish-language school in Limassol, the Turkish Cypriot teachers' union filed suit to guarantee the right of Turkish Cypriots residing in the government-controlled area to an education in their native language. The Supreme Court trial began on May 5 but was adjourned several times and was scheduled to recommence on February 6, 2007. The Government stated that, according to surveys of Turkish Cypriots in the government-controlled area, none had requested a Turkish-language school.

A local NGO continued to report complaints that the Government ignored the law mandating automatic citizenship for children of Turkish Cypriots married to Turkish citizens. Instead of granting citizenship automatically, the Ministry of Interior routinely sought approval from the Council of Ministers before confirming the citizenship of such children. The Council of Ministers approved 113 cases during the year.

The ombudsman's investigation into the September 2005 Ministry of Education decision to suspend from school all Romani children living in the Paphos District until they were tested for hepatitis was ongoing at year's end.

There were repeated incidents of vandalism of Turkish Cypriots' vehicles, specifically at bicomunal activities, including the January 18 Together for Peace and the February 13 Cyprus Literature Union events. There was also a physical attack on Turkish Cypriot students in Nicosia by a group of Greek Cypriot teenagers (see section 2.c.).

*Other Societal Abuses and Discrimination.*—Despite legal protections, homosexuals faced significant societal discrimination, and few homosexuals in the country were open about their sexual orientation. One NGO reported that there were complaints of discrimination toward homosexuals and persons with HIV/AIDS. NGOs were reluctant to initiate awareness campaigns.

*Incitement to Acts of Discrimination.*—The Government continued to use textbooks at the primary and secondary school levels that included inflammatory language derogatory of Turkish Cypriots and Turks. This was a particularly serious concern with history textbooks.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers, except for members of the police and military forces, have the legal right to form and join unions of their own choosing without prior authorization, and workers did so in practice. Police officers were permitted to join only associations that have the right to bargain collectively but not to go on strike. More than 70 percent of the workforce belonged to independent unions. Antiunion discrimination is illegal, but union leaders contended that private sector employers were able to discourage union activity because the enforcement of labor regulations was sporadic and penalties for antiunion practices were minimal.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government generally protected this right in practice. The law provides for collective bargaining, and workers exercised this right in practice; however, collective bargaining agreements were not legally enforceable. Collective bargaining agreements covered all workers, citizen and foreign, with the exception of housekeepers and cabaret workers; approximately 60 percent of workers were covered by such agreements. All workers have the right to strike; however, authorities have the power to curtail strikes in “essential services,” although this power was used rarely in practice. The law provides that members of the armed forces, the police, and the gendarmerie do not have the right to strike, but the right to strike is recognized for all other providers of essential services. There have been strikes in the past at government-run hospitals and airports, as well as by police; the Government did not take any actions against these workers. An agreement between the Government and essential services personnel provides for dispute resolution and protects workers in the sector.

There are no special laws for or exemptions from regular labor laws in the export processing zone at the port of Larnaca.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace. The minimum age for employment in an “industrial undertaking” is 16. Ministry of Labor inspectors are responsible for enforcing the child labor laws and did so effectively.

*e. Acceptable Conditions of Work.*—The minimum wage was approximately \$800 (362 pounds) per month for shop assistants, practical nurses, clerks, hairdressers, and nursery assistants. The minimum wage rose to approximately \$850 (385 pounds) after six months’ employment. Neither amount provided a decent standard of living for a worker and family. All other occupations, including unskilled workers, were covered under collective bargaining agreements between unions and employers within the same economic sector. The wages set in these agreements were significantly higher than the minimum wage. Migration services of the Ministry of Interior set the starting salary for foreigners working as housekeepers at approximately \$340 (150 pounds) per month, plus approximately \$90 (40 pounds) for lodging if the worker was not a live-in, and an additional 16 percent, which employers were required to pay directly to the Government in the form of social insurance. Workers were not allowed to claim pensions unless they became citizens, although in some cases there were bilateral agreements that allowed workers to claim credit in their home countries. Unions and labor confederations generally effectively enforced negotiated wage rates (collectively bargained rates), which were generally much higher than the minimum wage. Migration services were responsible for enforcing the minimum wage for foreign workers but did not actively do so.

The legal maximum workweek was 48 hours, including overtime. Unions and employers within the same economic sector collectively determined the actual working hours. In the private sector, white-collar employees typically worked 39 hours a week, and blue-collar employees worked 38 hours a week. In the public sector, the workweek was 38 hours in the winter and 35 hours in the summer. The law does not require premium pay for overtime or mandatory rest periods; this is usually stipulated in the contracts of workers in larger sectors. Labor inspectors effectively enforced these laws.

By law there was no premium pay for overtime for foreign workers; however, limits on workweeks are stipulated in their contracts and varied according to the economic sector.

The Ministry of Labor experienced a substantial increase in the number of complaints of labor exploitation. Foreign workers, primarily from Eastern Europe and East and South Asia, reportedly were forced to work up to 13 hours a day, seven days a week, for very low wages. NGOs and the ombudsman also confirmed that employers often retained a portion of foreign workers' salaries as payment for accommodations.

There were reports of mistreatment of maids and other foreign domestic workers. Such reports usually involved allegations that maids, primarily from East or South Asia, were mistreated by their employers or fired without cause in violation of their contracts. Although the law protects domestic workers who file a complaint with the Ministry of Labor from being deported until their cases have been adjudicated, NGOs reported that many of them did not complain to authorities out of fear of deportation.

Health and safety laws apply to places of work in all economic sectors and were enforced by Ministry of Labor inspectors. Factory inspectors processed complaints and inspected businesses to ensure that occupational safety laws were observed. Their inspections were supported by close government cooperation with employer/employee organizations. However, the law does not apply to private households where persons were employed as domestic servants. Workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, and authorities effectively enforced this right.

#### THE AREA ADMINISTERED BY TURKISH CYPRIOTS

Since 1974, the northern part of Cyprus, with a population of approximately 250,000 persons, has been run by a Turkish Cypriot administration that proclaimed itself the "Turkish Republic of Northern Cyprus (TRNC)" in 1983. The United States does not recognize the "TRNC," nor does any country other than Turkey. Mehmet Ali Talat was elected "President" in April 2005 in free and fair elections. Elections to the "Assembly of the Republic" in February 2005 were also free and fair and resulted in the formation of a coalition government. The June 25 elections for two empty seats in "parliament," together with the municipal elections, were generally free and fair. The "TRNC government" was restructured in September when a minority coalition partner left. The "TRNC constitution" is the basis for the laws that govern the area administered by Turkish Cypriots. Police and security forces were ultimately under the operational command of the Turkish military, per transitional article 10 of the "TRNC constitution," which cedes responsibility for public security and defense "temporarily" to Turkey.

Turkish Cypriot authorities generally respected the human rights of citizens living under their control; however, there were problems in some areas. Police abuse of detainees and arbitrary arrest and detention continued to be problems. There were also restrictions on citizens' privacy rights and on the rights of asylum seekers. The "government" proposed legislation to govern the treatment of asylum seekers, but by year's end there did not exist a regulatory infrastructure to handle asylum applications or specifically to protect the rights of asylum seekers. Trafficking in persons continued.

With assistance from European Union experts, the authorities began to implement a program to improve the penal code. Also, a new ombudsman was appointed after a four-year vacancy.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the authorities or their agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The authorities participated in the autonomous, tripartite (UN, Greek Cypriot, Turkish Cypriot) UN Committee on Missing Persons (CMP) in Cyprus as part of its continuing efforts to account for persons who remained missing after the intercommunal violence in 1963–64 and the conflict of 1974. According to the CMP, 1,468 Greek Cypriots and 502 Turkish Cypriots remained missing.

During the year the CMP verified a number of exhumations carried out previously by the "TRNC." The remains were transferred to the CMP for identification. Exhumations continued in different parts of the island.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that police abused detainees.

Kudret Celebi, charged with rape (see section 5), claimed that he was tortured by police in November after his escape and recapture. Celebi said that police guards handcuffed him naked to a bunk and beat him, and that the guards forced him to walk through crowds of inmates so that they could hit him. After hearing Celebi's complaints, the judge ordered a medical examination of his person. No further actions by the authorities were reported.

The authorities had no record of a complaint regarding a police beating reported by the press in September 2005. The press made no further mention of the case. Unlike in previous years, police did not prevent any public demonstrations.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, although there were some problems. Inmates complained of overcrowding at the prison, and the authorities publicly acknowledged the problem. In the 207-person capacity prison, there are 349 prisoners, 68 percent of whom are foreigners, mostly Turkish citizens. More than 40 percent of the prisoners were awaiting trial. According to press reports, the authorities were contemplating returning the Turkish prisoners to Turkey to overcome overcrowding, but no concrete action was taken.

Violent offenders were generally kept separate from prisoners convicted of less serious crimes; however, juveniles were not held separate from adults.

The authorities permitted prison visits by independent human rights observers and journalists.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the authorities generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Police are responsible for law enforcement. The chief of police reports to the Turkish Cypriot general holding the "security portfolio," who is nominally under the supervision of the "prime ministry." However, the police and security forces are ultimately under the operational command of the Turkish military per transitional article 10 of the "TRNC constitution," which "temporarily" cedes responsibility for public security and defense to Turkey. Some politicians called for the police to be brought under the control of the civilian "TRNC government," but there were no changes during the year. Despite this, security forces were generally cooperative with civilian authorities and effective in matters of law enforcement. The police are divided into eight functional divisions and five geographic divisions.

The office of the "attorney general" continued to work in conjunction with the inspection division (or occasionally the criminal investigative division) to conduct investigations into allegations of police misconduct. There were no investigations resulting in the prosecution of officers for the abuse of detainees during the year.

Two police officers, Salih Karahuseyin and Ufuk Derebeyler, arrested in September 2005 in connection with alleged narcotics trafficking, were released on bail the same month and fled the area administered by Turkish Cypriots. The authorities believed that the two escaped to the government-controlled area.

The Iskele police chief, Veli Gulpinar, arrested in December 2005 for collecting gambling debts for a criminal syndicate, was released on bail and temporarily suspended. The "attorney general" decided that there was insufficient evidence to pursue the case and reinstated Gulpinar.

*Arrest and Detention.*—Judicially issued arrest warrants were required to arrest a person. No person could be detained for more than 24 hours without referral of the case to the courts for extension of the period of detention. The authorities generally respected this right in practice. Also, detainees were promptly informed of charges against them, although individuals believed to have committed a violent offense were often held for longer periods of time without being charged. Judges could order that suspects be held for investigative detention for up to 10 days before formal charges are filed, or up to three months for those accused of serious crimes. Bail was permitted and routinely used. Detainees were usually allowed prompt access to family members and a lawyer of their choice. The authorities provided lawyers to the indigent for violent offenses only. Particularly at the time of arrest, police sometimes did not observe legal protections. Some suspects were not permitted to have their lawyers present when testimony was taken, in contravention of the law. Suspects who demanded the presence of a lawyer were sometimes threatened with stiffer charges or physically intimidated.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the authorities generally respected judicial independence in practice.

Most criminal and civil cases begin in district courts, from which appeals are made to the "Supreme Court." There were no special courts for political offenses. New legislation was passed transferring jurisdiction from military to civilian courts for cases in which civilians are accused of violating military restrictions, such as filming or photographing military zones.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The "TRNC constitution" guarantees public trials, the defendant's right to be present at those trials, and the defendant's right to consult with an attorney in a timely manner. The authorities provided lawyers to the indigent for violent offenses only. Defendants are allowed to question witnesses against them and present evidence or witnesses on their behalf. The law also guarantees that defendants and their attorneys have access to "government"-held evidence related to their cases. Defendants enjoy a presumption of innocence and have a right of appeal. The authorities generally respected these rights in practice.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There was generally an independent and impartial judiciary for civil matters, permitting claimants to bring lawsuits seeking damages for human rights violations. There were generally no problems enforcing domestic court orders.

*Property Restitution.*—During the year Greek Cypriots continued to pursue property suits in the European Court of Human Rights (ECHR) against the Turkish government for the loss since 1974 of property located in the area administered by Turkish Cypriots. Under ECHR rules, an appellant does not have standing to bring a case before the ECHR until that appellant exhausts all local remedies, unless no adequate local remedy exists. In response to the ECHR's December 2005 ruling in the landmark *Xenides-Arestis* case that Turkey's "subordinate local authorities" in Cyprus had not provided an adequate local remedy, Turkish Cypriot authorities established a new "Property Commission" to handle claims by Greek Cypriots. The Property Commission began reviewing Greek Cypriot claims in May and reportedly received more than 80 applications. By year's end, three applicants had received outright restitution of their properties, while another seven had accepted compensation payments instead. In December the ECHR ruled that the commission had satisfied "in principle" the ECHR's requirement for an effective local remedy.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, there were reports that police subjected Greek Cypriots and Maronites living in the area administered by Turkish Cypriots to surveillance (see section 5). Although the authorities reported otherwise, a Maronite representative confirmed that houses in three enclaved villages were occupied by the Turkish military during the year.

The case against a Turkish Cypriot man, Kamil Hur, who hung a Republic of Cyprus (ROC) flag outside his home in August 2005, was dropped. Contrary to his 2005 statements to the press, Hur did not sue the police.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the authorities generally respected these rights in practice; however, journalists were obstructed in their reporting, fined, and threatened with more serious charges.

Individuals can and do publicly criticize the authorities without reprisal. There were no reports of the authorities attempting to impede criticism.

The independent media were active and expressed a wide variety of views without restriction. International media were generally allowed to operate freely. Bayrak Radyo Televizyon Kurumu (BRTK) is the only "government"-owned television/radio station.

In November two French journalists were arrested for filming in the military zone of Varosha near Famagusta and fined approximately \$700 (1,000 Turkish lira) each. A local press nongovernmental organization (NGO) paid their fines.

In December eight Turkish Cypriot journalists were arrested while filming a house fire next to the military zone on the green line in Nicosia. The journalists were held for a few hours and subsequently released without charge.

The 2003 criminal charges against five local journalists for criticizing the army were dropped.

*Internet Freedom.*—The authorities did not restrict access to the Internet, and there were no reports that they monitored e-mail or Internet chatrooms. Individuals

and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—The authorities did not restrict academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the authorities generally respected this right in practice.

The charges against organizers of the 2003 demonstration in the village of Doganci were dropped.

*Freedom of Association.*—The law provides for freedom of association, and the authorities generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the authorities generally respected this right in practice.

Greek Cypriots and Maronites were still prohibited from visiting religious sites located in military zones. Greek Cypriots and Maronites were required to apply for permission to conduct church services anywhere other than the seven churches designated by the authorities.

For the third year in a row, Turkish Cypriot authorities authorized Orthodox worshippers from the south to conduct a ceremony at St. Mamas Church in Morphou in September.

Missionaries have the legal right to proselytize, but the authorities closely monitored such activities.

*Societal Abuses and Discrimination.*—Greek Cypriots living in the government-controlled area continued to report that vandals damaged vacant Greek Orthodox churches and removed religious icons in the area administered by Turkish Cypriots; there were no reported investigations of these incidents.

There were no reports of anti-Semitic acts. The Jewish community is very small and composed primarily of nonresident businesspersons.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the authorities generally respected them in practice.

Greek Cypriots and Turkish Cypriots were required to show identification cards when crossing the green line. In addition, Greek Cypriots and foreigners crossing into the area administered by Turkish Cypriots were required to fill out a “visa” form. During the year the authorities did not enforce limitations announced in 2003 on duration of stay for Greek Cypriots.

The authorities no longer maintained general restrictions on visitors to the 403 Greek Cypriots and 140 Maronites living in enclaves in the area administered by Turkish Cypriots, although there were reports of specific refugees from the enclaved villages being barred from returning to their villages. A Maronite representative reported that the two Maronites barred from returning to their enclaved village in 2005 after visiting the government-controlled area were allowed to return.

Turkish Cypriots had difficulty traveling to most countries because only Turkey recognizes travel documents issued by the “TRNC.” Some Turkish Cypriots used Turkish travel documents, but many obtained travel documents issued by the ROC.

The law prohibits forced exile, and the authorities did not employ it.

*Internally Displaced Persons (IDPs).*—Although they would fall under the UN definition of IDPs, Turkish Cypriots considered those displaced as a result of the division of the island to be refugees. These persons and their descendants numbered approximately 90,000 to 100,000. They were resettled, had access to humanitarian organizations, and were not subject to attack, targeting, or return under dangerous conditions.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol, and the authorities did not grant refugee status or asylum, nor have they established a system for providing protection to refugees. In practice, the authorities did not provide protection against refoulement, the return of persons to a country where they feared persecution. Individuals who requested asylum were supposed to be directed to the Office of the UN High Commissioner for Refugees (UNHCR). However, the authorities’ cooperation with the UNHCR was uneven due at least in part to complications arising from the unrecognized status of the “TRNC.” There were reports that the authorities refused entry to persons who arrived with or without proper documentation at ports of entry, denying them the opportunity to apply for asylum through the UNHCR.



*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides Turkish Cypriots the right to change their government peacefully, and they exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Turkish Cypriots choose a leader and a representative body every five years or less. In the February 2005 “parliamentary” elections, which were free and fair, parties favoring a solution to the division of the island based on the UN settlement plan, known as the Annan Plan, took a near majority of seats. A coalition “government” emerged and elevated Ferdi Sabit Soyer, one of the leading figures of the largest prosettlement party in the area administered by Turkish Cypriots, to the position of “prime minister.” Municipal elections held in June, together with by-elections for two empty seats in “parliament,” were also generally free and fair. Soyer’s coalition “government” collapsed in September but was quickly reformed with a different partner. Opposition politicians accused Soyer’s party and the ruling Justice and Development Party in Turkey of using bribery to engineer the “government” collapse, but no corroborating evidence emerged, and no formal investigation was opened.

Greek Cypriots and Maronite residents were prohibited from participating in Turkish Cypriot “national” elections; they were eligible to vote in Greek Cypriot elections but had to travel to the government-controlled area to exercise that right. In December Greek Cypriot and Maronite communities in the area administered by Turkish Cypriots directly elected municipal officials for the first time; previously, the ROC appointed these representatives. The Turkish Cypriot authorities did not recognize these ROC officials.

The authorities did not restrict the political opposition, and membership or non-membership in the dominant party did not confer formal advantages or disadvantages. However, there were widespread allegations of societal cronyism and nepotism.

There were three women in the 50-seat “parliament,” including the “speaker.”

There were no minorities represented in the “parliament.”

*Government Corruption and Transparency.*—Corruption, cronyism, and lack of transparency were generally perceived to be serious problems in the legislative and executive branches.

The “constitution” provides for the right of free access to “government” information; however, there are no specific laws that assure public access. Civil servants were not allowed to give access to “government” documents without first obtaining permission from their directors or “minister.” There were no reported cases of persons being denied access to “government” information during the year.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without restriction from the authorities, investigating and publishing their findings on human rights cases. The authorities often were cooperative and responsive to their views.

Local human rights groups were concerned almost exclusively with alleged violations of Turkish Cypriot rights by Greek Cypriots. NGOs with a broader human rights-related mission included groups promoting awareness of domestic violence, women’s rights, and trafficking in persons. These groups were numerous but had little impact on public opinion or specific legislation. A few international NGOs were active in the area administered by Turkish Cypriots, but many were hesitant to operate there due to political sensitivities related to working in this unrecognized area.

The UN, through the CMP, continued its efforts to account for persons who remained missing after the intercommunal violence beginning in 1963–64 and the conflict of 1974 (see section 1.b.).

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the authorities generally effectively enforced it; however, violence against women, trafficking in persons, and discrimination against Greek Cypriots and Maronites were problems.

*Women.*—Violence against women, including spousal abuse, was a problem. The law prohibits domestic violence; however, no cases of domestic violence were tried during the year, as claims were typically considered a family matter and settled out

of court. Additionally, the authorities considered a case credible only if there was at least one witness in addition to the victim.

The law provides for no minimum sentence for individuals convicted of rape, including spousal rape; the maximum sentence is life imprisonment. The authorities and police effectively handled and prosecuted rape cases, including cases of spousal rape. There were no NGOs to support rape victims.

Kudret Celebi and Erkut Latif were arrested for raping a 14-year-old girl in the village of Akdogan on February 11. Prior to the trial, the two men escaped from prison to the government-controlled area. They were caught in November and at year's end were in prison awaiting trial.

Turkish taxi driver Mucahit Yanarates was sentenced March 22 to four years' imprisonment for raping Moldovan Mariana Gaiduc at Silver Beach in Famagusta in June 2005. Gaiduc, who worked as a dancer at the Gold Night nightclub in Famagusta, was picked up by Yanarates, who later raped her in a deserted beach area. Yanarates escaped from prison on June 7; media reported that he was captured by ROC police and deported to Turkey via Greece.

The law does not specifically prohibit prostitution; however, encouraging or forcing a person to engage in prostitution is illegal, and procurement of a prostitute is a misdemeanor. The law designed to regulate the hiring of women at nightclubs and cabarets provides penalties for women and employers who "partially or completely earn a living from prostitution." Unlike in previous years, there were no reports to indicate that Turkish military forces frequented nightclubs and cabarets.

In July the Nicosia District Court ordered the first prostitution-related imprisonment in the area administered by Turkish Cypriots. After pleading no contest to the charges, the manager of Mexico nightclub, Mesut Kilicarslan, was sentenced to 15 days in prison for encouraging and profiting from prostitution.

There were reports that women were trafficked to and within the area administered by Turkish Cypriots for the purpose of sexual exploitation (see section 5, Trafficking).

The law does not specifically prohibit sexual harassment; however, victims could pursue such cases under other sections of the law. Sexual harassment was not discussed widely, and any such incidents largely went unreported.

Women generally have the same legal status as men under property law, family law, and in the judicial system. Laws requiring equal pay for men and women performing the same work were generally enforced at the white-collar level; however, women working in the agricultural and textile sectors were routinely paid less than their male counterparts. There were several NGOs, but no "government" agencies, that worked to protect women's rights.

*Children.*—The authorities were generally committed to children's rights and welfare, although the Greek Cypriot school faced some obstacles.

Education through the age of 15 was free and compulsory. Approximately 90 percent of children attended school up to the secondary level. Approximately 70 percent completed some kind of post-secondary education.

The Turkish Cypriot authorities continued to screen all textbooks sent to the Greek Cypriot Rizokarpasso Gymnasium, a primary and secondary school in the enclaved communities. Textbooks deemed derogatory were sent back to the government-controlled area, creating temporary shortages of up-to-date textbooks. A delay in the processing of work permits for the two teachers caused the school to open late. One teacher later quit reportedly due to regular harassment by the authorities.

Boys and girls had equal access to publicly funded health care; however, patients faced long waits for services in public medical facilities. Access to health care by children of unregistered workers was no longer a problem because the authorities either registered or deported all illegal workers.

There were no reported cases of child abuse; however, as with domestic violence, there were social and cultural disincentives to seek legal remedies for such problems.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were some reports that women were trafficked to and within the area administered by Turkish Cypriots for the purpose of sexual exploitation.

The authorities issued worker "visas" to women, primarily from Eastern Europe, permitting their entry into the area administered by Turkish Cypriots to work in nightclubs and cabarets. There were credible reports that many of these women engaged in prostitution and that some women were coerced. The authorities acknowledged the existence of trafficking; however, they often confused it with human smuggling or illegal immigration. According to researchers, women working in nightclubs and cabarets often were sold by agencies that had advertised for models, babysitters, or elder caregivers. They also said that large casinos had offered women

as “gifts to their richest customers.” In irregular raids on 45 nightclubs and cabarets, 204 suspects were charged with 157 prostitution-related crimes.

In April police assisted a Ukrainian victim of trafficking to leave the area administered by Turkish Cypriots when the Ukrainian Embassy said she had contacted her family to report abuse by her employer.

The authorities examined the extent of the trafficking problem and began to offer some assistance to victims. In 2005 the “Ministry of Health” began collecting questionnaires on working and living conditions from nightclub and cabaret employees. In December 2005, the “ministry” hired a Russian-speaking staff member to interview the women in private in order to investigate whether they were coerced or forced to engage in prostitution. In April the “ministry” established a hot line number for victims, but it did not publicize the number adequately. On December 10, the NGO Prologue Consulting Ltd. released a report concluding that many women working at nightclubs and cabarets had been trafficked. Release of the report sparked numerous press reports and public debate.

The police reported that they had assisted international trafficking investigations through Turkish authorities.

There were no NGOs available to provide assistance to trafficking victims.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and in practice the authorities effectively enforced these provisions. The “government” employed 486 persons with disabilities and provided financial aid to 2,803 of the approximately 3,470 known persons with disabilities in the area administered by Turkish Cypriots. The law does not mandate access to public buildings and other facilities for persons with disabilities. A local NGO reported that this remained the greatest problem for persons with disabilities in the area administered by Turkish Cypriots.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination, and the 1975 Vienna III Agreement remains the legal source of authority regarding the treatment of Greek Cypriots and Maronites; however, the authorities’ noncompliance with some of the agreement’s provisions made daily life difficult for the 403 Greek Cypriot and 140 Maronite residents.

Greek Cypriots and Maronites in the area administered by Turkish Cypriots alleged that they were subject to surveillance, although less so than in previous years, and representatives of both communities complained that their telephones were tapped. Unlike in previous years, neither community reported the authorities breaking into their homes.

Under the Vienna III agreement, the UN Force in Cyprus visited the enclaved Greek Cypriots weekly and the Maronites twice a month; any additional visits had to be preapproved by the authorities. Although the Vienna III Agreement provides for medical care by a doctor from the Greek Cypriot community, the authorities only permitted care provided by registered Turkish Cypriot doctors; enclaved persons also traveled to the government-controlled area for medical care.

Greek Cypriots and Maronites were able to take possession of some of their properties but were still unable to leave any of their properties to heirs residing in the government-controlled area. The authorities allowed the enclaved residents to make improvements to their homes and to apply for permission to build new structures on their properties. Maronites living in the government-controlled area could use their properties only if those properties were not under the control of the Turkish military or allocated to Turkish Cypriots.

A majority of foreign workers in the area administered by Turkish Cypriots were Turkish. One NGO reported that Turkish workers were often targeted by police investigations during the year, albeit less frequently after the authorities registered all foreign workers. The same NGO also reported that many Turkish workers lived in derelict buildings in Nicosia, with up to 20 persons sleeping in one room. Those working in the agricultural or construction sectors reportedly were forced to sleep on the ground, and those working at restaurants were seen sleeping after hours on chairs in the establishments where they work.

*Other Societal Abuses and Discrimination.*—The law criminalizes homosexuality in the area administered by Turkish Cypriots, but a draft gay rights bill was being discussed in “parliament” at year’s end. The new legislation would forbid discrimination against homosexuals and end the criminalization of homosexual behavior. Homosexuality remained highly proscribed socially and rarely discussed.

There were no reports of discrimination against persons with HIV/AIDS.

*Section 6. Worker Rights*

*a. The Right of Association.*—All workers except members of the police and military forces have the legal right to form and join unions of their own choosing without prior authorization, and workers did so in practice. Approximately 1 percent of private sector workers, 60 to 70 percent of semi-public sector workers, and nearly all public-sector workers belonged to labor unions.

Some companies pressured workers to join unions led or approved by the company. Officials of independent unions claimed that the authorities created rival public sector unions to weaken the independent unions.

The law does not prohibit antiunion discrimination, and union leaders claimed that private sector employers were able to discourage union activity because the enforcement of labor regulations was sporadic and penalties—such as reassignment to an undesirable location or denial of promotion—for antiunion practices were nominal.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the authorities generally protected this right in practice. The law provides for collective bargaining, and workers exercised this right in practice; however, collective bargaining agreements were not legally enforceable. The “Ministry of Economy” and union officials estimated that 98 percent of workers in the public sector, 60 to 70 percent of workers in the semipublic sector, e.g., the “state” university, and 1 percent of workers in the private sector were unionized. Public and semipublic employees made up approximately 30 to 35 percent of the work force and benefited from collective bargaining agreements. Although the law provides for the right to strike, employers have an unrestricted right to hire replacement workers in the event of a strike, which limited the effectiveness of the right to strike. The law does not ensure due process for essential service workers and, in fact, states that judges and members of the police and the armed forces do not have the right to strike. The authorities have the power to curtail strikes in “essential services,” although this power was rarely used in practice.

There are no special laws for or exemptions from regular labor laws in the export processing zone at the port of Famagusta.

*c. Prohibition of Forced or Compulsory Labor.*—The authorities prohibited forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5). Legal and illegal migrant workers were subject to reduced wages or nonpayment of wages, beatings, and the threat of deportation (see section 6.e.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The authorities effectively enforced the laws and policies to protect children from exploitation in the workplace.

The minimum age for employment in an “industrial undertaking” is 16, and children may be employed in apprentice positions at 15. There were labor inspectors who enforced the law effectively. It was common in family-run shops for children to work after school, and children as young as 11 worked in orchards during school holidays.

*e. Acceptable Conditions of Work.*—As of August the minimum wage was approximately \$600 (860 Turkish lira) per month, which did not provide a decent standard of living for a worker and family. Migrant workers were often offered substandard accommodation as part of their compensation or were made to pay for accommodation. The “Ministry of Labor and Social Security” is responsible for enforcing the minimum wage, and it was generally enforced. However, one NGO reported that legal foreign workers in general were paid below the minimum wage.

The legal maximum workweek was 38 hours in the winter and 36 hours in the summer. Labor inspectors effectively enforced these laws, except in the case of migrant workers, who worked irregular hours and at times reportedly were required by their employers to work up to 14 hours per day, seven days a week. The law requires overtime pay, but it was not uniformly enforced.

As part of an overall scheme to better regulate legal foreign workers, the “Ministry of Labor” and police routinely checked restaurants, hotels, nightclubs, casinos, and construction sites to make sure that workers had valid work “visas,” that they had signed a contract with their employers, and that working conditions were safe and sanitary.

The authorities sporadically enforced occupational safety and health regulations. Although factory inspectors processed complaints and inspected businesses to ensure that occupational safety laws were observed, workers who filed complaints did not receive satisfactory legal protection and could face dismissal. Workers did not

have the legal right to remove themselves from situations that endangered health or safety without risking their continued employment.

## CZECH REPUBLIC

The Czech Republic is a parliamentary democracy of approximately 10.2 million persons. The bicameral parliament elected as head of state President Vaclav Klaus, who then appointed Prime Minister Mirek Topolánek as head of government. Free and fair parliamentary elections held in June produced an even split between right and left parties, and as a result no government was able to receive a vote of confidence. However, a series of short-term governments executed routine government functions, and all officials adhered to constitutional procedures. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected and protected the rights of its citizens; however, problems continued to be reported. Lengthy pretrial delays remained a problem within the judiciary. Widespread corruption was a systemic problem and resulted in several high-profile corruption cases involving members of parliament and other government officials in nearly all political parties and at the highest levels of government. Many politicians avoided prosecution due to loopholes in the law. Violence against children was commonplace, and wage discrimination against women lingered as a problem in the workplace. Trafficking in persons both for sexual exploitation and forced labor continued. Random violence by neo-Nazis against Roma and other “dark-skinned” minorities was common. The growth of Romani ghettos and lack of equitable education for Romani children was especially concerning.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them. Use of excessive force by the police was not a problem, although there were occasional cases of abuse. There was one case of police mistreatment of Roma (see section 5).

The office for the documentation and investigation of the crimes of communism (UDV) continued to investigate actions taken by government authorities and Communist Party members during the 1948–89 Communist regime and documented previous cases. According to the office, 190 offenders were prosecuted in 96 criminal cases. Eight persons received two-to-five year prison sentences, and 21 persons received suspended sentences. As of the end of August, the office delivered to prosecutors 95 indictment recommendations for 121 persons. Based on these recommendations counsel prosecutors indicted 100 persons. Twenty-five former Communist-era secret police (StB) officers were prosecuted for their participation in antidissident raids in the Asanace operation, a concerted campaign of harassment, torture, and abuse directed at opponents of the Communist regime during the 1970s and 1980s. Eighteen former secret policemen were sentenced to prison, with two additional sentences pending; five other cases remained under investigation. Since 1989 the Government has convicted 90 former StB officials and sentenced 26 to prison.

Some politicians, mainly from the Communist Party, criticized and suggested closing the UDV without success. One Communist member of parliament, Josef Vondruska, was reported to have been involved in abuse of prisoners under the Communist regime. Although many abused political prisoners confirmed brutal treatment by Vondruska in the media, authorities did not bring legal charges against him.

According to the Ministry of Interior, nearly 800 former StB officers remained in the national police. In October the deputy head of the Prague police admitted to being a former StB officer and resigned his position. In January and April, an appeals court upheld the 2005 conviction of two former secret police agents on charges of torture and oppression of dissidents during the 1970s (Asanace operation) and increased their penalties from three to four years of imprisonment with supervision.

In April 2005 in Prague the police mistreated two minor brothers, who had been detained on suspicion of passing out illegal posters. The brothers were taken to a station, stripped, forced to do push ups, and beaten to the point where one boy bled

and had a concussion. The case was not pursued by the inspectorate of the Interior Ministry; however, the League of Human Rights appealed the decision. During the year the two police officers involved were convicted of abuse and forced to resign their positions. The first officer was sentenced to 15 months' imprisonment, three years of probation upon release, and a three-year bar on serving in the military or the police. The second officer involved was sentenced to six months' imprisonment and one year of probation.

In a case of police brutality alleged by a Briton and a New Zealander in 2004, the judiciary considered the appeal but sustained the dismissal due to a lack of evidence.

On May 1, during a large neo-Nazi march in Prague, Katerina Jacques, who at that time was head of the Government's human rights section and later became a Green Party member of parliament, was beaten and kicked by policeman Tomas Cermak when she refused to stop protesting against the neo-Nazis. Photos of the incident showed Jacques on the ground being struck by Cermak before being arrested. Police also detained the reporter who photographed the incident. Ten policemen, who were nearby but did not intervene, were under investigation. In June the local heads of police were demoted and the President of the police was denied promotion. Cermak's salary was reduced 10 percent for one month. In August inspectors for the Ministry of Interior recommended that Cermak be tried for abuse of office, violation of personal liberty, and assault. In September the Interior Ministry inspection unit dismissed the case against the policemen who watched and did nothing while Cermak beat Jacques. In November the state attorney decided against prosecuting Cermak, concluding that Cermak's behavior "constituted no crime."

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. In March-April the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the country. The CPT noted prison overcrowding and lack of space for individual prisoners as a continuing issue and recommended that the prisons and detention facilities work to meet the minimum norm of 12 feet square per prisoner. The CPT also highlighted the need to ensure that nonviolent prisoners are not held in cells with prisoners convicted of violent crimes.

The Czech Helsinki Commission in April found that while prisons met domestic regulations, half of the country's prisons were filled beyond capacity and as such did not meet international standards for physical conditions and activities available for prisoners.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police are responsible for enforcing the law and maintaining order, and they were generally effective in doing so. The internal security service, an intelligence and information gathering service with no powers of arrest, reports to parliament and to the Prime Minister. Police corruption was a problem. The Ministry of Interior oversees the police, and the ministry's inspectorate is responsible for investigating allegations of police misconduct, although this system has been criticized for its lack of independence. The Government continued to implement police reforms that included oversight measures, improved methods for reporting corruption, and better education and training for police. Impunity was not a problem.

According to the Ministry of Interior, police conducted 65 bribery investigations in the first half of the year and investigated 48 public officials for abuse of authority. During the same period, Ministry of Justice records indicated that 38 public officials were convicted of crimes relating to abuse of their authority, and eight were sentenced unconditionally. In addition, 43 offenders were convicted for bribery-related offenses, but only four were sentenced to prison with sentences of up to five years. Many observers were dissatisfied with the investigators' focus on minor cases of corruption and with the generally ineffective investigations and prosecutions of larger-scale malfeasance.

In February the biggest criminal trial in the history of the country started in the Prague Municipal Court. Thirty-six members of so-called Berdych gang, including five police officers, were accused of 36 different crimes including theft, extortion, murder, and kidnapping. The head of the gang, David Berdych, was convicted and sentenced to nine years in prison; other gang members received sentences ranging from eight to 14 years in prison. The trial continued through the end of the year due to the large number of witnesses.

The Government increased awareness among police and prosecutors of racially and ethnically motivated crimes by integrating Roma-specific issues into training

programs, gathering data on victimization rates, and researching antiextremist strategies. Police and prosecutors continued to show greater awareness of the seriousness of crimes with racial and ethnic motivations, but observers nevertheless criticized the effectiveness and timeliness with which such crimes were investigated. During the year the Government continued efforts to recruit Roma to serve in law enforcement and to improve police relations with the Romani community.

*Arrest and Detention.*—Persons suspected of crimes were apprehended openly, with warrants based on sufficient evidence and issued by a prosecutor, and brought before an independent judiciary. Police may detain persons without charge for up to 48 hours, during which time they have the right to counsel at government expense, although they may not contact family members. After 48 hours, police must have determination from a judge and prosecutor that the suspect will be charged before they can detain the suspect further. When the judge and prosecutor decide to charge the suspect, the suspect may contact family members. In some instances a judge may allow a person to be detained for up to 90 days before charges are formally filed to allow further criminal investigation (investigative detention). The law provides for bail except for certain serious crimes or to prevent witness tampering.

Lengthy pretrial detention was a problem. Under the law, except for “exceptionally grave” offenses, pretrial detention may last no longer than two years. According to prison service data in July, the average length of detention was 145 days. Twenty-seven detainees, or approximately 1.1 percent of the pretrial detainee population, had been held for over two years. A suspect may petition investigating authorities at any time for release from detention.

*Amnesty.*—During the year the President granted 21 persons amnesty for humanitarian reasons. Individuals were released from prisons or in many cases granted amnesty from deportation and released from detention centers.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice; however, judicial effectiveness continued to be hampered by political influence, structural and procedural deficiencies, and a lack of training and resources. There were allegations of judicial corruption, particularly surrounding bankruptcy and commercial courts.

The court system consists of district, regional, and high courts. The Supreme Court is the highest court of appeal, but a separate Constitutional Court adjudicates the constitutionality of legislation. Judges are nominated by the minister of justice and appointed for life by the President. The senate confirms Constitutional Court judges. Defendants may appeal the decisions of the district courts through several judicial layers to the Supreme Court. Noncriminal cases are handled by the administrative court system, of which the highest court is the Supreme Administrative Court.

During the year several events occurred that continued to damage public perception of the judiciary’s independence from political influence. In February President Klaus removed the chairwoman of the Supreme Court, Iva Brozova, from her post, stating that she was not satisfactorily performing her duties. Chairwoman Brozova sued and won reinstatement in September under a ruling by the Constitutional Court, which stated that the President lacked the authority to remove Brozova.

In April 2005 in Usti nad Labem, regional court judge Jiri Berka was arrested and charged with criminal conspiracy and fraud. This was the first case of a judge being indicted for conspiracy: under the law any arrest of a sitting judge must be approved by the President. The trial began in February and was expected to take more than a year since there are eight other defendants, including the head of the National Security Office. The Government alleged that the criminal gang surrounding Berka embezzled nearly \$13.7 million (300 million crowns) from domestic companies.

The Ministry of Justice operated a hot line for citizens to report suspected judicial corruption. Through June, the hot line received 18 calls, compared with 57 calls in 2005 and 263 calls in 2004. Through June, the ministry received 26 written complaints of corruption, compared with 47 in 2005 and 137 in 2004. Observers attributed the public’s decreasing use of the hot lines to the plethora of hot lines and a lack of confidence that the accused would be punished. Nearly every government ministry and many cities have sponsored their own anticorruption hotlines. Of all corruption complaints received, 26 percent concerned judges, 7 percent involved prosecutors, and 66 percent concerned other officials. The ministry resolved 66 percent of all reports directly, while 12 percent were forwarded to the corruption police for further investigation.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right.

Trials are public, but juries are not used. Instead, a panel of judges rule on guilt or innocence in serious cases, with all other cases heard by a single judge. Defendants have the right to be present and to consult with an attorney in a timely manner and at state expense. Defendants may confront or question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants are presumed innocent and have a right of appeal. The law extends these rights to all citizens.

There was a significant backlog of cases, but in certain areas the situation improved. For example, in 2005 the commercial courts adopted more simplified procedures, such as allowing electronic filing of certain documents, which reduced their wait time from months to weeks. During 2005 the European Court for Human Rights (ECHR) received approximately 1,000 complaints from citizens, mostly related to the extended length of court proceedings.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The Government maintains an independent and impartial judiciary in civil matters. Access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations is not impeded. Administrative and judicial remedies for alleged wrongs are available.

*Property Restitution.*—The 1991 Law on Restitution applied only to property seized after the Communists took power in 1948. In 1994 parliament amended the law to provide for restitution of or compensation for property wrongfully seized between 1938 and 1945. This amendment provided for the inclusion of Jewish private properties, primarily buildings, seized by the Nazi regime. Both the amendment and the original law require the claimants to be Czech citizens. This citizenship restriction unfairly impacted Czechs who obtained citizenship in the United States, as these naturalized citizens were required to forfeit their Czech citizenship under the terms of a 1928 treaty between the two countries. The treaty was finally abrogated in August 1997, by which time the 1992 and 1995 deadlines for filing claims had already passed. There were also claims outstanding for some Jewish communal properties (see section 2.c.).

In November the Government extended financing of the Center for Documentation of Property Transfers of Cultural Assets of Holocaust Victims for five years. At the same time, parliament approved an amendment to the law on restitution which abolishes the deadline for filing art-related claims. The President signed the amendment in November. Except for art restitution, the deadlines in other fields of restitution had expired.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. However, there were reports of local governments using various methods to evict Romani residents. The Government continued to investigate allegations of forced sterilization of Romani women, without informed legal consent, in previous years and prosecuted accused perpetrators.

Several cases involving the alleged sterilizations of Romani women proceeded in the courts. In 2004 the European Roma Rights Center (ERRC) accused the Government of continuing the forced sterilization policies of the former Communist regime. The ERRC and its partners asserted that this practice continued well after the fall of the regime and argued that often the victim's consent was either not obtained at all or was obtained under circumstances that rendered informed consent impossible.

Over the last 30 years a total of 87 women (approximately 10 of whom were non-Roma) have complained about forced sterilizations to the office of the ombudsman for human rights. In December 2005 the ombudsman published a report on the sterilization issue that recommended restitution to the victims. The ombudsman also referred five cases against health systems workers and administrators for further criminal investigation and possible prosecution in 2005. While investigations were ongoing, the Government had otherwise not acted on the ombudsman's recommendations.

In November 2005 the district court in Ostrava ordered the Ostrava hospital to apologize to Helena Ferencikova, a Romani woman sterilized in 2001 following the birth of her second child. Ferencikova appealed the decision in order to seek monetary damages. The case was ongoing at year's end.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in



practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. The independent media were active and expressed a wide variety of views without restriction.

The law mandates prison sentences of six months to three years for persons who deny Communist crimes or the Nazi Holocaust. Speech inciting hatred based on race, religion, class, nationality, or other group affiliation is also illegal and carries a sentence of up to three years in prison.

The Government can enforce legislation banning hate speech by stopping unauthorized concerts, gatherings, or activities. In contrast to 2005, police did not halt concerts affiliated with neo-Nazi groups.

Denis Gerasimov, who was charged by police in 2004 for having Nazi propaganda in his bag, was first found innocent in 2004. His second trial concluded in April 2005 and resulted in another acquittal. He was allowed to return to Russia, but another trial was planned for 2007.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. According to the Government statistical office, 47 percent of persons age 10 and older reported using the Internet in the last three months of the year, and 70 percent of the population under the age of 55 reported using the Internet regularly.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice; however, the Government may legally restrict meetings that promote hatred and intolerance, advocate the suppression of individual or political rights, or jeopardize the safety of participants. Permits normally are required for demonstrations, but police did not interfere with spontaneous, peaceful demonstrations during the year.

In August the police halted a neo-Nazi march in front of the Israeli embassy in Prague and arrested many of the participants, finding that many possessed weapons. No updates were available at year's end.

During the year there were rallies in several cities throughout the country organized by neo-Nazi and skinhead organizations. On May 1, the largest rally occurred in Prague, where more than 400 skinheads demonstrated and shouted fascist slogans.

The Government may enforce legislation banning hate speech by stopping unauthorized concerts, gatherings, or activities. In December police terminated a late-night concert of approximately 120 neo-Nazis in Ceske Budejovice when one of the bands played racist music. The police arrested seven persons for inciting hatred of a group of persons or of limiting their rights and freedoms. There were no updates at year's end.

In July 2005 several hundred police in the western town of Mlynec forcefully dispersed individuals at an annual outdoor techno concert called "CzechTek" because the concert had not been adequately registered. Many nongovernmental organizations (NGOs) and observers alleged that police used excessive force in breaking up the concert. Dozens of injuries among both concertgoers and police resulted, and many fans were arrested. Following an outcry by media and human rights groups, the Interior Ministry initiated an investigation into the incident and cleared the police leadership of wrongdoing. In January then prime minister Paroubek and then interior minister Bublan refused to submit a report on the actions of the police during CzechTek. The ombudsman launched an independent investigation into the affair following widespread criticism of the crack-down. In January the ombudsman's office formally criticized the police for excessive use of force. Four policemen from the city of Cheb were accused of being especially harsh in dealing with concertgoers. The Ministry of Interior Inspection Office closed the case against the police, but the supreme prosecutor reopened the investigation in August. The supreme prosecutor's investigation was ongoing at year's end. The main organizer of the concert was tried for destruction of property but was found not guilty in October. The case against a second concertgoer was ongoing at year's end.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. Organizations, associations, foundations, and political parties were required to register with local officials or the Interior Ministry. The law prohibits political party activities on university campuses, but students are permitted to form their own political groups.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

All religious groups officially registered with the Ministry of Culture are eligible to receive limited tax benefits and government subsidies. In order to qualify for first-tier status, which provides tax exemption, groups must have 300 adult permanent resident members. If a group wishes to attain the second-tier registration level, which confers specific additional rights (such as teaching religion in state schools, delegating persons to perform clerical activities in the military, qualifying for government financial subsidies, and being entitled to perform marriages and establish church schools), the group is required to have been registered for 10 years and to obtain signatures equal to one per every 1,000 citizens based on the last census, or approximately 10,200 signatures. Very few smaller or less-established religions were able to obtain the required signatures to obtain second-tier registration. Several unregistered religious groups criticized the law as discriminatory against smaller religions. Religious organizations also have the option to register as a civic association rather than go through the tiered registration process. Religious groups registered prior to 1991, such as the small Jewish community, are not required to meet these conditions for registration. There were 26 officially recognized religious groups, of which nine were officially permitted to teach in state schools.

The Armenian Apostolic Church was in the final process of being registered.

The Muslim community, which was registered in 2004, applied to the Ministry of Culture for an exemption that would permit accelerated second-tier registration status. The community sought the right to hold classes on Islam in schools, have spiritual leaders in the army and prisons, administer schools, and conduct weddings. The application was denied based on opposition from the ministries of interior, justice, education and defense.

Unregistered religious groups were free to assemble and worship as they chose, and their members issued publications without interference. Unregistered religious groups may not legally own communal property, so they often formed civic-interest associations for this purpose.

In January, 25 mainly Christian Democratic senators submitted to the Ministry of Culture a complaint against the November 2005 amended Church Law on the establishment and regulation of church-sponsored activities, including schools and churches. The senators asserted that the new law violates the constitutional separation of church and state.

There was no progress regarding the 2004 plans by the Muslim community to construct mosques in Teplice and Orlova. The Muslim community did not submit construction plans to Teplice's construction department and the plan to build a mosque in Orlova seemed to have been abandoned altogether.

Although the Government was committed to the restitution of Jewish and Catholic property seized under Nazi or Communist governments, the restitution of Catholic property was extremely slow and contentious in practice. In September the Supreme Court upheld rulings by the Prague City Court and Prague District Court that St. Vitus Cathedral at Prague Castle belongs to the Roman Catholic Church and not the state. The Church and the state fought over ownership rights of the cathedral for more than 13 years. While most communities returned private properties to their Jewish owners, some cases remained outstanding. During the year legal proceedings concerning the ownership of two religious properties began between the Brno Jewish community and the state. The proceedings were ongoing at year's end.

Under a 2000 law, stolen works of art, including religious art, were to be claimed by December. On November 3, the Government extended financing of the Center for Documentation of Property Transfers of Cultural Assets of Holocaust Victims for the next five years. Parallel to that, parliament approved an amendment to the law on restitution that abolished the December deadline for filing art-related claims. The President signed the amendment on November 30. Except for art restitution, the deadlines in other fields of restitution expired.

*Societal Abuses and Discrimination.*—The country had a Jewish population of several thousand persons. In general, public expressions of anti-Semitic sentiment were extremely rare, and Holocaust denial investigations and prosecutions were vigorously pursued by authorities. A small but persistent and fairly well-organized extreme right-wing movement with anti-Semitic views existed in the country. The Ministry of Interior continued its efforts to counter neo-Nazis, which included monitoring of their activities, close cooperation with police units in neighboring countries, and concentrated efforts to shut down unauthorized concerts and gatherings of neo-Nazi groups.

There were a few anti-Semitic incidents during the year, including reports of a large-scale attack planned against the Jewish community. For example, in March

a nonactive synagogue in Krnov was vandalized with signs praising the Holocaust. In April obscenities directed towards Jews were spray-painted on a villa that belonged to a well-known Jewish family before the Second World War. On May 1, a large neo-Nazi march took place in Prague; police beat and kicked a human rights leader who was protesting against the neo-Nazis (see section 1.c.). In October vandals stole a bronze plaque from a former Nazi concentration camp outside Prague honoring the victims of fascism. Vandals also destroyed or damaged several tombstones in the Jewish cemetery in Hroznetin. Police investigation of these crimes resulted in no arrests.

In October a leading newspaper reported that the intelligence establishment had increased measures to prevent an alleged plot to kidnap and murder dozens of Czech Jews. Reportedly, Muslim extremists affiliated with an unnamed group planned to abduct Jewish residents of Prague and hold them hostage in the Jerusalem Synagogue, stage negotiations, then blow up the synagogue with its occupants. The Government did not comment on these reports; however, it temporarily raised the national terrorist alert level and increased security near the most prominent Jewish institutions as well as other sites of security concern.

On November 18, at a concert attended by 250 skinheads held near Tabor, one of the participants gave the Nazi salute. There was no police intervention.

During the year police closed their investigations of the 2005 cases of vandalism of a synagogue and three Jewish memorials after being unable to identify the perpetrators. The cases involved vandalism of a Holocaust memorial in Teplice in August, the destruction of several doors and windows at a synagogue in Krnov and defacing of gravestones in a Jewish cemetery in Velky Pecin in September, and the defacing of a commemorative stone dedicated to a Jewish artist in Jihlava in October. Local Jewish organizations believed that police had conducted thorough investigations but understood that perpetrators in vandalism cases were difficult to apprehend.

There were several hate groups in the country that advocated violence against Jews. One neo-Nazi group, Narodni Odporu, petitioned President Klaus in August for permission to fight with the Iranian military against Israel and threatened violence against Jews and synagogues in the country if permission was denied.

The city of Prague declared 2006 as the year of Jewish culture celebrating the 100th anniversary of the Jewish Museum in Prague.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The constitution and law prohibit forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. For humanitarian reasons, in December 2005 the Government resettled 15 Uzbek refugees.

In 2005 the Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to approximately 78 persons during the year.

The law establishes a list of “safe countries of origin” from which applicants are unlikely to be granted refugee status, but it does not automatically bar such applications. Applicants whose cases were denied could appeal to the appropriate regional court. In May 2005 parliament amended the law to require regional court decisions to be reviewed by a five-judge panel, which refers cases requiring further attention to the Supreme Administrative Court. This was done to streamline the asylum process and decrease abuse of the system by illegal migrants. The amended law also stipulates that only exceptional cases may be appealed to the Supreme Administrative Court following a rejection by the regional court.

In 2005 the Constitutional Court issued a decision that either asylum hearings be conducted in a language comprehensible to the applicant or that the Government provide an interpreter. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The most recent national elections were held in June for the Chamber of Deputies, the lower chamber of the parliament and in October for the seats in the Senate and municipal government posts. Both elections were considered free and fair. Individuals and parties could freely declare their candidacy and stand for election.

On April 24, not long before national elections in June, skinheads violently attacked and swore at Deputy Chairman of the Communist Party Jiri Dolejs near the Prague metro due to his high standing in the Communist Party. The perpetrators in the attack were not caught or punished (see section 5).

Women and ethnic minorities were generally underrepresented in politics and government. There were 30 women in the 200-seat Chamber of Deputies and 10 women in the 81-seat Senate. There were two women in the 15-member Cabinet and five women on the 15-member Supreme Court.

There were no members of minorities in the 200-seat Chamber of Deputies, the 81-seat Senate, or the 15-member cabinet. One justice on the Constitutional Court was an ethnic Slovak. Of the estimated 200,000 to 250,000 Roma in the country, few were integrated into political life (see section 5). Few Roma served in local government, although some were appointed to advisory positions in government ministries, and each region appoints a Romani coordinator to monitor and mediate problems affecting the Romani community.

*Government Corruption and Transparency.*—Throughout the year corruption and abuse of office remained major problems. Numerous polls highlighted public concern with corruption and low levels of public trust in the integrity and honesty of both government officials and political parties. The perception of widespread corruption and official abuse has fostered an environment of public mistrust of mainstream political parties. The poll by the Growth from Knowledge (GfK) Agency in June indicated that only 18 percent of respondents trusted political parties. Transparency International reported in September that procurement statutes were complicated and vulnerable to manipulation, that oversight mechanisms were weak, and that public procurement laws were generally ineffective. Biannual governance and anticorruption studies compiled by the World Bank have charted substantial and steady deterioration in the country since 1996 in indices of government effectiveness, regulatory quality, rule of law, and control of corruption. The World Bank's July report reported that bribery was on the rise and estimated that more than a quarter of businesses bribed public officials in order to receive preferential treatment in securing public tenders. Charges of corruption pervaded politics in the country and were levelled against nearly all political parties at the highest levels of government.

Political pressure and ineffective police investigative tools contributed to the lack of prosecutions of high-level corruption cases. For example, under the law there is no obligation for a suspect to prove the origination of his assets. Since the end of Communism there have been no convictions of high-level individuals for corruption. Many politicians have been able to avoid prosecution due to loopholes in the law.

In January member of parliament and Social Democratic Party whip Michal Kraus was accused of money laundering, fraud, and circumventing bankruptcy proceedings after he helped an accomplice invest money in cocoa plantations in Ghana. That same month, Kraus gave up his seat in parliament and left politics. The police investigation continued, although no charges had been filed by year's end.

Having been stripped of parliamentary immunity, member of parliament Vladimir Dolezal was investigated and later accused of corruption. The first indictment in March was withdrawn by the prosecutor and the case was reinvestigated. He was re-indicted in September for assisting in attempted bribery. He was accused of demanding \$35,000 (800,000 crowns) from businessmen on behalf of a Prague district counselor on a local zoning commission.

In July a member of the board of directors of the Czech Consolidation Agency, a government institution that buys problematic assets and loans from state-owned companies and banks to assist through restructuring, and several other individuals were arrested and charged with large-scale corruption for insider trading and bribery. The group was allegedly bribed to sell bailout claims to other entities at prices much lower than their real value. The police seized more than \$19 million (420 million crowns) in accounts held by the three main suspects and froze securities worth more than \$11 million (250 million crowns).

The head of the police unit fighting organized crime, Jan Kubice, was accused by the Interior Ministry Inspection Office of abuse of official power in October. Shortly before the June elections, Kubice presented a report to the members of the parliamentary Defense and Security Committee that alleged a link between the top officials of the ruling Social Democratic Party and organized crime. By doing so, Kubice went around standard procedure of reporting the issue to the police President. The report subsequently leaked to the press shortly before the June elections. Experts maintained that Kubice's decision to inform the parliamentarians was an act of desperation as the lives of two police officers were in danger.

In April 2005 Prime Minister Stanislav Gross resigned in a corruption scandal over his ownership of a luxury apartment in Prague in spite of earning only a modest government salary. During the subsequent controversy, additional questions surfaced in the media regarding other financial and business activities of Gross and his family. The decision by police in December 2005 to close the case for lack of evidence was met with widespread public criticism. The case was reopened during the year but again closed due to a lack of evidence.

In August 2005 former prime minister Jiri Paroubek dismissed his chief aide, Zdenek Dolezel, who also previously served as chief aide to former prime minister Gross, over allegations of corruption involving the privatization of the oil and refining company, Unipetrol. During the company's sale to Polish refining corporation PKN Orlen, the aide reportedly solicited a \$225,000 (5 million crowns) bribe. A parliamentary inquiry into the case that was authorized by Paroubek later in the year produced no result. Meanwhile, criminal proceedings were started in October by police against Dolezel and four other officials, including a deputy minister, member of parliament and mayor, on charges of attempting to siphon off large amounts of money from European Union (EU) structural funds. Police also investigated allegations that the group had plotted to kill Jan Kubice, head of the national police unit fighting organized crime. The case was ongoing at year's end.

In October 2005 Marian Kus, a member of the ruling Social Democratic party executive committee, was forced to temporarily step down from his position during an investigation into charges that he had forged his lustration certificate, a document certifying that a person has been vetted by the Government and (usually) cleared of cooperation with the Communist secret police. No formal charges were brought against Kus.

In November 2005 Agriculture Minister Petr Zgarba resigned due to allegations that he had passed inside information to land speculators. Zgarba served as chairman of the special government commission that oversaw the sale of state-owned property. It was alleged that, based on the information passed by Zgarba, land speculators purchased land for discount prices before the general public was allowed to bid. The speculators paid \$2.3 million (50 million crowns) for property that was valued close to \$160 million (3.5 billion crowns). The police investigation did not result in charges against those involved, and the case was closed.

In 2004, 18 customs officials working at the Moravian/Austrian border were charged with accepting bribes of \$7 (150 crowns) from truck drivers seeking expedited inspections at the border. Their trial began in June 2005. During the year all received suspended sentences of one to two years and fines of \$480 to \$3,360 (10,000 to 70,000 crowns).

In 2005 the Ministry of Interior received 6,019 e-mails and 450 calls to its hot line (compared with 6,334 e-mails and 480 calls in 2004); most were requests for information on corruption. Only 35 of these calls and e-mails reported corruption; five of these alleged police corruption, and 30 concerned officials in other ministries. The ministry forwarded these 35 reports to the corruption police for further investigation.

The law provides for public access to government information. The Government provided such access in practice for citizens and noncitizens, including foreign media. No prohibitive fees were used, and applicants may appeal a decision about information release within 15 days of a decision or if the time limit for processing a request is exceeded.

#### *Section 4. Government Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The NGOs watch the application of law in practice and press the Government to act when needed. Government officials were generally cooperative and responsive to their views.

The amended law on the ombudsman, formally called the Public Defender of Rights, came into effect on January 1. The ombudsman's responsibilities, which in-

clude authority to investigate complaints involving the activity or inactivity of authorities in public administration, were greatly expanded under the new law. The ombudsman's new tasks include performing regular visits to all government facilities where persons are detained or imprisoned. During these visits the ombudsman should examine the treatment these individuals receive, endeavor to ensure that their fundamental rights are respected, and increase their protection against mistreatment. The ombudsman operated without government or party interference, and the incumbent was reelected by parliament in December to fill an additional six-year term. The ombudsman was considered effective and had adequate resources to perform his investigations. The incumbent ombudsman was widely respected and enjoyed the Government's cooperation. The ombudsman issues quarterly and annual reports on the efforts of his office in addition to specialized reports on topics of special concern.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status; however, societal discrimination against women and Roma persisted, and trafficking in persons remained a significant problem, although the Government made progress during the year in addressing the issue, specifically in the area of forced labor.

*Women.*—Specialists indicated that violence against women was more widespread than reflected in official statistics. The most recent Stredisko Empirickych Vyzkumu (STEM) agency poll conducted in August found that 9 percent of persons had witnessed domestic violence, 13 percent were victims of such violence, and 1 percent admitted perpetrating acts of domestic violence. Eighty-four percent of citizens considered domestic violence to be a serious problem.

The law recognizes domestic violence as a distinct crime, and those who commit acts of violence against relatives or domestic partners may receive sentences of up to three years in prison and longer under aggravated circumstances. Government efforts to investigate and prosecute cases of domestic violence improved dramatically during the year. Police received extensive training on how to identify domestic violence cases and possible victims of domestic violence. In the first half of the year, the police investigated 229 cases of domestic violence; in the same period 234 aggressors were prosecuted. Courts convicted 125 perpetrators, of whom 22 were sentenced to prison and 95 received suspended sentences. The number of convictions was more than double that of previous years for the same six-month period. Police reported that investigations continued to be hampered by the reluctance of many victims to report domestic violence or to testify against their partners.

The law prohibits rape, including spousal rape, and the Government effectively enforced these provisions in practice. The law provides penalties for rape of two to 15 years in prison.

Many experts considered rape to be dramatically underreported. In the first six months of the year, there were 251 reported rapes, all of which were investigated. Police conducted investigations into 183 alleged rapes, and the courts convicted 74 offenders. Suspended sentences were given to 38 offenders, and 11 individuals were sentenced from five to 15 years in prison. Experts noted an upward trend in the number of rape convictions since 2001, which they attributed to improved police training, public awareness campaigns, and greater interaction and cooperation of police with NGOs, all of which have gradually facilitated victims' willingness to report the crime and to testify in court.

Koordona, an association of 13 NGOs that deals with domestic violence, organized several events during the year, provided specialized training manuals for health care workers, and continued distributing materials to inform victims of their rights. Police continued to train select personnel to handle cases and work with social service agencies.

Victims of rape and domestic abuse could seek psychological counseling through a number of hot lines and crisis centers. For example, the Dona line had received 16,796 calls since 2001. Of these, 10,462 calls were regarding domestic violence; 869 of these calls came from maltreated seniors and 388 others from handicapped individuals. The typical victims of domestic abuse were mothers on maternity leave, business women, and individuals in early retirement.

The Government continued to investigate allegations from previous years of the forced sterilization of Romani women and prosecute accused perpetrators (see section 1.f.)

The law does not prohibit prostitution, but it may be prohibited, limited, or regulated by local governments. Pimping is specifically prohibited. Prostitution was widespread in border areas and major cities throughout the country. NGOs reported that sex tourism was a problem and involved both female and male prostitutes,

some of them juveniles. There are no laws addressing sex tourism. The Prague city government took action in June 2005 to ban the distribution of flyers advertising brothels at tourist destinations.

Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment; however, the Government did not effectively enforce this provision in practice, and sexual harassment remained a problem. In August 2005 a survey commissioned by the labor and social affairs ministry found that 28 percent of women and 22 percent of men had experienced sexual harassment in the workplace. The report also indicated that sexually suggestive behavior was common in the workplace and often not considered harassment. The law places the burden of proof on the person accused of sexual harassment. Those found guilty of sexual harassment can be fined up to approximately \$2,750 (70,000 crowns), dismissed from work, or sentenced to prison. Most citizens did not consider sexual harassment a significant problem.

Women and men are equal under the law, including under family law, property law, and in the judicial system. Women constituted 43 percent of the labor force, although employment of women grew faster than employment of men. Women were more likely than men to be employed in professions with a lower median salary. Women's median wages lagged behind those of men by almost 25 percent. The unemployment rate for women was the lowest in four years but still exceeded that for men, and a disproportionately small number of women held senior positions. The council for equal opportunities for men and women monitored gender issues and advised the Government on its efforts to enforce equal gender rights.

In September the first civil case regarding gender discrimination was tried in the Prague District Court. The court ruled against a woman who claimed she was denied a management position solely based on her gender. She appealed the verdict, and the case was ongoing at year's end.

*Children.*—The Government is committed to children's rights and welfare. The Government provides free and compulsory education through age 15 and is universal to all children. Most children continued through secondary school. Education opportunities for Roma were limited. The February 2005 UN Development Program survey on education of minorities found that only 25 percent of Roma ages 12 and above completed primary education, compared with 73 percent of the majority population.

Romani children were enrolled at disproportionately high rates in the remedial education system, which effectively segregated them in substandard schools (see section 5, National/Racial/Ethnic Minorities).

Girls and boys enjoyed equal access to government-provided health care and education at all levels.

Child abuse was a common problem. Over the previous 10 years, the number of physically abused children quadrupled, and the number of psychologically abused children was 12 times higher. The law prohibits family violence, physical restraint, sexual abuse, and other forms of abuse of minors. The Ministry of Labor and Social Affairs registered 7,500 cases of abuse or neglect in 2005. Social protection bodies annually proposed that an average of 1,835 children be removed from their families due to mistreatment. There were approximately 20,000 children living in children's facilities. Of those, more than 10,000 lived in social care institutes, almost 7,500 in orphanages and correctional institutions, and more than 1,500 in special homes for infants. Both domestic and foreign NGOs criticized the high number of children living in social care facilities.

During the first half of the year, police investigated 346 cases of child negligence or endangerment; 396 offenders were prosecuted and 234 were convicted. Of these, only five were sentenced to time in prison. In 2005, 643 cases were investigated, resulting in 442 convictions. NGOs estimated that approximately 50 children died annually from domestic violence.

Although there were some reports that members of the Romani community married before reaching the legal age of 18, underage marriage was not a significant problem in the country.

The commercial sexual exploitation and trafficking of children was a problem (see section 5, Trafficking).

In August 2005 the Government extradited a member of the Qatari royal family and long-term Prague resident who had been convicted of four counts of sexual abuse of minors under the age of 15. The Government did so despite allegations of corruption by the supreme prosecutor and understanding that the prince would likely face no punishment in Qatar.

Children were engaged in prostitution for survival without third-party involvement. NGOs reported that many teenage prostitutes were either runaways or products of orphanages and the foster care system. Some NGOs asserted that orphan-

ages did not prepare young teens adequately to be self-sufficient upon reaching legal adulthood.

In August the Government issued an updated national plan to fight commercial sexual exploitation of children. There is a special police team dedicated to countering the sexual exploitation of children in Cheb, a town on the German border where sex tourism was common. During the year a German NGO opened a shelter focused on assisting abused and abandoned children in Cheb.

Male adolescents, some as young as 13, engaged in prostitution for survival. NGOs that worked with these children attributed the problem to a dysfunctional foster care system that failed to provide adequate job skills for a modern economy while preventing unwanted children from being adopted by capable parents.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking to, from, and, to a smaller extent, within the country for sexual exploitation and forced labor was a problem.

The country was a transit and destination point as well as a source country for trafficking victims. The majority of women trafficked into and through the country were from Ukraine, Russia, Belarus, Moldova, Lithuania, Romania, Bulgaria, Slovakia, China, and Vietnam; many were destined for the sex trade. They were usually trafficked onward to Western Europe and elsewhere, including the United States, sometimes via third countries. Czech women were trafficked into Western Europe (primarily the United Kingdom, Germany, Austria, the Netherlands, and countries in Scandinavia) to work as prostitutes, although there were been cases of victims as far away as Japan. A small number of Czech women were trafficked to the United States. Foreign and Czech women and children were also trafficked within the country, often from areas of low employment, to Prague and the border regions with Germany and Austria and were occasionally sold from one organized trafficking unit to another. Small numbers of men were trafficked to the United States for coerced labor.

Since 2004 NGOs estimated that more than 80 percent of all trafficking victims entered the country legally. This held true for both forced labor and sex trafficking.

Local sex trafficking victims were generally young women between 18 and 29 years of age from areas of high unemployment. Romani women were at the highest risk of being trafficked internally, often by a friend or relative. Girls raised in state-run homes, such as orphanages, were also at particular risk. According to government authorities, women already working as prostitutes were also particularly vulnerable to traffickers. Trafficked women were frequently offered jobs as models, maids, waitresses, and dancers through employment agencies and then forced into prostitution. Once in a destination country, traffickers ensured victims' compliance by confiscating their travel documents and using isolation, drug and alcohol dependence, violence, threats of violence toward the victim or her family, and the threat of arrest and deportation. Police reported that traffickers increasingly relied on violence to secure their victims' cooperation.

The International Organization for Migration (IOM) and the NGO La Strada released a study in 2005 documenting victims of labor trafficking from a wide variety of countries, including Romania, China, Vietnam, and countries in the former Soviet Union and South Asia. Victims were both male and female and varied widely in age and in social and educational status. According to the Ministry of Interior, most victims were employed in construction, forestry, fishery, agriculture, and textile industries and paid \$800 to \$1,200 to have employment and housing arranged by traffickers. Although there were no available estimates of the numbers of victims trafficked into the country for labor, both government and NGO sources conceded that the problem was widespread.

Most traffickers were members of organized crime groups, often from Russia, Bulgaria, Ukraine, Romania, Belarus, Moldova, and countries in the former Yugoslavia and East Asia, and worked in cooperation with local citizens. Domestic traffickers often served as a link between those in Russia and Ukraine and those in Western Europe.

The law criminalizes all forms of trafficking, including both internal and cross-border trafficking. Penalties for trafficking, including for the purpose of forced labor, include prison terms of two to 15 years and are generally commensurate with those for rape and sexual assault. Traffickers may also be prosecuted for organized prostitution and pimping, which are punishable by a prison term of up to 12 years if the victim is under the age of 15; however, penalties were significantly lower in practice.

The security policy department of the Ministry of Interior and the organized crime division of the national police had primary responsibility for combating trafficking and worked to enhance coordination and cooperation with local and city police as well. The first deputy of the Ministry of Interior was assigned to be the national



coordinator for trafficking issues. The security policy department was charged with collecting, analyzing, and reporting on all information relating to trafficking and monitoring the implementation of the national antitrafficking strategy. The crime prevention department of the ministry oversaw all aspects of the program of support and protection of victims of trafficking in persons.

Authorities used a number of statutes to prosecute traffickers. Due to the complexity of the trafficking law, prosecutors frequently used other statutes, including laws prohibiting deprivation of liberty, rape, sex abuse, smuggling, extortion, oppression, and pimping, to prosecute traffickers. The Government did not differentiate in its crime statistics between human trafficking and these other categories of crimes.

Although the Government investigated and prosecuted cases of trafficking, conviction rates were low. During the first half of the year, police initiated five trafficking investigations and 11 prosecutions. One perpetrator was convicted under the trafficking statute and received a suspended sentence. In September police broke up a large prostitution ring that trafficked Czech and Slovak Romani women and girls to Norway. The police arrested 16 individuals in connection with the alleged crimes. More than 160 police were involved in the investigation, which lasted six months. The police estimated that, over the course of the investigation, the traffickers made \$550,000 (12 million crowns) from exploiting the Romani women and girls.

In 2005 police investigated 18 trafficking cases; 12 offenders were prosecuted and 20 convicted, eight of whom received suspended sentences. Through June police conducted 54 investigations for pimping; 84 perpetrators were prosecuted, and the courts convicted 29 individuals, 21 of whom received suspended sentences. During 2005, 206 persons were charged with pimping, and there were 69 convictions for pimping.

The organized crime unit within the national police had a special department dedicated and specifically trained to combat trafficking in persons. The unit worked closely with its counterparts in Interpol and Europol and also cooperated extensively with the EU and other foreign governments in the investigation and prosecution of trafficking cases.

Labor trafficking, which the Interior Ministry reported was the most common form of trafficking in the country, remained a problem. During the year the Government took significant steps to address labor trafficking. In April the trafficking department in the national police's organized crime unit created an additional section solely to investigate cases of forced labor; it began investigating three specific cases, which were ongoing at year's end. The Ministry of Interior also finalized plans to directly fund NGOs in Ukraine to assist job seekers in finding employment and housing and obtaining visas. NGOs estimated that this in-country effort to facilitate legal employment for Ukrainians would reduce the number of workers trafficked from Ukraine.

There was no evidence of government complicity in, or tolerance of, trafficking in persons; however, NGOs suspected individual members of the border police of assisting illegal border crossings related to trafficking.

The Government cooperated with NGOs to provide services to trafficking victims and to train police and investigators in how to handle trafficking cases. There were nine victims who received assistance, including three victims of forced labor from Romania. The Government assisted with international investigations, and law enforcement regularly cooperated with their counterparts in Europe and elsewhere; according to media reports, the Government cooperated with Sweden, Italy, Germany, and other countries. Statistics on extradition are not broken down by crime.

The Government provided psychological and social assistance to victims for 30 days; the victim had to decide within this period whether or not to cooperate with authorities. Victims who chose not to assist police with prosecution were offered voluntary return to their home countries; victims choosing to cooperate were eligible for residency visas for the duration of the criminal proceedings and were eligible at the end of criminal proceedings to apply for permanent residency on humanitarian grounds. In June the Government eased the process for trafficking victims to apply for permanent residency. By the middle of the year, 43 women had entered the program and contributed testimony or information against trafficking organizations. During the year the Government improved police training on recognizing victims for referral to the program.

Because of the stigma attached to trafficking, victims were frequently hesitant to return to their families or seek social service providers.

The Government continued to implement the national strategy against trafficking. The Ministry of Justice organized several training sessions in trafficking issues for judges and prosecutors, and the Ministry of Interior continued offering training to police. In October the IOM and a foreign embassy held a week-long program of

workshops with foreign legal experts on forced labor for law enforcement, prosecutors, judges, NGOs, and labor inspectors.

The Ministry of Interior worked with the IOM to produce a demand-reduction campaign targeted at consumers of sexually exploited women and children in the areas along the country's border with Germany. The progress of the project was slowed by the difficulty of collecting such sensitive information from clients of sexual services. The NGO Caritas visited schools and asylum and reception centers to conduct awareness campaigns among potential victims about the risks of trafficking and the entrapment and coercion strategies used by traffickers. Other NGOs that also received government funding, such as La Strada and Rozkos Bez Rizika (Pleasure Without Risk), conducted seminars and published and distributed literature about the dangers of trafficking. NGOs also led a large antitrafficking public relations campaign complete with posters on public transportation in Prague in English, Russian, and Czech.

In September 2005 the Government created an interdisciplinary committee on trafficking, which included representatives from various ministries and NGOs. The committee met regularly during the year to coordinate efforts in implementing the national antitrafficking plan.

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services, and the Government generally enforced these provisions effectively; however, persons with disabilities were unemployed at disproportionately higher rates.

The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. Although access improved during the year, many buildings and modes of public transportation remained inaccessible. In Prague, 27 of the 51 subway stations were wheelchair accessible; however, the majority of stations in the city center remained inaccessible. A growing number of bus lines were accessible to persons with disabilities. Most public schools lacked barrier-free access for students, although there was at least one barrier-free school in each district.

The ombudsman is required to regularly visit all government facilities where persons with physical restrictions work to examine the treatment these individuals receive, ensure that their fundamental rights are respected, and increase their protection against mistreatment.

In April the Czech Helsinki Committee noted that, more than 17,000 adults and children with mental disabilities lived in social care homes, the majority of these under guardianship. In many cases, the guardian was actually the director of the institution, giving rise to possible conflicts of interest. Despite the 2005 passage of a law on the procedural aspects of guardianship, the committee expressed concern that the procedure by which someone was placed under guardianship remained inadequate, and violations similar to those in the civil commitment process persisted. For example, persons were unable to attend trial in many cases or they were uninformed about the decision to incapacitate them.

In August 2005 the Government approved a national plan to aid persons with disabilities. The plan was drafted with the participation of the Government council for disabled citizens, a permanent advisory body responsible for protecting the rights of persons with disabilities. The Government's initial efforts to implement the plan focused on improving the quality and responsiveness of social programs serving persons with disabilities.

Following heavy international criticism from governments and NGOs for the use of caged beds in psychiatric facilities, the Government decided in 2004 to remove caged and netted beds from its mental health institutions by the end of that year. However, the ban was not fully implemented in practice because the Government failed to fully fund the transition, and caged and netted beds were only replaced as more modern means of restraint were brought into service. Caged beds were used in social institutions to restrain clients with mental disabilities. In May 2005 the law was amended to severely limit the use of such beds, pending their replacement and removal from the system. The beds may only be used to protect the patient or others from injury, and institutions must carefully document their use and immediately notify the patient's legal representative. Although the amendment established much stricter guidelines regarding the conditions and use of restraints, NGOs criticized the law for not specifying which forms of restraint were appropriate for psychiatric patients and the lack of regulation on supervision and time limits. Netted beds remained legal for use in long-term care facilities for adults and children. NGOs estimated that as of April there were 700 netted and caged beds in use by institutions in the country. In 2004 the Government reported that of 9,657 beds in

the country's psychiatric facilities, approximately 20 were caged and 100 were netted.

*National/Racial/Ethnic Minorities.*—After ethnic Slovaks, the largest minority was the Romani population, estimated at between 200,000 and 250,000 persons. Roma faced disproportionately high levels of poverty, unemployment, ethnic violence, and illiteracy. Despite constitutional prohibitions against discrimination, there was no framework to implement those provisions in the civil or criminal law. Roma continued to face discrimination from potential employers and local and school officials, with only incremental improvements in recent years.

A STEM agency poll from May found that more than 75 percent of the population believed the Government should not give more attention to the rights of the Romani minority. The same poll found that more than 66 percent of the population had a "negative relationship" towards Roma. Only 11 percent of poll respondents stated that they would tolerate a Romani neighbor without problems, while more than one third stated that they would be completely opposed to having a Romani neighbor. During the year latent societal discrimination against Roma often was manifest in incidents of violence. Members and sympathizers of skinhead organizations were the most frequent perpetrators of interethnic violence, particularly against Roma and other "dark-skinned" persons. An estimated 7,000 skinheads were active in the country, although some observers believed the actual figure was higher.

In July two municipal policemen from Brno were accused of abuse of public office for allegedly attempting to force a 14-year-old Romani suspect to confess to assaulting the son of one of the police officers. The policemen allegedly took the suspect to the outskirts of town, where they beat him and put an unloaded gun into his mouth while pulling the trigger. In November the policemen were convicted of assaulting the Romani youth. They were both given two-year suspended sentences with five years of probation by the Brno City Court. The court also banned the policemen from serving on the police force for five years. The state attorney appealed the verdict due to the lenient sentences, and the case was pending before the Brno Regional Court at year's end.

In October the Ostrava court sentenced two skinheads to 18 and 22 months, respectively, for attacking and brutally beating seven Roma in 2005. The court acquitted two other individuals in the incidents due to poor police investigations.

There were no developments in the assault cases on Roma in Ostrava, Broumov, and Krnov in 2004, and no information was available on whether authorities prosecuted three men who were reportedly charged with attacking and beating a Romani couple in Prague in September 2005.

In August the regional court in Olomouc resented three skinhead youths who beat a Romani couple in their home in 2003. The youths broke into the couple's apartment under the false pretext that they were police officers. They then proceeded to attack the couple, hitting the pregnant women repeatedly with a cobblestone, causing her to loose the child, and stabbing her male partner. In 2004 the local court sentenced the three to probation. After the NGO and Roma community complained, the regional court returned the case in 2004 for more expert reviews. In June and September, the regional court increased the sentences of the two main perpetrators to three years and three years and three months in prison, respectively. The third perpetrator was again sentenced to probation.

The constitution and law prohibit employment discrimination based on ethnicity; however, Roma continued to face discrimination in both employment and education. Precise figures for unemployment among Roma were unavailable, but the rate was estimated to be 75 percent or higher by the media. Some employers refused to hire Roma and asked local labor offices not to send Romani applicants for advertised positions. Continuing a trend from previous years, Roma were increasingly able to find redress in court in cases of employment discrimination.

Roma also faced discrimination in housing and other areas of everyday life. Police responded to complaints that some restaurants, bars, and other public places refused service to Roma and posted signs prohibiting their entry. Human rights groups reported that some municipalities attempted to force Romani families to leave, employing such tactics as evicting them from municipally owned homes for alleged lapses in rent payments or coercing them to sign agreements that they did not understand, which were then used to curtail existing housing contracts. While the human rights commissioner publicly criticized these evictions, the law affords municipalities substantial autonomy in such actions.

In September, October, and November the mayor of Vsetin, Jiri Cunek, evicted a total of 360 Romani residents from their homes in the city, primarily for having missed rent payments. Many Roma were moved into prefab units that resembled stacked shipping containers outside the city. Cunek subsequently ran for and won a Senate seat in October. Although his actions were criticized in the press by human

rights activists and members of his own party, Cunek in December was elected as chairman of the small but influential Christian Democrat Party. Cunek's victory and popularity were largely credited to his strong stand in solving Vsetin's Roma "problem." The forced eviction of Roma from different cities into ghetto communities outside of city limits was a growing problem to which the media paid increasing attention.

The Government continued taking steps to address the problem of discrimination in the education of Romani children during the year. However, the European Monitoring Center on Racism and Xenophobia (EUMC) in May released a report criticizing the Government's de facto segregation of Romani children by sending many of them to special schools for children with learning difficulties. In November the EUMC subsequently released another report which further criticized the country for segregating Romani, primarily in the access to education.

During the year the Government continued closing or integrating remedial schools by transferring "slower" students into new, "special" remedial education classes pursuant to a January 2005 law that abolished remedial schools. However, NGOs asserted that the new special classes were still discriminatory and constituted a superficial "rebranding" of the old system. While some regions implemented the new policy successfully, others experienced an exodus of non-Romani citizens concerned that their children would have to attend school with Roma.

In February the ECHR dismissed a case brought in 2000 by the ERRC on behalf of Romani students in Ostrava and other communities who had been placed in remedial schools. The ECHR found that the students' rights were not violated because the schools were not specifically for Romani children, although the court mentioned concern over the disproportionate number of Romani children in the special schools. The ERRC appealed the decision to the Grand Chamber of the ECHR, which did not take any additional action by year's end.

The Czech Retail Inspection Office in cooperation with Romani organizations carried out 260 investigations in response to complaints of discrimination. The office employed two female Romani inspectors.

In September the Ministry of Labor and Social Affairs issued an exhaustive study of living standards in the Romani community and found that more than 330 ghettos were inhabited almost exclusively by Roma, and that the number of ghettos continued to grow. The study put the total population of these ghettos at 80,000, approximately a third of the country's Roma population. The study found these ghetto communities blighted by substandard housing and poor health conditions. Life in these ghettos compounded the unemployment problem in the Romani community. The ministry estimated unemployment in the ghettos to be 95 percent or higher, since it was nearly impossible for individuals to find employment near their homes. In November a report by the EUMC also criticized the existence and growing problem of Romani ghettos.

In Mlada Boleslav a number of Roma were forced to move when the town sold their public housing to a Romani entrepreneur, who moved them to villages outside of town. One woman sued the city because she did not receive substitute accommodation. In May the court upheld her complaints and ruled that the town must pay a fine of \$3,725 (80,000 crowns).

In October 2005 the Bohumin mayor and local officials attempted to evict dozens of families, most of whom were Romani, from their apartments following the municipal purchase of their low-income hostel from its private owner. According to numerous NGOs, there were no provisions for adequate housing for the displaced families. When the action was challenged in the courts, several families were allowed to stay for the duration of the court case, but the town, assisted by police, employed several coercive measures, including shutting off the tenants' utilities and using private security guards to restrict access to the remaining families. The issue was ultimately resolved when a compromise was brokered through NGOs to allow the relocation of the remaining families. In December 2005 the town sought to collect payment from the families for the security guards the town employed at the site. In July the appeals court in Ostrava upheld a lower court ruling imposing a fine on the Bohumin municipality for ceasing to supply hot water to the apartment residents during the winter. In October Police President Vladislav Husak apologized for the actions of the police in behalf of the municipality, when the police earlier refused to enforce the court order and assisted the city in evicting the residents.

The Government failed to act on removal of a large pig farm on the site of a World War II Roma concentration camp in Lety. The Government again announced its intention to buy and liquidate the farm but had not done so by year's end. The pig farm became an election issue when in January the small ultraright National Party erected a commemorative stone and plaque reflecting its view that the site was not

a concentration camp but a labor camp. The stone and plaque were removed by local authorities after a national and international campaign.

Allegations persisted that forced sterilization of Romani women had taken place in previous years (see section 1.f.).

Positive actions taken by the Government included passage in April of a long-term Roma integration plan that implemented an affirmative action program. The program provided for state-paid advisers to assist Roma in finding employment and special stipends for Romani secondary school students. In May the Government was praised by the EUMC in May for beginning collection of anonymous data on the Roma that would assist the Government in addressing the long-term needs of the Romani community. The National Gallery in Prague hosted an exhibit devoted to the history of the Romani Holocaust, and the parliament also hosted a photo exhibit of Romani victims of forced sterilization.

In addition, the Ministry of Labor and Social Affairs began work with NGOs to build capacity and to analyze the best means of utilizing EU Structural Fund monies to assist the Romani community.

The Interministerial Commission for Romani Community Affairs, which included 12 government and 14 Romani representatives, as well as the commissioner for human rights and his deputy, continued to take an active role in resolving disputes between Romani communities and their non-Romani neighbors. The commission also promoted antidiscrimination initiatives in housing and education. The Romani affairs coordinator of the Ministry of Foreign Affairs continued to function as the ministry's liaison with Romani groups, NGOs, and the diplomatic community.

The deputy prime minister, who at the same time served as the minister of labor and social affairs, was designated as the Government's point person on problems affecting Roma. He served as the head of the Government's councils on Romani community affairs and ethnic minorities.

*Other Societal Abuses and Discrimination.*—During the year parliament failed to pass a new antidiscrimination act that would bring laws in line with the EU Racial Equality Directive. The House of Deputies failed to overcome a veto of the legislation by the Senate. In March parliament passed registered domestic partnership legislation, and the legislation went into effect in July. During the year 235 homosexual couples registered their partnerships with the Government.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 20 percent of the workforce was unionized, and the trend of steady decline in union membership continued. Most union members belonged to unions affiliated with the Czech-Moravian Chamber of Trade Unions, a national umbrella organization.

The law prohibits antiunion discrimination; however, the Government did not effectively enforce this provision, and union discrimination occurred. Common discriminatory practices included firing union leaders, denying union members entry to meetings between employees and management, refusing to provide office space for unions, forcing members to cancel their memberships, offering financial incentives to dissolve union organization within a company, disparaging unions in statements to employees, monitoring union members, and refusing to withhold union dues. If found guilty of antiunion discrimination, employers are required to reinstate workers fired for union activity, although the court procedure was generally slow.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining, which generally was carried out by unions and employers on a company basis. The scope for collective bargaining was more limited for civil servants, whose wages were regulated by law. However, the International Confederation of Free Trade Unions reported in 2004 that some employers attempted to prevent workers from organizing by means of direct and indirect pressure and attempted to render collective agreements null and void.

Workers have the legal right to strike if mediation efforts fail, with the exception of those in critical sectors such as health care, nuclear energy, oil and gas pipelines, air traffic control, firefighting, and telecommunications; workers in these industries have access to mediation. The law requires unions to provide employers with a list of strikers at least one day before a strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices

occurred (see section 5). According to the Ministry of Labor and Social Affairs, approximately 400 North Korean women worked in bakeries and garment and leather factories in several locations throughout the country. Most of their earnings were deposited into an account controlled by the North Korean embassy. The Ministry of Labor and Social Affairs in coordination with other relevant government agencies and NGOs investigated the situation numerous times throughout the year and concluded that working conditions at the factories and work contracts were within the confines of the law. They found that although the situation was “troubling” in several aspects, the women were working voluntarily and no labor laws had been broken. The Government continued to follow the situation closely.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace. The law stipulates a minimum working age of 15 years, although children with disabilities who completed special schools could work at the age of 14. Employment conditions for children ages 15 to 18 were subject to strict safety standards. The Ministry of Labor and Social Affairs effectively enforced these regulations in practice.

The commercial sexual exploitation and trafficking of children was a problem (see section 5).

*e. Acceptable Conditions of Work.*—The Ministry of Labor and Social Affairs sets and enforces minimum wage standards. The national minimum wage was approximately \$331 (7,955 crowns) per month and provided a decent standard of living for a worker and family when combined with social benefits for low-paid workers.

The law provides for a 40-hour workweek with at least two days of rest and a paid break of at least 30 minutes during the standard eight-hour workday. Employers may establish up to eight hours per week of mandatory overtime, subject to the consent of the employee (in the form of the collective bargaining agreement or contract stipulating overtime), although the local employment office may permit additional mandatory overtime. Premium pay for overtime was dictated by the provisions of the employee’s contract. The Ministry of Labor and Social Affairs effectively enforced standards for working hours and breaks.

The Office of Labor Safety effectively enforced health and safety standards. Workers have the right to refuse work endangering their life or health without risking the loss of their employment, and they exercised this right in practice.

## DENMARK

Denmark, with a population of approximately 5.4 million, is a constitutional monarchy with democratic parliamentary rule. Queen Margrethe II is head of state. The cabinet, which is accountable to the unicameral Folketing (parliament), heads the Government. The minority center-right coalition government led by the Liberal Party (Venstre) won a plurality of seats in the February 2005 elections, which were deemed free and fair. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Reports of religious and ethnic discrimination against members of the Muslim minority continued at recent post-September 11 levels, while domestic violence against women and trafficking in women and children continued to be reported.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

In 2004 military authorities charged intelligence officer Reserve Captain Annemette Hommel and four military police sergeants with dereliction of duty related to alleged improper interrogation of detainees. Their July convictions were subsequently overturned on appeal. The case led to major changes in rules of conduct in the Danish army, including tighter control and surveillance of military staff and better communication between ranks.

*Prison and Detention Center Conditions.*—Prison conditions, for the most part, met international standards; however, pretrial detainees were often held with convicted criminals. The Government permitted visits by independent human rights observers.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police, under the Ministry of Justice, have sole policing authority in the country. There are 54 police districts (plus the Faroe Islands and Greenland), and a national commissioner's office. The minister of justice, with the approval of parliament, appoints the police chiefs of each district and the national commissioner. Corruption was not a problem. There was increased police training in recognition, reporting, and investigation of racially motivated cases during the year.

*Arrest and Detention.*—By law the police are allowed to begin investigations and make arrests either based upon visual evidence without a warrant, or on the basis of indictments filed by public prosecutors with the courts. A court may either summon the accused to appear or order police to arrest the accused based upon an application filed by a public prosecutor. If an individual is taken into custody, the law provides for an initial appearance before a judge within 24 hours; however, noncitizens may be detained for up to 72 hours before being given a court appearance. Authorities generally respected the right to a prompt judicial determination. The country does not have a bail system; rather, a judge decides within 24 hours of detention either to release the detainee on his or her recognizance or to keep the detainee in jail until a trial is held. Arrestees have the right to counsel at the initial hearing, and the Government provided counsel for those who could not afford legal representation. The law does not allow any visitors during the first 24 hours of detention except for legal counsel. However, depending upon the charges, the police generally did not restrict visitor access in practice.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice. The judicial system consists of local courts, which hear cases in the first instance; regional courts which address appeals; and the Supreme Court, which is the highest and final court of appeal.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public. Juries are required for criminal cases in which the maximum penalty is greater than four years' imprisonment. The law provides for defendants' right to timely consultation with an attorney, at public expense if needed. Defendants and their attorneys have access to government evidence relevant to their case. Defendants have the right to question witnesses against them and to present their own witnesses; they are presumed innocent until proven guilty; and the right of appeal encompasses both procedural matters and sentences imposed.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, including access to the court system to bring lawsuits seeking damages for, or cessation of, a human rights violation. There were no problems enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Individuals are able to criticize the Government publicly and privately without reprisal. The Government does not attempt to impede criticism, for example by monitoring of political meetings. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

On April 27, a state prosecutor announced journalists Michael Bjerre and Jesper Larsen of the Berlingske Tidende had been charged for leaking state secrets in February and March 2004 articles concerning classified intelligence reports by defense intelligence agent Frank Grevil that questioned the existence of weapons of mass destruction in Iraq. In July charges were also brought against Editor-in-Chief Niels Lunde. Bjerre, Larsen, and Lunde were free on personal recognizance; their trial

began in the High Court on November 13. On December 4, the Copenhagen City Court in a 3–0 ruling acquitted all three men. The court ruled that the defendants “acted in justified preservation of what is obvious in the interest of the general public when deciding to print the classified information.”

In September 2005 the *Jyllands-Posten* (daily liberal newspaper) cartoon controversy began after 12 editorial cartoons depicting the Islamic prophet Muhammad were published. The newspaper explained that this publication was a contribution to debate regarding criticism of Islam and self-censorship. Nonviolent protests occurred in the country in reaction to the cartoons. Security guards were hired to protect the paper’s journalists, and in January a bomb threat was made against the Copenhagen branch of the newspaper. Death threats were made against the cartoonists, forcing them into temporary hiding. Police investigated the threats, but did not have any leads by year’s end.

Police opened an investigation into allegations that an imam, Ahmed Akkari, at the center of the Muhammed cartoon controversy issued death threats against a moderate Muslim politician, Naser Khader, who opposed violent protests over the cartoons. In October the case was closed due to insufficient evidence.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. As of June approximately 83 percent of the population had access to the Internet from home.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Evangelical Lutheran Church is the official state church and enjoys some privileges not available to other faiths, such as receiving state subsidies or funds directly through the tax system. Members of other faiths, notably Catholics, have asserted that the system is unfair, and that the Government does not provide religious equality, despite providing religious freedom. Allowing other religious organizations to be given the same status and privileges as the Evangelical Lutheran Church would require changes to the constitution. While the Government does not require that religious groups be licensed, the Government’s permission is required for religious ceremonies, such as weddings, to have civil validity.

Religious history, with special emphasis on the Evangelical Lutheran faith, was taught in public schools, but students could withdraw from religious classes with parental consent.

*Societal Abuses and Discrimination.*—The law provides protection against discrimination against religious minorities; however, societal discrimination against religious minorities was difficult to distinguish from discrimination against ethnic minorities. There were isolated incidents of anti-immigrant (mainly Muslim and African) graffiti, desecration of ethnic minority gravesites, and low-level assaults as well as some denial of service and hiring on racial grounds. The Government criticized the incidents, investigated several, and brought some cases to trial.

In February more than 20 Muslim graves were desecrated in a cemetery in Esbjerg. Police interrogated three juveniles who were later released to social authorities to be reprimanded. There were no further developments in this case.

On July 25, vandals desecrated the country’s first Muslim graveyard prior to its official opening, painting swastikas on the grass and driving cars across the site. In September the cemetery opened without incident. In November the cemetery was vandalized when markers indicating where graves were to be situated were removed and replaced with pigs’ heads on poles. No arrests were made, and the investigation was ongoing at year’s end.

There were no developments in the January 2005 desecration of nearly 100 Muslim graves in Venstre Kirkegaard (Cemetery) in Copenhagen. Unknown vandals pushed over 50 headstones and smashed another 50. The vandals only targeted Muslim headstones, leaving the Christian headstones untouched. Police investigated the scene but did not find enough evidence to pursue charges.

In August 2005 authorities closed local radio station Radio Holger for three months after it challenged listeners to kill Muslims. In February radio announcer Kaj Wilhelmsen was given a suspended two-week prison sentence for violating an antiracism law; Wilhelmsen appealed the verdict and Wilhelmsen continued broadcasting via the Internet, for which no license is required. In November Radio



Holger's license was revoked by the Radio and Television Board for its alleged racist programming, broadcast on August 2, in the wake of the July-August conflict involving Israel and Lebanon. The board requested a copy of the broadcast, but did not receive it from Radio Holger. Radio Holger was broadcasting on a shared public access frequency, which made immediate shutdown of the station difficult. The station was continuing to broadcast, via the Internet, at year's end.

The Jewish population was estimated at approximately 7,000 persons. There were isolated incidents of anti-Semitism, primarily by immigrants. Most incidents involved vandalism, such as graffiti, or nonviolent verbal assaults.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The constitution and law prohibit forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government also provided temporary protection to certain individuals who fall outside the definition of the 1951 UN convention and the 1967 Protocol and provided protection to approximately 315 persons during the year. Through September 702 out of 1,361 asylum seekers received residency permits.

In September 2005, 39 criminal immigrants who received deportation orders were allowed to remain in country after refusing to return to their native countries. They are currently detained at Sandholm refugee center where they receive room and board and are required to report to the police once a week.

Due to tougher immigration regulations only 1,147 out of 2,281 asylum seekers received residency permits in 2005.

In September 2005 the nongovernmental organization (NGO) Institute for Human Rights accused parliament's naturalization committee of discrimination for tightening language requirements to the extent that torture victims who are unable to learn Danish are denied citizenship.

The Government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The territories of Greenland and the Faroe Islands have democratically elected home-rule governments whose powers encompass all matters except foreign and national security affairs, police services, the judiciary, and monetary matters. Greenlanders and Faroese have the same rights as other citizens. Each territory elects two representatives to the parliament.

*Elections and Political Participation.*—Prime Minister Anders Fogh Rasmussen, leader of the Liberal Party, was reelected in February 2005 in free and fair elections.

In November 2005 free and fair municipal elections were held following parliament's adoption of a structural reform plan, which reduce the number of municipalities from 271 to 98 by January 2007. As a result of the elections, the number of municipal council members from ethnic minority backgrounds significantly increased.

There were 65 women in the 179-seat parliament and five women in the 19-seat cabinet. Women also accounted for 44 percent of the newly elected public council board and committee members.

There were three members of minorities in the 179-seat parliament. There were no members of minorities in the 19-seat cabinet.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year.

The law provides for public access to government information, and the Government provided access in practice for citizens and noncitizens, including foreign media.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status; however, violence against women and trafficking in persons were problems.

*Women.*—Violence against women, including spousal abuse, remained a problem. In 2004 the Institute for Public Health estimated that at least 64,000 women were exposed to domestic violence in 2003 and that domestic violence affected 30,000 children. The National Organization of Shelters for Battered Women and their Children reported that in 2005 shelters provided a safe haven for 3,512 women and children; 30 percent of the women supported were not citizens.

Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted those accused of such crimes. There were 475 reported rapes resulting in 321 official charges for rape in 2005, and there were 228 reported rapes during the first six months of the year.

Prostitution was legal, but subject to restrictions; pimping, coercion into prostitution, solicitation of prostitution from a minor, and trafficking were illegal. According to an April 2005 report published by the Ministry for Social Welfare and Gender Equality, an estimated 3,750 persons worked in legal prostitution in 2004, while an unknown number participated in illegal prostitution, including streetwalking.

Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and provides for awards of monetary compensation for victims of sexual harassment. The Government effectively enforced the law, and there were few reported cases during the year.

Women have the same legal status as men, including under family law, property law, and in the judicial system. The law requires equal pay for equal work, but female workers earned approximately 22 percent less on average than male workers. The wage difference between female workers and their male counterparts for the same work was 6.5 percent. Women held positions of authority throughout society, although they were underrepresented in senior business positions and as university professors. The Government's interagency gender-mainstreaming project promoted gender equality in government agencies through an interagency steering committee of managers which oversaw gender-mainstreaming initiatives. The Ministry of Social Affairs also provided administrators with education and tools related to gender mainstreaming and published individual ministry projects on its Web site.

*Children.*—The Government was strongly committed to children's rights and welfare. Education was compulsory through the ninth grade and free through the university level; school attendance was nearly universal. Slightly more women than men completed postsecondary education.

Medical care was free, and boys and girls had equal access.

In 2005 there were 296 reports of sexual abuse of children that resulted in 277 official investigations.

In October 2005 the UN Committee on the Rights of the Child expressed concern regarding de facto societal discrimination against, and racist attitudes toward, children of ethnic minorities and migrant families as well as refugee and asylum-seeking families.

Trafficking in children was a problem (see section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to the country.

The country was both a destination and a transit point for women and children who were trafficked from the former Soviet Union, Eastern Europe, Thailand, and Africa for the purposes of sexual exploitation and occasionally to work as thieves. There were approximately 4,000 to 5,000 prostitutes in the country, including an estimated 2,000 foreign women, a number of whom were believed to be trafficking victims.

Traffickers lured victims with the prospect of higher wages and a better life, then forced them into prostitution, often withholding their passports. Authorities sus-

pected traffickers had ties to organized crime, specifically in Russia and the Baltic countries, and subjected them to police investigations and prosecutions.

The law criminalizes trafficking and provides for a maximum prison term of eight years for those convicted of trafficking in persons.

Police conducted more than 35 trafficking investigations. During the first nine months of the year, at least three persons were convicted under the antitrafficking law, and 30 persons were convicted under the sexual procurement law.

On December 14, a 39-year-old Nigerian woman was arrested and remanded in custody for 27 days on suspicion of being involved in a major trafficking operation. According to Copenhagen police, women were recruited in their native countries and then transported to the country and forced to work as prostitutes.

The national commissioner for police maintained an internal task force on trafficking in persons, assisted local police constabularies with investigations, and trained officers to recognize and investigate trafficking cases. The Government cooperated with international investigations of trafficking and exchanged information with neighboring countries.

According to national police, trafficking victims generally returned voluntarily to their home countries with NGO support and were not officially deported or prosecuted for immigration violations. By returning to their home country they avoid a possible one-year ban on re-entry.

In September 2005 the Ministry of Social Affairs officially added trafficking in children as an appendix to the Government's action plan to combat trafficking in women, published in 2002. The initiatives of the appendix are divided into two areas, support for victims and prevention of child trafficking.

The Government funded three NGOs that provided social, medical, and legal services to trafficking victims. Government funding was also used for NGO outreach programs as well as hotlines to support victims, prevent trafficking, and gather data on the extent of the problem. The Ministry of Social Affairs conducted an antitrafficking advertising campaign in all major newspapers, subsidized a hot line and Web site and funded an NGO program to identify trafficking victims and provide them with information on obtaining help.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government effectively enforced it in practice. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. The responsibility for protection of the rights of persons with disabilities is shared by all government ministries. The Danish Disability Council, a government-funded organization, monitored the status of persons with disabilities in the country and advised the Government and the parliament on issues relating to disability policy. The Equal Opportunities Center for Disabled Persons is a government-funded entity, which alerts the Government to, and documents, inequalities in society related to persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were 39 cases reported to authorities in the first six months of the year of racial discrimination or racially motivated violence. In 2005 there were 89 cases reported; however, some incidents went unreported. These figures reflect a change in reporting guidelines during the year for all police districts. Reported cases involved graffiti, vandalism, theft, and racist Internet and written messages. According to police, the victims were "Jews and people of an ethnic origin other than Danish" (usually meaning Muslims or Africans). Minority group members were also sometimes the perpetrators of the incidents. The Government effectively investigated and dealt with cases of racially motivated violence.

There were reports of racism and claims of immigrants not being integrated. In September 2005 a Danish Refugee Council survey revealed that 45 percent of ethnic Danes would not initiate contact with an immigrant.

The inflow of ethnically and racially diverse refugees and immigrants (mostly Iraqis, Palestinians, Pakistanis, Sri Lankans, Somalis, and refugees from the former Yugoslavia) caused some tension between citizens and immigrants, which was reflected in press reports on the failure of the immigrants to integrate and on the correlation between immigration and crime levels.

*Indigenous People.*—The law protects the rights of the inhabitants of Greenland and the Faroe Islands. Greenland's legal system seeks to accommodate Inuit customs, and it provides for the use of lay persons as judges and sentences most prisoners to holding centers (rather than to prisons) where they were encouraged to work, hunt, or fish during the day. Education in Greenland is provided to the native population in both the Greenlandic and Danish languages.

In 1999 a Danish court ordered the Government to compensate Greenlanders (and their descendants), whom the Government forcibly resettled in 1953 from a village adjoining a foreign military base. The plaintiffs appealed the decision, seeking inter alia greater compensation, but it was upheld by the Supreme Court in 2003. In 2004 the Greenlanders filed an appeal with the European Court of Human Rights, which had not acted on the case at year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law states that all workers, including military personnel and police, may form or join unions of their choosing. Approximately 77 percent of wage earners belonged to unions that were independent of the Government and political parties.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference and the Government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Approximately 85 percent of the workforce was covered by collective bargaining agreements. These collective bargaining agreements also indirectly influenced wages and working conditions for the remaining percentage of the workforce. The law provides for the right to strike, and workers exercised this right by conducting legal strikes. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Laws and policies prohibit the exploitation of children in the workplace, and the Government effectively enforced these laws and policies in practice.

The minimum legal age for full-time employment is 15 years. The law sets a minimum age for part-time employment of 13 years; however, school-age children are limited to less strenuous tasks. The law contains provisions that limit work hours and sets occupational health and safety restrictions for children. The law is enforced by the Danish Working Environment Service (DWES), an autonomous arm of the Ministry of Labor.

Trafficking in children occurred (see section 5).

*e. Acceptable Conditions of Work.*—The law does not mandate a national minimum wage; however, in 2005 the average net wage, including pension benefits of adult blue-collar workers, was \$34 (200 kroner) and of adult white-collar workers, \$45 (261 kroner) per hour, which was sufficient to provide a decent standard of living for a worker and family. Workers generally worked a 37-hour workweek, which was established by contract rather than by law. Workers were not subjected to compulsory overtime and received premium pay for overtime. Working hours are determined by collective bargaining agreements, which adhere to the European Union directive that stipulates that an average work week not exceed 48 hours.

The law also prescribes conditions of work, including safety and health; the DWES ensured compliance with labor legislation. In the first half of the year, the DWES conducted 30,962 company screenings and inspections, which resulted in 13,006 notices of varying severity for required improvements. Workers may remove themselves from hazardous situations without jeopardizing their employment, and authorities effectively enforced this right in practice. Similar work conditions were found in Greenland and the Faroes, except that the workweek was established by contract at 40 hours.

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## ESTONIA

Estonia, with a population of 1.34 million, is a constitutional parliamentary democracy with a unicameral parliament, a prime minister as head of government, and a President as head of state. On September 23, the 345-member electoral college elected Toomas Hendrik Ilves as President, replacing incumbent Arnold Ruutel. Parliamentary elections held in March 2003 were generally free and fair. In March 2005 a coalition government consisting of the Center, Reform, and People's Union parties and headed by Prime Minister Andrus Ansip, took office. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of citizens and the large ethnic Russian noncitizen community; however, there were problems in some areas. There were reports that police and prison officials used excessive force. Prison condi-

tions remained poor, although there were some improvements. Domestic violence and child abuse continued to be problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that police used excessive physical force and verbal abuse during the arrest and questioning of suspects.

In January a Viru district prosecutor charged two police officers with assaulting a suspect they were seeking to arrest after a car chase. The case was pending with the court at year's end.

In October a police officer was charged with the use of excessive physical force against three youngsters suspected of using drugs. The case was pending at year's end.

At year's end nine investigations related to the use of force by police officers in previous years were continuing.

*Prison and Detention Center Conditions.*—Prison conditions remained poor, and the majority of prisons for men were overcrowded. In August the Ministry of Justice formed a special control unit for prisons. A lack of funds and trained staff continued to be a serious problem. Detention houses remained overcrowded. The Chancellor-Ombudsman continued to urge the allocation of further funds for the improvement of conditions in prisons and detention centers, although there were no reports of concrete results during the year. Adults and juveniles were separated, and women were held separately from men. Authorities reported that 9 to 10 percent of crimes committed in prisons included violence or verbal abuse, either towards fellow prisoners or authorities.

Two inmates were killed by fellow prisoners in Murru prison during the year. In November the prosecutor's office started a criminal investigation of possible negligence on the part of the acting director of Murru prison and his deputy. The investigation was continuing at the end of the year.

The Government permitted prison visits by independent human rights observers, and such visits occurred during the year. There were no visits by the International Committee of the Red Cross during the year.

*d. Arbitrary Arrest or Detention.*—The Constitution and laws prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police, security police, tax and customs board, and national border guard have responsibility for law enforcement and the maintenance of order. The police, security police, and national border guard are subordinate to the Ministry of Internal Affairs. The tax and customs board is subordinate to the Ministry of Finance. Prison personnel are subordinate to the Ministry of Justice. The army is responsible for external security but also has domestic security responsibilities in case of threat to the constitutional order of the country. The police board is the central and supervisory authority that manages, directs, and coordinates the activities of police agencies under its administration. There are three police agencies and four regional police prefectures.

Corruption was generally not a problem, but there were reports of corruption among the traffic police. During the year the state prosecutor's office investigated a case in which 26 traffic police officers had been involved with taking bribes. The court case was pending at year's end. Impunity was generally not a problem. When an allegation of police abuse is made, the internal control department of the police investigates and reports its findings. If the investigation substantiates the allegations, police initiate disciplinary procedures against the responsible officer, such as suspension. If warranted, prosecutors initiate criminal proceedings against the officer.

*Arrest and Detention.*—Under the law authorities must possess warrants issued by a court in order to make arrests. They must inform detainees promptly of the grounds for their arrest. There is a functioning bail system. Authorities may hold a person for 48 hours without charging him; further detention requires a court order. Police rarely violated these limits. Detainees must be given immediate access to legal counsel, and the Government pays for legal counsel for indigents. A person may be held in pretrial detention for two months, which may be extended by court order to a total of 12 months.

Lengthy pretrial detention was a problem. Approximately 23 percent of the prison population was in pretrial detention, and the average length of pretrial detention was eight months.

*e. Criminal and Judicial Procedures.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The judiciary operates through a three tier court system. County and city courts and administrative courts adjudicate matters in the first instance. Three courts of second instance, sometimes called district courts or courts of appeal, hear appeals against decisions of courts of first instance. The Supreme Court is the court of the highest instance and is a court for “constitutional supervision.”

*Trial Procedures.*—Trials are public. Juries are not used; a judge and public assessors hear cases. Defendants have the right to be present and to consult with an attorney in a timely manner. In criminal proceedings an attorney is provided for all individuals at public expense; in civil court procedures an attorney is provided for indigents. Defendants may confront or question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and have a right of appeal. The law extends these rights to all residents, whether or not they are citizens.

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. There is access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Administrative as well as judicial remedies are available for alleged wrongs. There were no problems with enforcement of human rights-related domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press.

The law prohibits activity which publicly incites to hatred, violence, or discrimination on the basis of nationality, race, skin color, sex, language, origin, sexual orientation, religion, political opinion, or financial or social status, if the activity threatens a person’s life, health, or property.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*Freedom of Assembly.*—The constitution provides for this right, and the Government generally respected it in practice.

The authorities have wide discretion to prohibit public gatherings on public safety grounds, but seldom did so. From June through September, the Government did prohibit access for all groups and organizations to a controversial Soviet monument in the center of the capital on the grounds of public safety. It did not prohibit demonstrations about the future of the monument held away from this site. The Government failed to protect participants of a gay rights parade in August (see section 5).

*Freedom of Association.*—The constitution provides for this right and the Government generally respected it in practice.

The constitution prohibits organizations, unions, and political parties that seek to change the country’s constitutional order by force or are otherwise in conflict with

the law. The law prohibits noncitizens from joining political parties, although they may form social groups.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice.

The law regulates the activities of religious associations, and the statutes of churches, congregations, and unions of congregations are registered at the city courts. To be registered, the law requires religious organizations to have at least 12 members, and their leaders must be citizens with at least five years' residence in the country.

Relations between the various religious communities were generally amicable; however, the Estonian Apostolic Orthodox Church and the Estonian Orthodox Church under the Moscow Patriarchy continued to have differences over the disposition of Orthodox Church property.

The law prohibits activity that publicly incites to hatred, violence, or discrimination on a variety of characteristics, including religion, if it causes a threat to a person's life, health, or property (see section 2.a.).

*Societal Abuses and Discrimination.*—In April the media reported that two individuals who appeared to be skinheads shouted anti-Semitic insults and threw a beer bottle at an Israeli citizen visiting Tallinn. He reportedly stated that he informed local police about the incident but the latter "received his report with indifference." The police stated that they had not been informed that any bottles had been thrown, that a patrol was sent to the location of the incident, and that since no perpetrators were found and there were no physical injuries, there was no further investigation.

There were no confirmed anti-Semitic acts during the year.

In June two vandals damaged seven grave plaques and several lanterns in Rakvere cemetery. Police took two suspects into custody, and they pled guilty. In September the court sentenced one of them to five months in prison.

In May a court sentenced a person convicted of setting fire to the library of St. Paul's Church to four and a half years in prison. The arson took place in April 2005.

Police were continuing to investigate a December 2005 incident in which an unknown person or persons vandalized over 20 grave plaques, as well as crosses, lanterns, and benches, in a Parnu cemetery.

In February the Supreme Court overturned the June 2005 conviction of an individual charged with writing an essay that publicly incited social hatred on the basis of national origin, race, or religion. In his essay the writer called for destroying all Christians and Jews and all churches. The Supreme Court found that the essay did not include incitement to social hatred or violence as defined in the law.

The Government took a number of steps to associate itself with commemoration of the Holocaust and to encourage best practices in teaching about it in schools.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign, Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The Government did not restrict the right of noncitizen residents—persons who are citizens of another country or stateless persons—to foreign travel, emigration, or repatriation, and it provided all legal residents, including the 8.8 percent who were effectively stateless, with travel documents. The Legal Chancellor-Ombudsman received complaints of delays in the issuance of residence permits and of visa denials.

The constitution prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution.

The Government did not grant refugee status or asylum during the year, because no applicants qualified in accordance with the 1951 UN convention and its 1967 Protocol. According to official statistics, during the year authorities had 15 asylum applications for review, including eight from previous years. They rejected five applications and seven remained pending at year's end.

The Government provided temporary protection to individuals who might not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to one person during the year.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The Government has a “safe country of origin or transit” policy; it regarded countries that were parties to the UN refugee convention as safe countries.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—On September 23, a 345-member electoral college elected Toomas Hendrik Ilves as President. Parliamentary elections held in 2003 were generally free and fair and led to the formation of a three-party coalition government of the Res Publica, Reform, and People’s Union parties. The coalition dissolved in April 2005, and a new coalition government, formed by the Center, Reform, and People’s Union parties, took office.

Only citizens may vote in parliamentary elections and be members of political parties. However, resident noncitizens and those who have lived permanently in the country for at least five years preceding the election may vote in local elections, although they may not run for office.

There were 20 women in the 101-seat parliament. There were two women in the 13-member cabinet.

There were eight members of ethnic minorities in the 101-seat parliament.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the reporting period.

In February a court convicted a former head of the information technology service of the State Chancellery’s information systems and organization department of taking a bribe from a private company. He received a suspended sentence of two and a half years, with 18-months probation, and was ordered to return illegally obtained funds to the state.

In May a former construction consultant was sentenced to prison for 16 months for requesting and taking a bribe in the course of a state tender for university construction.

In June the Tartu County Court found 15 customs officials guilty of taking bribes. The court sentenced the officials to prison terms of up to three months or to two to three years’ probation.

The law provides the public access to government information and allows for monitoring of the public sector’s performance. The Government provided access for citizens in practice.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking In Persons*

The constitution prohibits discrimination for any reason, and the Government generally enforced it. However, violence against women and child abuse were problems.

*Women.*—Violence against women, including spousal abuse, was a problem. The law prohibits physical abuse but does not differentiate between acts committed against men, women, or children. The police reported more than 3,300 cases of domestic violence. In more than 700 cases persons were convicted for this abuse in 2005. According to nongovernmental organizations (NGOs) one in five women have suffered from physical, sexual, or emotional domestic violence, and NGOs considered domestic violence a serious problem. Domestic violence is punishable by a fine or imprisonment of up to three years and up to five years in the case of longstanding and unrelenting violence. Victims of domestic violence may obtain help, including counseling and legal assistance, from local social workers and specialized NGOs.

Rape, including spousal rape, is illegal and was prosecuted under the law. The sentence for rape is up to 15 years’ imprisonment. During the year police reported 73 rapes and 27 attempted rapes. In 2005, 46 persons were convicted of rape.

Prostitution is not prohibited and was common, but pimping is illegal.

There were reports that women were trafficked for purposes of sexual exploitation (see section 5, Trafficking).



The law prohibits sexual harassment. Sexual harassment in the workplace occurred but was not considered a serious problem. According to the law, disputes are to be resolved in court, in an administrative hearing by the Legal Chancellor-Ombudsman, or by the Gender Equality Commissioner. An injured party may demand compensation for damage and termination of the harmful activity.

Although women have the same legal rights as men under the law and are entitled to equal pay for equal work, these rights were not always observed in practice. While women's average educational level was higher than that of men, their average pay was generally lower, and there continued to be female- and male-dominated professions.

*Children.*—The Government was committed to children's rights and welfare.

Under the law, school attendance is mandatory and free from the age of seven until students complete basic education, generally after nine years, or until they reach 17 years of age. Approximately 98.7 percent of school-aged children attended school. According to the Government's statistical office, the highest level of education achieved by most students was high school plus two years of higher education.

The Government provided free medical care for children and subsidized school meals. Boys and girls had equal access.

Child abuse was a problem. Police reported 491 cases of violence against children, including domestic and school violence during the year.

During the year there were 26 reports of rape and six attempted rapes committed against minors. The police registered 127 cases of sexual abuse of persons under 18 years of age, which included 37 cases involving victims below the age of 14. In 2005, 49 persons were convicted of sexual assaults of minors.

There were reports of child prostitution, and trafficking of children for sexual exploitation was a problem (see section 5, Trafficking).

*Trafficking in Persons.*—There is no specific law criminalizing all forms of trafficking; however, authorities may prosecute traffickers under the law prohibiting enslavement and abduction. Penalties for such acts range from a year to 12 years' imprisonment. A monetary punishment may also be applied.

The country is a source, destination and transit point for individuals trafficked primarily for sexual exploitation. Estimates of the overall magnitude of the problem were difficult to obtain. A 2005 study of trafficking for sexual exploitation conducted by the International Organization for Migration estimated there were 100 known victims of these forms of trafficking in Estonia from 2001 through 2004. This figure included persons trafficked through the country. Persons were also trafficked to the country. The trafficking pattern appeared to be unchanged from earlier years. Travel-friendly regulations, short distances, low travel costs, and the draw of legitimate employment lowered the barriers to trafficking to the Nordic and other European Union (EU) countries. The traffickers were individuals, small groups, and organized criminals who ran the prostitution industry and lured victims with the promise of legitimate employment or the opportunity to live and study abroad. Traffickers tended to befriend victims or attempted to pass themselves off as legitimate job mediators. Due to fairly liberal travel regulations around the region, false documentation was not always necessary.

The fight against trafficking was a government priority. In January it adopted a national action plan and established a trafficking database to provide data on the extent of the problem.

In July, following a cooperative effort by local and Finnish investigators, Finnish courts convicted five Estonian and two Finnish traffickers of trafficking 15 Estonian women to Finland for prostitution. The prison sentences ranged from five years to 27 months. The verdict was under appeal at year's end. In 2005 the Government used the anti-enslavement statute in two court cases that resulted in the conviction of seven persons. In addition authorities initiated 73 court cases involving pimping, and courts convicted 40 persons of this crime; five court cases were started and 15 persons sentenced for the prostitution of minors in 2005. The ministries of interior, social affairs, foreign affairs, and justice are responsible for combating trafficking.

The Government participated in the work of the Nordic and Baltic Task Force on Trafficking in Persons. It actively participated in antitrafficking activities within the EU, the Organization for Security and Cooperation in Europe, the Council of Baltic Sea States, the Nordic Council of Ministers, and the Council of Europe (COE). The Government assisted with international investigations in other countries.

The law provides for protection, as well as legal and medical compensation rights, to victims of all crimes, including trafficking; however, there was no evidence that this was provided for trafficking victims in practice. Each county had an assigned victim assistant to provide trafficking victims access to the public assistance system.

The assistants received specific training on trafficking in persons issues during the reporting period from NGOs.

An NGO-operated trafficking hotline, which the Government began to fund during the year, continued to operate, providing information on trafficking risks to persons interested in working abroad. The hotline generated over 400 calls in 2005.

During the year the Ministry of Social Affairs conducted a series of lectures on prostitution and trafficking for state officials, local governments, members of the defense forces serving as peacekeepers abroad, employee unions, social workers, women's organizations, journalists, and victim assistance workers. The Government co-funded manuals for social workers, counselors, and teachers to better assist trafficking victims.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government generally enforced these provisions. The law does not mandate access to buildings for persons with disabilities; older buildings were inaccessible, although new or renovated buildings were generally accessible. During the year the Government increased support to children with disabilities by 25 percent. The Ministry of Social Affairs is responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Instances of overt hostility based on race occurred, although they were infrequent. There is no specific law prohibiting hate crimes, but there is a law prohibiting incitement to hatred, violence, or discrimination on the basis of nationality, race, skin color, sex, language, origin, sexual orientation, religion, political opinion, or financial or social status.

Police opened an investigation into remarks published in *Eesti Päevaleht* that allegedly incited hatred on the basis of Russian nationality in 2005. In October a Tallinn city court decided that the article did not include incitement to hatred or violence and acquitted the author.

In March police fined three juveniles for inciting social hatred on the basis of a person's race (a Dutch citizen of African origin) in a Tallinn entertainment establishment. In August unknown persons allegedly insulted a PhD candidate from an African country in a Tartu night club. The police opened an investigation. The case was pending at year's end.

During the year incitement to social hatred or violence on the basis of sexual orientation was criminalized. In August several persons attacked participants in a gay parade in Tallinn injuring twelve participants; one person filed a complaint with the police, who had been present at the parade but were unable to prevent violence. The police terminated the investigation into possible instigation of social hatred because they were unable to find the perpetrators. The police started seven misdemeanor proceedings. One resulted in a fine, and the rest were pending at the year's end.

The law provides for the protection of cultures of minority group citizens; however, some noncitizens alleged it is discriminatory because it restricts cultural autonomy only to citizens. In districts where more than one half of the population speaks a language other than Estonian, the law entitles inhabitants to receive official information in that language.

Russians, Ukrainians, and Belarusians are the largest ethnic minorities, making up 29 percent of the population. The Government pursued a policy of social integration, particularly through its language policy which requires knowledge of Estonian in order to obtain citizenship and mandates that all public servants and public sector employees, service personnel, medical professionals, and sole proprietors use the Estonian language. Actual proficiency is usually determined through examination; however, citizenship applicants who have previously passed the basic level Estonian language proficiency examination or the basic school final examination for Estonian as a second language no longer have to take the citizenship language exam. Some noncitizen residents, particularly ethnic Russians, continued to allege that the language requirement resulted in job and salary discrimination.

Many persons who accepted the legitimacy of the language requirement criticized authorities for providing inadequate resources to teach in Estonian. In March the Government adopted a plan of action that calls for achieving 60 percent instruction in Estonian in the country's 63 Russian-language high schools by 2011, with the transition beginning in 2007. The shortage of qualified teachers who could teach their subjects in Estonian at Russian-language schools, gymnasiums, and vocational schools remained a problem. Authorities have allotted new resources to this effort.

There were Roma communities with fewer than 1,000 total members located primarily in three areas in the country. A report published by the COE in February concluded that the unemployment level among them was extremely high, in part due to the fact that very few of them attend school. However, the report also con-

cluded that Roma faced discrimination in employment and other areas. The Government took steps to emphasize the importance of education for Roma children. Beginning in 2005 the Government undertook two projects promoting education and identity in the Roma society. In December authorities supported a seminar to discuss best practices for teaching Roma children in schools.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers to form and join a union or employee association, although some workers found it difficult to exercise this right in practice. Approximately 10 percent of the total workforce belonged to trade unions. The law prohibits antiunion discrimination; however, the Confederation of Estonian Trade Unions (EAKL) continued to report that antiunion behavior was rife in the private sector. According to the EAKL, violations of trade union rights in the country are frequent, and labor inspectorates are not efficient in enforcing the law. In some enterprises, workers are advised against forming trade unions, threatened with dismissal or a reduction in wages, or promised benefits if they do not join unions. Both employees and employers have the right to request that labor dispute committees or the courts resolve individual labor disputes.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Collective bargaining and collective dispute resolution is provided for by law.

Collectively bargained contracts covered approximately 15 percent of workers, including some nonunion members. The law provides for the right to strike, and workers have exercised this right in practice. Public servants working at the state or municipal level are denied the right to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace.

The law sets the minimum age for employment at 18 years, although children aged 15 to 17 may work with the consent of a parent or guardian, and children aged 13 to 15 may work with the consent of a parent or guardian and a labor inspector. Children under the age of 18 may not perform hazardous or dangerous work. The law limits the hours that children may work and prohibits overtime or night work. The labor inspectorate was responsible for enforcing these laws and did so in practice. There were no separate inspections regarding the age of child workers.

*e. Acceptable Conditions of Work.*—The national monthly minimum wage of \$243 (3,000 kroon) did not provide a decent standard of living for a worker and family; however, approximately 94 percent of the workforce earned more than the minimum wage. The poverty line was \$157 (1,938 kroon) per month in 2005.

The standard workweek is 40 hours, and there is a mandatory 24-hour rest period per week for those working in shifts. Reduced working time is required for minors and for employees who perform underground work, work that poses a health hazard, or work of an otherwise special nature. Work hours, including overtime, may not exceed an average of 48 hours per week. The law required overtime pay of not less than 150 percent of the hourly wage of the employee. These requirements were effectively enforced.

The Government set occupational health and safety standards. The labor inspectorate, health protection inspectorate, and technical inspectorate were responsible for enforcement of these standards and made efforts to enforce them. Workers have the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment, and they exercised this right in practice. During the first nine months of the year 2,591 occupational accidents occurred, for a ratio of 427 occupational accidents per 100,000 employees.

## FINLAND

Finland is a constitutional republic of 5.3 million persons with a directly elected head of state (President), a unicameral parliament (Eduskunta), a head of government (prime minister), and an independent judiciary. The March 2003 elections to the 200-seat parliament were free and fair and resulted in the formation of a new

coalition government led by the Center Party. Civilian authorities generally maintained effective control of all military and security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. The most serious human rights problems reported were violence against women, trafficking in persons, and discrimination against immigrants and members of minorities, particularly Roma.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law and constitution prohibit such practices, and there were no reports that government officials employed them.

There were reports of police discrimination against immigrants (see section 5).

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers.

Overpopulation of prison facilities was a continuing problem; the country's total prison capacity was approximately 4,000, but there were nearly 4,200 inmates at year's end. Prison overcrowding complicated efforts to deal with widespread inmate drug addiction; 70 percent of all prisoners were estimated by the Government to be drug addicts and in need of rehabilitation.

On September 14, the Ministry of Justice appointed a rapporteur to assess the need to reform the administration of prisons. During the year prisons continued to operate beyond their original capacity due to increases in the inmate population in recent years.

An April 2005 study showed that an increasing number of young prison inmates suffered from mental health disorders such as schizophrenia. Nearly half of all inmates under age 21 had previously been hospitalized for one or more mental disorders. Mental health experts asserted that such prisoners belonged in the health care system rather than in prisons and recommended the hiring of additional mental health professionals for the country's prisons.

*d. Arbitrary Arrest or Detention.*—The law and constitution prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

The International Helsinki Federation reported that police at times picked up persons with mental disabilities when officers mistakenly believed such persons were intoxicated. Under police procedures, intoxicated persons found by the police are taken home; however, if their home address cannot be established, they are taken to police station facilities designed to hold intoxicated individuals while they sober up. In the city of Vantaa, a patient who had come to a hospital seeking treatment for depression was awakened by police who mistook him for an intoxicated person and transferred him to a police station. When police discovered the mistake, they returned the man to the hospital. In March 2005 the deputy chancellor of justice criticized this practice carried out by Vantaa police and health care authorities.

*Role of the Police and Security Apparatus.*—The national police force is centralized under the control of the Ministry of the Interior, which also controls various other law enforcement organizations such as the frontier guards, customs and immigration agencies, the National Bureau for Investigation (NBI), and the security police. These organizations carried out their responsibilities for law enforcement and maintenance of order, but chronic underfunding sometimes compromised their effectiveness. Law enforcement organizations maintained internal investigation units that examined allegations of police abuse or misconduct.

Corruption was not a problem during the year. In rare instances where police misconduct was reported, authorities responded quickly to investigate and discipline the officers involved. For example, in June 2005 the deputy parliamentary ombudsman criticized two police officers who had offered an injured person \$445 (340 euros) in exchange for agreeing not to file a complaint against the officers.

*Arrest and Detention.*—A warrant issued by a prosecutor is required for an arrest. If an individual is arrested while committing a crime, a warrant must be obtained within three days. Once arrested, the accused must receive a court hearing within three days. Detainees were promptly informed of the charges against them, and lawyers were provided for the indigent. These legal provisions were generally enforced

in practice. There is no system of bail, but most defendants awaiting trial were eligible for conditional release based on personal recognizance. Criminal detainees were allowed prompt access to counsel and family. There were no reports of preventive detention, which was allowed only in exceptional circumstances, such as during a declared state of war, or for narrowly defined offenses, including treason, mutiny, and large-scale arms trafficking.

*e. Denial of Fair Public Trial.*—The law and constitution provide for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of the Supreme Court, the Supreme Administrative Court, and a system of lower courts. The President appoints Supreme Court justices, who in turn appoint the lower court judges. Rulings of the 61 district courts can normally be appealed to the six appellate courts, which are courts of first instance in matters of treason and certain offenses of public office. The Supreme Court rules on the appeals of appellate court decisions. A system of administrative courts provides oversight of decisions made by local and state authorities. Four specialized courts review market, labor, insurance, and impeachment matters, respectively.

*Trial Procedures.*—The law and constitution provide for the right to a fair public trial, and an independent judiciary generally enforced this right. Local courts may conduct closed trials in juvenile and guardianship cases, divorce proceedings, or when publicity would offend morality or endanger the security of the state.

Defendants are presumed innocent until proven guilty, and they have the right to appeal adverse judgments. The law does not provide for juries to be used in trials. Defendants have the right to be present and to consult with an attorney in a timely manner, and attorneys are provided at public expense if defendants faced serious criminal charges that might result in imprisonment or significant fines. Defendants can confront and question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases.

The law extends these rights to all citizens and legal residents. Illegal immigrants enjoy the same rights but may be removed from the country or deported in a separate process.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—According to the constitution, all citizens have a fundamental right to live under the rule of law and to have that law applied equally and without discrimination to all segments of society. The country had an independent judiciary that administered civil law. Under the constitution, all citizens are entitled to have a civil case heard by a court or an appropriate legal authority, such as a magistrate, appropriately and without undue delay.

In addition, the law provides that all citizens are entitled to have a decision or judgment affecting his or her rights or obligations reviewed by a court or another judicial authority and to appeal any adverse decision.

The civil judicial administration consists of independent courts of law; the prosecution service; enforcement authorities, who are authorized to enforce financial and other judgments; prison and probation services, who see to the enforcement of custodial sentences; and the national Bar Association and the other avenues of legal aid.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

## Section 2. Respect for Civil Liberties

*a. Freedom of Speech and Press.*—The law and constitution provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The country had a large independent media, with approximately 200 newspapers, 320 popular magazines, and 2,100 professional magazines in publication; 53 of the newspapers were published daily. The Council for Mass Media, a regulatory board composed of members of the independent press, monitored journalistic ethics and handled public complaints about the print media. Major newspapers and magazines were published in Finnish, Swedish, and English.

There were 67 commercial radio stations, including three national public radio channels in Finnish, two in Swedish, and one in the Sami (Lapp) language. YLE, the Finnish state broadcast network, operated a radio station offering international programming from National Public Radio, the British Broadcasting Corporation, Deutsche Welle, and other networks. There were four national television channels,

two of which offered public broadcasting and two of which offered commercial programming, and several cable television and satellite systems offering dozens of additional networks. The domestic film industry produced approximately 12 feature films annually.

The Ministry of Transportation and Communications exercised oversight over the broadcast networks and issues operating licenses to commercial radio and television broadcasters.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The country had one of the world's highest rates of Internet connectivity, and virtually all citizens had access to the Internet at home or in schools and public libraries.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law and constitution provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. The Government recognizes the Evangelical Lutheran Church of Finland and the Orthodox Church as state churches. More than 80 percent of the population belonged to the Lutheran Church. Nontraditional religious groups practiced their religion freely. There was a small but growing Muslim population and a small Jewish community. Any organization with more than 20 members could register as a religious community as long as its primary mission was spiritual.

All citizens who belonged to one of the two state churches paid a church tax as part of their income tax. However, citizens may opt out of paying this tax by officially disassociating from the church. Nontraditional religious groups were eligible for tax relief as long as the Government had registered and recognized them as legitimate religious communities.

Although religious instruction in Lutheran or Orthodox doctrine was part of the standard curriculum in public schools, students could substitute philosophy or world religion courses. In some urban communities where Islam is the second-largest religion, students may choose to receive Islamic religious instruction.

Amnesty International and other groups criticized the length of alternative civilian service for conscientious objectors as punitive and discriminatory. Conscientious objectors were obliged to perform 395 days of civilian service, while normal military service was 180 days. In March the nongovernmental organization (NGO) War Resisters' International reported that 25 conscientious objectors were in prison for refusing to perform alternative civilian service.

*Societal Abuses and Discrimination.*—The country's Jewish community numbered approximately 1,900. There were a few reports of anti-Semitic incidents, chiefly graffiti such as swastikas and anti-Semitic slogans being spray-painted in public locations. The Government criticized such acts and removed the graffiti when it was discovered.

School children begin studying the Holocaust and the Europe-wide phenomenon of anti-Semitism in eighth grade. The national curriculum applied since the fall of 2005 places the Holocaust in the context of other anti-Semitic persecution and pogroms, including those carried out by Josef Stalin in the Soviet Union.

The Muslim population numbered approximately 25,000. Despite isolated reports of fights between non-Muslim and Muslim youths, there was no pattern of societal violence against Muslims. The Ministry for Foreign Affairs created an office for Muslim outreach in 2005, and in March the ministry sponsored a parliamentary seminar on the Danish cartoon controversy and religious respect and tolerance. The foreign minister delivered the keynote address at the seminar.

The Ministry of Education continued to integrate tolerance and antidiscrimination education into the public school curricula.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law and constitution provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refu-

gees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government automatically denied asylum to anyone who had already been rejected by another European Union (EU) state.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol. The Government included the number of persons who received temporary protection in overall asylum statistics.

During the year the country began granting asylum or residence permits to Chechens. As many as 21 Chechens were granted asylum and 76 others granted residence permits. This was the first time the country granted asylum to persons from Russia and areas of the former Soviet Union.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

There were some reports of discrimination against immigrants, including refugees and asylum seekers (see section 5).

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Free and fair parliamentary elections held in March 2003 resulted in the formation of a coalition government led by the Center Party.

There were 76 women in the 200-seat parliament and eight women in the 18-member Council of State. The President was a woman.

There were 10 members of minorities in the parliament and two minorities in the Council of State. The indigenous Sami (Lapp) minority enjoys semiautonomous status and has its own legislative body.

*Government Corruption and Transparency.*—During the year Transparency International gave the country a score of 9.6 on its 10-point index of the degree to which corruption is perceived to exist among a country's politicians and public officials, indicating that corruption was not perceived to be a problem. An anticorruption network in the Ministry of Justice met several times to address transnational bribery.

The law provides for public access to government information, except for information classified for national security, or when release of documents would constitute a violation of privacy laws, and the Government provided such access in practice.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

### *Section 5. Discrimination, Societal Abuses and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status; violence against women; trafficking in persons; and discrimination against immigrants and Roma were problems.

*Women.*—Violence against women, including spousal abuse, continued to be a problem. During the first half of the year, incidents of domestic violence reported to the police fell slightly to 14,736, compared with 15,149 cases in the first six months of 2005. The total number of cases in 2005 was 31,656. Most researchers believed the actual number was higher since many cases went unreported. A UN Children's Fund report on domestic violence against or in the presence of children states that children had greater exposure to such violence than other children in the region. According to the report, five percent, or 61,000 children had witnessed or experienced violence in their homes. Approximately one out of every six cases of domestic violence involved a female perpetrator.

During the year police focused significant attention on reducing violence. Police have focused their efforts on increasing cooperation among parties involved, breaking the spiral of violence, and providing better support to victims and perpetrators.

The Government reported that up to 30 women died from domestic violence. Domestic abuse may be prosecuted as a variety of different crimes, including rape, as-

sault and battery, harassment, and disturbing the peace. It was not possible to determine how many convictions in each category constituted domestic abuse cases.

The law criminalizes rape, including spousal rape, and the Government enforced the law effectively. Through June, 249 rapes were reported to the police, which was 71 fewer than in the corresponding period in 2005. Police believed the true number of rapes during the year to be higher than those actually reported, attributing this underreporting to the social stigma encountered by rape victims. Researchers believed that 75 percent of unreported rapes were committed by a known assailant.

The Government encouraged women to report domestic violence and abuse to the police. The Government provided counseling and support services to victims of domestic violence and rape and operated a network of shelters for victims. The Government provided funding to NGOs that provide additional services, including a telephone hot line and crisis center. According to researchers, most women seeking shelter from violence were between the ages of 25 and 35 who were either married or in a cohabiting relationship; nearly one-third were immigrants. Immigrants without proficiency in either Finnish or English experienced some difficulty accessing domestic violence services.

Prostitution is legal, but the purchase of sexual services is a civil offense. Prostitution was generally limited to private apartments and certain nightclubs in larger cities. During the year, parliament adopted a law that criminalizes the purchase of all sexual services in cases where trafficking is involved.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment is prohibited by law, and the Government generally enforced the law in practice. The office of the prosecutor general was responsible for investigating sexual harassment cases. Employers who fail to protect employees from harassment are subject to fines or a maximum of six months' imprisonment.

Women and men have identical legal rights under family and property law and in the judicial system. The Government placed a high priority on gender equality and maintained three primary government organizations devoted to gender equality issues: the ombudsman for equality, the gender equality unit, and the council for equality.

In practice there was still economic discrimination against women. Women's average earnings were 82 percent of men's. Women were overrepresented in lower paying occupations, and men tended to dominate the upper ranks in industry and finance and in some government ministries.

In April 2005 parliament passed a law amending existing legislation to increase gender equality in the workplace and to promote the principle of equal pay for equal work. Employers found to be in violation of the law are required to compensate women for lost wages. The new law, which took effect in June 2005, extended compensation eligibility to a greater number of women. The Government's equality ombudsman received hundreds of complaints during the year and generally determined approximately 20 percent of them to be violations of the law.

*Children.*—The Government was strongly committed to children's rights and welfare. Public education and health care systems were well funded. Education was free and compulsory for all children ages seven to 16, more than 99 percent of whom attended school. Most children attended school until graduation from high school. Education at universities and trade schools was also free.

The Government offered free medical care for children through a comprehensive public health care system. Boys and girls had equal access to health care services.

The number of suspected sexual abuse cases reported to the police continued to increase slightly during the year, and an average of 600 cases are reported annually. According to the police, there were 150 reported victims of child abuse under the age of six in 2005. Analysts speculated that a greater willingness by the public to report cases of child abuse rather than an increased incidence may be the cause for the increase in reports.

There were reports of trafficking of children for sexual exploitation (see section 5, Trafficking).

During the summer parliament passed legislation creating the country's first ombudsman for children's issues. The ombudsman took office on September 1. The ombudsman monitored legislation and assessed its impact on children's welfare, with a particular focus on living conditions.

*Trafficking in Persons.*—The law prohibits trafficking in persons, but there were reports that persons were trafficked to and through the country.

The country was a destination and transit point for trafficked persons. The actual incidence of trafficking remained unknown since no studies have been carried out to document the extent of the problem.



Most trafficking involved women and girls from Russia, although Estonian, Latvian, Lithuanian, Ukrainian, and Belarusian women were also trafficked for sexual exploitation. Increasing numbers of Asian women, most of whom were believed to be Chinese and Thai, were trafficked through the country to other parts of Europe.

Some persons were trafficked for labor, and most of these cases involved persons coerced into restaurant work, in construction, and as maids. They were often forced to work long hours for low pay and were often reluctant to approach authorities due to the cultural gap and fear of deportation or confinement. Many of these workers were Asian, employed by other Asians who frequently had family or clan ties to the victims.

The Government and NGOs believed Russian organized crime syndicates to be the principal traffickers of women and girls into the country. Although traffickers led some of the women to believe that they would be employed as domestic servants or waitresses, most were aware that they would be prostitutes. Economic incentives for poor women seemed to play a larger role in trafficking than physical coercion. Most trafficking victims entered the country with valid visas obtained at Finnish consulates abroad. The Schengen Treaty, which allows travelers already within the EU Schengen area to travel to any other EU Schengen country without inspection, facilitated the transit of persons trafficked into the country to other areas of Western Europe. In some cases traffickers confiscated victims' passports and used violence or the threat of violence to ensure their compliance.

The maximum penalty for trafficking in persons is seven years in prison. There are various other laws related to trafficking offenses that can be used to convict traffickers, including laws against organized prostitution, the dissemination of child pornography, the coordination of illegal entry into the country, and the marketing of sexual services.

In July the country conducted the first-ever prosecutions under anti-trafficking laws. Seven men and one woman were convicted and were given sentences ranging from 27 months to five years. The case involved the trafficking and exploitation of 15 Estonian women (one of whom suffered from an intellectual disability) who were forced to serve as prostitutes in Finland.

Authorities also targeted labor trafficking during the year. In September, police in Savonlinna arrested the owners of a Chinese restaurant on accusations that, over an eight-year period, the owners forced up to 10 Chinese workers to work for virtual slave wages and for hours far exceeding those prescribed by the labor law. In October two Vietnamese nationals were arrested in Pietarsaari on suspicion of labor trafficking in a similar case involving five Vietnamese restaurant workers.

Arrests in two unrelated cases of labor trafficking involving Chinese and Indian nationals were also made during the year, and trials in these cases were pending at year's end. Although there were no NGOs specifically dedicated to assisting trafficking victims, several focused on women's rights and general victim assistance issues, which included aid to trafficking victims. NGOs and government facilities operated by the Ministry of Labor provided victims with shelter, subsistence, medical services, and psychological counseling.

The ministries for foreign affairs, interior, justice, labor, education, and social welfare were all involved in combating trafficking, and each was represented on the interagency antitrafficking working group. The parliamentary human rights caucus, the NBI, frontier guards, customs and immigration, and various municipal police were also involved in antitrafficking efforts.

The Government participated in multilateral and regional efforts to combat trafficking, through organizations such as the Council of Baltic Sea States, Nordic Council of Ministers, and the Barents Euro-Arctic Council.

The parliamentary human rights caucus organized briefings on trafficking in the Nordic-Baltic region and lobbied for increased victim assistance and protection measures.

Law enforcement and prosecutorial officials received training in antitrafficking measures.

During the year, antitrafficking efforts were assisted by the introduction of a specific type of residence permit for victims of trafficking. The permits allowed victims to remain in the country temporarily while recovering from their experience, seek employment, have access to healthcare and legal services, and have the opportunity to apply later for permanent residency.

In 2005 the Government adopted a comprehensive national action plan to combat human trafficking. Based on the final report of an interagency working group appointed by the Ministry for Foreign Affairs, the plan called for a victim-centered approach to trafficking, including strengthened victim protection measures, an end to quick deportation of foreign victims, increased social and economic assistance for

victims, and aggressive prosecution of traffickers. The Government continued implementing each of these measures during the year.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, and discrimination was not a problem. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. Many older buildings, however, remained inaccessible. Most forms of public transportation were accessible, but problems remained in some areas. For example, a few geographically isolated areas lacked adequate ramps for wheelchairs. The Ministry for Social Affairs and the Ministry for Labor were responsible for protecting the rights of persons with disabilities. The chairperson of the parliamentary human rights caucus, Ulla Anttila, organized several events focused on empowering persons with disabilities.

*National/Racial/Ethnic Minorities.*—The country remained relatively homogeneous, with most members of ethnic minorities having arrived as immigrants or asylum-seekers during the past 10 to 15 years. At the end of 2005, the immigrant population was estimated at 113,852 persons, or 2.2 percent of the total population. The largest immigrant groups were Russians (24,600), Estonians (15,400), Swedes (8,200), Somalis (4,700), and Serbians (3,300).

Although tension between citizens and minority groups was not overt, most racist and xenophobic incidents involved racial epithets directed toward immigrants in public. According to the Ministry of Interior, there were over 180 assaults or attempted assaults of a racist nature in 2004. Roma were the most frequent victims of racially motivated crimes, followed by Somalis, Russians, Turks, Iraqis, and Iranians. Ethnic Finns were also occasionally the victims of racially motivated crimes; these individuals were generally targeted because they associated with members of minority communities.

There were occasional reports of fights between Finnish and foreign-born youths. African and Middle Eastern immigrants were typically the targets. There were also reports of fighting between rival ethnic immigrant groups.

Approximately 70 percent of immigrants who reported experiencing racism did not report it to police, explaining that they had experienced police discrimination. Immigrants alleged that police did not take their claims of discrimination and unfair treatment seriously.

The Government strongly encouraged tolerance and respect for minority groups and established an ombudsman for minorities to protect minority interests. All government ministries included antiracism provisions in their educational information, personnel policy, and training programs. The Government also monitored police, border guards, and teachers regarding their treatment of members of minority communities.

Reports of attacks against restaurants and other property owned by immigrants continued during the year. In August the homes of several Burmese refugees were attacked by approximately 20 local youth in the town of Kotka. Stones, bricks, and sticks were used as weapons to vandalize the homes. The Minister of Labor immediately criticized the attack, although no suspects were apprehended.

In August 2005 a pizzeria owned and operated by an immigrant in the city of Kajaani was raided by hooligans who destroyed the interior of the pizzeria and assaulted staff and customers. During the investigation that followed, the district police commander found that local police had failed to adequately respond to the incident, both in its immediate aftermath and in the ensuing investigation. Ten youths were charged in connection with the incident, and charges were pending at year's end.

Although no exact figures were available, the country had approximately 10,000 Roma, some of whom were native to the country and others who had arrived as asylum seekers or immigrants. According to the ombudsman for minorities, problems encountered by Roma extended to all areas of daily life, which resulted in serious marginalization, often extending to de facto exclusion from Finnish society.

Roma were frequently discriminated against in the areas of services and housing. In 2005 the NGO Finnish League for Human Rights conducted a study to test the extent of discrimination against Roma by sending Romani groups to several Helsinki restaurants. Many restaurants refused them entry, offering the Romas' own safety as justification. The human rights group criticized the Government's slow response to their complaints.

Roma continued to experience difficulties in obtaining housing, and the minority ombudsman stated that such difficulties were on the rise throughout the country. Between 2004 and 2005, the number of housing complaints by Roma more than doubled.

In 2005 the minority ombudsman lodged complaints against at least two municipalities, Oulu and Lahti, for discriminatory housing practices toward Roma. The authorities found in favor of the Roma, and the Roma were granted apartments in the areas in question.

*Indigenous People.*—Sami (Lapps) constituted less than 0.1 percent of the population. The law provides for the protection of Sami language and culture, and the Government financially supported these protections. Sami enjoyed full political and civil rights as citizens, as well as a measure of autonomy in their own civil and administrative affairs. Sami had the right to use their language in dealings with administrative and judicial authorities and in schools, media, economic and commercial life, and cultural activities. Sami communities received subsidies to continue their traditional way of life. There were no reports of discrimination against Sami in employment, education, housing, or health services.

Despite protections in the constitution, members of the Sami community continued to protest the Government's continued failure to pass legislation that would ensure protections of Sami land, resources, and economic livelihood. Sami complained that while 90 percent of the Sami home region is considered government-owned land, the Government used this land for logging and other purposes without consulting the Sami.

During the year members of the Sami community continued to press legal challenges related to alleged violations of their land rights. In 2005 the state forestry administration extended logging into areas where Sami herdsman held reindeer during the fall months. In November 2005 the Sami brought a complaint against the Government to the UN Human Rights Committee, alleging that the logging was so intense that it threatened the Samis' traditional means of subsistence through reindeer herding. The committee issued an interim order asking the Government to halt logging activities in the disputed areas; the state forestry administration abided by that order.

Sami complaints about logging practices continued during the year. On June 21, Sami herdsman in Inari issued a report criticizing the National Forestry Board's "New Plan for Natural Resources," and noting that the plan had been prepared without Sami participation. On November 2, Sami representatives again expressed dissatisfaction with government attempts to address the logging problem and said that under the new plan, as much as four-fifths of forests outside of protected areas would be open to logging that could potentially harm traditional reindeer husbandry.

In April 2005 the UN Human Rights Committee decided another case involving Sami land rights, finding no violation of the Sami right to enjoy their culture. The applicants had alleged that since the 1980s, approximately 4,000 acres of their grazing land in Paadarskaidi had been logged, thereby destroying 40 percent of the tree lichen needed by grazing reindeer in winter and threatening their reindeer husbandry activities. The committee found that although there was a decrease in the number of reindeer as a result of the logging, the total number of reindeer remained relatively high and the logging therefore did not violate the Sami right to enjoy their culture.

#### *Section 6. Worker Rights*

*a. Right of Association.*—The law allows workers to form and join unions of their choice and workers exercised this right in practice. Approximately 79 percent of the workforce was unionized.

*b. Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and the Government protected this right in practice. Collective bargaining agreements usually were based on tripartite wage policy agreements among employees, employers, and the Government. All unionized workers were covered under the collective bargaining agreements. Employers of non-unionized workers were required to compensate their employees at a wage equal to that stipulated by existing collective bargaining agreements.

The law grants employees the right to strike, with some exceptions for public sector employees who provide essential services. An official dispute board can make non-binding recommendations to the cabinet on ending or limiting the duration of strikes when national security is threatened. Employees prohibited from striking can use arbitration to ensure due process in the resolution of their concerns. A strike is legal when an employment contract is not in effect and the action is pursuant to new contract negotiations. Strikes are considered illegal after a contract agreed to by all parties is in effect. Fines may be imposed for illegal strikes. Workers exercised this right in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government has implemented laws and practices to protect children from exploitation in the workplace. The law prohibits children under age 16 from working more than six hours per day and from working at night. The law sets occupational health and safety restrictions for children, and the Government implemented these provisions effectively.

The labor ministry enforces child labor regulations; no complaints about the exploitation of children in the work force arose.

*e. Acceptable Conditions of Work.*—There is no legal minimum wage; however, the law requires all employers, including nonunionized employers, to meet the minimum wages agreed to in collective bargaining agreements in each sector of the workforce. Almost all workers were covered under such arrangements. These negotiated minimum wages provided a decent standard of living for workers and their families.

The legal workweek consists of five days not exceeding 40 hours. Employees working shifts or during the weekend are entitled to a 24-hour rest period per week. Workers are entitled to premium pay for overtime work. The law limited a worker to 250 hours of overtime per year and to 138 overtime hours in any four-month period. Foreign workers were also protected by these laws, which the Government effectively enforced.

The Government sets occupational health and safety standards, and the labor ministry effectively enforced them. Workers have the right to refuse dangerous work situations without penalty, and the Government enforced this right in practice.

## FRANCE

France, with a population of approximately 63.4 million, is a multiparty constitutional democracy. The Union for a Popular Movement is the ruling party and Jacques Chirac is President. The President is elected by popular vote for a five-year term. There is a bicameral parliament; the upper house (Senate) is indirectly elected through an electoral college; the lower house (National Assembly) is directly elected. National elections took place in 2002 and were considered free and fair. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas, including overcrowded and dilapidated prisons; lengthy pretrial detention; protracted investigation and trial proceedings; anti-Semitic incidents, including at least one killing; discrimination against Muslims; societal hostility toward immigrants; societal violence against women; child abuse and child marriage; and trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings during the year.

In November a plainclothes police officer of Afro-Caribbean descent shot and killed one fan and wounded another at the end of a soccer match. The officer was trying to protect a French-Jewish fan who was being chased by a crowd of 100 fans shouting anti-Semitic epithets. The officer used his weapon when the crowd turned on him with racial epithets and physical assault. Police union spokesmen asserted that the officer acted in self-defense (see section 2.c.).

There were developments in several cases from earlier years.

Following an investigation into the actions of French UN peacekeepers deployed to the Ivory Coast that were alleged to have lead to the May 2005 suffocation of an Ivorian national, Firmin Mahe, judicial authorities released all suspects except for regimental Sergeant Major Guy Raugel. On April 20, a court of appeals rejected Raugel's appeal, ruling that he was directly responsible for Mahe's death. General Henri Poncet, former commander of the country's peacekeepers in the Ivory Coast, and his deputy, Renaud de Malaussene, were each given an official warning and relieved of their commands in November 2005 for failing to report involvement of their troops in the death. At the end of the year Poncet remained under investigation for his role in Mahe's death.

In February 2005 six individuals filed a lawsuit claiming that French soldiers were guilty of “complicity in genocide” and “crimes against humanity” while deployed to Rwanda at the time of the 1994 genocide. In December 2005 a military tribunal opened an investigation into the accusations of two of the plaintiffs, including allegations that the soldiers stood by passively and permitted massacres to occur and that military personnel participated. Military authorities have denied that their troops aided or directed forces involved in the genocide, and a 1998 parliamentary panel absolved the armed forces of responsibility in the genocide. The pretrial investigation was ongoing at year’s end. The process has been plagued with delays since its beginning, notably when a military magistrate slowed it with a December 2005 decision challenging the legality of the court hearings. In May the Paris appeals court confirmed the admissibility of four additional complaints, for a total of six to be considered.

In a report submitted on October 6, the National Security Commission (CNDS), an internal investigative body charged with examining complaints brought against police and judicial bodies, supported a magistrate’s finding that no direct link existed between a 2004 incident in which police in Paris’ 18th arrondissement employed tear gas, and the death of a 62-year old Swedish artist. The CNDS did find, however, that “the violence to which the victim was exposed could only have accentuated the mortal risk to which he was subjected.” The CNDS forwarded the report to the Paris prosecutor’s office; there was no follow-up action by year’s end.

A gang of immigrants kidnapped, tortured, and killed a Jewish man, a crime the interior and justice ministers characterized as motivated partly by anti-Semitism (see section 2.c.).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were occasional accusations of police violence.

There were press reports that police employed excessive force in making arrests. Authorities in Senlis sentenced two members of the security police there to six months suspended sentences and fines of approximately \$3,013 (2,300 euros) for “immoderate use of force” in the apprehension of Abdelkader Miloudi in May 2005. There were also charges that police at times subjected young men who appeared to be Muslims to harassment (see section 2.c.).

Occasional press reports cited accusations of excessive force by police that could not be confirmed. For example, in February and March student demonstrations against educational reform proposals at times turned violent. The resulting confrontations led some demonstrators to charge that police had used excessive force. Other observers contended that such measures were necessary to rein in violence by demonstrators.

On July 26, lawyers acting on behalf of Muhittin Altun, one of three minors whose conflict with police touched off widespread civil unrest in late 2005, lodged a formal complaint against police for reckless endangerment and falsifying public documents during their examination of Altun. They accused police of misclassifying Altun’s case in order to speed the investigation to its conclusion and asserted that Altun’s parents had not consented to a police interrogation of their son.

The investigation of the 2004 case of three police officers, Captain Franck Junca and two members of his night brigade, who allegedly beat and sodomized a driver on a highway access road in Val-de-Marne, continued. The captain was accused of destroying evidence. No further information on the case was available at year’s end.

In December a court gave three Lille police officers who allegedly raped a prostitute in 2003 suspended prison sentences after the prosecution was unable to meet the evidence standard needed for a heavier punishment.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards; however, credible nongovernmental organizations (NGOs) reported overcrowding and unacceptable hygienic conditions in some facilities. According to a Ministry of Justice press release, at the end of the year there were 58,402 inmates in a prison system designed to hold a maximum of 50,300, exceeding the intended maximum capacity by 16 percent. The Government continued to replace old prisons and add new facilities as part of a project designed to add space for 13,200 additional inmates by the end of 2007, but there were no reports on the progress of this project.

On February 13, Council of Europe (COE) Human Rights Commissioner Alvaro Gil-Robles released *The Effective Respect for Human Rights in France*, an institutional critique based on a two-week visit in September 2005. The report made 71 recommendations to the Government with particular emphasis placed on increasing the financial and technical resources allocated to the justice system, including im-

proving prison and detention center conditions. COE observers visited seven prisons and five police stations where persons remanded into police custody were held. The observers concluded that overcrowding and inadequate operating resources were the most serious shortcomings. In some cases, as with the prisons La Sante and Les Baumettes, Commissioner Gil-Robles characterized living conditions as “on the borderline of human dignity.” Resource shortfalls were also evident in the conditions of prison health care units and substance abuse rehabilitation programs.

Although there were no known deaths in prison due to mistreatment or adverse conditions during the year, prison suicides have been a problem in recent years. Penitentiary officials announced that there were 96 prison suicides during the year.

Authorities maintained administrative holding centers (CRAs) for deportable foreigners whom they could not deport immediately. There were 18 holding centers on the mainland. Human rights observers reported that living conditions at CRAs ranged from generally acceptable to “disastrous and unworthy of France,” in the case of the men’s holding center located under the Palace of Justice in Paris.

The COE Commissioner for Human Rights reported that the Senate appeared to accept the presence of minors in holding centers as standard practice, although in the commissioner’s view the practice contravenes the UN Convention on the Rights of the Child and domestic law.

A new antiterrorism law came into force on January 23. Its provisions included longer periods of incommunicado detention, increased electronic surveillance in public places, and more extensive record keeping by mobile phone providers. The new law extended the maximum legal custody of terrorist suspects from four to six days and increased the sentences of persons convicted of terrorist acts. The law also gives the police wider access to previously confidential information of customers of rail, maritime, and air transport services.

The NGO Amnesty International (AI) was critical of the law, asserting that it removes safeguards against ill-treatment and reinforces what it termed the effective impunity of law enforcement officials. Two other provisions of the new law caused particular concern to many observers. The first allows police to obtain data on citizens’ electronic communications without judicial oversight to “prevent and punish” acts of terrorism. The second allows police to monitor motor vehicles on the country’s roads, including taking pictures of license plates and people in the cars, for a variety of purposes ranging from the fight against terrorism to the identification of stolen cars.

Several officials who considered that the reforms gave authorities too much discretion to intrude upon citizens’ privacy and encouraged confusion between immigrants and terrorists sent the law to the Constitutional Council. On January 19, the council declared the reforms to be consistent with the constitution.

The Government permitted prison visits by independent local and foreign human rights observers. The International Committee of the Red Cross (ICRC) continued to work in cooperation with the Ministry of Justice and the National Prison Administration through a Convention of Partnership in accordance with ICRC standard modalities of independent monitoring.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions; however, lengthy pretrial detention was a problem. The Government provided financial compensation in some cases of wrongful incarceration.

*Role of the Police and Security Apparatus.*—A civilian force of 145,820 national police under the direction of the Ministry of Interior, and a military force of 102,322 national gendarmes under the joint direction of the Ministry of Interior and the Ministry of Defense, ensured internal security. Police and gendarmes were considered generally effective.

Some human rights organizations, including AI, charged that impunity was a problem in the police. AI cited protracted investigations of police misconduct as a contributing factor. However, impunity generally was not widespread. The inspector general of the national police and the Office of Judicial Police investigated and prosecuted allegations of police brutality. The independent National Commission of Security Ethics investigated and reported to the Prime Minister and parliament on allegations of misconduct by municipal police, gendarmes, and private security forces. The National Consultative Commission on Human Rights (NCCHR) also monitored police conduct. Police corruption was generally not a problem. The Government actively investigated and prosecuted allegations of police corruption.

On November 2 the Government announced that since its creation in 2000, the CNDS had submitted 419 legal misconduct cases against various authorities, more than half of them against police. Among police offenses, CNDS highlighted the excessive use of coercion during unjustifiably lengthy police custody and aggressive

treatment of foreigners in border areas. CNDS recommended increased training in these areas for police.

Another CNDS report attributed increasing delays in investigations of police misconduct to budgetary shortfalls and longer response times from prosecutors' offices. The system of indirect complaints also slowed the process; a person who was the victim of or a witness to police brutality could only apply to the commission through a member of parliament. Additionally, although the CNDS was entitled to conduct investigations, it could only make recommendations for action.

*Arrest and Detention.*—Police are required by law to obtain warrants prior to taking persons into custody. They may apprehend persons with warrants based on sufficient evidence and issued by a duly authorized official. The law gives a person in detention the right to a prompt judicial determination of the legality of the detention, and authorities generally respected this right in practice. Authorities must promptly inform detainees of charges against them. There is a system of bail, and it is used. Detainees generally had prompt access to lawyers; however, in cases involving terrorism or other major crimes, suspects may be held up to 96 hours without access to a lawyer. If detainees are indigent, the state provides a lawyer for them.

Long delays in bringing cases to trial and lengthy pretrial detention were problems. Pretrial detention is generally allowed only if there is a possibility that the suspect would be sentenced to more than three years in prison for crimes against property; however, a few suspects spent many years in detention before trial, which officials blamed on insufficient government resources for investigations and trials. In July 2005, 35 percent of persons held in jails and prisons were awaiting trial. According to government statistics released on March 18, detention times for persons awaiting trial increased 13 percent since 2001, to an average of 7.1 months.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice. Magistrates and the first President of the Court of Cassation asserted that members of the executive inappropriately criticized judicial practices; critics noted in particular the interior minister's allegations in September that judges were too lenient on youth offenders.

The court system includes local courts, 35 regional courts of appeal, and the highest criminal court, the Court of Cassation, which considers appeals on procedural grounds only.

In cases of serious crimes, investigating judges detain suspects while they conduct the investigation against them. A Chamber of Accusation, composed of a named President and two advisors, reviews the judge's investigation to determine the appropriateness of the charges against the accused. The Court of Assizes investigates and decides cases involving serious criminal offenses.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and usually held before a judge or tribunal of judges. In instances where the sentence is potentially more than 10 years' imprisonment, a combination of professional and lay judges hear the case. Defendants are able to question the testimony of prosecution witnesses against them and present witnesses and evidence in their own defense. Defendants and their attorneys have access to government-held evidence relative to their cases. Defendants enjoy a presumption of innocence and have the right to appeal.

Public outrage over an inexperienced judge's wrongful 2003 conviction of 13 innocent individuals in a case which the media labeled the "Outreau Affair" elicited new debate over how to treat children's testimony and whether a single magistrate should be responsible for assuring the neutrality of a criminal investigation.

The Tribunal of the Armies of Paris is a military court created in 1999 to judge crimes that members of the armed forces committed outside of the country. It has issued approximately 300 to 350 judgments annually. At year's end the tribunal was investigating both the death of Firmin Mahe and allegations regarding military actions during the Rwanda genocide (see section 1.a.). The tribunal abides by most of the rules of civil courts; however, the prosecutor seeks the advice of military authorities before most proceedings, and he has reported difficulties obtaining documents from military authorities that were classified "secret." A former prosecutor criticized the influence of military authorities on the tribunal and has questioned whether it should continue to exist. COE research identified cases where military influence may have threatened human rights and due process, delayed trials, restricted the rights of detainees to counsel, hindered their access to witnesses and other relevant persons, and adversely affected the treatment of children.

One cause of delays in trial proceedings was the abrupt and sweeping nature of the 2004 Perben II law, which amended 350 of the 934 articles in the Code of Criminal Procedure and 70 articles in the Criminal Code. Most of these changes took effect almost immediately, creating major problems for legal professionals. According to the state prosecutor at the Marseille's Regional Court, criminal procedure was changing so rapidly that judges had to spend ever increasing time on formal issues, leaving less time for the substance of cases. Another cause of trial delays was chronic underfunding of court administration, including failure to fill vacant positions.

COE research also found that the country's legal system limited the right of accused persons to benefit from legal counsel by limiting access to case files.

Minors accounted for 18.8 percent of court proceedings in 2003, according to the COE. This figure has remained stable. The law provides that penalties for minors should vary according to the minor's age, with three age levels—10, 13 and 16 years—before legal adulthood (18 years). Minors may be placed in a closed educational center. The distinction between serious offences and minor offences is waived with respect to minors aged 16 and 17, who may be remanded into custody regardless of the type of offence committed.

During the year several judges informed human rights observers that the judicial system for minors was failing to deal with juvenile delinquents both in the short term and in the long term. Experts cited the need to reduce the time minors must wait to receive care from specialist social services and criticized the time children spend awaiting trial, currently two to 18 months for a hearing by the investigating judge's office and six months to two years for a court hearing.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, allowing access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. There were no reported problems enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

Some civil rights and opposition political parties expressed concern about a new antiterrorism law enacted in December that, among other provisions, permits increased video surveillance of railway stations and airports and increased access to records of citizens' electronic communications. Critics asserted that the law gave authorities too much power to invade citizens' privacy (see section 1.c.).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some limitations. An 1881 press law prohibiting insults to the head of state remained technically in force but did not impede open criticism of the President and his actions. By law authorities may deport a noncitizen for publicly proclaiming deliberate and explicit acts of provocation proposing discrimination, hatred, or violence against any specific person or group of persons.

On October 21, Minister of the Interior Sarkozy announced that 18 Muslim imams "who made remarks totally incompatible with the values of the Republic" had been expelled since the beginning of the year.

The independent media were active and expressed a wide variety of views with few restrictions; however denial of crimes against humanity is illegal, as is speech, written or oral, that incites racial or ethnic hatred. There is a law against Holocaust denial, and a Lyon court opened a case against National Front senior official Bruno Gollnisch on November 7, on charges of having publicly questioned, during a 2004 press conference, the existence of Nazi gas chambers.

In October the National Assembly passed a law making it a crime to deny that the killing of Armenians by Ottoman rulers of Turkey during the second decade of the twentieth century constituted genocide. The law, denounced by Ankara and criticized by the European Union, would set fines of as much as approximately \$59,000 (45,000 euros) and a year in prison. Although the Senate had not approved the measure by year's end, its passage in the lower house prompted Turkey to suspend military relations.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by electronic mail. In December the French parliament adopted an antiterrorist law that, among other provisions, permits official probing



on the Internet and in mobile telephone records (see section 1.c.). Some civil rights groups and left-wing opposition parties have expressed concern that the law gave authorities too much power to invade citizens' privacy and encourages confusion between immigration and terrorism. Access to the Internet was widely available throughout the country. However, the authorities shut down at least one Internet site during the year for threats against Jews (see section 2.c.).

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

On July 26, the Council of Ministers dissolved the organization Tribu Ka because of its anti-Semitic behavior. The decision was based on a 1936 law which permits the dissolution of private militias and other militant antigovernment groups. The members of Tribu Ka, whose founder was reputedly a former member of the Black Muslim organization, consisted primarily of individuals of Sub-Saharan origin whom observers generally described as anti-Semitic and anti-White. Following its clashes with French authorities, the organization changed its name to "The Members of Kemi Seba's Generation" and expressed its intention to submit a candidate list for the March 2008 municipal elections in the city of Sarcelles in the Val-d'Oise region.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. A 1905 law on the separation of religion and state prohibits discrimination on the basis of faith. However, some religious groups remained concerned about legislation passed in 2001 and 2004 that permits the dissolution of groups under certain circumstances and prohibits the wearing of conspicuous religious symbols by public school employees and students. Although authorities based their actions on security grounds, some Muslims described the deportation of a number of radical Islamist religious figures since 2004 as a restriction on religious freedom (see section 2.b.).

Under the law a religious group must apply to the local prefecture for recognition as an association of worship and must disclose certain management and financial information in order to receive tax-exempt status or gain official recognition. Groups of religious believers who do not seek such status are free to meet and conduct religious practice.

A law adopted in 2004 prohibits the wearing of "conspicuous" religious symbols—including Muslim headscarves, Jewish skullcaps, and large crosses—by employees and students in public schools. In June 2004 the European Court of Human Rights (ECHR) ruled that the law did not violate freedom of religion, and the law took effect in September of that year. Some Christian, Jewish, Muslim, and Sikh leaders, human rights groups, and foreign governments voiced concerns about the law's potential to restrict religious freedom.

The number of school children affected by these regulations was difficult to determine. Media reports estimated that of the 13 million schoolchildren, approximately 1,200 Muslim school-age girls wore headscarves to school. The Sikh community reported that of the roughly 200 school-age Sikh boys, the legislation affected 168.

During the year authorities registered four legal cases involving infractions of the 2004 law. When school resumed after the summer vacation, schools in Seine-Saint-Denis denied admission to three Sikh students who refused to remove their turbans; two were subsequently accepted into private schools, and the third was awaiting an appearance before a disciplinary council at year's end. A 16-year-old Sikh appealed his expulsion on November 21 for refusal to take off his turban. The Association of United Sikhs was supporting his appeal. Unlike in previous years, there were no reports of Muslim girls being denied admission at the beginning of the autumn term.

A respected Muslim observer complained that police sometimes singled out young Muslim men and demanded their documents, a tactic he described as a form of harassment intended to keep them out of certain neighborhoods.

Public schools made an effort to supply special meals for students with religious dietary restrictions.

Parents may homeschool children for religious reasons, but all schooling must conform to the curriculum standards established for public schools. The Government subsidizes private schools, including those that are affiliated with religious organizations.

In September the Council on National Education, citing safety issues, affirmed Lyon authorities' decision to block the opening of what would have been the country's second and largest private Muslim high school. Local Muslim leaders criticized the decision, arguing that their right to open private religious schools was being im-

peded for fear that Muslim schools would spread across the country in response to the 2004 headscarf ban. According to press reports, there were hundreds of private Catholic and Jewish schools in the country, but there was only one private Muslim high school in a country with almost five million Muslims.

In May 2005 then-prime minister Jean-Pierre Raffarin issued a circular indicating that officials should no longer use an earlier parliamentary list of “cults” to identify sects, and should instead focus their efforts on those sects that represented the greatest threat, notably those “small, fluid” groups that were “less easily identifiable” and used the Internet for recruitment. Some religious groups welcomed the move as a step forward but called for the Ministry of Justice to rescind circulars calling for what they regard as repressive measures against minority religions.

The Interministerial Monitoring Mission against Sectarian Abuses (MIVILUDES) has the task of observing and analyzing sect or cult movements that could constitute a threat to public order or violate the law. MIVILUDES is responsible for coordinating the appropriate government response, informing the public about potential risks, and helping victims to receive aid. On April 16, MIVILUDES published its report for 2005, noting continued concern about the activities of groups it considers cults. The report cited three primary concerns: protecting all children from cult influences, both from parents who may be involved in such groups and from groups’ attempts to recruit young members; reducing the demand for “alternative medicines” and spiritual healers; and preventing sects’ use of natural disasters and humanitarian aid to promote their public image and proselytize their beliefs. The report specifically cited the Church of Scientology as reaching out to youth in the suburbs following the social unrest there in late 2005. Some groups have expressed concern that public servants could misuse MIVILUDES reporting against legitimate religious organizations.

In December 2005 a Paris court rejected a lawsuit brought by a collective of associations asking for the dissolution of the National Union of Associations for the Defense of the Family (UNADFI). The organizations accused UNADFI, a state subsidized NGO “specializing in information about sects,” of regularly overstepping its mandate and acting against religious freedom. The court ruled that the suit constituted an “abusive procedure.” It ordered the plaintiffs to pay UNADFI \$19,650 (15,000 euros) in damage and court costs and ordered the plaintiffs to print the decision in eight newspapers. The plaintiffs planned to appeal the decision.

On June 28, in response to concerns raised by a 2005 MIVILUDES report, the National Assembly began an investigation into the influence of sectarian movements and their impact on the physical and mental health of minors. The investigative commission, which submitted its findings on December 19, concluded that 60,000 to 80,000 children may be threatened by sectarian groups and that public authorities, notably the Ministry of Interior, had been “negligent” in their supervision of the danger. The commission’s report elicited criticism from minority religious groups, particularly the Jehovah’s Witnesses organization. Other religious and civil rights groups labeled the commission’s conclusions an affront to freedom of conscience and religious belief.

Members of Jehovah’s Witnesses also alleged that during the year the rapporteur and the secretary of the newly convened Third Parliamentary Commission of Inquiry on Sects openly attacked them, describing them as delinquents and criminals and labeling their activities as “mafia-like.”

The Jehovah’s Witnesses organization continued to appeal a case in which they asserted authorities targeted them for discriminatory and punitive auditing because of their classification as a cult. In December 2005 the Paris Court of Appeal overturned a 2001 decision in the case and ordered the Ministry of Interior to turn over to the Jehovah’s Witnesses documents relating to a 1996 parliamentary report and pay court costs of \$1,800. The ECHR had the case under consideration at year’s end.

There was continuing concern about the 2001 About-Picard law, which permits the dissolution of religious groups. Although authorities have never applied these provisions of the law, in 2004 a court relied on About-Picard to convict a religious leader of “fraudulent abuse” of his followers.

In March the UN released the report of its special rapporteur on religious freedom in the country, which, while generally positive concerning the country’s adherence to religious freedom, was critical of what it called the excessively rigid application of the principle of separation of church and state. The report also stated that the authorities may have contributed to a climate of general suspicion and intolerance toward religious groups listed as cults in a 1995 parliamentary report, and suggested that “the stigmatization of the headscarf has provoked acts of religious intolerance when women wear it outside school.”

*Societal Abuses and Discrimination.*—According to a World Jewish Congress report issued on November 12, 275 anti-Semitic acts or insults were reported during

the first nine months of the year, compared to 236 incidents for the same time period of 2005 and 483 acts reported for the first nine months of 2004. The report emphasized that 61 anti-Semitic acts were reported during July and August, up drastically from the 34 reported incidents in the same period of 2005, suggesting a possible relationship to the July-August conflict involving Israel and the terrorist organization Hizballah in Lebanon. During the first ten months of the year, the national police recorded 436 anti-Semitic acts.

Minister of Justice Pascal Clement stated that, "our society as a whole has perhaps not been vigilant enough in the face of racism and anti-Semitism." The minister, noting an increase in convictions for anti-Semitic acts, expressed the view that the increase was due not to more incidents, but rather to "better pursuit" of the acts that did occur. He encouraged prosecutors to act swiftly against these types of crimes; prosecutors were under orders to seek maximum punishments in hate crimes and to appeal systematically those sentences not considered strong enough.

The Jewish community was estimated to number approximately 600,000 persons, according to the American-Israeli Cooperative Enterprise. In its annual report to the Prime Minister released in March, the NCCHR indicated that in 2005 the number of anti-Semitic incidents—including physical assaults, attacks against property, cemetery desecrations, threats, and reported insults—decreased 48 percent (down from 974 in 2004 to 504 in 2005). The NCCHR also indicated that the decrease included incidents in schools, an area that has been of great concern in recent years. According to interior ministry figures, the number of racist, anti-Semitic, and xenophobic incidents in schools dropped by 54 percent in 2005; the number of anti-Semitic incidents saw the greatest decrease. The Ministry of Education likewise reported a 40 percent reduction in racist and anti-Semitic acts for the 2005–2006 academic year.

In July authorities banned an organization for anti-Semitic threats and closed its Web site (see section 2.b.).

Strict antidefamation laws prohibit racially or religiously motivated verbal and physical abuse, and denial of crimes against humanity is illegal, as is speech, written or oral, that incites racial or ethnic hatred. There is a law against Holocaust denial, and on November 7, a Lyon court opened a case against National Front senior official Bruno Gollnisch on charges of having publicly questioned, during a 2004 press conference, the existence of Nazi gas chambers.

The Government promotes interfaith understanding to combat racism and anti-Semitism through public awareness campaigns and by encouraging dialogue among local officials, police, and citizen groups.

Official figures indicated that the Jewish community was the primary victim of religious intolerance. In 2004 almost 60 percent of such acts targeted Jews or Jewish property.

There was one high profile killing during the year that the interior and justice ministers characterized as motivated partly by anti-Semitism. On January 21, a multiethnic gang of immigrant youths called the Barbarians kidnapped Ilan Halimi, a young French Jew of Moroccan descent. On February 13, five days after his family broke off ransom negotiations on the advice of police, Halimi was found south of Paris, naked, beaten, and covered with cigarette burns; he died on his way to the hospital. Authorities investigated 29 individuals in connection with the crime and eventually imprisoned 18. One of the suspects in custody admitted to authorities that Halimi had been targeted "because he is Jewish, and because Jews are rich." Youssef Fofana, the suspected leader of the gang, was arrested in Cote d'Ivoire in February and extradited back to the country. He stated in a media interview following his arrest that the abduction was carried out for financial ends.

Authorities reacted strongly to the killing, although some members of Halimi's family accused the police of moving too slowly and initially disregarding the anti-Semitic dimension of the crime. The Ministry of Justice classified the crime as a hate crime bearing the aggravated circumstance of anti-Semitism. President Chirac, Prime Minister de Villepin, opposition political figures, and Muslim and Christian religious leaders attended a memorial for Ilan Halimi February 24 at a Paris synagogue. The ongoing investigation was expected to take up to two years or more, in part because authorities were seeking to include all charges in one comprehensive legal proceeding.

On August 5, during a local celebration in Annecy, a group of people attacked a young Venezuelan student after hearing his name called out as "Abraham." They insulted him, calling him "dirty Jew," and beat him until a nearby security guard intervened. According to the police, the Venezuelan student was not Jewish. Police arrested four persons, and a criminal court in Annecy convicted three of them and sentenced them to nine months' imprisonment, the harshest sentence ever imposed for an anti-Semitic attack. On May 28, a group of individuals of African descent call-

ing themselves Tribu Ka staged an anti-Semitic demonstration in the heart of the Jewish area of Paris. With the direct support of Minister of Interior Sarkozy, authorities opened an investigation of the group's death threats against Jews, and on July 26, the minister of justice invoked a Presidential decree that dissolved Tribu Ka and forcibly closed the group's Web site. Tribu Ka's founder, Stelio Gilles Robert, reportedly a former member of the Nation of Islam in Paris under the name Kemi Seba, opened a new anti-Semitic Web site in August. On September 25, *Le Monde* reported that the Paris Tribunal ordered the second Web site closed within two days, adding a \$1,181 (1,500 euros) fine for each day spent in breach of the order. The site closed, but according to October press reporting, Kemi Seba had opened a new Internet site.

On November 9, arsonists set fire to a Jewish school in Gagny, north of Paris. The fire caused little damage, in contrast to an arson attack on the same school in 2003 that destroyed 32,000 square feet of the school. Police opened an investigation. Days afterward, President Chirac announced a tougher policy to combat anti-Semitism.

Also in November the media reported that approximately 100 supporters of the Paris Saint-Germain soccer team chased a Jewish man and shouted racial and anti-Semitic slogans at him, after their side lost a game to Hapoel Tel Aviv. Antoine Granomort, a plainclothes police officer of Afro-Caribbean descent, tried to protect the French fan of the visiting Israeli team, and when he was subjected to racial and physical attack, he drew his gun and shot and killed one Paris Saint-Germain supporter and seriously injured another. Investigating authorities found the officer's actions were justified. Following the incident authorities instituted several new measures aimed at discouraging violence at sporting events, including discontinuing ticket sales to unofficial fan groups, refusing entrance to fans with histories of hooliganism, and promoting more frequent interaction between fan groups and security forces.

In June the administrative tribunal of Toulouse convicted the state and the state railways, the SNCF, for their role in the deportation of Jews during World War II. The family of Georges Liepitz brought the case. The state railway transferred Liepitz and his family in 1944 from Pau to a transit camp north of Paris. (They were ultimately set free; others perished in Nazi camps.) In its decision, the court found that "the French administration could not manifestly ignore that their transfer facilitated an operation that would normally have been the prelude to the deportation of the concerned persons." The court ordered the SNCF to pay \$74,400 (62,000 euros) to the Liepitz family. At year's end, the SNCF was appealing the decision.

On July 12, a higher court overruled the May 2005 Versailles Court of Appeals verdict against the authors and publisher of a 2002 article for "racial defamation" due to the article's alleged anti-Semitic content. An appeals court had found that three sentences in the article violated a 1990 antiracism law. The higher court annulled the racial defamation judgment, stating that the published text was the expression of an opinion in an ideological debate.

The trial of three minors accused of throwing bottles of acid into the courtyard of a Jewish school in July 2005 continued at year's end.

Members of the Arab and broader Muslim communities also experienced incidents of harassment and vandalism. According to the NCCHR, 470 racist acts were recorded in 2005, a decrease of 22 percent from the 600 committed in 2004. Of these, the largest drop was in the number of violent incidents (88 in 2005 as opposed to 169 in 2004). The NCCHR attributed more than half of the 2005 racist incidents (257) to far-right extremists.

Racism and religious intolerance in Corsica remained a concern. On January 19, unknown persons detonated a bomb outside a Muslim-owned butcher shop of Porto Vecchio (South Corsica). The owner had been a bombing victim on at least two other occasions. No arrests had been made at year's end.

On October 17, the penal court for minors of Paris gave twelve members of the armed group Clandestini Corsi jail sentences of six months to seven years for seven attacks against the Muslim community between March and September 2004. The court cited racism as an aggravating factor.

No arrests were made during the year in connection with a January 2005 bomb detonation outside a butcher shop owned by a Muslim in the Corsican capitol, Ajaccio. It was the fourth such attack against the shop.

There were isolated anti-Islamic incidents on the mainland as well. On October 23, vandals profaned the future central Mosque of Belfort by leaving a pig's head in a window. Muslim worshippers also discovered posters of the National Front on the door of their temporary prayer room. The construction of the mosque, which was scheduled to open in 2007, was source of controversy. Authorities questioned three

members of the extreme right-wing movement Jeunesses Identitaires during an April demonstration against the project. Political and religious leaders condemned the attacks, and authorities actively investigated the incidents, but there were no reported arrests.

An investigation continued into attacks on two mosques in Lyon in 2005.

Representatives of the Jehovah's Witnesses organization asserted on December 18 that 78 of their places of worship had been vandalized since the beginning of the year. They attributed these and earlier attacks in part to a 1996 parliamentary commission of inquiry report that described them as a "dangerous sect." On July 3, the Council of State stated that the 1996 designation of the group was based on a sketchy and superficial assessment of the effects of the organization's activities.

Representatives of the Church of Scientology continued to report cases of societal discrimination during the year. Scientologists continued to follow closely the growing body of precedent-setting case law from the ECHR in order to contest what they regarded as unequal treatment. Scientologist representatives noted that the ECHR instructed governments to "remain neutral and impartial" with respect to religious faith and that it ruled that the right to freedom of religion as guaranteed under the COE's Convention for the Protection of Human Rights and Fundamental Freedoms excludes any discretion on the part of the state to determine whether religious beliefs or the means used to express such beliefs are legitimate.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law requires those engaged in itinerant activities, and who have a fixed domicile, to sign a declaration, which must be renewed periodically. Itinerant persons having no domicile or fixed abode must be in possession of travel documents, often requiring renewal every three months, and must choose a commune for administrative purposes. Members of the Romani community, who make up the majority of those who require travel documents, have protested the requirement and indicated that they often experience discriminatory treatment from officials when renewing the documents (see section 5).

The law also requires municipalities with more than 5,000 residents to provide an "encampment" where persons may reside temporarily. However, members of the Romani community indicated that only one in four municipalities required to provide a designated encampment actually did so in practice, and that many encampments did not meet the legal requirements for infrastructure, sanitation, and safety. Romani groups have asserted that some municipal leaders preferred to pay fines rather than provide encampments. The law also designates some towns where encampment is prohibited. Compounding problems created by a lack of encampments is a law that makes it illegal to set up residency outside of designated areas (see section 5).

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to approximately 557 persons during the year.

An AI report condemned legal and administrative regulations that in its view restrict the right to seek asylum and the right to have an asylum claim considered on its merits. New regulations of concern include: a shortened time to complete and submit temporary residence applications (down to 21 days; formerly one month); less thorough, or "fast track," consideration of asylum applications for persons from an expanded list of "safe" countries of origin or transit; and cessation of free interpretation services to asylum applicants in detention centers.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

In September 2005 the National Association for Assisting Foreigners at Borders (ANAFE) released a statement citing a decline in the number of foreigners detained in the waiting areas of airports and seaports, noting that 14,291 individuals were denied admission in 2004, as opposed to 15,498 in 2003. However, it expressed con-

cern that the Government was focusing on combating illegal immigration to the detriment of the protection and welcome offered to foreigners, particularly asylum seekers. ANAFE noted that there were allegations that security officials abused foreigners in waiting areas, particularly during attempts to re-embark them on aircraft.

A 2003 law and 2004 regulations reformed the country's asylum law. Some of the new rules enhanced asylum seekers' rights, particularly by extending the scope of the Geneva Convention and the concept of agents of persecution; persecution by nonstate agents is taken into account if the state concerned is incapable of offering protection to the person in danger. In addition the reforms allow persons who may be exposed to certain serious risks if they return to their country of origin to remain for a renewable period of one year.

The reforms of 2003 and 2004 also created additional difficulties for persons seeking asylum by stipulating that asylum application forms submitted to the Office for the Protection of Refugees and Stateless Refugees (OFPRA) must be completed in French. Observers noted that the chances of a positive response to asylum seekers who speak no French, or not enough to draft a coherent, structured text, were significantly lower than those of French-speaking applicants.

On May 16, the OFPRA expanded to 17 the list of countries said to be "safe" and regarded as respecting human rights: Albania, Benin, Bosnia and Herzegovina, Cape Verde, Croatia, Georgia, Ghana, India, Macedonia, Madagascar, Mali, Mauritius, Mongolia, Niger, Senegal, Tanzania, and Ukraine. Some human rights observers, including UNHCR representatives, questioned whether all these countries could accurately be characterized as "safe." Inclusion on the list of safe countries of origin had significant consequences for asylum seekers who were nationals of one of these countries: authorities systematically refused their applications for temporary residence permits, thus denying them the social rights granted to other asylum seekers.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law give citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Individuals without a fixed domicile and who must carry travel documents were permitted to vote in municipal elections only after a three-year period of "attachment" to a municipality. Roma groups asserted that this requirement, which is based on special legislation applied only to itinerant groups, was discriminatory since other citizens, including the homeless, were able to vote after an attachment period of only six months.

*Elections and Political Participation.*—The most recent national legislative and Presidential elections took place in 2002 and were free and fair.

The citizens of Mayotte and the territories of French Polynesia, Wallis and Futuna, and New Caledonia determine their legal and political relationships to the rest of the country by means of referendums and, along with the overseas departments, elected deputies and senators to the parliament.

In February new elections were held for 37 of the 57 seats in the Polynesian National Assembly and were considered generally free and fair; the Council of State had annulled the results of the November 2004 elections because of irregularities.

There were 129 women in the two chambers of the 908-seat legislature and six female ministers in the 32-member cabinet. Women made up 48 percent of municipal council members but held only 6.7 percent of mayoral positions. Political parties are required to present voters lists containing equal numbers of male and female candidates, within two percentage points; however, in March the NGO Observatory for Parity between Men and Women reported that the three major political parties had been fined for failing to fulfill this requirement in the 2002 elections.

The law prohibits the Government from collecting information about the racial or ethnic background of its citizens; therefore, no statistics on minority participation in the Government were available. However, minorities appeared to be significantly underrepresented in the Government.

*Government Corruption and Transparency.*—On May 30, the Paris prosecutor's office opened an investigation of 11 citizens suspected of involvement in corruption related to the UN "Oil-for-Food" program in Iraq. On April 5, former interior minister Charles Pasqua came under formal investigation for possible influence peddling in order to profit from this program. Pasqua denied the charges.

On July 5, a Paris court convicted 38 persons in a financing scandal involving city officials from 1987 to 1993. The court gave the defendants suspended prison sentences of two months to two years and fines of up to approximately \$131,000 (100,000 euros). Among those convicted were four former senior officials in the Paris

public housing agency. Investigators charged that approximately 20 public works companies paid more than approximately \$7.4 million (5.7 million euros) from 1991 to 1994 to Jean-Claude Mery, an official in the governing party at the time.

In May 2005 the political party, Union for a Popular Movement (UMP), agreed to repay the city of Paris for municipal salaries illegally paid to a number of individuals who in fact had been working for the UMP's predecessor, the Rally for the Republic Party. The UMP was to reimburse the city approximately \$1.17 million (890,000 euros) for the fictitious salaries, plus legal expenses and interest. According to press reports in September, the UMP paid the reimbursement, but Paris city government officials did not publicly confirm receipt of payment.

In May the anonymous informant at the heart of a scandal that the media labeled the Clearstream affair was identified as a senior executive at the European Aeronautic Defense and Space Company (EADS), a defense firm. According to media accounts, the executive, a friend to Prime Minister de Villepin, compiled a bogus list linking politicians to offshore bank accounts. Targets included Minister of the Interior Sarkozy. General Philippe Rondot, a retired spy, has testified that Prime Minister de Villepin asked him to investigate Sarkozy.

Corruption charges remained pending against President Jacques Chirac; however, as long as he remains in office, the President is immune from prosecution.

The law provides for public access to government information, and the Government provided access in practice for citizens and noncitizens, including foreign media.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights organizations generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these prohibitions. However, violence against women and children, child marriage, trafficking in persons, and acts of ethnic hostility and discrimination were problems.

*Women.*—While not common, violence against women was a problem. The law prohibits violence against women, including spousal abuse, and the Government generally enforced it. During the first nine months of the year, according to a new study by the Ministry of Employment, Housing, and Social Cohesion, 113 homicides were attributed to domestic violence. Of these, 95 victims were women, and more than half of male victims had a record of violently abusing the women who killed them. The penalties for domestic violence vary according to the type of crime and range from three years' imprisonment and a fine of approximately \$58,950 (45,000 euros) to 20 years' imprisonment. The Government sponsored and funded programs, including shelters, counseling, and hot lines, for women who were victims of violence. Numerous NGOs also assisted abused women.

Rape, including spousal rape, is illegal, and the Government generally enforced the law effectively. Rape occurred rarely. The Ministry of Interior reported that the number of rapes fell by 24.88 percent (from 10,506 to 9,993 cases) over the previous year. Reported sexual harassment cases for the same period dropped by 11.8 percent. These statistics did not specify the gender of the victims.

The penalty for rape is 15 years' imprisonment, which may be increased due to other circumstances, such as the age of the victim or the nature of the relationship of the rapist to the victim. The Government and NGOs provided shelters, counseling, and hot lines for rape victims. The press and NGOs reported that a "repressive atmosphere" existed in some suburbs of Paris inhabited primarily by immigrants from North African countries, causing women to be intimidated. Some men in these suburbs reportedly sought to intimidate women whom they perceived as violating social norms, using methods ranging from verbal abuse to physical assault and gang rape.

According to the Ministry of Employment, Housing and Social Cohesion, the law treats female genital mutilation under the criminal offense of "violence involving mutilation or permanent infirmity." It is punishable by up to 10 years in prison and a fine of approximately \$196,000 (150,000 euros). The sentence increases to 15 years if the crime involves children 15 years old or younger.

Prostitution is legal; however, the law prohibits procuring, including aiding, assisting, maintaining, or profiting from the prostitution of another. Public solicitation

is illegal. Enforcement of these laws varied, and criminal activity related to prostitution remained a problem.

On October 29, authorities announced the successful dismantling of an extensive prostitution ring operating between the country and Bulgaria. Police carried out simultaneous raids in Nancy and in Bulgaria and arrested 20 persons, including the four leaders of the network.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking). A government agency, the Central Office for Action against Trafficking in Humans (OCRETH), addressed trafficking in women, prostitution, and procuring.

Sex tourism to other countries was a problem that the Government took steps to address. The law includes extraterritorial provisions that apply domestic law to sexual offenses committed abroad by French citizens or residents.

In May 2005, 20 leading tourism companies signed a charter with the tourism minister pledging to increase their efforts to combat child sex tourism.

In March the Government announced the creation of positions related to sex tourism in embassies located in six countries considered most susceptible to child sex tourism. Embassy officials were expected to provide education about combating child sex tourism, assist in prosecutions of French nationals who might be involved, and help victims approach authorities.

The law prohibits gender-based job discrimination and harassment of subordinates by superiors, but it does not apply to relationships between peers. Sexual harassment was not widely considered a problem in the workplace. Both the Government and NGOs widely publicized the laws, and the Government enforced them effectively.

Under the constitution and law, women have the same rights as men, including rights under family law, property law, and in the judicial system. The Ministry of Parity and Equality is responsible for the legal rights of women.

The law requires that women receive equal pay for equal work; however, reports by various governmental organizations and NGOs indicated that there was a gender pay discrepancy of around 25 percent, according to the European Industrial Relations Observatory. Women continued to face difficulties in attaining positions of responsibility. According to a study by the Government's statistical agency, fewer than 20 percent of executives in the private sector were women, and although they made up 57 percent of the public workforce, women were underrepresented in managerial jobs and positions of responsibility. They were also underrepresented in political life (see section 3). Unemployment rates also remained higher for women than for men.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. The Ministry for Family Affairs oversees implementation of the Government's programs for children.

Public schooling is provided free through the age of 18, and education is compulsory for citizens and noncitizens from the ages of six to 16. However, after unrest in October 2005 in which minors were disproportionately involved, the Prime Minister proposed that some youth be allowed to leave school at age 14 to enter into apprenticeships. Although not compulsory, preschool and kindergarten for children under age six is free and widely available. According to the Government's statistical service, during the 2003–2004 school year attendance by children remained at 100 percent from age three to age 13; however, for children aged 14, 15, and 16 the percentages dropped to 99.6, 98.6, and 97.3 respectively. Most children completed the equivalent of high school. There was no evidence of significant differences between the attendance of girls and boys at the primary, secondary, and postsecondary levels.

The Government provided universal health care to all residents, and boys and girls had equal access.

Although not common, child abuse was a problem. There are strict laws against child abuse by parents or guardians, and the Government generally enforced the law effectively and prosecuted abusers. The law provides for a government children's advocate, a position charged with defending and promoting children's rights as defined by law. However, a 2003 report by a rapporteur for the UN Commission on Human Rights criticized the justice system and a government-chartered doctors' group for their handling of child sex abuse cases. The rapporteur concluded that "many individuals in a position of responsibility for the protection of children's rights, particularly within the judiciary, are still largely in denial about the existence and extent of this phenomenon." Among the rapporteur's remedial recommendations was that a children's ombudsman (*Defenseure des enfants*) should be fully resourced and provided with an adequate number of staff to receive and inves-



tigate future cases where there appears to have been a failure of justice concerning children's rights."

A case involving the kidnapping and selling of babies from Bulgaria was pending at year's end. In October 2005 authorities arrested 15 persons and rescued seven babies in connection with a ring discovered in 2004. A Romani family in Bulgaria headed the network, which sold babies to other Romani families for approximately \$6,310 to \$7,860 (5,000 to 6,000 euros). OCRETH continued to work with Bulgarian authorities on the investigation.

According to the Ministry of Interior, the number of reported rapes committed against minors fell by 9.88 percent between 2004 and 2005. The Government provided counseling, financial aid, foster homes, and orphanages for victims, depending on the extent of the problem. Various NGOs also helped minors seek justice in cases of mistreatment by parents.

Child marriage was a problem, particularly in communities maintaining cultural ties to their African and Asian origins. Although such marriage ceremonies took place primarily outside the country, authorities took steps to address the problem. In 2003 the French Integration Council (HCI) reported that there were approximately 70,000 girls in the country between 10 and 18 years of age, primarily from North Africa, Sub-Saharan Africa, and Turkey, who faced the prospect of a forced marriage. Women and girls could seek refuge at shelters if their parents or guardians threaten them with a forced marriage, and parents may be prosecuted for forcing their children into marriage. The Government offered some educational programs to inform young women of their rights. The HCI said it was important to distinguish between arranged and forced marriages. Both houses of parliament have passed laws to harmonize the minimum legal age of marriage for boys and girls at age 18.

Trafficking in girls was a problem (see section 5, Trafficking).

*Trafficking in Persons.*—The constitution and law prohibit the trafficking of persons; however, trafficking in women and children for sexual exploitation, forced domestic labor, and petty crime was a problem (see section 6.d.).

The country was a destination for victims, primarily women, trafficked from Africa, Central and Eastern Europe, and the former Soviet Union for the purposes of prostitution and domestic servitude. Police estimated that 90 percent of the 15,000 sex workers in the country were trafficking victims. Many children, including many Romani children, were trafficked from Romania.

Trafficking of Brazilian women and girls to French Guiana for sexual exploitation was a problem.

An increasing number of Chinese nationals were involved in prostitution in Paris and the surrounding region, a fairly new phenomenon. A 2005 report by the International Labor Office Organization estimated that there were approximately 50,000 Chinese immigrants in the country illegally; many having arrived by means of networks that subsequently exploited them. According to the report, there were approximately 6,000 new arrivals annually.

Traffickers operated principally in small criminal networks. NGOs and police characterized the bulk of trafficking operations as "microtrafficking networks" that included both citizens and foreigners. They used various methods to recruit and retain victims including force, fraud, confiscating the victims' identification documents, isolating them culturally, and abusing them physically and psychologically. Some victims who came to the country willing to work as prostitutes were subsequently exploited by pimps and traffickers. In other cases traffickers kidnapped or "bought" women and girls elsewhere and sold them to Balkans-based prostitution networks that trafficked them into the country.

The specific crime of human trafficking was first introduced in a 2003 law that offers protection for men and women forced to enter prostitution. Apart from social assistance, trafficking victims may be given a provisional residence permit on condition that they cooperate with police in securing the arrest of the person controlling them. If the latter is convicted, the victim may be issued with a residence card.

Trafficking in persons is punishable by up to seven years' imprisonment and a fine of up to approximately \$196,000 (150,000 euros). The punishment for inducing a minor to beg is punishable by two years' imprisonment and a fine of approximately \$59,000 (45,000 euros). In the case of a minor under 15 years of age, the offence is punished by three years' imprisonment and a fine of approximately \$98,000 (75,000 euros). Direct inducement of a minor to habitually commit felonies or misdemeanors is punished by five years' imprisonment and a fine of approximately \$196,000 (150,000 euros). Direct inducement by promises, offers, pressure, threats, or violence to commit a felony is punishable up to by seven years' imprisonment and a fine of approximately \$131,000 (100,000 euros). The commission without violence, constraint, threat or surprise of a sexual offence by an adult on the person

of a minor younger than 15 years of age is punished by five years' imprisonment and a fine of approximately \$98,000 (75,000 euros). However, under the trafficking-related sentencing guidelines, sentences for some types of convictions, such as those involving rape, were light. Exploiting foreign laborers and exposing them to inhumane conditions are criminal offenses under other statutes and are punishable by up to three years' imprisonment or substantial fines.

Several law enforcement agencies were involved in the effort to combat trafficking. The Government regularly cooperated on a bilateral basis or with international institutions such as the European Police Agency (Europol) to investigate, track, and dismantle trafficking rings. Authorities worked with officials in other countries, particularly source countries, to counter human trafficking.

The Government reported that in 2005, in Paris alone, it issued 306 temporary residence permits, 197 of them renewable, under a government protection program to aid trafficking victims who chose to cooperate with police and judicial authorities. Victims who declined to cooperate with authorities were considered illegal immigrants and were sometimes, but not often, detained, jailed, or deported. NGOs criticized the Government's lack of a proactive approach to identifying trafficking victims; the reactive approach employed during the year required alleged victims to identify themselves and denounce their traffickers within 24 hours of detention following arrest, offering victims little time to develop assurances against retribution.

The Government continued to screen and refer victims to counseling centers and safe houses for comprehensive services. The Government assumed child victims to be in danger and provided immediate shelter while assessing the child's best interests.

Numerous NGOs dealt with trafficking in persons and prostitution. Social Aid to Children, the national social services branch for child care, was responsible for caring for and assisting victims under the age of 22.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, and in the provision of other state services; the Government generally enforced these provisions effectively.

The law requires new public buildings to be accessible to persons with disabilities; however, many older buildings and public transportation were not accessible. In October a lawyer in Pas-de-Calais, Maitre Bleitrach, lost her appeal in a discrimination case against the Justice Ministry in which she asserted that the inaccessibility of most court facilities in her region prevented her from carrying out her professional duties. The appeals court ruled that the scope of the inconvenience did not rise to the standard requiring public remediation. At year's end, Ms. Bleitrach was considering the possibility of bringing her case to the ECHR.

Nearly 28 percent of persons with disabilities were unemployed, roughly three times the national unemployment rate. The law requires companies having more than 20 employees to ensure that 6 percent of their employees are persons with disabilities. Companies found not to be in compliance are liable to fines, which go to an association that assists persons with disabilities in finding work. However, many companies admitted to being unaware of their legal obligations, and the average employment rate of persons with disabilities for those companies subject to the law was approximately 4 percent.

In February 2005 parliament passed a law to compensate persons for the consequences of disability and to promote their integration into the country's social life by requiring accessibility to buildings and access to education and employment. The law seeks to involve persons with disabilities in the decision-making process on these issues. It increased fines for companies not in compliance with the legal requirements concerning the employment of persons with disabilities, penalizing those who have not made significant efforts to meet their legal obligations within three years with fines of 1,500 times the minimum wage. In addition the law calls for centers to be set up in each department to assist persons with disabilities with receiving compensation and employment assistance. Many of the benefits were to have entered into force on January 1. However, implementation has lagged somewhat; as of May 31, only 30 departments had established assistance centers as required by law.

*National/Racial/Ethnic Minorities.*—In its annual report, released in March, the NCCHR reported 974 racist and anti-Semitic incidents in 2005, a drop of 38 percent from the 1,574 recorded in 2004. Violence against immigrants continued to be a problem, particularly on the island of Corsica (see section 2.c.). The Government condemned such incidents and took steps to address the problem. The attacks caused some families to move to the mainland or return to their countries of origin.

The treatment of the country's large immigrant population, many of whom sought to preserve cultures quite different from traditional French culture, remained a problem. Many observers expressed the view that discriminatory hiring practices prevented minorities from Africa, the Maghreb, the Middle East, and Asia from equal access to the workplace, and a number of NGOs worked to sensitize the public to this problem. The COE cited studies indicating that 50 percent of instances of discrimination related to employment, followed by obstacles to the acquisition of housing, services, and leisure activities. Foreigners, citizens of foreign origin, and persons with foreign-sounding names, were generally the main victims of discrimination.

Roma faced a special set of challenges, and Romani organizations charged that they faced discrimination in education, housing, and access to government services. Housing problems were particularly acute for an itinerant group known as Travelers. A 2000 law on the reception and accommodation of Travelers obliges municipalities of more than 5,000 inhabitants to provide a camping site with facilities and access to water and electricity. As of June 2005 municipal authorities had established only 8,000 campsites. This left a shortfall of over 20,000 sites, according to authorities, and 60,000 sites, according to NGOs (see section 4).

Travelers were subject to other special laws which seemingly were not intended to apply to other citizens. Anyone over the age of 16 not settled in one place must have a travel permit which must be periodically renewed. Any delay in renewal entails heavy fines, approximately \$980 (750 euros) for each day overdue. Anyone found not to be in possession of this document is subject to a sentence of up to one year in prison. Travelers are not entitled to vote until three years after they have been administratively assigned to a municipality. For other citizens, including those with no fixed abode, the qualifying period is 6 months. Authorities did not consider Travelers' caravans to be housing. As a result, Travelers were not entitled to housing assistance.

Citizens may report cases of discrimination to the independent High Authority for the Fight against Discrimination and for Equality (HALDE). According to October 19 press reports, during its two-year existence, HALDE has received 4,736 discrimination claims, 40 percent of them relating to employment discrimination.

On July 17, as a result of a HALDE investigation, a hairdresser was fined a total of approximately \$5,900 (4,500 euros) in the court case on charges that she had refused to serve a client on the basis of race.

Over the last two years, HALDE has persuaded 110 of the 146 companies listed on the country's stock exchange to adopt more transparent internal staffing practices to demonstrate unbiased hiring practices. Other efforts included internal testing carried out by the Sorbonne-affiliated Discrimination Observatory, establishing forums for women executives, and recruitment counseling to avoid legacy hiring.

On September 19, a Paris tribunal levied an approximately \$2,600 (2,000 euro) fine against a law firm for hiring discrimination. The firm had specified that it was seeking to employ citizens. The court also instructed the firm to pay approximately \$5,240 (4,000 euros) in damages to the antidiscrimination NGO, SOS Racism.

On January 18, an appeals court upheld a Lyon court's conviction of three bouncers and fined them a total of approximately \$11,140 (8,500 euros) for discrimination. Subsequently the Ministry of Labor and the NGO Group for Study and Combat of Discrimination established a free hot line for reporting discrimination.

The Government attempted to combat racism and discrimination through programs that promoted public awareness and brought together local officials, police, and citizen's groups. Some public school systems also operated antidiscrimination educational programs.

*Other Societal Abuses and Discrimination.*—The law prohibits discrimination on the basis of sexual orientation in employment or service, public or private. Although there were isolated incidents of violence against homosexuals, authorities pursued and punished offenders.

There were reportedly instances of discrimination based on age. On September 20, HALDE was investigating the complaints of seven unemployed individuals who presented 40 classified advertisements specifying an age limit. The investigators chose 70 businesses, recruitment services, and Internet sites as targets. However, HALDE's efforts have not received widespread judicial support. Prosecutors' offices in other affected regions, including Paris, Rennes, Versailles, and Creteil, have classified ageism complaints as unsubstantiated.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to form and join unions of their choice without previous authorization or excessive requirements, and

workers exercised these rights in practice. Approximately 8 percent of the work force was unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provided for the right to collective bargaining, and workers exercised this right freely. Approximately 90 percent of workers in the formal economy operated under such agreements.

Workers, including civil servants, have the right to strike except when a strike threatens public safety. Workers exercised this right by conducting legal strikes. There are no special laws or exceptions from regular labor laws in the three export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

Although there were press reports that undetermined numbers of undocumented immigrants experienced substandard pay and working conditions, sweatshop conditions were rare due to effective labor law enforcement. In practice abuses were limited to the informal economy, which the World Bank estimated to account for 14–15 percent of GDP.

Forced or compulsory child labor occurred (see section 6.d.). There are strict laws against trafficking in persons for domestic labor, and the Committee against Modern Slavery brought such cases to authorities for prosecution.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits most forms of child employment, and the Government's implementation of laws and policies designed to protect children from exploitation in the workplace was generally effective. Children under 16 are prohibited from working, with a few exceptions for those enrolled in certain apprenticeship programs or working in the entertainment industry. In general minors (persons under 18) are prohibited from performing work considered arduous. All minors are forbidden to work between 10 p.m. and 6 a.m. Those younger than 16 may not work after 8 p.m.

Police estimated in 2005 that 3,000 to 8,000 children were forced into prostitution and labor, including begging. During the year police reported 14 cases of minors illegally employed.

Labor inspectors, who have the authority to take employers to court for non-compliance, enforced the laws related to child labor.

Trafficking in children was a problem (see section 5).

*e. Acceptable Conditions of Work.*—The national minimum wage was \$10.83 (8.27 euros) per hour, as adjusted on July 1. It provided a decent standard of living for a worker and family. The minimum wage was the same throughout the country, despite wide regional variations in the cost of living, and applied to any worker holding a regular working contract, whether or not he was a citizen. The employment ministry was responsible for enforcing the minimum wage. Certain categories of employment, including subsidized employment and internships, must conform to separate, clearly defined, standards and provide salaries inferior to the minimum wage. Employers generally adhered to the minimum wage requirement, with the exception of those in the informal economy.

The official workweek was 35 hours; however, in certain industries the Government allowed a greater number of overtime hours that could result in a de facto 39-hour workweek. Overtime was limited to 180 hours annually. Maximum hours of work were fixed at 10 hours per day, 48 hours per week, and an average of 44 hours per week over a 12-week work period. Employees were entitled to a daily rest of at least 11 hours and a weekly break of 24 hours, not including the daily rest period. Employers were required to give workers a 20-minute break in a six-hour workday. Premium pay was mandatory for overtime. These standards were effectively enforced.

The law sets basic occupational health and safety standards. The Ministry of Social Affairs, Labor, and Solidarity was responsible for enforcing the laws and did so effectively. Workers have the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment, and the Government effectively enforced this right.

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## GEORGIA

The constitution of the Georgian republic provides for an executive branch that reports to the President, a unicameral Parliament, and an independent judiciary.

The country has a population of approximately 4.4 million. In 2003 former President Shevardnadze resigned during what became known as the Rose Revolution. Mikheil Saakashvili won the presidency in 2004 with over 90 percent of the vote in an election, and his National Movement Party won a majority of seats in the Parliament. International observers determined that the 2004 Presidential and parliamentary elections represented significant progress over previous elections and brought the country closer to meeting international standards, although several irregularities were noted. Civilian authorities generally maintained effective control of the security forces.

The Government's human rights record improved in some areas during the year, although serious problems remained. While the Government took significant steps to address these problems, there were some reports of deaths due to excessive use of force by law enforcement officers, cases of torture and mistreatment of detainees, increased abuse of prisoners, impunity, continued overuse of pretrial detention for less serious offenses, worsened conditions in prisons and pretrial detention facilities, and lack of access for average citizens to defense attorneys. Other areas of concern included reports of government pressure on the judiciary and the media and—despite a substantial reduction due to reforms led by the President—corruption.

During the year the Government took significant steps to improve the human rights situation. One notable example was its stepped up effort to combat human trafficking, which included adoption and implementation of a new antitrafficking law that resulted in 16 convictions of traffickers. The Government also continued a broad reform of the justice system to improve the investigation and prosecution of some law enforcement abuses and increase the independence of the judiciary.

De facto authorities in the separatist regions of Abkhazia and South Ossetia remained outside the control of the central government; ceasefires were in effect in both areas, although incidents of violence, including deaths, occurred in both areas. In both Abkhazia and South Ossetia, deprivation of life, arbitrary arrest, and detention continued to be problems.

During the year de facto authorities in Abkhazia restricted the rights of citizens to vote and to participate in the political process via a citizenship law that forced ethnic Georgians to give up their Georgian citizenship. They also failed to allow the opening of a UN human rights office, deployment of a UN civilian police contingent, or instruction in Georgian language in the Gali district of Abkhazia.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings. In July four ministry of internal affairs officers were convicted in the January beating death of Sandro Girgvliani. The prosecutor general's office opened investigations into reports that the police used excessive lethal force to apprehend criminal suspects. In August a police officer was convicted in the 2004 shooting death of Amiran Robakidze. There were reports of arbitrary and unlawful killings in the separatist areas of South Ossetia and Abkhazia, areas not under government control.

On March 27, special forces units entered Tbilisi Prison No. 5, a pretrial detention facility designed to hold 1,500 but which was housing a population of 3,700 detainees, to quell a disturbance, resulting in the deaths of at least seven detainees. The Government subsequently released a videotape showing members of the Thieves-in-Law, a network of organized crime gangs, planning the uprising in order to disrupt the Government's efforts to break the gangs' influence. In May the Ministry of Internal Affairs released records of phone conversations between a reputed gang boss and detainees in Prison No. 5 during which the boss gave instructions and encouragement to the detainees. NGOs and the public defender's office disputed this conclusion and alleged that sustained abuse of detainees by prison officials, including the head of the penitentiary system, sparked the incident. The public defender further alleged that the Government understated the extent of prisoner death and injuries resulting from the operation and that seriously injured detainees were denied medical care for injuries sustained in the operation. The public defender, the Organization for Security Cooperation in Europe (OSCE), and NGOs

called for an independent inquiry into allegations that the special forces had used disproportionate force to quell the disturbance. The prosecutor general's office opened an investigation into the lawfulness of the actions taken by law enforcement during the incident. The investigation continued at year's end.

In July Gia Alania, Avtandil Aptsiauri, Aleksandre Ghachava and Mikheil Bibiluri, officers in the Ministry of Internal Affairs' Department of Constitutional Security, were convicted in the January beating death of Sandro Girgvliani and

were sentenced to seven years' imprisonment. Alania admitted in a pretrial statement that he and his fellow officers abducted and then beat Girgvliani and his friend Levan Bukhaidze after they heard the two men make disparaging remarks about senior ministry officials outside a Tbilisi bar. NGOs criticized the thoroughness of the investigation, which initially was conducted by the Ministry of Internal Affairs and on March 6 was transferred to the prosecutor general's office, and the fairness of the verdict. They claimed that government authorities had not comprehensively investigated the alleged involvement of four senior interior ministry officials, Guram Donadze, Vasil Sonadze, Dato Akhalia, and Oleg Melnikov, as well as Tako Salkaia, the wife of the minister of internal affairs, whom the NGOs asserted had ordered the beatings after an altercation with Girgvliani and Bukhaidze inside a Tbilisi bar. Senior government officials, however, stated that there was no evidence to implicate anyone else in the murder despite their offer of a plea bargain to the convicted officers.

As part of a broad effort by the Government to fight organized crime, prison authorities removed members of the Thieves-in-Law from their privileged cells, which often contained luxuries such as flat screen televisions, and isolated them from the general prison population. NGOs reported, however, that during and following this process, prisoners were severely beaten and abused by prison authorities who often wore masks to conceal their identities. There are unconfirmed reports that three prisoners died during the effort.

On August 10, police officer Grigol Bashaleishvili was sentenced to four years' imprisonment in connection with the 2004 shooting death of Amiran Robakidze. Initially, the ministry of internal affairs reported that Robakidze had been shot while police were trying to apprehend an armed gang and then released video footage showing assault rifles that had allegedly been seized from the car in which Robakidze had been riding. A subsequent investigation revealed that the police had planted the evidence. The prosecutor general's office continued its investigation at year's end into allegations that interior ministry officials fabricated evidence to conceal police culpability in the shooting of Robakidze.

During the year, to address a serious crime problem dating back to the immediate post-independence period when organized crime and armed gangs operated openly, the Government announced a "zero tolerance" of crime policy. NGOs criticized the policy which they claimed violated the presumption of innocence and resulted in a reported 12 deaths in Tbilisi from the excessive use of force by police.

In a May statement, the minister of internal affairs rejected NGOs' claims that the police were using excessive force in arresting suspects. He stated that as a result of the Government's successful anticorruption efforts, criminals could no longer resort to bribing police or judges to avoid prison sentences and resorted instead to violent means to avoid arrest by police.

The office of the prosecutor general's investigations into five of the 12 deaths highlighted by NGOs—a May incident involving Aleksandre Khublovi and Zurab Vazagashvili, suspects in an assault case, and a March incident involving Murman Movsesiani, Gela Gaidenini, and Levan Darsadze, suspected members of an organized crime gang—continued at year's end. In December the prosecutor general's office concluded after its investigation of a February incident involving Zviad Babukhadia, Butkhuz Kizira, and Valeri Bendeliani, suspected members of an organized crime gang, that police had not used excessive force in their efforts to apprehend the suspects and had only fired when the suspects had fired on them.

Two police officers were suspended pending an investigation of the December 6 death in Kutaisi of Valeri Pkhakadze, who was allegedly shot and beaten by police investigating a break-in.

Appellate proceedings were still pending at year's end in the 2004 conviction of police officer Roland Minadze on charges of falsification and fabrication of evidence in connection with the 2004 beating and subsequent death of Khvicha Kvirikashvili. After his conviction was initially returned by the Supreme Court to the Tbilisi City Court for rehearing in October 2005, Minadze was released under police supervision pending the rehearing.

Minadze subsequently disappeared and was convicted in absentia and sentenced to four years' imprisonment in December 2005.

Despite ceasefires, killings were committed by elements on both sides of the separatist conflict in South Ossetia. The de facto South Ossetian authorities did not investigate, prosecute, or punish anyone for previous killings such as the October 2005 fatal shooting of Givi Chukhrukhidze.

Violence continued in Abkhazia. In February 16-year-old Zviad Pirtskhalava was killed by an armed gang who attacked his family in the Barghbi village. In August Demur Gogokhia and Manuchar Patsulaia were allegedly killed while in the custody of Abkhaz de facto law enforcement personnel. No investigations were conducted by

Abkhaz de facto authorities into the deaths of Meri Jalagonia, who was killed in March 2005 by an armed gang that also beat her family; Lasha Rigvava, who was killed in April 2005 in an incident involving Russian peacekeeping forces; and Tsiuri Margania, whom Abkhaz militants killed in May 2005.

Both government and Abkhaz forces laid tens of thousands of landmines during the 1992–93 fighting. During the year there were no reports of deaths from landmines in Abkhazia. However, individuals in Abkhazia were injured in mine explosions. In December Dmitri Katsia, de facto administrator of the Repi village in the Gali region, was injured in a landmine explosion.

Landmines posed a threat in South Ossetia. In August a Russian peacekeeper was injured in a landmine explosion near the village of Kekhvi. In October, also near the village of Kekhvi, one Georgian man was killed and another injured in a landmine explosion.

*b. Disappearance.*—There were no reports of politically motivated disappearances perpetrated by the Government. However, conflict-related disappearances and kidnappings were frequent during the year in the separatist regions (see section 1.g.) of Abkhazia and South Ossetia.

In January armed gangs kidnapped 14 ethnic Georgians from the villages of Nabakevi and Gagida in Abkhazia and 30 young men from Gali. The whereabouts of Gocha Djaremlishvili, who was kidnapped in July 2005, remained unknown.

The Abkhaz continued forcefully conscripting underage male ethnic Georgians living in the Gali region of Abkhazia into the army.

Government and Abkhaz commissions on missing persons reported that more than 1,000 Georgians and several hundred Abkhaz remained missing as a result of the 1992–93 war in Abkhazia (see section 1.g.). The International Committee of the Red Cross (ICRC) assisted joint official efforts to fulfill the country's obligations under international humanitarian law to provide information to the families of missing persons. This included the determination of gravesite locations and the exhumation, identification, and repatriation of remains to the families. No repatriations occurred during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, although they occurred. During the year the Government took steps to implement changes to the Code of Criminal Procedure adopted in 2004 and 2005 to address torture and mistreatment and initiated at least 68 investigations during the year (see section 1.d.).

In January Mikheil Chkeidze alleged police officers mistreated him in the Bagdadi region. An official investigation was pending at year's end.

On February 12, Batumi police patrol officer Mamuka Jincharadze reportedly severely beat Jemal Baramidze of Batumi with his pistol, after stopping him for speeding, causing serious injury. In August the Kehlvaichauri District Court convicted Jincharadze of exceeding authority and sentenced him to three years' imprisonment. Jincharadze's appeal was pending in the Kutaisi Appellate Court at year's end.

In May Eduard Jaogli alleged police officers mistreated him in the Isani-Samgori police station. An official investigation was pending at year's end.

In September Gia Razmadze alleged mistreatment by police officers in the Kvemo Kartli region. An official investigation was pending at year's end.

In November Avtandil Khvinchiashvili alleged police officers mistreated him in the Gladani-Nadzaladevi police station. An official investigation was pending at year's end.

A special commission investigation continued at year's end into the alleged April 2005 beating of inmate Eldar Konenishvili in Prison No. 1 and later at Gurdzhani police station. As part of its investigation, the special commission interrogated prisoners, officials and medical personnel in Prison No. 1, escorting officers, and law enforcement officers and other witnesses at Gurdzhani police station. The commission also reviewed results of an April 2005 medical examination of Konenishvili, which included a computer-assisted tomography scan, magnetic resonance imaging, and x-rays. In December 2005 the police officer who allegedly beat Konenishvili was removed from his position.

The prosecutor general's office did not release any results in its investigation into the 2004 allegation of torture of former chief of the State Audit Agency Sulkhan Molashvili while in pretrial detention. The office stated that its investigation was hampered by Molashvili's refusal to cooperate. As directed by the European Court of Human Rights (ECHR), the Government established a parity commission to examine Molashvili's health. The prosecutor general's office stated that the commission's efforts were also initially hampered by Molashvili's uncooperativeness. In June the Court of Appeals affirmed Molashvili's sentence to eight years' imprison-

ment for abuse of power and misappropriation of funds. Molashvili's attorneys announced their intention to appeal the sentence to the ECHR, where another case alleging that the prosecution of Molashvili was politically motivated was already pending. At year's end Molashvili was being held in a prison hospital.

Human rights advocates reported that, because of ongoing unannounced and random monitoring of police stations, allegations of abuse by law enforcement officials at police stations remained low. However, they reported that the number of detainees registered with signs of abuse upon arrival at police stations or pretrial facilities remained high. Amnesty International (AI), domestic NGOs, and the public defender's office reported a large number of cases in which a detainee reportedly sustained injuries resulting from police mistreatment during arrest. The police claimed injuries were either pre-existing or the result of detainee resistance.

Law enforcement officers reportedly tortured or abused detainees in their homes or in cars while taking them to a place of detention. There were also allegations that plainclothes security service agents attacked several people on the street or abused them in unpopulated places, such as cemeteries or forests. In January four Ministry of Internal Affairs officers abducted Sandro Girgvliani and Levan Bukhaidze from a Tbilisi street and beat them at a cemetery. Girgvliani died as a result of the beating and, in July, the four officers were convicted and sentenced to seven years in prison. No charges were brought in connection with Bukhaidze's beating (see section 1.a.).

The public defender's office reported that, in the first six months of the year, monitoring groups conducted 307 visits to police stations throughout the country. This was a decrease from 2005, when the monitoring groups conducted 1,763 such visits. The public defender's office diverted resources for monitoring of police station isolators to increased monitoring of pretrial and prison facilities due to the deteriorating situation in those facilities.

During the year there were several cases of police officers brought to trial, dismissed, or demoted for abuses; however, impunity remained a problem, particularly in outlying regions (see section 1.d.). NGOs continued to claim that close ties between the prosecutor general's office and the police hindered their ability to substantiate police misconduct and believed the continuing lack of professionalism and independence of the judiciary made it unresponsive to torture allegations. As a result, despite implementation of positive reforms, NGOs claimed law enforcement officials could still resort to torture or mistreatment with limited risk of exposure or punishment. NGOs also believed a lack of adequate training for law enforcement, as well as low public awareness of the protections afforded citizens, impeded improvements.

According to statistics from the ministry of internal affairs, of the 18,083 detainees held during the year, 2,962 (16 percent) were registered with injuries, 191 of whom claimed to have been beaten by police. Of the 105 cases investigated by the general inspector's office of the ministry, 70 cases were referred to the prosecutor general's office. According to the public defender's office, during the first six months of the year, the police station groups monitoring police station isolators noted 384 breaches in 307 observed cases including, for example, instances of mistreatment, warrantless searches, and failure to

inform detainees of their rights. The public defender's office noted that the monitoring groups found no instances where police officers had incorrectly registered a detainee upon arrival at the police station, which previously had been a means for police officers to conceal abuse.

The courts implemented additional amendments to the criminal procedure code adopted in 2005, which were intended to discourage law enforcement officers from engaging in torture and abuse. The amendments exclude evidence obtained in violation of the law and require that confessions given by detainees during detention be ratified in court before being admissible as evidence.

All law enforcement officers and representatives of the prosecutor's office, except for officers of the special police unit, were required to wear identity badges during meetings with detainees and prisoners. Special police units were exempted to protect members' anonymity. NGOs believed this prevented accountability for any abuse by the units. Despite 2005 legislative reforms, prisoners continued to allege abuse by masked prison authorities wearing no identifying numbers or symbols.

There were still significant obstacles to bringing cases of police torture and mistreatment to light. NGOs reported victims often did not report abuse, fearing police retribution against them or their families. The public defender's office was aware of several cases of apparent abuse, but the detainees who had visible injuries later refused to report abuse, became uncooperative in the investigation, or withdrew their earlier complaint.



*Prison and Detention Center Conditions.*—During the year the Ministry of Justice, which includes the department of prisons, launched a comprehensive multiyear effort to reform all aspects of the penitentiary system. This first year was funded by an 87 percent increase in the Government's budgetary allotment compared with 2005 for the Department of Prisons. During the same period, however, the inmate population grew approximately 68 percent, eroding some of the benefits that could have been realized by the increased budgetary allotment.

The Justice Ministry opened new prisons that met international physical standards in Rustavi and Kutaisi as well as new separate pretrial detention facilities for male juveniles and women. While male juveniles were held separately from adult males, female juveniles continued to be confined with adult females. Juvenile detainees were not provided educational opportunities despite sometimes being confined for extended periods.

Despite the opening of new and remodeled facilities, conditions in prison and pretrial detention facilities generally remained poor, did not meet international standards, and even worsened during the year. The ICRC, the public defender's office, the OSCE, and many NGOs, including Human Rights Watch (HRW), continued to report inhumane and life-threatening conditions, including poor facilities, overcrowding, and inadequate nutrition and health care. Most prison and pretrial detention facilities lacked adequate sanitary facilities. Abuse of prisoners by prison staff increased, while extortion continued, according to the public defender and NGOs including HRW.

The majority of prisons and pretrial detention facilities were severely overcrowded, sometimes at double their capacity, due to the increased prison population. NGOs attributed the increase to the Government's aggressive "zero tolerance" anticrime campaign and a case backlog resulting from an understaffed and inexperienced judiciary. An estimated 63 percent of inmates were detainees awaiting trial.

Despite statements by the Ministry of Justice that the March 27 incident (see section 1.a.) destroyed Tbilisi Prison No. 5 and made it unsuitable for housing detainees, the prison continued to be used as a pretrial detention facility.

Since December 2005 HRW noted a serious increase in the number of reports of frequent beatings and degrading treatment of inmates, such as repeated strip searches sometimes conducted outside in winter weather. In March, after the public defender's office called for an investigation, the prosecutor general's office opened an investigation into the beating of Iago Tsikvadze in Tbilisi Prison No. 1. According to a statement Tsikvadze gave to the public defender's office, he was severely beaten by prison officials, including the head of the prison, Temur Tabaghua. Tsikvadze also stated that prison officials denied his requests to see a doctor. At year's end the prosecutor general's office stated that Tsikvadze's attorney had not yet responded to its request to question his client.

In a report to the UN Committee Against Torture, NGOs reported that on January 11, prison officials moved Shalva Ramishvili of independent TV 202 (see section 2.a.) from his regular cell to a carcer, a small disciplinary solitary confinement cell, which Ramishvili alleged lacked necessary ventilation and sanitary facilities. He was reportedly held there for four days.

Despite recent increases in government funding for prisoner well-being, prisoners often relied on packages from family for necessary food, clothing, and hygiene items. As a result of policy changes in June, however, inmates in some facilities reported not being able to receive packages, correspond with family members and, in some limited cases, have the opportunity to meet with their lawyers. Prison officials also reportedly arbitrarily restricted visits by family members in violation of the law. In December sundry shops were opened in Rustavi Prison No. 6 to reduce reliance on packages from outside sources which had been a conduit for smuggling contraband into the prison.

During the year prison authorities ended the influence of the Thieves-in-Law organized crime gangs network, which since the Soviet era had exercised de facto control of prisons through bribes, extortion, and violence. The gangs also coordinated criminal activity outside prisons by using contraband mobile telephones. Gang members were isolated from the general prison population and subjected to 24-hour surveillance. During the year lawyers and family members were denied access to these prisoners (see section 1.a.). According to HRW, in some cases, the treatment of detainees in Tbilisi Prison No. 7, where authorities detained those it considered to be members of the gangs, rose to the level of torture.

Salaries for prison guards were increased and paid regularly. Although corruption among guards diminished since the isolation of the Thieves-in-Law gangs, which used a system of obshiak to extort money from fellow prisoners in order to bribe prison officials, some guards reportedly demanded money from inmates' family members. Nevertheless, according to prison officials, the surge in turnover in prison

guards was due in part to the loss of income from bribes and also to prison authorities' intolerance of this behavior.

The Ministry of Justice established a Penitentiary and Probation Training Center at which all new employees were required to complete training in human rights standards. The conveying service within the department of prisons was reformed to eliminate delays in transporting inmates to court proceedings. Previously corruption and inefficiencies resulted in frequent delays and postponements of court proceedings.

The investigative service of the department of prisons within the Ministry of Justice conducted investigations into allegations of misconduct committed by prison officials. During the year the investigative service opened 281 investigations of allegations that prison officials brought prohibited items such as illegal narcotics onto prison grounds. For example, in October Ramaz Gabisonia, an official in the women's prison, was detained on charges of bribery and possession of prohibited items on prison grounds. The investigative service also initiated 16 criminal investigations of alleged violations of prisoner rights. All investigations were pending at year's end.

NGOs reported violence among prisoners continued during the year. The public defender's office reported that following an incident in the juvenile detention facility when an inmate was doused with boiling water by other inmates, their office intervened to obtain medical treatment for the injured juvenile.

During the year the penitentiary system mortality level worsened. The Justice Ministry reported that 92 inmates died in the prison system compared with 46 deaths during 2005. Of the 92 deaths, four were reportedly suicides. From early July to late September, when inadequate conditions were exacerbated by very high seasonal temperatures, 31 inmates died. The Justice Ministry made efforts to improve conditions during that period by providing fans and removing metal window shutters. The public defender's office reported that it frequently petitioned prison officials to obtain necessary medical treatment for inmates.

Attempted suicides and self-mutilation occurred in prisons as protests against declining prison conditions and human rights violations. There were also sporadic hunger strikes by prisoners to protest poor conditions, visitor limitations, and the perceived arbitrary parole policy of the Government.

With the exception of the new prisons in Kutaisi and Rustavi, medical facilities including equipment and medicines were severely lacking. Control over prison hospitals had been transferred to the ministry of labor, health, and social protection; however, there were no mechanisms in place to implement this change. Mortality figures issued by the Ministry of Justice attributed many deaths in the prison system to untreated intestinal infections and cardiovascular disease. While one prisoner died of tuberculosis, NGOs noted that there was a successful tuberculosis testing program implemented in all prisons.

NGOs including HRW reported that the situation for inmates with psychiatric concerns was grave. Authorities did not transfer some inmates suffering from psychiatric problems to medical wards despite court orders requiring it. Reportedly inmates with psychiatric problems sometimes were housed in isolation cells.

The OSCE and the public defender reported difficulty in visiting Tbilisi Prison No. 5 and injured inmates in the immediate aftermath of the March 27 incident (see section 1.a.). Local human rights groups reported difficulty in visiting prisons and pretrial detention facilities in the wake of allegations of abuse by prison authorities. HRW stated that some inmates were unwilling to talk to its representatives and that despite assurances from senior prison officials, prison authorities actively interfered with the NGO's efforts to interview inmates privately.

The Human Rights Protection Unit of the prosecutor general's office had free access to monitor conditions at temporary isolator units at police stations, pretrial detention facilities, and prisons and to respond to reports of torture, inhuman, or degrading treatment. During the year the unit monitored 76 cases related to prisons, which resulted in the initiation of 12 investigations by the prosecutor general's office.

During the year the Justice Ministry began setting up a series of local commissions to monitor conditions at prisons. By requiring that commission members live in proximity to a facility, the ministry believed commission members would take a more active role in monitoring prisons than did members of the former prison monitoring council. Local commissions were fully implemented for 11 facilities including the prison hospital facility and the women and juvenile detention facility. Commission members have the right to make unannounced visits to prison facilities. However, monitoring commissions are not allowed to bring audio or video equipment with them to document prisoner injuries or specific objectionable prison conditions.

Among other concerns, the Batumi Prison No. 3 Monitoring Commission noted in its quarterly report that cells designed for 16 were routinely occupied by up to 36

inmates, that there was no natural ventilation, and that water was not regularly available in the cells. The board also noted that inmates lacked information about their rights. The board noted that prisoners regularly received packages from their families.

The ICRC had full access to detention facilities.

The ICRC also had full access to detention facilities in Abkhazia and South Ossetia. Prison conditions in the two regions were chronically substandard, although overcrowding was reportedly not a problem.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government did not always observe these prohibitions.

*Role of the Police and Security Apparatus.*—The Ministry of Internal Affairs has primary responsibility for law enforcement. During times of internal disorder the Government may call on the ministry or the military. The ministry controls the police, which are divided into functional departments as well as a separate, independently funded police protection department that provides security and protection to private businesses.

Public confidence in the patrol police remained high during the year due to a continuing low incidence of corruption. Higher salaries for police officers provided an incentive for them to refrain from using their positions to extort money from citizens and from mistreatment or abuse of detainees so as to not jeopardize their jobs.

Police misconduct, such as the fabrication or planting of evidence, reportedly decreased; however, allegations persisted that authorities continued to use threats to plant or fabricate evidence against suspects or their families. At year's end the prosecutor general's office continued its investigation launched in August into allegations that Ministry of Internal Affairs officials fabricated evidence to conceal police culpability in the shooting of Amiran Robakidze (see section 1.a).

Authorities arrested or administratively disciplined police officers in high-profile cases of physical abuse or deaths in custody. The human rights protection unit within the general prosecutor's office issued regular updates on the status of cases, trials, and investigations of human rights violations. According to the unit, during the year the general prosecutor's office handled 137 criminal cases concerned with alleged mistreatment, abuse, or torture by law enforcement officers and brought charges against at least 16 law enforcement officials. Seven officials were found guilty.

However, NGOs believed that the incidence of abuse was higher than the number of cases investigated by the prosecutor general's office and that this failure to conduct systematic investigations and pursue convictions of all alleged abusers continued to foster a long-standing culture of impunity, particularly in regions outside Tbilisi.

Human rights NGOs also believed that many instances of abuse went unreported by victims due to fear of reprisals or lack of confidence in the judicial system.

The public defender called for an investigation into allegations that, on May 27, masked Georgian law enforcement officers detained and abused dozens of ethnic Ossetians in the South Ossetian conflict zone. No investigation had been opened by year's end.

During the year the prosecutor general's office did not bring charges in any of the hundreds of allegations of abuse from 2004 submitted to it by the NGO Former Political Prisoners for Human Rights (FPPHR). The prosecutor general's office previously reported it had opened investigations into some of the allegations, but asserted that the alleged abuses submitted by FPPHR often lacked sufficient detail to investigate. The office's investigations into allegations of abuse committed by police officers Roland Minadze and Levan Levidze were tried in 2005 (see section 1.a.).

The prosecutor general's office was in charge of all criminal investigations into allegations of torture and mistreatment. Prosecutors were required to investigate police use of force when a detainee with injuries sustained during arrest was registered. The law required the office to open an investigation when it received information about a possible violation even if from an anonymous source. If prosecutors concluded after an investigation that charges were not warranted, the decision could be appealed to a higher level of the office. Any person subjected to abuse was able to pursue a civil action against the abuser.

NGOs reported that the prosecutor general's office opened investigations but often continued them indefinitely without issuing any findings or, if concluded, usually substantiated the reasonable use of force by police. During the year at least nine investigations conducted by the office into allegations of torture or abuse and inhuman treatment concluded that the police had not committed any violation.

NGOs alleged that officials accused or convicted of abuse were often granted preferential treatment by the courts. For example, NGOs noted that 14-year-old George Zerekidze was sentenced to 10 years' imprisonment for attempted murder, while the four ministry of internal affairs officers convicted in the beating death of Sandro Girgvliani were sentenced to seven years. In May Malkhaz Albuladze, a Kutaisi prosecutor who reportedly beat Avto Anukitdze, was dismissed from his position but was not detained. An investigation was ongoing at year's end.

In March the Supreme Court ruled that the conviction of Levan Levidze, a senior inspector in the ministry of internal affairs, on charges of abuse of authority and forgery, was not supported by the facts, reduced the charges against him, and reduced his sentence from six years to one year and nine months' imprisonment.

In June police officers Lasha Buquri, Giorgi Khonelidze and Giorgi Miqaberidze were convicted in Tbilisi City Court of crimes including arbitrary arrest and abuse by exceeding legal authority. Buquri and Khonelidze each received a four-year prison sentence and Miqaberidze received a five-year sentence.

In October the prosecutor general's office submitted to the Mtskheta court a case charging police officers Bondo Tatunashvili and Besik Orkodashvili with torture of two teenagers. The trial was pending at year's end. The Government held Tatunashvili and Orkodashvili in detention during the investigation and in October released them on bail.

Other cases involving mistreatment or illegal detention were pending in the courts at year's end. For example, in October the prosecutor general's office forwarded to the Tbilisi City Court a case against police officer Simon Ekvimishvili alleging that he exceeded official authority when he struck Ilia Sologashvili during an arrest.

In June a new police code of ethics came into force which obliged police officers to uphold the human rights of all persons and to use force only when strictly necessary for the performance of their duty. However, there is no office of professional responsibility within the police.

During the year the Police Academy included training on human rights in the basic course for patrol police and also conducted additional specialized training on human rights in conjunction with international partners such as the Council of Europe.

*Arrest and Detention.*—By law a person can only be arrested upon sufficient evidence and with a warrant. Judges issued warrants and detention orders; they could be obtained post facto and usually were. In practice police continued to detain persons without warrants. NGOs stated that reports of police planting drugs or weapons in order to make an arrest declined. The prosecutor general's office is the only body authorized to engage directly with the courts.

NGOs criticized a February statement by President Saakashvili criticizing judges for showing what he called "too much mercy" towards criminal suspects and calling for a "zero tolerance" policy toward all crime in order to address the high crime rate which has burdened the country since independence. NGOs including HRW said that the President's statement violated the presumption of innocence, resulted in the surge in the alleged use of excessive force by police during arrests, and pressured judges to impose detention as a pretrial measure for individuals accused of even minor crimes.

The law provides for detainees to be charged within 72 hours, and they usually were. Those not charged within this period must be released. Within the last two years, six detainees were released after being held longer than 72 hours without charge.

Bail was the legislatively preferred alternative to pretrial detention. As of October the Government released on bail approximately 50 percent of those arrested. Citing the example of police officer Grigol Bashaleishvili, who was released on bail despite admitting his guilt in the shooting death of Amiran Robakidze, the public defender and NGOs questioned the fairness of the granting of bail in some cases.

A detainee has the right to request immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel. An indigent defendant has the right to counsel provided at public expense. According to the law, the indigent defendant's attorney is appointed by the judge, although the defendant may seek a change in counsel. In practice there were not enough attorneys for the indigent (see section 1.e.), and defendants did not always receive an attorney. A 2005 pilot project set up two public defender's offices. Attorneys were provided at public expense in these areas, which included Tbilisi.

Defense counsel had the right to meet the accused without any hindrance, supervision, or undue restriction; however, some attorneys complained that audio and video equipment in police stations intended to record interrogations of suspects by

law enforcement or investigators was sometimes being used to improperly monitor privileged attorney/client conversations.

Officers must notify detainees' families of their location within five hours of their arrest and note the circumstances of the notification in the case record. Monitoring boards regularly reviewed these records during their visits to police stations.

Police routinely orally informed detainees of their rights so there was no written confirmation from detainees acknowledging that they had been fully informed of their rights. The public defender's office and NGOs reported that police often failed to completely inform detainees of their rights or that, even if informed of their rights, detainees did not understand them.

Former Member of Parliament and minister of state security Irakli Batiashvili claimed that his July 30 arrest on charges of treason was politically motivated and that there was insufficient evidence to support the charges against him. Furthermore, he alleged that the evidence presented by prosecutors to support the charges had been fabricated by the ministry of internal affairs. Batiashvili allegedly provided intellectual support and encouragement to rebels in the Kodori valley during a July uprising and also failed to report to authorities the existence of the rebels' coup plot. The prosecutor general's office submitted the case to the court and, at year's end, Batiashvili remained in detention pending trial.

According to amendments to the Code of Criminal Procedure adopted in December 2005, pretrial measures of restraint

included detention, release on bail, and personal guarantee. The amendments eliminated alternatives such as house arrest and police supervision. The judiciary resorted frequently to pretrial detention irrespective of the gravity of the offense. NGOs noted that due to economic hardship, some defendants were not able to pay bail even when it was granted and thus ended up in pretrial detention. After a February speech in which President Saakashvili called for the abolition of probation, it was virtually never awarded by the courts. Under the law and in practice, the overall maximum time period for trial and exhaustion of appeals was 12 months.

Abuse in police station isolator facilities remained low, while incidents of police abuse inflicted during arrest persisted (see section 1.c.). Outside Tbilisi abuse in police isolator facilities continued due to less frequent monitoring.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary. During the year the Government took steps to increase the effectiveness of the judiciary through increased budgetary allotments and training and to strengthen the independence of the judiciary by reforming the High Council of Justice. Reports persisted, however, that the executive branch and powerful outside interests continued to pressure judicial authorities. Many NGOs complained that judicial authorities continued to act as a "rubber stamp" for prosecutors' decisions and that the executive branch exerted undue influence. NGOs expressed concerns that recent judicial appointees lacked experience and training to act independently. The high number of vacancies at the trial court level resulted in long delays in scheduling of trials, which in turn required pretrial detainees to be kept in severely overcrowded detention facilities for extended periods.

Pursuant to amendments adopted throughout the year, the High Council of Justice became an independent institution within the judicial system in charge of providing administrative support to the judiciary. The council had 18 members, including nine members elected by the Conference of Judges, the chairman of the Supreme Court, and eight nonvoting ex officio members from the executive and legislative branches.

In June membership on the High Council of Justice was changed to increase the number of judicial members and to remove the prosecutor general. Judicial members now constitute the majority of members on the council. Other executive and legislative branch appointees, however, remained on the council.

In December Parliament approved a constitutional amendment to remove from the President the power to appoint or dismiss judges and granted it to the High Council of Justice. The President had been granted this power in a constitutional amendment adopted in 2004. The chairman of the Supreme Court will replace the President as the chair of the council. Despite the use of objective written examinations to create a pool of potential qualified appointees, the judicial appointment process was not transparent. Oral interviews of appointees were held behind closed doors with no written or testimonial record.

Ex parte communications between lawyers and parties with judges were common, which facilitated Soviet-style "telephone justice." Lawyers, including prosecutors, and parties to litigation reportedly used this avenue to pressure judges to decide cases in ways favorable to their interests.

Judges are disciplined by the High Council of Justice based on a disciplinary code. In late 2005 the council instituted a disciplinary action against justices of the Su-

preme Court on grounds that they had, among other allegations, incorrectly decided a case. By “incorrect,” the council meant that the application of the law by the justices differed from that of the council. No allegation of fraud or misconduct was made against the justices. NGOs and legal experts widely criticized the action as infringing on the core responsibility of judges to interpret and apply the law according to their knowledge and experience. The Supreme Court confirmed the disciplinary committee’s decision in August, and the justices were expelled from the court. The decision by the High Council of Justice to expel judges on the basis of a decision with which the council disagreed effectively chilled independent decision-making by judges.

Defendants must confirm in court any statements they gave while in pretrial detention; otherwise, the statements will not be accepted as evidence. NGOs reported that this provision had little impact, either because detainees feared reprisal if their statement was not ratified in court or because the public was not aware of this protection.

In August 2005 Irakli Sioridze, a court officer of the Justice Ministry, was detained on charges of exceeding authority. During an hour-long interrogation, several law enforcement officers reportedly beat and kicked him severely in order to force him to give incriminating evidence against Giorgi Usupashvili. According to Sioridze, the officers wanted him to sign a statement saying that Usupashvili had misappropriated \$111,000 (200,000 lari). By year’s end Sioridze was released pending a final verdict on his case. The criminal code includes a provision that increased the vulnerability of witnesses to improper police pressure. The amendment prescribes penalties of up to five years in prison for witnesses who change or retract their original statements to police. NGOs believed this made witnesses less likely to amend initial statements provided under police pressure.

The High Council of Justice administered a three-tiered court system comprised of regional and city courts, appellate courts, supreme courts of autonomous republics (which serve as appellate courts in the relevant territorial units), and the Supreme Court. Regional and city courts hear routine criminal, civil, and administrative law cases. At the next level are three appellate courts, which unlike their predecessors serve a purely appellate function. The Supreme Court acts as the court of final instance (or as a court of cassation). A system of magistrates to hear specific cases such as misdemeanor cases was included in amendments adopted in 2005 but has not yet been fully implemented. The salaries of judges at all levels were raised to reduce the incentive for corruption.

A constitutional court arbitrates disputes between branches of government and rules on individual human rights violation claims; it generally demonstrated judicial independence. The power of constitutional review is vested solely in the constitutional court. The court interpreted its function in human rights cases narrowly, agreeing to rule only on cases in which human rights were violated as a result of specific articles of law.

*Trial Procedures.*—Defendants have the right to a public trial. While the 2005 criminal procedure code provides for jury trials for certain grave crimes, the provision had not yet been implemented.

Defendants have the right to be present at their trial and to consult with an attorney; however, access to defense attorneys for indigent defendants was limited in practice. While a new nationwide bar association convened in April, it did not offer pro bono or low cost legal services to indigent defendants. The Government and NGOs funded legal clinics, although there still remained a shortage of defense attorneys. The economic situation in the country was such that the majority of the population could not afford legal representation. As a result, the majority of criminal defendants proceeded without benefit of counsel. According to the Criminal Procedure Code, by 2007, the Ministry of Justice is required to provide attorneys to all indigent defendants at government expense.

Defendants may question and confront witnesses against them and present witnesses and evidence on their own behalf at trial. By law defendants and their attorneys have access to the prosecution’s evidence relevant to their cases at any point during the investigation and may make copies at their own expense. By law defendants are presumed innocent and have the right to appeal.

Under some provisions, defendants could be tried in absentia and, during the year, eight persons were. In August Ioseb Gvenetadze, a police official in Rustavi, was convicted in absentia of exceeding authority for using force to coerce confessions from four robbery suspects. Gvenetadze was sentenced to seven years imprisonment.

Defense counsel and the defendant have the right to participate in pretrial hearings; however, their presence is not mandatory. Failure of defense counsel to appear at a hearing can not be grounds for postponement of a hearing. A judge may rule on an appeal of a pretrial preventative measure without a hearing. In practice de-

fense counsel usually receives notification of scheduled pretrial hearings by telephone.

In response to recommendations from the UN special rapporteur, Amnesty International, and Human Rights Watch, in December 2005 the Government adopted amendments to the Code of Criminal Procedure requiring that the courts void any plea bargaining agreement that infringed upon a party's right to request criminal proceedings in cases of torture or inhumane treatment. The court must certify that the agreement was reached without resort to violence, intimidation, deception, or illegal promise and that the accused had the opportunity to obtain legal assistance. NGOs criticized plea bargaining agreements saying that almost all required the accused to pay money and were rarely used to obtain information on other criminal activity.

However, the prosecutor general's office reported that the majority of plea bargaining cases support ongoing investigations into drug trafficking. Reportedly, some plea bargaining agreements still tacitly included an understanding that the accused would not pursue complaints of abuse or mistreatment against law enforcement authorities or would support law enforcement's version of events to avoid negative publicity.

*Political Prisoners and Detainees.*—The parliamentary human rights committee and public defender claimed that there were no political prisoners in the country; however, many individuals, including several high-ranking officials from the previous government, considered themselves to be political prisoners (see section 1.d.). Local human rights organizations varied on estimates of how many political prisoners there were, reporting from none to 20.

The Government permitted international human rights and domestic organizations to visit those claiming to be political prisoners, and some organizations did so during the year.

*Civil Judicial Procedures and Remedies.*—The constitution provides for an independent and impartial judiciary in civil matters, however, there were concerns about professionalism of judges and transparency in adjudication. The constitution and law provide that a person who suffers damages resulting from arbitrary detention or other unlawful or arbitrary act is entitled to bring a civil action.

NGOs and the public defender criticized the Government's November seizure and destruction of 100 tons of alleged counterfeit wine from a winery in Akhmeta without prior legal procedures or notice. The President later condemned the Government's actions. The wine producer said it plans to sue the Government for damages but had not done so by the end of the year. In December the public defender's office expressed concern over alleged violations of individual property rights in the Government's appropriation of property in Tbilisi, Gori and Signaghi. In December senior government officials announced that probes had been launched into these cases.

In Abkhazia the de facto Parliament in May adopted a decree banning de facto courts from considering any property claims filed by ethnic Georgians who left Abkhazia before, during, or after the 1992–93 war, thereby effectively stripping internally displaced persons (IDPs) of their property in Abkhazia. According to the decree, any previous judgments or pending procedures related to ethnic Georgians' property were nullified. De facto courts in Abkhazia reportedly did not make efforts to establish facts or administer justice but acted simply at the direction of prosecutors and law enforcement. Criminals paid bribes to police, prosecutors, and judges to avoid prosecution.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions without court approval or legal necessity and also prohibits police from searching a residence or conducting undercover or monitoring operations without a warrant. NGOs continued to report that in practice police conducted searches and occasionally monitored private telephone conversations without first obtaining court orders; police often obtained the necessary warrant after the fact. NGOs reported that most people were unaware of their right to postpone a search of their home by one hour in order to summon two objective third-party witnesses for the search. The Government stated that security police and tax authorities entered homes and workplaces without prior legal sanction.

During a November press conference, the penitentiary chief made public a recording of a telephone call between the public defender and a representative of the public defender's office. The Government did not respond to the public defender's request to see the warrant authorizing the recording.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Separatist conflicts in the regions of Abkhazia and South Ossetia remained unresolved, although ceasefires were in effect. Commonwealth of Independent States peacekeeping forces

(in effect Russian peacekeepers) were present in Abkhazia. Russian, Ossetian, and Georgian forces participated in a joint peacekeeping force in South Ossetia. Incidents of violence occurred in both Abkhazia, particularly in the predominantly ethnic Georgian Gali region, and in South Ossetia. Two Russian peacekeepers were killed in Abkhazia after unknown gunmen attacked a bus carrying the payroll for Russian peacekeepers stationed in the conflict zone.

The Government gained effective control over the upper Kodori valley in Abkhazia following a police operation in July to remove the criminal warlord Emzar Kvitsiani. The rest of the Abkhazia region remained under the control of separatist authorities. The Government continued to have no effective control over South Ossetia.

There was limited information on the human rights situation in Abkhazia and South Ossetia due to limited access to these regions. Abkhaz de facto authorities continued to resist the establishment of a UN human rights office and the establishment of a UN civilian police presence in Gali. The de facto South Ossetian government has a plenipotentiary on human rights.

The situation in the Gali region of Abkhazia, where many ethnic Georgians live, remained tense as a result of kidnapping, arbitrary arrest, and deaths in custody. Systemic problems in the criminal justice system, in particular the failure to conduct impartial investigations and to bring alleged perpetrators to trial, sustained a climate of impunity. While the incidence of serious crime in Gali reportedly decreased during the first part of the year, the incidence of abuse by law enforcement increased, and included arbitrary arrests and detention as well as routine mistreatment of detainees. Law enforcement authorities rarely wore uniforms or carried badges or credentials, allowing them to act with impunity. The deputy chief of the Gali district police force, Otar Turnamba, reportedly extorted payments from farmers trying to bring their crops to market during the fall hazelnut harvest.

An Abkhaz law on citizenship, which excludes the possibility of dual Abkhaz-Georgian citizenship, limited the rights of the ethnic Georgian population in Abkhazia to participate in the electoral process.

In South Ossetia, kidnapping was used reciprocally both as a way to secure release for captured compatriots and for ransom.

In Abkhazia teenage boys were frequently taken from their homes allegedly for forced conscription in the Abkhaz military. Some parents claimed that their sons were younger than 18 and thus too young for military service.

Approximately 247,000 persons, 234,000 from Abkhazia and 13,000 from South Ossetia, remained displaced as a result of the conflicts in Abkhazia and South Ossetia. During the year the Government, in conjunction with international organizations and NGOs, developed its first national strategy on IDPs. The strategy seeks to integrate IDPs into Georgian society while creating the necessary conditions for their eventual return to Abkhazia and South Ossetia.

Approximately 110,000 IDPs occupied collective centers in hotels, hospitals, and other civil buildings throughout the country, particularly concentrated in Tbilisi, Zugdidi, Kutaisi, Kobuleti, and Gori. The remaining 135,000 lived in private homes with relatives or friends. The Office of the UN High Commissioner for Refugees (UNHCR) reported that collective centers were not well adapted to serve as homes, and a foreign government continued its housing voucher program for vulnerable IDPs living in collective centers in Kutaisi.

In June police forced dozens of IDPs to vacate the Meskheli Hotel in Batumi. The hotel was purchased by an investor who had pledged to pay \$7,000 (11,995 lari) to each IDP family living in the hotel. While most IDPs accepted the offer, others protested by demanding more, or by claiming that the list of recipients was incorrect, thereby depriving some IDP families of any compensation. Several dozen of the evicted IDPs reportedly returned to Abkhazia.

The Abkhaz separatist regime continued to prevent repatriation of the approximately 234,000 IDPs previously driven from the region, despite its 1994 agreement with Georgia, Russia, and the UNHCR that provided for the safe, secure, and voluntary return of IDPs who left during the war. Approximately 45,000 IDPs, mostly seasonal workers, returned to the Gali region of Abkhazia. The Abkhaz de facto authorities continued to prevent the opening of a UN human rights office in Gali, which would help build confidence for IDP return, despite an agreement to do so.

The de facto South Ossetian authorities continued to obstruct repatriation of approximately 13,000 ethnic Georgians to the region.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press. However, there were accusations by NGOs, independent analysts, and journalists that high-ranking government officials exercised some influence over editorial and programming decisions through their personal connections



with news directors and media executives. There were scattered reported incidents of actual or incited physical abuse of journalists by government officials. NGOs, media analysts and individual journalists cited the following problems: limited access to public information, nontransparent tenders offered to media outlets, ignoring or boycotting selective media organizations by government officials, unequal treatment of media outlets, absence of contracts or very short term contracts with journalists, indirect and covert pressure on journalists, and lack of financial resources. Most journalists viewed the Law on Freedom of Speech and Expression as very liberal but not always enforced. The Law on Broadcasters provided for the National Commission on Communications to adopt a Code of Ethics for Broadcasters by year's end. The draft code triggered sharp criticism from most journalists and was decied as an attempt by the Government to control broadcast media. The National Commission on Communications postponed adoption of the code to allow for public comment.

There were approximately 200 independent newspapers. During the year the print media frequently criticized senior government officials; however, few editorially independent newspapers were commercially viable. In addition lack of financial resources limited their circulation. Typically newspapers were subsidized by and subject to the influence of patrons in politics and business. In August 2005 the Government announced an anticorruption action plan calling for an end to all direct and covert subsidies to the media; on December 31, the exemption for print media from property and profit taxes expired. The media remained largely dependent on subsidies.

International media were allowed to operate freely.

There were eight independent or privately owned television stations in Tbilisi and one public station, Channel 1. Three of the Tbilisi-based stations, Channel 1, Rustavi-2, and Imedi claimed nationwide coverage. A fourth Tbilisi channel, Mze, had more limited coverage. A fifth channel, Batumi-based Ajara Television, broadcast nationwide. An international NGO estimated that there were more than 45 regional television stations outside of Tbilisi, 17 of which offered locally oriented daily news.

Throughout the year newspapers could and did criticize the Government. At the beginning of the year, broadcast media tended to be less critical of the Government. This changed during the highly controversial Girgvliani case, which received significant coverage, although it took approximately four weeks for independent television station Imedi to report the story (see section 1.a.).

Imedi was criticized by senior government officials for being an "opposition station." The Government also alleged that the media was irresponsible in their reporting, particularly during the Girgvliani case (see section 1.a.) and the June Tbilisi State University professors' protests.

On July 6, the host of the popular weekly political show Free Topic, Eka Khoperia, resigned from the Rustavi-2 television station during a live broadcast, stating that she was being pressured to air the comments of an official of the interior affairs ministry associated with the Girgvliani case. Although she resigned, she later refused to identify the specific officials who had sought to pressure her. Rustavi-2 had been known as one of the most professional and independent television stations in the country but, since its 2005 sale, had become much less critical than its main competitor, Imedi, which had more politically oriented programming.

On August 26, the staff of Rustavi-2 cancelled its afternoon news program when staff boycotted in protest of owner Kibar Kalvashi's decision to remove General Director Nick Tabatadze from his position. The media reported that Tabatadze was dismissed at the request of the then head of the President's administration, whose close friend replaced Tabatadze. In response to Tabatadze's firing, many Rustavi-2 journalists went on strike, and on September 8, six resigned, asserting their commitment to independent reporting. In November Rustavi-2's owner sold the station, reportedly under pressure.

Economic and political pressure on the media, in part encouraged by the general low profitability of media outlets, particularly of print media, resulted in decreased diversity of opinions.

Despite comprehensive laws providing for media freedom and journalist protection, journalists did not avail themselves of these protections and often were uninformed about them. NGOs believed that lack of experience and professionalism explained the media's apparent aversion to asserting their legal rights.

On March 29, Tbilisi City Court sentenced Shalva Ramishvili (see section 1.d.), co-owner and former general director of television station 202, and David Kokhreidze, former co-owner of the station, to four and three years' imprisonment, respectively, for extortion. In August 2005 hidden cameras captured Ramishvili accepting \$30,000 (51,405 lari) from Koba Bekauri, a member of Parliament and mem-

ber of the National Movement party, in exchange for not reporting on his suspicious stake in a customs operation. Ramishvili and Kokhleidze claimed the incident was a sting operation and part of a report on Bekauri's business dealings. The NGO Reporters Without Borders criticized the ruling.

The prosecutor general's office reported that since television station 202 anchor Irakli Kakabadze did not cooperate in their investigation of his September 2005 beating, the investigation did not progress. According to the NGO Committee to Protect Journalists, some journalists alleged that Kakabadze's beating and the case against television station 202 co-owner Ramishvili constituted retribution for the station's critical coverage.

In December 2005 the governor of the western region of Imereti, Akaki Bobokhidze, had a physical confrontation with reporter Irakli Imnaishvili after the two exchanged words on a televised debate program for local channel Rioni. Bobokhidze badly beat Imnaishvili and broke his nose. Bobokhidze resigned the next day. In February Bobokhidze was appointed chairman of the National Guard; in October the President reappointed him governor of Imereti. In 2005 the prosecutor general's office initiated criminal charges against Bobokhidze; but during the year, these charges were reduced to misdemeanor assault. Imnaishvili did not appeal the reclassification of charges against Bobokhidze. At year's end the case against Bobokhidze was still pending.

On June 21, a special committee in Parliament stripped ruling National Movement Party Member of Parliament Badri Nanetashvili of his parliamentary credentials. The action stemmed from accusations by journalists at the Trialeti television station, which he co-owned, that Nanetashvili was directly managing the local station and interfering in its editorial policy. The law allows Parliamentarians to own media concerns but forbids them from managing editorial policy. Nanetashvili appealed the decision to remove him from Parliament to the Constitutional Court; the case was pending at year's end. Trialeti TV was known as an antigovernment media outlet but after the Rose Revolution became progovernment. At year's end Nanetashvili and Trialeti were also being investigated for alleged tax fraud.

On July 22, Chief of Patrol Police Zviad Tsagareishvili physically assaulted cameraman Lasha Shengelia of Public Broadcasting Company Channel 1 as he was working on a story about a person found dead in Tbilisi's Varaziskhevi Street. The deceased was a brother-in-law of Tsagareishvili. Tsagareishvili resigned as chief of patrol police shortly after the incident. No charges were pressed against Tsagareishvili.

On June 15, NGOs of the Signaghi district organized a protest rally against majority Member of Parliament Nugzar Abulashvili in the village Vakiri. The protesters accused Abulashvili of systematic pressure on the activities of the local self-government bodies. The protesters, accompanied by a large group of national and regional media, were attacked by Abulashvili supporters who broke the video camera of the Gurjaani Television journalist, took away the tapes, and physically assaulted Zviad Ruadze from the independent newspaper Spektr. Local police officers witnessed the attacks but took no action. Local police later arrested three alleged attackers; the former chairman of the Vakiri city council was among them. Authorities held the three men for an unconfirmed period and then released them on bail pending trial.

In October the director of independent radio station Hereti, Ramaz Samkharadze, was beaten by an unidentified assailant in the street. In December Hereti's income-generating computer cafe was broken into and robbed of computers. Samkharadze attributed both events to local members of the National Movement party due to the fact he had received unidentified telephone threats as a result of Hereti reports critical of the local authorities. As of year's end, local authorities had not investigated the assault on Samkharadze.

Self-censorship was still claimed to be common among journalists, and some observers believed that it was increasing.

The ministry of defense continued to ban journalists it considered undesirable from public briefings. The ban continued after the appointment of a new minister of defense in November. The affected journalists claimed that the ministry's press officer did not return their telephone calls. Journalists complained that it was also difficult to obtain information from the ministry of internal affairs.

Media in the separatist regions of South Ossetia and Abkhazia remained tightly restricted by their de facto governments. In March authorities in Abkhazia detained three filmmakers for three weeks for allegedly having entered the region illegally. An Abkhaz de facto court refused to allow a Georgian lawyer to represent the filmmakers. Abkhaz de facto authorities also refused to allow UN representatives to meet with the detainees.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the police on occasion allegedly used force to disperse peaceful protests.

The law requires political parties and other organizations to give prior notice and obtain permission from local authorities to assemble on a public thoroughfare. Permits for assemblies were routinely granted.

In June protestors outside the appellate court building in Tbilisi were arrested and sentenced to 30 days detention for disturbing proceedings in the court house as a result of their actions. NGOs criticized the arrest and sentencing, stating that the appellate court judge's contempt powers did not extend to actions outside the court building. NGOs also stated that the absence of the right to appeal the judge's finding violated the constitution.

The public defender criticized the dispersal by the police of an October 20 demonstration by the NGOs Equality Institute and the Coalition for a Democratic Georgia in front of the chancellery.

The NGOs had obtained permission from Tbilisi municipal authorities to conduct the rally. The police said they had received complaints about excessive noise from nearby residents.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. Authorities granted permits for registration of associations without arbitrary restriction or discrimination.

*c. Freedom of Religion.*—The constitution provides for freedom of religion and the Government generally respected this right in practice.

The constitution recognizes the special role of the Orthodox Church in the country's history but stipulates the separation of church and state. A constitutional agreement (concordat) signed by the President and the Orthodox patriarch gives the church legal status. The concordat contained several controversial provisions that give the patriarch legal immunity, grant the church the exclusive right to staff the military chaplaincy, exempt church clergymen from military service, and give the church a unique consultative role in government, particularly in the area of education. However, the Parliament has not adopted legislation needed for many of these provisions to enter into force. For example, while the concordat grants the Orthodox Church the right to establish a military chaplaincy, there are no chaplains in military units due to the lack of implementing legislation. The tax code grants tax exemptions only for the Orthodox Church.

Religious groups may register as local associations or foundations. An association is based on membership (a minimum of five members is required), while a foundation involves one or more founders establishing a fund for furtherance of a certain cause for the benefit of the group or the general public. In both cases registration is a function of the Ministry of Justice, which must grant or deny registration within 15 days of application; a refusal may be appealed in court.

In July 2005 the Justice Ministry approved the first applications filed under the new registration process. Both the Seventh Day Adventists and the Foundation of the Church of Jesus Christ of Latter-day Saints received their approvals in less time than the period allowed by law. During the year the Government registered an additional 12 organizations. The Justice Ministry suspended a notary public for one year after she refused to notarize documents of a Pentecostal church, which the church needed for registration. The congregation was still seeking registration at year's end. Justice ministry officials were responsive in providing advice to religious organizations on preparing registration applications and supporting documentation.

Some religious communities expressed dissatisfaction with the status that registration provided. The Roman Catholic Church and the Armenian Apostolic Church opposed registering as civil organizations. Other churches, such as the Baptists, expressed concern that transfers of property to their churches would now be taxable.

During the year attacks on religious minorities, including violence, verbal harassment, and disruption of services and meetings, continued to decrease. Although police rarely facilitated harassment of religious minority groups, they sometimes failed to protect them. While the prosecutor general's office increasingly initiated investigations of religious-based violence, past complaints remained unresolved.

A 2005 law separating state schools and religious teaching narrowed the interpretation of the Government concordat with the Orthodox Church regarding teaching Orthodoxy as an elective part of the school curriculum. The law stated that such Orthodox teaching may only take place after school hours and cannot be controlled by the school or teachers. Also, outsiders, including clergy, cannot regularly attend or direct student extracurricular activities, student clubs, or their meetings. Such classes were taught by lay theologians rather than priests. Religious minorities broadly welcomed the changes to school religious education, although they observed along with NGOs that practice did not always keep pace with the law.

Public schools offered students the opportunity to take as an elective a course on Religion in Society which covered the history of major religions. Parents complained teachers focused solely on the Orthodox Church. The Orthodox Church has a consultative role in all curriculum development, although there was no textbook for this course.

A joint working group of the ministry of education and the Orthodox Church reviewed options for the elective course on religion in society and other matters related to religion in the curriculum. The ministry also financially assisted the church in its education projects and institutions. No other religious groups were afforded these privileges.

“Nontraditional” religious groups reported that they have been able to import literature without seizure or delay. The Armenian Apostolic Church stated, however, that imports of religious items such as candles were sometimes delayed because of ambiguities surrounding the church’s legal status in the country.

While members of Jehovah’s Witnesses no longer felt the need to hold their services in private homes for security reasons, delays in obtaining permits to build and occupy Kingdom Halls required congregations to continue meeting in private homes.

In an effort to implement a 2001 Supreme Court ruling, the Jewish community reached an agreement with a theater group whereby the theater group vacated a hall in a Tbilisi building seized from the Jewish community during Soviet rule. While the Jewish community was able to use the hall, the situation was still not fully resolved, as the community could not use the hall as a synagogue.

The Roman Catholic Church and the Armenian Apostolic Church were unable to secure the return of churches closed or given to the Georgian Orthodox Church during the Soviet period.

*Societal Abuses and Discrimination.*—Judaism is practiced in a number of communities throughout the country, particularly in the largest cities, Tbilisi and Kutaisi. There were approximately 14,000 Jews in the country. The Jewish communities reported they encountered few societal problems. There was no historical pattern of anti-Semitism in the country. There were no reports of anti-Semitic acts.

Despite a general tolerance toward minority religious groups “traditional” to the country, including Catholics, Armenian Apostolic Christians, Jews, and Muslims, citizens remained very apprehensive towards “nontraditional” religions, which were seen as taking advantage of the populace’s economic hardships by gaining membership through economic assistance to converts. Some members of the Orthodox Church and the public viewed non-Orthodox religious groups, particularly “nontraditional” groups or sects, as a threat to the national church and the country’s cultural values and asserted that foreign Christian missionaries should confine their activities to non-Christian areas.

Following a series of physical and verbal threats in April and May 2005 against a group of Pentecostals attempting to hold services in a private home in Tbilisi, the public defender helped the congregation obtain a plot of land on which to construct a building for services. While plans for the building were being drawn up, the congregation conducted services in undisclosed private homes or in outdoor areas. Police routinely provided protection in the latter case. No charges were filed in connection with the April and May 2005 incidents.

In April, at the request of the Jehovah’s Witnesses, authorities dropped criminal charges against two persons in connection with a series of attacks by local residents on members of Jehovah’s Witnesses in Kutaisi that began in June 2005. The two individuals who were detained publicly apologized to the Jehovah’s Witnesses. The group in Kutaisi has operated freely since that time.

In November 2005 members of Jehovah’s Witnesses rented a hall in Rustavi to conduct meetings. Paata Bluashvili, the leader of the Orthodox group Jvari, and members of the group threatened the hall’s owner, who then cancelled the contract with the Jehovah’s Witnesses. Pending investigation of the incident, Bluashvili was held in pretrial detention. Upon Bluashvili’s appeal of the three-month detention, a court of appeals overturned the detention and released him, pending trial. In April a Rustavi court reinstated the three-month sentence. Bluashvili failed to appear at the April hearing and at year’s end was wanted by the authorities.

De facto authorities in the separatist Abkhazia and South Ossetia regions remained outside the control of the central government, and reliable information from those regions was difficult to obtain. A 1995 decree issued by the de facto leader of Abkhazia banning Jehovah's Witnesses in the region remained in effect but was not enforced. During the year members of Jehovah's Witnesses reported no problems in Abkhazia, where membership is approximately 1,500. Although Baptists, Lutherans, and Roman Catholics also reported they were allowed to operate in the region, the Orthodox Church reported that it was unable to do so.

In South Ossetia, Orthodox believers were not able to conduct services in Georgian Orthodox churches located near the villages of Nuli, Eredvi, Monasteri, and Gera because these areas were under the control of Ossetian authorities.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

Freedom of movement was restricted by the de facto authorities in the separatist regions of Abkhazia and South Ossetia. Police checkpoints often obstructed citizens' internal movement in these regions. In December Abkhaz de facto authorities closed the checkpoints along the cease-fire line to all civilian traffic. This restriction on the free movement of Gali residents was also a violation of the 1994 Quadripartite Agreement.

An Abkhaz citizenship law allowed dual Russian-Abkhaz citizenship but not dual Georgian-Abkhaz citizenship. As a result, ethnic Georgians had to relinquish their Georgian passports and obtain Russian passports to travel abroad.

Abkhaz militia conducted searches of local populations and erected arbitrary checkpoints. Money and valuables were extorted from ethnic Georgians on the pretext that they violated identity document requirements.

The law prohibits forced exile, and the Government did not employ it.

No families returned to the country under a 1999 Presidential decree issued to repatriate and rehabilitate approximately 275,000 Meskhetian Turks relocated during the Soviet period.

*Internally Displaced Persons (IDPs).*—There were approximately 247,000 IDPs at year's end due to conflicts in the separatist regions of Abkhazia and South Ossetia (see section 1.g.).

*Protection of Refugees.*—The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

There were approximately 1,600 registered refugees from Chechnya in the country. Chechen refugees settled in the Pankisi valley in the eastern part of the country. International humanitarian organizations' assistance to refugees in the Pankisi valley was sporadic. Chechen refugees remained vulnerable to abuse, including police harassment and threats of forcible return to Russia. In November 90 refugees, mostly ethnic Kists (ethnic Chechens from Georgia), voluntarily returned to Russia via Azerbaijan. During the year there were no instances of refoulement.

The majority of the Chechen refugees lived with the local Kist population; only 15 percent were sheltered in communal centers.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections, held on the basis of universal suffrage. In January 2004 Mikheil Saakashvili was elected President, and Parliamentary elections were held in March 2004.

In December Parliament partially modified the 2004 constitutional amendments that had strengthened the power of the executive at the expense of the Parliament and the judiciary (see section 1.e.).

An Abkhaz citizenship law did not allow dual Georgian-Abkhaz citizenship. As a result ethnic Georgians in the separatist region had to relinquish their Georgian passports in order to vote or participate in the political process.

*Elections and Political Participation.*—The OSCE reported that the 2004 Presidential election demonstrated notable progress, although time constraints limited

administrative improvements since previous elections. The OSCE noted a continued lack of separation between state administration and political party structures and the tendency to misuse state administration resources. The voter register also continued to be incomplete and sometimes inaccurate. While the OSCE reported the voting process itself was excellent in the majority of regions, there were significant irregularities in Kvemo Kartli, and the worst irregularities were recorded in Ajara, where no preelection registration was conducted and little or no campaigning occurred.

International observers deemed the 2004 parliamentary elections the most democratic since independence, with voter registration procedures further improved, including the addition of a consolidated computerized database; however, there continued to be a lack of political balance and independence in election commissions. During the election international observers noticed a number of irregularities, including implausible voter turnout in certain regions, an unusually high percentage of invalid votes, and campaign material on display in several polling stations. Significant voting irregularities again took place in Kvemo Kartli.

On October 5, the Government held the first local elections following major decentralization reforms. The Organization for Security and Cooperation in Europe/Office of Democratic Institutions and Human Rights (OSCE/ODHIR) and the Council of Europe concluded that the October 5 local elections generally respected fundamental freedoms. Respected local NGOs International Society for Free Elections and Democracy, new Generation new Initiative, and Georgian Young Lawyers' Association stated that the results accurately reflected the will of the electorate. These organizations noted, however, that the ruling National Movement party, which prevailed by a wide margin nationwide, manipulated its incumbency status, for example, by the use of identical slogans, designs and images in public service announcements promoting new government services, and in National Movement campaign materials. OSCE/ODHIR noted that this improperly blurred the distinction between the National Movement party and the Government. Although in 2005 the Government reformed the Central Election Commission (CEC), the OSCE, NGOs, and opposition parties criticized the composition of the CEC, which was dominated by members of the ruling party. Other concerns noted by the OSCE/ODHIR included the need for further improvement of election legislation, the voter register, and the vote counting and election grievance processes. The OSCE/ODHIR also noted several positive developments including the Government's provision for an orderly electoral process and improvements in the election code.

International organizations, including the UN and the OSCE, as well as the Government, did not recognize the November de facto Presidential election in South Ossetia, or the 2004 and 2005 de facto Presidential elections in Abkhazia.

There were no government restrictions on political party formation beyond registration requirements; according to the Justice Ministry registration and licensing department, there were 178 registered political parties.

There were no developments in the investigation into the July 2005 violent attack on then opposition Member of Parliament Valeri Gelashvili in Tbilisi. Gelashvili was not interviewed by investigators. Armed and masked men attacked Gelashvili's car as he, his bodyguard, and a business associate were traveling on a main street during a weekday afternoon. Gelashvili was severely beaten in the face and head with gunstocks; the other two people in car were struck but did not require hospitalization. Opposition leaders and the media asserted that the attack was politically motivated, since Gelashvili had been involved in a long-running dispute with the Government over payment for work by his construction company on a new Presidential residence. There was no indication that robbery may have been a motive.

There were 23 women in the 235-seat Parliament. The speaker of Parliament, Nino Burjanadze, was a woman. The majority head of Parliament was also a woman, and women held important committee chairs.

There were eight members of minority groups (five Armenians and three Azeris) in the Parliament. As a result of local government reforms brought into force by local elections, the number of seats held by ethnic minorities in municipal councils is now commensurate with their percentage of the population in each region of the country.

*Government Corruption and Transparency.*—Government corruption persisted, although it decreased as a result of high profile reforms led by the President.

The country's score of 2.8 during the year on Transparency International's 0–10 index of public perceptions of corruption was a significant improvement over its score of 2.3 in 2005 but still indicated a perception that corruption remained a serious problem. An April public opinion poll indicated that 54 percent of those surveyed believed that there had been a reduction of corruption in ordinary people's lives after the Rose Revolution. The poll, which was conducted by the International

Republican Institute (IRI), showed that only 2 percent of those surveyed stated that in the previous 12 months they had to pay a bribe in order to get a service or decision from a government office. In 2005 the World Bank's Control of Corruption Indicator reported that 39 percent of businesses in the country reported that corruption hurt the growth of business, a drop from 60 percent in 2002. During the year the Global Integrity Index rated the country as "strong" in the anticorruption and rule of law category.

During the year members of the Government and the ruling party were investigated for corruption. In October the Parliament stripped the immunity of two ruling party parliamentarians implicated in a corruption scandal. One was arrested and was under investigation at year's end. The director general of the state-owned Georgian Oil and Gas Company and a member of his staff were also arrested on charges of corruption. They were being held in pretrial detention while their case was under investigation at year's end. In June 2005 the head of the Tbilisi city tax department and seven other officials were arrested on corruption charges. Minister of Finance Valeri Chechelashvili subsequently resigned amid criticism from the President for weak oversight and control. In a six-month period in 2005, more than 60 police officers were charged with corruption, in addition to three mayors and six prosecutors.

In 2005 the Government adopted an anticorruption strategy aimed at the formation of an effective state management system and activation of legal and public feedback mechanisms in order to prevent corruption. Reviewing the 2002–05 period, the World Bank's "Anticorruption in Transition 3" report noted that strong leadership in the country was the driving force behind "swift and thorough reforms" that significantly reduced corruption after 2002. The report noted that the leadership had taken bold actions to lessen the burden of the state on the economy, improve fiscal transparency, and strengthen oversight of institutions, all of which had contributed to the decline in corruption. During the year government officials continued to receive salaries in a timely manner, and salaries in the executive and legislative branches increased, reducing incentives for corruption.

In November the Council of Europe and NGO representatives stated that significant steps had been taken to fulfill an August 2005 anticorruption action plan for the privatization of state-owned property and the simplification of enterprise registration.

The law provides for public access to government meetings and documents; however, the Government sometimes did not provide access. Although the law states that a public agency shall release public information immediately or no later than 10 days from request, the release of requested information could be delayed indefinitely, and requests were sometimes ignored in practice.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In some cases government officials were cooperative and responsive to their views. NGOs such as the Georgian Young Lawyers' Association (GYLA) helped draft the new law against trafficking and implement the Government's action plan. The NGO liaison office in Parliament worked with NGOs to develop new legislation. However, while some NGOs enjoyed close cooperation with the Government, others complained of discrimination from government members.

In January high-ranking government officials publicly criticized leading human rights and rule of law NGO GYLA. The officials also questioned GYLA's status as an independent NGO by charging that it was operating under the influence of an opposition political party, noting that a prior chair of GYLA had become an opposition party leader. In response, a large coalition of NGOs issued a statement that "the current campaign against GYLA confirms that the Government is unable to reconcile themselves with the criticism of unbiased NGOs." Public criticism by government officials of GYLA or other NGOs did not continue.

The Government maintained a constructive relationship with many NGOs, underlined by the Parliament's decision to establish an NGO-Parliament cooperation office and the allocation of two seats in the Permanent Interagency Antitrafficking Council to NGOs.

The UNHCR and the OSCE operated only sporadically in the separatist conflict areas due to poor security conditions but provided periodic findings, reports, and recommendations.

NGOs viewed the office of the public defender as the most objective of the Government's human rights bodies. The constitutionally mandated office monitored human rights conditions and investigated allegations of abuses. The office of the public de-

fender generally operated without government interference and was considered effective. However, the public defender reported that representatives from his office and some of their family members were subject to harassment from law enforcement authorities during the year.

The public defender stated that while his office continued to receive government funding, earmarked increases from the state budget were not provided to the office. The public defender's authority does not include the power to institute prosecutions or other legal actions. The public defender objected to Ministry of Justice regulations which prohibited the use of cameras and recorders in the penitentiary system as an obstacle to substantiating claims of abuse in the system.

As required by law, the public defender issued biannual reports to Parliament. Some members of Parliament were critical of the public defender's findings and recommendations calling for equal recognition under the law of all religions. For example, the members stated that the historical position of the Orthodox Church justified its privileged position.

The Parliament's Committee on Human Rights and Civil Integration, the interior ministry's human rights division, and the national security council's human rights advisor also had mandates to investigate abuse claims. By law the prosecutor general is charged with protection of human rights and fundamental freedoms; the human rights protection unit of the prosecutor general's office is the reporting and monitoring arm of the legal department and has no independent investigative powers. The prosecutor general office's human rights unit focused on curbing abuses by law enforcement officials. In June the prosecutor general issued a code of ethics for prosecutors which stated, among other things, that it was impermissible for prosecutors to use their official position to place illegal pressure on any person and that prosecutors must avoid activities that cast doubt on their independence.

The UNHCR office in Sukhumi continued to monitor respect for human rights in Abkhazia and to visit detention facilities in the region. Despite increasing concerns about the deteriorating situation in the Gali region, de facto Abkhaz authorities continued to resist opening a human rights branch office in that area. In addition the de facto authorities continued not to implement the UN Observer Mission in Georgia's recommendations, endorsed by the UN Security Council, to permit education of local youth in their native Georgian language and to permit deployment of a UN civilian police contingent in Abkhazia.

#### *Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not always enforce these provisions effectively.

*Women.*—Violence against women was a problem.

The Government acknowledged that domestic violence was a widespread problem. Women victimized by domestic violence, however, rarely reported it because of social taboos and because previously it was not illegal. The police rarely arrested or punished perpetrators of domestic violence. From August 2005 to January, the police responded to 466 reports of domestic violence. Neither the prosecutor general's office nor the courts maintained separate statistics on domestic violence cases, so it was not possible to track outcomes of these reports. A local NGO operated a hotline and a shelter for abused women, although services at the shelter were limited due to a lack of funding and facilities.

Rape is illegal. Criminal cases on rape generally can only be initiated following a complaint by the victim. Spousal rape is not specifically addressed by criminal law. A first time offender may be imprisoned for up to seven years; a repeat offender or perpetrator against multiple victims may receive up to 10 years; factors such as if the victim was pregnant, contracted HIV/AIDS, or was subjected to extreme violence, demand up to 15 years; and if the victim was a minor, up to 20 years. During the year the ministry of internal affairs reported 167 cases of rape and attempted rape and initiated criminal prosecutions in 106 of these cases. Observers believed many instances of rape went unreported due to the social stigma for victims. Police did not always investigate reports of rape.

The first law on domestic violence came into effect on June 9. The law defines domestic violence as a violation of the constitutional rights and liberties of one member of a family by another by means of physical, psychological, economic, or sexual violence or coercion; however, domestic violence is not specifically criminalized. Perpetrators of domestic violence are prosecuted under existing criminal provisions against, for example, battery or rape.

The law allows victims to file immediate protective orders against their abusers and police to issue a temporary restrictive order against persons suspected of abusing a family member. The temporary order is then approved by a court within 24



hours and becomes a protective order that prohibits the abuser from coming within 100 meters of the victim and using common property, such as a residence or vehicle, for six months. The victim may ask authorities to extend the protective order indefinitely. While the law called for the ministry of internal affairs to develop by mid-July a form for police to issue as restrictive orders, the ministry did not do so. The law also requires the Government to draft an action plan which it had not done by year's end.

The kidnapping of women for marriage occurred, particularly in rural areas. Such kidnappings often were arranged elopements; however, at times kidnappings occurred against the will of the intended bride and involved rape. Police rarely took action in these cases, even though the law criminalizes kidnapping. A local NGO in the Samtskhe-Javakheti region established a hotline and shelter to assist victims of attempted kidnappings who were often rejected by their families after escaping from the kidnapper.

Prostitution is against the law but was widespread, particularly in Tbilisi. Several NGOs claimed that prostitution remained common due to continuing poor economic conditions.

Trafficking of women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment and violence against women in the workplace was a problem. The law prohibits sexual harassment; however, the Government did not effectively enforce the law, and complaints were rarely investigated.

The law provides for the equality of men and women; however, in practice this was not enforced. NGOs reported that discrimination against women in the workplace existed but instances were never reported. The speaker of Parliament chaired a Gender Equity Advisory Council, which included members of Parliament, as well as representatives from the executive branch, the public defender's office, and NGOs. The State Commission on Gender Equity was chaired by the deputy state minister on Euro-Atlantic integration and prepares recommendations on the implementation of international agreements and conventions on gender equity. Within the public defender's office there is a special group dedicated to women's and children's issues.

Women's access to the labor market improved; however, women remained primarily confined to low-paying and low-skilled positions, regardless of professional and academic qualifications, and salaries for women lagged behind those for men. As a result, many women sought employment abroad. According to the UN Development Program, employers frequently withheld benefits connected to pregnancy and childbirth.

No further information was available on a lawsuit filed in April 2005 by service-women who claimed they were discharged from the armed forces while on maternity leave, despite a law that prohibits dismissal from employment of pregnant women and women with children under the age of three.

*Children.*—The law provides for the protection of children's rights and welfare, but the Government provided limited services. Children are protected under the antidomestic violence law, which became effective in June.

Primary and basic education is compulsory from age six or seven to age 14, and provided up to age 16 (a total of 11 years). The UN Children's Fund (UNICEF) estimated primary school enrollment at 91 percent in 2003 and secondary school enrollment at 79 percent in 2002, and most children attended school. Education was officially free through high school, but in practice a lack of resources inhibited schools' functioning and affected the quality of education in some areas.

During the year the Government rehabilitated 300 schools but in some areas, school facilities were inadequate and lacked heating, libraries, and blackboards. Most parents were obliged to pay some form of "tuition" to support the schools. Many parents were unable to afford books and school supplies, and in some cases students were forced to drop out due to an inability or unwillingness to pay "tuition."

In June elections were held for membership on parent-teacher supervisory boards at secondary schools to provide better oversight of school management. There was widespread participation including outside Tbilisi.

Free health care was available for children up to age four.

There were some reports of child abuse, particularly of street children, although there was no societal pattern of such abuse.

Incidents of sexual exploitation of children, particularly girls, were reported. Child prostitution and pornography are punishable by up to three years' imprisonment. The Ministry of Internal Affairs sponsored a center for the rehabilitation of minors, which regularly provided medical and psychological assistance to child and adolescent victims of prostitution before returning them to guardians.

There were unconfirmed reports of trafficking in children (see section 5, Trafficking). Street children and children living in orphanages were reportedly particularly vulnerable to trafficking.

Difficult economic conditions broke up some families and contributed to the number of street children. NGOs estimated that there were approximately 1,500 street children between the ages of three and 15, with 1,200 concentrated in Tbilisi, due to the inability of orphanages and the Government to provide support. The private voluntary organization Child and Environment and the Ministry of Education each operated a shelter in Tbilisi; however, the two shelters could accommodate only a small number of street children. The Government took little other action to assist street children. There were unconfirmed reports of police violence against street children, but the patrol police routinely transferred street children to a 24-hour care center or orphanage. The center, however, lacked resources for treatment and rehabilitation of the children, many of whom were substance abusers or suffered from mental disorders.

Orphanages were unable to provide adequate food, clothing, education, and medical care; facilities lacked heat, water, and electricity. Staff wages, which had been poor and often many months in arrears, were paid on a regular basis. Due to reported mismanagement of resources, staff members often diverted money and supplies provided to the orphanages for personal use.

During the year the Government closed an orphanage in Tbilisi where, according to a 2005 public defender's office report, children lacked clothes, food, toothbrushes, blankets, and other necessities, and where the first floor had been flooded due to plumbing problems. The children were sent to other local orphanages where basic services such as heat and electricity were also sometimes lacking.

Ongoing conflicts in Abkhazia and South Ossetia displaced thousands of children. In these regions, UNICEF reported that health services were scant, immunization rates were lower than elsewhere in the country, schools were deteriorating, and malnutrition was a serious problem.

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, the country was primarily a point of transit and origin, and very rarely a destination for trafficked persons. Women were trafficked from the country to Turkey, Greece, the United Arab Emirates, North America, and Western Europe to work in hotels, bars, restaurants, or as domestic help. Many were trafficked into the adult entertainment sector or forced into prostitution. Victims most likely came directly from Tbilisi or the impoverished former industrial centers of Poti, Kutaisi, and Rustavi. Local NGOs reported that men were trafficked to Russia, Greece, Spain, Portugal, and other destinations to work in construction, agriculture, and other manual labor. There also was evidence that Ukrainian and Uzbek women, as well as women from other countries of the former Soviet Union, were trafficked through the country to Turkey, sometimes using fraudulently obtained passports.

In July, when the Government regained control over the Kodori valley in Abkhazia, officials discovered several trafficking victims who were working for families in the region as household slaves. Some had been working as slaves for 20 years or more. The Government sent a team of law enforcement and trafficking experts to the region to investigate these claims further. By year's end, the Government has opened investigations into six cases of trafficking related to this previously warlord-controlled region. In December two of these cases have been referred to the courts while the remaining four were still under investigation.

Children were seldom trafficking victims, although street children and children living in orphanages were allegedly particularly vulnerable. Some reports indicated that IDPs were a particular target for traffickers. Conditions for trafficked laborers and women trafficked into prostitution were extremely poor.

Traffickers were largely freelance domestic operators with connections abroad, as well as some small international operations. They often used offers of employment from friends and families or offers of overseas jobs from tourism or employment agencies to lure potential victims.

In April the Government adopted and implemented a new antitrafficking law. The passage of this law, which was developed with input from foreign governments and international experts, made it easier to prosecute traffickers, increased minimum sentences for convicted traffickers, and clarified the Government's responsibilities for victim identification and assistance.

The law prohibits trafficking in persons, including minors, for the purposes of sexual, labor, and other forms of exploitation. During the year the minimum penalty for trafficking was increased to eight years in prison, with maximum penalties of 20 years for aggravated circumstances. A memorandum of understanding between the prosecutor general's office and the Ministry of Internal Affairs resulted in greater cooperation, joint operations, and a number of arrests and charges under traf-

ficking statutes. An antitrafficking unit (ATIM) existed within the special operations department of the ministry of internal affairs, which was the primary investigative authority on trafficking cases.

During the year the court returned convictions in 13 cases against traffickers. In these cases 16 traffickers were each sentenced to an average prison term of 10 years.

The investigation of a local leader of an international operation that trafficked women from Georgia, Turkey, and Azerbaijan was still underway at year's end.

On December 12, Marina Chikhivadze, a major trafficker with previous convictions, was sentenced to 11 years in prison for trafficking an Uzbek national to Dubai for the purposes of sexual exploitation. The Uzbek victim continued to receive government assistance while she decided whether she wants to return to Uzbekistan or petition for refugee status in Georgia.

On December 13, the appellate court of Kutaisi overturned the sentence given to Nana Verdadze by a Batumi court for "facilitating prostitution." The Kutaisi Appellate Court ruled that the charges against Verdadze included trafficking—which carries a tougher sentence—and extended her sentence from five years to eight years in prison.

The Government cooperated with others in the region to uncover trafficking rings and assisted in the repatriation of trafficked persons discovered in transit through the country.

Unlike the previous year, there were no reports of government officials' involvement in trafficking. In July two government officials, David Kobakhidze and Giorgi Amilakhvari, respectively the former heads of the Ambrolauri and Zestponi passport agencies, were convicted of misuse of authority and passport fraud, allegedly in connection with trafficking in 2005. Kobakhidze was sentenced to two years' imprisonment and six years' probation. Amilakhvari was sentenced to two years' imprisonment and five years' probation.

During the year the Government took demonstrable steps to improve and coordinate its antitrafficking efforts, including passing a new antitrafficking law, forming a permanent interagency antitrafficking council implementing a national referral and assistance mechanism to identify and care for trafficking victims, and developing a government antitrafficking fund to provide assistance to victims.

The Permanent Interagency Antitrafficking Council replaced the temporary interagency council and was chaired by the prosecutor general. During the year the council coordinated government efforts against trafficking, including the adoption and implementation of the antitrafficking law and a national victim referral and assistance mechanism, the appointment of a national antitrafficking coordinator, the allocation of \$70,000 (126,000 lari) for victim assistance, the training of judges and prosecutors on the new law, the establishment of victim hotlines, the publication of warnings about trafficking dangers for travelers, the placement of information about trafficking on law enforcement agency Web sites, funding of shelters for victims, the establishment of witness protection procedures, the provision of immunity from prosecution for victims who cooperate with authorities, and cooperation with the International Organization for Migration on victim repatriation.

*Persons With Disabilities.*—The law prohibited discrimination against persons with disabilities, although in practice the problem was a low priority for the Government. Discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services was a problem, and societal discrimination against persons with disabilities existed. There is no law or official provision mandating access to buildings for persons with disabilities and very few, if any, public facilities or buildings were accessible.

According to the health ministry, the country has about 10,000 children with disabilities. A 2005 incident involving a group of children in wheelchairs who were refused entry to a restaurant was resolved outside the court system. Pursuant to the request of the children's guardian and in accordance with the law, the prosecutor general's office closed its investigation without filing charges.

*National/Racial/Ethnic Minorities.*—The Government generally respected the rights of ethnic minorities in nonconflict areas. The law stipulates that Georgian is the state language; ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetians, and Russians usually communicated in their native languages or in Russian in the areas where they are the dominant ethnic group. The Government funds foreign language schools throughout the country for people whose first language is not Georgian, but the law requires that ethnic minority students learn Georgian as a second language. In Tbilisi a large majority of ethnic minority groups communicate in Georgian in their daily affairs and often at home. The law requires that all government officials speak Georgian, which some minorities claim excludes their participation in the

Government; however, this law was not strictly enforced. Some government materials distributed to the public were only available in the Georgian language. However, local government reform legislation brought into force through October's local elections significantly increased ethnic-minority representation in local governments. After the elections, in most local governments ethnic minorities held a percentage of seats commensurate with their percentage of the population. In Marneuli the new mayor of this ethnic-Azeri region was Azeri for the first time in the city's history.

Ethnic Georgians living in the Gali region of Abkhazia had no legal access to education in the Georgian language. As a practical matter, however, teachers who do not speak Abkhaz instructed students in Georgian. Teachers who did so were often subject to harassment and prosecution by de facto Abkhaz authorities.

On several occasions tensions flared in the multiethnic Tsalka region. In March there were reports of a violent attack upon an ethnic Greek family. Later in the year, a knife fight between ethnic Armenians and ethnic Svans broke out in which an ethnic Armenian was killed. The Greek and Armenian families in these cases claimed that police were unresponsive to the incident. Some of Tsalka's Armenians and Greeks complained of harassment by ethnic Svans and Ajarans resettled from Svaneti and Ajara, mostly manifested in robberies and fist-fights; while there was an ethnic dimension to the situation, it was difficult to ascertain whether ethnic or criminal factors were the key motivations behind these acts in this economically depressed and isolated region. Observers also noted that a lack of resources for adequate policing in the region contributed to the problem.

In the ethnic-Armenian dominated region of Akhalkalaki, many ethnic Armenians claimed that government should allow Armenian to have "provincial language" status in the region as very few locals speak Georgian and are unable to conduct legal affairs in Georgian. They also complained that the Government did not pay enough attention to economic and infrastructure development in the region or provide Georgian language instruction. Ethnic Azeris had similar complaints in the ethnic-Azeri dominated region of Kvemo Kartli.

During the year the Government addressed ethnic minority region concerns by allocating \$100 million (171.4 million lari) in foreign assistance to build roads and infrastructure linking Akhalkalaki and Tbilisi and Armenia, thereby improving opportunities to bring the agricultural region's goods to market, and to open special educational resource centers in both ethnic-minority regions to improve access to Georgian language instruction resources.

*Other Societal Abuses and Discrimination.*—The law expressly prohibits discrimination on the basis of HIV/AIDS status; however, there is no penalty for violating this prohibition. NGOs reported that societal stigma resulted in individuals avoiding testing or obtaining health care for fear of discrimination. Some health care providers, particularly dentists, often refused to provide services to HIV-positive persons. Individuals often concealed their HIV-positive status from employers for fear of losing their jobs. The ministry of internal affairs conducted mandatory HIV testing on all job applicants.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows all workers, including government employees, to form and join unions of their choice, and they did so in practice. However, the law restricts the right of employees of law enforcement agencies and of the prosecutor general's office to form and join unions. In addition labor unions stated that provisions of the new labor code, which became effective in June, limited the mechanisms for them to exercise their rights.

The principal union was the Georgian Trade Union Amalgamation (GTUA), which consisted of 27 sector-based unions and over 229,000 unionized workers, or 13 percent of the total workforce (1.74 million). There was one other union: the Free Trade Union of Teachers of Georgia Solidarity.

The law prohibits discrimination by employers against union members, and employers may be prosecuted for antiunion discrimination and forced to reinstate employees and pay back wages. Despite this provision the GTUA and its national unions continued to report some cases of management warning staff not to organize trade unions. Some workers, including teachers, employees of various mining, pipeline, and port facilities, and the Tbilisi municipal government reportedly continued to complain of being intimidated or threatened by employers—including public sector employers—for union organizing activity. There were a few cases when employers failed to transfer compulsory union dues, deducted from wages, to union bank accounts, but the disputes were resolved after discussions between the unions and employers.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference. Collective bargaining is recognized by law, and the law provides punitive measures for those who refuse to take part in negotiations. However, the Government did not always protect this right in practice. The practice of collective bargaining was not widespread. The GTUA administered approximately 1,600 collective bargaining agreements. Prior poor management and leadership, plus a general unfamiliarity with the collective bargaining process, limited the scope of collective bargaining.

The law provides for the right to strike; however, the new labor code which became effective in June capped the maximum duration for a strike at 90 days. In general workers exercised their right to strike in accordance with the labor code; strikes must be sanctioned by the employer based on written notification provided three days in advance and a one-hour warning strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred in the Kodori valley area of Abkhazia prior to the Government regaining control of the area in July (see section 5). NGOs and trade unions have objected to a provision in the new labor code which permits compulsory labor in instances of emergency and natural disaster but does not require remuneration to persons who are conscripted. Also, the labor code provides that an employer may change hours of work by 90 minutes in either direction without renegotiating the terms of any labor contract. NGOs stated that this provision would effectively require employees to work overtime without compensation in violation of the prohibition against compulsory labor in the constitution.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace. With high unemployment resulting in a large pool of adult workers willing to work for low wages, child labor was uncommon in the country. The ministry of health, social service, and labor is responsible for enforcing laws regulating child labor. Although official data was not available, child labor was not considered a serious problem.

According to the law, the minimum age for employment of children is age 16. In exceptional cases, children may work with parental consent at ages 14 and 15. Children under age 18 may not engage in unhealthy or underground work, and children aged 15 to 18 are subject to reduced working hours. The office of labor inspection within the ministry of health and social security, which was previously charged with identifying labor violations, receiving complaints and determining compliance with labor laws and regulations, was disbanded during the year. Inspections were subsequently performed by the labor department of the ministry of health and social security, which employed six labor inspectors nationwide.

Some children were trafficked for sexual exploitation (see section 5).

*e. Acceptable Conditions of Work.*—The national minimum wage for public employees increased to \$67.11 (115 lari) a month; however, the minimum wage did not provide an adequate standard of living for a worker and family. The official minimum subsistence level for a single person was \$67.69 (116 lari) and for a family of four \$120.22 (206 lari). The mandated minimum wage for private sector workers was \$11.68 (20 lari) per month. The average wage in private enterprises was \$136.56 (234 lari) monthly; state employees earned approximately \$94.54 (162 lari). Minimum monthly pensions increased from approximately \$16 (28 lari) to \$22 (38 lari). Unreported trade activities, assistance from family and friends, and the sale of homegrown agricultural products often supplemented salaries. The ministry of health and social security is responsible for enforcing the minimum wage. The GTUA had its own inspector to monitor compliance.

The labor code provides for a 41-hour workweek and for a weekly 24-hour rest period, unless otherwise provided by a labor contract.

The Government set occupational health and safety standards. The ministry of health and social security is charged with monitoring implementation of health and safety standards and had six inspectors assigned to the task. The law permits higher wages for hazardous work, and the law provides workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment. In practice these protections were rarely, if ever, enforced.

## GERMANY

Germany is a constitutional parliamentary democracy with a population of approximately 82 million. Citizens periodically choose their representatives in free and fair multiparty elections. The head of the federal government, the Chancellor, is elected by the Federal Parliament (Bundestag). The second legislative chamber, the Federal Council (Bundesrat), represents the 16 states at the federal level and is composed of members of the state governments. The Basic Law (constitution) sets forth the powers of the Chancellor and of the legislative branch. The most recent national elections for the Federal Parliament took place in September 2005. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens. However, there were reported instances of mistreatment of prisoners and detainees by police, and there were limits on freedom of speech, press, assembly, and association aimed at groups deemed extremist. Extremists engaged in intimidation during the electoral process; there was governmental and societal discrimination against some minority religious groups; and cases of societal harassment of asylum seekers and other foreigners occurred. Violence against women, trafficking in persons, and harassment of racial minorities were problems.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them. Investigations of earlier instances of alleged abuse continued.

In 2004 prosecutors indicted 18 army instructors on charges of degrading treatment of subordinates in Coesfeld. In December 2005 the Muenster Regional Court refused to begin trials involving nine of them, citing lack of evidence. However, the Higher Regional Court in Hamm reversed the Muenster Regional Court's decision and ruled in August that all 18 instructors must stand trial. The trials had not begun by year's end.

There were a number of violent attacks by right-wing groups on members of minority groups, foreigners, and political opponents (see sections 3 and 5).

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. However, one reported incident and conditions in some facilities were causes for concern.

In February an interim report of the Committee for the Prevention of Torture (CPT) of the Council of Europe criticized conditions at prisons in Hamburg, Baden-Wuerttemberg, Brandenburg, Saxony-Anhalt, Lower Saxony, Schleswig-Holstein, and Thuringia. According to the report, none of the inspected prisons had adequate staffing or facilities. The report criticized "dirty and seedy cells," "systematic censorship of correspondence," and a lack of television sets and books. Addressing the CPT's allegations, the speaker of the Hamburg Justice Ministry referred to financial constraints and stated that the cited conditions affected only a few detainees.

The authorities continued to investigate the January 2005 death of a detained asylum seeker, Oury Jalloh, from Sierra Leone. The death occurred during a fire in a jail cell in the state of Saxony-Anhalt. The state district attorney's office charged officers on duty with involuntary manslaughter. Court proceedings against one police officer were scheduled to begin in March 2007 at the Dessau Regional Court. Authorities had not decided whether a second officer would have to face court proceedings.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Police forces are organized at the state level. The Federal Criminal Investigative Service has responsibility for counterterrorism and international organized crime. It also coordinates crime suppression at the national and international level and investigates certain limited cases of international crime as mandated by the law or instructed by the public prosecutor. Police forces in general were well trained, well disciplined, and mindful of citizens' rights. The Government investigated abuses and prosecuted police who mistreated persons in custody. Allegations of corruption were rare.

*Arrest and Detention.*—An individual may be arrested only on the basis of a warrant issued by a competent judicial authority unless the suspect is caught in the act of committing a crime or the police have strong reason to believe that the individual intends to commit a crime. By law most detainees are entitled to prompt access to lawyers and, if indigent, to lawyers provided by the state. If there is evidence that a suspect might flee the country, police may detain that person for up to 24 hours pending a formal charge. An individual detained by police must be brought before a judge and charged by the end of the day after the arrest. The court then must issue an arrest warrant stating the grounds for detention; otherwise they must order the individual's release. These rights were generally respected.

Police may detain known or suspected radicals for brief periods when they believe such individuals intend to participate in illegal or unauthorized demonstrations (see section 2.b.). The rules governing this type of detention differ by state, with authorized periods of detention ranging from one to 14 days, provided judicial concurrence is given within 24 hours of initial detention. There were no reports of such detention during the year.

Although criminals may not be punished twice for the same crime, the law allows "retroactive preventive detention" in cases involving such crimes as rape, homicide, or manslaughter. This procedure permits courts to order that detention be continued after offenders have served their sentences. Such preventive detention requires a court finding, based on at least one expert opinion, that the convicted person could pose a danger to the public. The detention could last indefinitely.

Bail exists but was employed infrequently; authorities usually released detainees unless there was clear danger that the detainee might flee the country, in which case a detainee could be held for the duration of the investigation and subsequent trial. Such decisions are subject to regular judicial review, and time spent in investigative custody applies toward the sentence. In cases of acquittal, the Government must compensate the individual for pecuniary losses as well as a lump sum for "moral prejudice" if prison time was served.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

Ordinary courts have jurisdiction in criminal and civil matters. There are three levels of such courts (local courts, regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition to the ordinary courts, there are four types of specialized courts: administrative, labor, social, and fiscal, each with an appellate process.

The Federal Constitutional Court, the country's supreme court, reviews laws to ensure their compatibility with the constitution and adjudicates disputes between different branches of government on questions of competency. It may also hear and decide cases concerning the infringement of a person's basic constitutional rights by a public authority.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Heavy caseloads at times delayed court proceedings. For simple or less serious cases, procedures exist for an accelerated hearing and summary punishment at the local court level. These procedures are limited to cases for which the maximum sentence is not greater than one year. The courts generally suspended one-year sentences and placed the convicted individuals on probation.

Trials are public, and juries are not used. Cases are heard either by one judge, a panel of professional judges, or a mixed panel of professional and lay judges, depending on the severity of the charges. Defendants are required to be present and have the right to consult with an attorney in a timely manner. The Government provides an attorney at public expense if defendants demonstrate financial need. Defendants may confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to all court-held evidence relevant to their cases. They also enjoy a presumption of innocence and have a right of appeal.

Military courts include one civilian judge and two lay judges. Appeals of their rulings go to the civilian court system.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—An independent and impartial judiciary in civil matters provides access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Administrative remedies are available as well as judicial remedies for alleged wrongs. There were no reports of problems enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and authorities generally respected these prohibitions; however, members of organizations monitored by the federal and state offices for the protection of the constitution (OPCs) charged that their privacy was infringed (see sections 2.b. and 2.c.).

In criminal investigations of certain serious crimes, law enforcement officials may monitor telecommunications of suspects but only with court approval. In intelligence-related cases, such as suspicion of involvement in terrorism, the law permits intelligence services to engage in surveillance activities, such as monitoring telecommunications, without court approval. However, such activities generally have to be approved by an independent commission elected by a parliamentary control body.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; while the Government generally respected these rights, it imposed some limits aimed at groups deemed extremist.

Distribution of the propaganda of proscribed organizations is illegal, as are statements inciting racial hatred, endorsing Nazism, and denying the Holocaust. Following an unsuccessful effort to win political asylum abroad, Germar Rudolf was deported to Germany, where he was put on trial in November, in Mannheim, for “representing the Holocaust as a myth.” Rudolf had been convicted for Holocaust denial in 1995 but fled the country. The trial was underway at year’s end.

Apart from these limitations, an active independent media expressed a wide variety of views without government restriction.

*Internet Freedom.*—Access to the Internet was unrestricted in most respects, and most individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, there were some limitations on access and expression.

Federal and state laws permitted OPCs to monitor the private e-mails and chatrooms of individuals and groups under surveillance, but such activities were subject to oversight by an independent commission elected by a parliamentary control body (see section 2.f.). Access to such “prohibited” material as child pornography and Nazi propaganda was forbidden by law. Authorities also sought to ban the storing of such material on servers in the country.

A wide spectrum of society had access to the Internet at such places as homes, businesses, schools, and libraries.

Several Internet providers have sued the state of North Rhine-Westphalia over a state ordinance requiring them to block access to certain Web sites determined to be promoting right-wing extremism. In most of these cases, various administrative courts in the state rejected the complaints, although one was partially successful based on technical factors. At year’s end two of the suits were pending before the Aachen Administrative Court.

*Academic Freedom and Cultural Events.*—There were few government restrictions on academic or cultural events; however, the use of such materials as Nazi propaganda, Holocaust denial, and pornography was prohibited.

At the end of 2005, the Higher District Court of Lüneburg, Lower Saxony, issued a ban on stage appearances by a right-wing songwriter who planned to perform at a “national New Year’s Eve” party. The event, which was organized by the right-wing extremist National Party of Germany (NPD) took place.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. However, prohibited organizations were not permitted to hold public assemblies. Permits must be obtained for open-air public rallies and marches, and state and local officials have the authority to deny such permits when public safety concerns arise or when prohibited organizations attempt to hold public assemblies. Such denials were rare.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice; however, the law permits the prohibition of organizations whose activities which have been judged as illegal or opposed to the constitutional democratic order. While the Federal Constitutional Court is the only body that can outlaw political parties on these grounds, federal or state governments may prohibit or restrict other organizations, which have the right to appeal. Such organizations include groups that authorities classified as extremist or criminal in nature. For example, during the year the state of Brandenburg declared the Federation for the Protection of Germany (Schutzbund Deutschland) to be a prohibited organization.



Federal and state OPCs charged with examining possible threats to the constitutional democratic system monitored several hundred organizations. Monitoring generally consisted of collecting information from written materials and firsthand accounts to assess possible threats; however, OPCs could employ more intrusive methods, such as the use of undercover agents, subject to legal checks. OPCs also published lists of monitored organizations.

Although the law stipulates that OPC monitoring must not interfere with the activities of any organization, representatives of monitored organizations complained that the publication of the organizations' names by state OPCs contributed to prejudice against them (see section 2.c.). The Islamic Religious Community of Hesse (Islamische Religionsgemeinschaft Hessen—IRH), the state of Hesse's largest Muslim umbrella organization, protested its listing in the Hesse OPC report. The Hesse interior ministry claimed that such IRH activities as limiting female student participation and promoting Shari'a (Islamic law) contradicted basic constitutional principles. In May the Hesse interior ministry agreed not to portray the IRH as an extremist organization, unless there were new facts to support its inclusion in OPC reporting. The IRH leadership also announced that the group would relax its position against the participation of female Muslim students in school excursions.

In May the Munich Administrative Court ordered the state of Bavaria to cease publishing certain allegations in the OPC's report about the Islamic Community Milli Goerues (MG), considered by the Bavarian government to be a Turkish Islamic extremist group. Since 2001 the OPC report quoted alleged statements by several MG members that it considered anticonstitutional and inflammatory. The court ruled that the authenticity of these statements could not be established and asked the OPC not to republish them.

*c. Freedom of Religion.*—The Basic Law provides for freedom of religion, and the Government respected this right in practice; however, discrimination against certain religious minorities remained a problem. Government policy continued to contribute generally to the free practice of religion.

Religious organizations are not required to register, but must do so in order to qualify as nonprofit associations with tax-exempt status. The state confers certain other advantages upon religious communities that also obtain the status of "corporation under public law," including the right to levy taxes on their members that the Government collects on their behalf. In July, after a 10-year legal effort by the Jehovah's Witnesses organization, the State of Berlin granted the organization public corporation status. Few Muslim organizations have applied for public law corporation status, and so far no state has granted corporation status to any Muslim organization, in part because none has met the Government's criteria; in some cases intra-Muslim disputes prevented organizations from establishing their right to represent their community.

The Government did not recognize several belief systems, including Scientology, as religions; however, the absence of recognition did not prevent their adherents from engaging in public and private religious activities.

Federal and some state authorities continued to classify Scientology as a potential threat to democratic order, a view that led to employment and commercial discrimination against Scientologists in both the public and private sectors. Administrative action and court rulings, including in Leipzig and Hamburg in late 2005 and during the year, reduced or eliminated some governmental impediments to Scientology. For example, unemployment offices were no longer required to inform job seekers if prospective employers were Scientologists, or whether they employed Scientologists.

During the year several public and private organizations issued public warnings about Scientology after-school study programs.

In October the Federal Constitutional Court, in response to an appeal by the Unification Church, overturned an earlier decision of a court in Rheinland-Pfalz to ban the Sun Myung Moon and his wife from entering the country. Reverend Moon and his wife were originally banned from entry in 1995. In a narrow decision, the Constitutional Court rejected the lower court's reasoning for upholding the ban on the grounds that it was a violation of religious freedom and ordered the case returned to the lower court for reexamination.

Since the 1990s four major political parties—the Christian Democratic Union (CDU), the Christian Social Union, the Social Democratic Party (SPD), and the Free Democratic Party—have prohibited Scientologists from becoming members. Scientologists have unsuccessfully challenged these prohibitions.

Several states have laws that prohibit teachers from wearing headscarves in public schools. These laws have led to dismissals and adverse decisions on the hiring of teachers. Some courts have upheld challenges to these laws.

In February Gilek Yilmaz became a teacher trainee at a school in Schleswig-Holstein. The state Ministry for Education advised her that she would be required to

remove her headscarf when a school law prohibiting the wearing of headscarves takes effect in 2007.

In July the administrative court of Stuttgart, reviewing the case of a teacher who had been suspended for wearing a headscarf, ruled that the law of state of Baden-Wuerttemberg prohibiting such attire was discriminatory. While the court agreed with the state that the headscarf violated religious neutrality, it concluded that the state could not prohibit headscarves while allowing Catholic nuns to wear religious dress. The teacher, Doris Graber, had been suspended from teaching in 2004. The state indicated that it would appeal the verdict.

In April 2005 the Bremen education ministry denied the application of a trainee teacher after she refused to sign a commitment to abstain from wearing a headscarf in class. The Bremen Higher Administrative Court ruled that the state could refuse the application because her headscarf would "seriously jeopardize school peace." However, in June the applicant obtained a verdict from the Bremen administrative court calling on the Bremen education ministry to prove that her teaching with a headscarf would concretely, rather than just abstractly, jeopardize school peace.

Most public schools offer Protestant and Catholic religious instruction, as well as instruction in Judaism if enough students express interest. Students may opt out of religious instruction upon simple application to school authorities. Depending upon the state, students may be required to attend a nonreligious ethics course or they may be permitted to choose between such a course and a free period.

Islamic education is offered in some states, but the overall practice is complicated by differences between Islamic groups.

The legal obligation that children attend a school, confirmed by the Constitutional Court in May and the European Court of Justice in October, and the related bar on home schooling, was a problem for some groups. Generally, state authorities have permitted such groups to establish charter-type schools.

*Societal Abuses and Discrimination.*—There were reports of continuing societal discrimination and hostility toward some minority religious groups; however, the Government took measures to address the problem. On August 18, a comprehensive federal antidiscrimination law took effect. This law prohibits discrimination on the basis of ethnicity, religious affiliation, age, sex, disability, and sexual orientation.

The federal government also promoted tolerance by establishing dialogues with representatives of immigrant and Muslim groups at the Chancellor and interior minister levels on the integration of minorities and immigrants and on Islamic issues.

Police conducted antiterrorism raids on mosques and Islamic centers in several states. The Muslim community criticized these raids as infringing on their freedom of religion. Authorities stated that some raids were conducted to prevent terrorist attacks during the Soccer World Cup competition. In June law enforcement officials in Baden-Wuerttemberg conducted large-scale raids in areas allegedly frequented by Muslim extremists. The state's OPC continued to monitor what it termed the growing ranks of "homegrown" radical Muslim elements in the state.

Beginning in January authorities in Baden-Wuerttemberg required residents seeking naturalization to complete a questionnaire concerning their political and moral beliefs and their adherence to the constitution. The questionnaire led to protests from the political opposition and from independents such as Paul Spiegel, then-chairman of the Central Council of Jews in Germany. Muslim organizations in Baden-Wuerttemberg announced plans to take the issue to the Federal Constitutional Court. Critics viewed the questionnaire, which included questions on attitudes toward women's and gay rights, terrorism, and other social issues, as discriminating against Muslim immigrants.

Some observers believed that societal discrimination against some ethnic groups, particularly the Turks, was one of the major factors limiting their economic progress. While there were no statistics specifically documenting discrimination, an April 2005 study by the Center for Turkish Studies claimed that one-third of an estimated three million Turks in the country lived below the poverty level; a further third lived just above the poverty level. Only 5 percent of Turkish-origin students attend a gymnasium, a top-tier secondary school necessary to enter university (see section 5). Fewer than 10 percent of 18- to 25-year-olds of Turkish descent were enrolled in higher education. Information released in August suggested that unemployment continued to afflict Turkish immigrants more than the general population, with unemployment among Turkish immigrants at 33 percent compared to 10.5 percent countrywide.

There were a number of anti-Semitic incidents during the year. According to official, but preliminary, data provided to parliament, there were reports of 463 anti-Semitic crimes in the first six months. Of these, seven were violent crimes, 91 involved anti-Semitic propaganda, and four persons were injured. The remainder in-

cluded desecrations of Jewish sites such as cemeteries, memorials, and synagogues. For example, in January vandals smeared gravestones in a Jewish cemetery in Brandenburg with swastikas, and vandals also desecrated the Jewish memorials of Rabbi Menachem Schneerson in Berlin. In April unknown perpetrators smeared swastikas on 28 graves at the Jewish cemetery in Bebra, Hesse, and desecrated tombstones in Worms, at Heiligen Sand, one of the oldest Jewish cemeteries in Europe. Also in April the site of the Jewish community of Cottbus was smeared with anti-Semitic slogans. In June Jewish memorials to Heinrich Stahl, former chairman of the Jewish community in Berlin were desecrated, as was a memorial to the murdered Jews of Europe in July in Berlin-Mitte. Synagogues were defaced in March in Berlin and in April in Goerlitz. During the year authorities conducted 257 investigations of such incidents and made 29 arrests.

In June six youths burned The Diary of Anne Frank at a summer festival in Pretzien, a small town in the eastern part of the country. On September 26, the players of the Jewish club TuS Makkabi stopped a soccer game in Berlin as a result of taunts and the singing of anti-Semitic songs by spectators.

There were no developments in the 2004 case of Jewish cemetery desecrations in Neunkirchen or the 2005 cases in Hesse and Rheinland-Pfalz.

The activities of right-wing extremist organizations, whose platforms include anti-Semitism among other forms of intolerance, increased significantly (see section 5). The Jewish community reported a marked increase in anti-Semitic acts and an extremely difficult atmosphere for the country's Jews, especially during the July-August conflict involving Israel and the terrorist organization Hizballah in Lebanon.

The Government monitored right-wing extremists, conducted investigations into anti-Semitic crimes, and at times banned extremist groups deemed a threat to public order.

Statements inciting racial hatred, endorsing Nazism, and denying the Holocaust are illegal. Following an unsuccessful effort to win political asylum abroad, Germar Rudolf was deported to the country from abroad and put on trial in November, in Mannheim, "for representing the Holocaust as a myth." (See section 2.a.)

Authorities sought to address right-wing extremism by conducting a variety of education programs to promote tolerance, many focusing on anti-Semitism (see section 5).

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

In January the interior minister of Brandenburg revoked the passport of neo-Nazi Horst Mahler for six months to prevent him from attending a conference in Iran of persons who deny the Holocaust.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government generally provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

Authorities processed 30,759 asylum applications during the year. They granted 251 (0.8 percent), and rejected 18,384 (59.8 percent); the remainder were resolved but, information about the manner of their resolution was not available. Approximately 1,700 applicants were granted temporary suspension of expulsion on humanitarian grounds. All cases in which asylum was granted must be reviewed after three years in order to determine whether the grounds for asylum still apply.

There have been instances of refoulement. For example, authorities deported asylum applicant Alassane Mousbaou, a dissident from Togo, from Mecklenburg-Vorpommern to Togo on January 31. According to his lawyer, Togolese authorities threatened Mousbaou immediately following his arrival because of his dissident activities in Germany. Since then Mousbaou was reported to be in hiding, awaiting the conclusion of legal proceedings related to his asylum application. In response to criticism over this case, on April 11 the state government adopted a six-month moratorium on further deportations to Togo.

The federal government, in coordination with the UN Interim Mission in Kosovo, continued repatriation of the estimated 51,000 technically deportable Kosovar refugees remaining in the country. Through September approximately 400 Kosovars voluntarily repatriated and 1,000 had been involuntarily repatriated. Some human rights observers asserted that Roma from Kosovo were particularly liable to be de-

ported; however, the federal Ministry of the Interior stated that Roma and Serbs were excluded from forced repatriation except in a few cases involving criminals.

The Government voluntarily repatriated 198 Afghan refugees during the year. Between January 1 and September 30, 140 refugees were involuntarily returned to Afghanistan as criminals, deportees, and persons posing a threat to domestic security.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

According to the Basic Law, individuals who attempted to enter the country via a "safe country of transit"—a member state of the European Union (EU) or a country adhering to the Geneva Convention on Refugees—were ineligible for asylum and could be turned back at the border or, if they had entered the country, returned to that "safe country of transit."

Individuals whose applications for asylum were rejected had up to two weeks to appeal the decision. Individuals who arrived at an international airport and who were found to have come from a "safe country of origin" could be detained at an airport holding facility. In these cases the Federal Office for the Recognition of Foreign Refugees was required either to make a decision on an asylum application within 48 hours or allow the person to enter the country. An applicant could appeal a negative decision to an administrative court within three days, and the court was required to rule within 14 days or allow the individual to enter the country. Local nongovernmental organizations (NGOs) continued to criticize these periods of time as insufficient to allow applicants to prepare for hearings. Although stays in an airport facility were not supposed to exceed 19 days, applicants whose claims were rejected, but who could not be deported immediately, were allegedly held at the airport for months, a practice that refugee assistance groups and human rights advocates continued to criticize.

To deal with particularly difficult cases, all of the states agreed to form "commissions on hardship cases," composed of representatives from churches, charity organizations, and municipal organizations, that could grant rejected asylum seekers permission to remain in the country on an individual basis.

Societal discrimination against, and abuse of, refugees and asylum seekers occurred. During the year right-wing extremist groups reportedly attacked shelters for asylum seekers in Mecklenburg-Vorpommern (Nordvorpommern), Berlin, and Brandenburg (Cottbus and Neuruppin).

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The Basic Law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The most recent national elections took place for the Federal Parliament in September 2005.

During campaigning that preceded the Berlin state elections in September, there were incidents of right-wing extremist intimidation. Extremists forcibly disrupted campaign events of political parties and vandalized campaign posters. For example, on September 8, two neo-Nazis attacked two campaign workers of the SPD, resulting in the hospitalization of one of them with serious head injuries. On August 30, approximately 20 neo-Nazis disrupted an SPD campaign event. At an event held by the Party of Democratic Socialism in late August, 10 to 15 right-wing extremists intimidated participants by wielding bottles and throwing firecrackers. Also in late August, right-wing extremists toppled tables at a campaign event of a CDU member of parliament.

On August 11, during the Mecklenburg-Vorpommern state election campaign, right-wing extremists besieged and threatened SPD state parliament member Margret Seemann at her campaign stand in Hagenow.

In May Mecklenburg-Vorpommern state parliamentarian Stefan Koester (NPD) was found guilty of having beaten a counter-demonstrator at a December 2004 NPD campaign event in Itzehoe (Schleswig-Holstein.)

The Federal Constitutional Court is empowered to prohibit political parties that actively work to undermine the constitutional democratic order (see section 2.b.). No parties were prohibited during the year.

The chancellor was a woman, and there were 194 women in the 614-seat Federal Parliament. There were five women, in addition to the chancellor, in the 15-member cabinet; three of the 16 judges of the Federal Constitutional Court were women.

There were at least eight members of ethnic minorities in the Federal Parliament and one on the Federal Constitutional Court but none in the cabinet.

*Government Corruption and Transparency.*—There were isolated reports of government corruption.

A federal freedom of information law that took effect on January 1 provides for public access to government information. During the year 2,278 requests for information were filed; authorities complied fully or partially with 1,379. They refused 410 based on restrictions defined in the law, such as protection of public interests or the rights of third parties. Appeals were filed by 142 applicants; 62 of these were rejected. Four states (Berlin, Brandenburg, Schleswig-Holstein, and North Rhine-Westphalia) also have freedom of information laws that provide for an appeals process. In those states authorities in most cases cited business confidentiality as the basis for most of their denials of access to information.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of international and domestic human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits the denial of access to housing, health care, or education on the basis of race, gender, disability, language, or social status, and the Government generally enforced these provisions in practice. Nonetheless, violence against women and children, trafficking in persons, and harassment of racial minorities and foreigners were problems.

On August 18, the Government complied with a 2000 EU directive by enacting an antidiscrimination law prohibiting discrimination on the basis of ethnicity, religious affiliation, age, sex, handicap, or sexual orientation.

*Women.*—The law prohibits violence against women, including spousal abuse; perpetrators may be temporarily denied access to the household, put under a restraining order, or in severe cases prosecuted for assault or rape and required to pay damages. The Government enforced the law; nevertheless, violence against women was believed to be widespread. Organizations that aid victims estimated that one in four to five women has been the victim of physical or sexual violence.

The law criminalizes rape, including spousal rape, and provides penalties of up to 15 years in prison. The Government effectively enforced the law. According to national police criminal statistics, in 2005 there were 8,133 cases of rape or serious sexual coercion. The federal government supported numerous projects in conjunction with the states and NGOs to deal with violence against women, both to prevent violence and to give victims greater access to medical care and legal recourse.

Forced marriages are illegal and invalid, and the act of coercing another person into a marriage through force or threat of force or other negative consequences is punishable with up to three years' imprisonment. While there were no conclusive statistics regarding the actual number of forced marriages in the country, evidence indicated that the problem was common in the Muslim community. Women's rights activists asserted that one-half of the young Turkish women living in the country were in forced or arranged marriages, a situation that often led to violence. Such marriages affected not only young women living in the country for whom the family brought a husband from abroad, but also young women who were sent to their native countries against their will to be married.

According to a Baden-Wuerttemberg commission, from January to October 2005, 215 persons in the state (of whom 213 were women) sought assistance for problems related to the prospect of a forced marriage (110 persons) or to a recent forced marriage (105 persons). Of those whose religious affiliation was known, 95 percent were Muslims, almost 40 percent were Turkish citizens, and 40 percent were minors. In 46 cases the forced marriage resulted in offspring. Saarland reported 13 cases of forced marriage in 2005.

While there was not complete agreement on the definition of the term "honor killing," the Federal Office of Criminal Investigation (BKA) characterized five killings in 2005 as honor killings. In April a court found the brother of Hatan Surucu guilty of her murder in February 2005. He had disapproved of her Western lifestyle.

In June 2005 a 22-year-old Turkish woman was shot and killed in Wiesbaden-Dotzheim. The victim's older brother confessed to the crime; police stated that he committed the "honor killing" because the woman had a German boyfriend. He was sentenced to a life term by the Wiesbaden Regional Court in September.

Prostitution is legal and fairly widespread, although communities have the authority to exclude it from specified areas, such as residential neighborhoods.

Trafficking in women was a problem (see section 5, Trafficking).

In September prominent lawyer Seyran Ates temporarily gave up her work as an attorney for women's rights because of numerous serious threats against her life,

mainly from the husbands of the women she defended. Ates defended numerous Muslim women in court and spoke out against honor killings, forced marriage, and spousal violence.

Sexual harassment of women was a recognized problem. The law prohibits sexual harassment and requires employers to protect employees from sexual harassment. Various disciplinary measures against offenders are possible, including dismissal. An employer's failure to take appropriate measures to protect employees from this abuse is considered a breach of contract and an affected employee has the right to paid leave until the situation is rectified. There were press reports of sexual harassment in the workplace and in public facilities. Unions, churches, government agencies, and NGOs operated a variety of support programs for women who experienced sexual harassment and sponsored seminars and training to prevent it.

The law provides women the same rights as men. The Federal Ministry for Family, Seniors, Women, and Youth was the primary federal agency maintaining oversight of women's rights issues. The law provides for equal pay for equal work, but women earned on average 30 percent less than men. A study conducted during the year found that in private companies, women, who constituted 46 percent of the workforce, held only 24 percent of senior management positions.

Women generally were not discriminated against in terms of compensation for equivalent work, although they were underrepresented in well-paid managerial positions and overrepresented in some lower-wage occupations; their average monthly incomes were lower than those of men.

*Children.*—The Government maintained its strong commitment to children's rights and welfare. Public education is provided free of charge through the university level, and education is compulsory through the age of 16; almost all children attended school.

The Government funded medical care for children, and boys and girls had equal access to medical care.

Child abuse was a problem that received widespread media attention. In 2005, 13,962 cases of sexual abuse of children were reported as well as 199 cases of serious sexual abuse of children for the purpose of producing and publishing pornographic material. The law provides for the protection of children against pornography and sexual abuse. The maximum sentence is one year's imprisonment for possession of child pornography and five years in prison for distribution. The law makes the sexual abuse of children by citizens abroad punishable even if the action is not illegal in the child's own country. The Government effectively enforced these laws.

Forced marriage of young girls in various immigrant communities gained increasing public attention. This phenomenon affected both young adult women and minor girls (see section 5, Women).

Although there were no reports of abuse of street children, authorities believed that the life of these children often involved violence and abuse. Often these children were fleeing violent and abusive homes. Street children frequently turned to prostitution for income.

Approximately 8 percent of reported trafficking victims were under the age of 18 (see section 5, Trafficking).

The Government provided extensive funding for programs to combat the sale of children, child prostitution, child pornography, trafficking of children, and child sex tourism.

*Trafficking in Persons.*—The law prohibits trafficking in persons, but there were reports that men, women, and children were trafficked to, through, and within the country for the purposes of sexual and labor exploitation. Victims of sex trafficking came primarily from Central and Eastern Europe, although some were from Africa and Asia.

In its most recent report, covering 2005, the Government recorded 642 trafficking victims compared to 972 in 2004. Of these 115 were German nationals (17.9 percent) and 13 of the 115 were male. Most victims were between the ages of 18 and 24 (544). Of the victims, 79 (8 percent) were under 18 years of age, including 26 citizens.

The BKA registered 683 suspected traffickers in 2005, the latest year for which statistics were available. Citizens made up the largest share of suspected traffickers (283, or 41 percent).

The law criminalizes trafficking in persons and provides penalties of up to 10 years in prison. Trafficking crimes are prosecuted at the state level.

According to the Ministry of Justice, courts convicted 137 adults of trafficking charges in 2004, compared to 145 in 2003. The statistics did not include convictions of alleged traffickers on nontrafficking charges or convictions of traffickers on mul-

tiple charges where another charge carried a higher maximum penalty than the maximum penalty for trafficking. Of the 137 convicted traffickers in 2004, 93 received prison sentences of two years or less; 27 were sentenced to two to three years; 11 were sentenced to three to five years; and three were sentenced to five to 10 years. In keeping with standard practice for sentences of two years or less, 87 sentences were suspended. Those receiving suspended sentences were generally convicted of playing an auxiliary role in trafficking operations and were subsequently required to perform community service, pay penalties, and, in many cases, meet regularly with a parole officer.

The countertrafficking office of the BKA cooperated with Europol and Interpol law enforcement authorities. Federal ministries coordinated countertrafficking efforts on the international, national, and state levels.

Police were required to notify a counseling center of trafficking victims and to inform the victims of their rights and options for seeking assistance. The centers provided shelter, counseling, interpreting services, and legal assistance.

In nine of the 16 states, there were cooperation agreements between police, state welfare agencies, and NGOs to strengthen the delivery of welfare services to victims. The federal and state governments worked with NGOs and local women's shelters to identify and assist victims, funding more than 30 NGO counseling centers for victims of trafficking.

The Government paid the basic cost of repatriating trafficking victims under the Reintegration and Emigration Program for Asylum Seekers in Germany (REAG). The International Organization for Migration (IOM) administered REAG and facilitated assistance to returning victims.

The Government sought to educate potential trafficking victims before they entered the country. Embassies and consulates as well as NGOs distributed brochures that provided information on residency and work permit requirements as well as warnings about trafficking.

Federal and state government agencies took additional steps to prevent trafficking during the World Cup soccer championship by improving screening of possible victims and police safeguards, sponsoring seminars, expanding print and video outreach, and strengthening interagency coordination. NGOs used government funds to conduct public awareness campaigns and establish telephone hot lines for victims. According to government officials and the IOM, there was no increase in the number of trafficking victims during the World Cup. An IOM report attributed this result to enhanced border controls, police surveillance, international cooperation, and extensive public outreach efforts.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or in the provision of other state services, and the Government effectively enforced these provisions.

Government guidelines were in place for barrier-free public buildings and for modifications of streets and pedestrian traffic walks to accommodate persons with disabilities. All 16 states have incorporated the federal guidelines into their building codes. Almost all federal buildings (98 percent) complied with the guidelines for a barrier-free environment.

*National/Racial/Ethnic Minorities.*—Harassment, including beatings, of foreigners and racial minorities remained a problem throughout the country.

On April 16, two persons allegedly beat and kicked into a coma a man of Ethiopian origin at a trolley stop in Potsdam. They shouted racial epithets at the victim. The Brandenburg public prosecutor took over the investigation and indicted the two alleged assailants on August 22 for very serious injury, defamation, and failure to lend assistance. Court proceedings were scheduled to begin in February 2007.

In the first eight months of the year, according to data from the Federal Criminal Office (BKA), illegal offenses by right-wing extremists increased 21 percent over the same period in 2005. In 2005 the federal OPC recorded 15,361 right-wing "politically motivated crimes" (PMCs), the highest level since 2000. The BKA defines "politically motivated crimes" as offenses related to the victims' ideology, nationality, ethnicity, race, skin color, religion, worldview, ancestry, sexual orientation, disability status, appearance, or social status. The figures for 2005 included 2,305 left-wing PMCs, 644 PMCs by foreigners, and 191 other types of PMCs. The OPC report listed 168 right-wing extremist organizations and groups. Authorities estimated membership in these groups plus right-wing extremists who remain unorganized to be approximately 39,000 at the end of 2005.

In order to address right-wing extremism, authorities conducted a variety of educational programs to promote tolerance, many focusing on anti-Semitism and xenophobia. In October the federal government added approximately \$6,550,000 (5 mil-

lion euros) to the approximately \$27,500,000 (21 million euros) previously allocated to such programs. Government agencies cooperated with NGOs in the formulation and administration of these programs.

In March unknown persons vandalized four immigrant-owned stores in Rheinsberg, Brandenburg. In the same month in Cottbus, Brandenburg, two unknown persons physically attacked and shouted racial epithets at two asylum seekers, from Chad and Cameroon.

Resident foreigners and minority groups continued to voice credible concerns about societal and job-related discrimination (see section 6.c.).

The Government monitored right-wing extremists, conducted investigations into hate crimes, and at times banned extremist groups deemed a threat to public order (see sections 2.a. and 2.b.).

*Other Societal Abuses and Discrimination.*—Despite increasing public awareness, media and reports from other sources indicated that societal and job-related discrimination against homosexuals occurred. However, openly homosexual persons occupied prominent positions in many areas of society, including politics, business, and the arts.

There was discrimination against persons with HIV/AIDS, primarily due to lack of understanding of the disease. The Government worked with NGOs, religious groups, and business to educate the public about HIV/AIDS and its prevention.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Basic Law provides for the right of employees to form and join unions of their choice without excessive requirements or previous authorization, and workers exercised this right. Approximately 27 percent of the workforce was organized into unions. The overwhelming majority of organized workers belonged to eight unions largely grouped by industry or service sector and affiliated with the German Trade Union Federation, the country's main trade union umbrella organization.

*b. The Right To Organize and Bargain Collectively.*—The law permits unions to conduct their activities without interference, and the Government generally protected this right in practice. The law protects the right to collective bargaining, which was freely practiced. Collective bargaining agreements covered approximately 65 percent of the labor force. The law provides for the right to strike, except for civil servants (including teachers) and personnel in sensitive or essential positions, such as members of the armed forces. Collective bargaining agreements reached for those public service workers who had this right were usually extended by legislation to those who did not, although such extensions did not always include all of the provisions of those agreements. Workers not allowed to strike also had legal recourse through the courts to protect their rights. Workers conducted legal strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children under the age of 15, with a few exceptions: Those 13 or 14 years of age may do farm work for up to three hours per day or may deliver newspapers for up to two hours per day; and those three to 14 years of age may take part in cultural performances, albeit under stringent curbs on the kinds of activity, number of hours, and times of day. Abusive child labor was not a serious problem, although violations did occur, mainly in small, often family-owned, businesses such as pubs, restaurants, and grocery stores.

Trafficking of children was a problem (see section 5).

The Federal Ministry of Labor and Social Affairs effectively enforced the law through its Factory Inspection Bureau.

*e. Acceptable Conditions of Work.*—There was no legislated or administratively determined minimum wage. Collective bargaining agreements set minimum pay rates and were enforceable by law for an estimated 80 percent of all wage and salary earners. The wages established by these processes provided a decent standard of living for a worker and family.

Federal regulations limited the workweek to a maximum of 48 hours, but collective bargaining agreements may stipulate even lower maximums. Contracts that directly or indirectly affected 80 percent of the working population regulate the number of hours of work per week. The average workweek was 39.9 hours nationwide (data for 2004 from the Organization for Economic Co-operation and Development);



rest periods for lunch were accepted practices. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

An extensive set of laws and regulations govern occupational safety and health. A comprehensive system of worker insurance carriers enforced safety requirements in the workplace. The Ministry of Labor and Social Affairs and its counterparts in the states effectively enforced occupational safety and health standards through a network of government bodies, including the Federal Institute for Work Safety. At the local level, professional and trade associations—self-governing public corporations with delegates representing both employers and unions—oversee worker safety. The law provides for the right to refuse to perform dangerous or unhealthy work without jeopardy to continued employment.

Foreign workers in the country were protected by law and generally worked in conditions equal to those of citizens; however, such workers faced some wage discrimination. For example, foreign teachers in some schools were paid less than their citizen counterparts. Seasonal workers from Eastern Europe who came to the country on temporary work permits also often received wages below those of citizens. Workers from other EU countries at times were employed at the same wages they would receive in their home country, even if the corresponding citizen worker would receive a higher wage.

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## GREECE

Greece is a constitutional republic and multiparty parliamentary democracy, with an estimated population of 11 million. In March 2004 the New Democracy Party won the majority of seats in the unicameral Vouli (parliament) in free and fair elections, and Konstantinos Karamanlis became the Prime Minister. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. The following human rights abuses were reported: abuse by security forces, particularly of illegal immigrants and Roma; overcrowding and harsh conditions in some prisons; detention of undocumented migrants in squalid conditions; limits on the ability of ethnic minorities to self-identify; restrictions on freedom of speech; restrictions and administrative obstacles faced by members of non-Orthodox religions; detention and deportation of unaccompanied or separated immigrant minors, including asylum seekers; domestic violence against women; trafficking in persons; discrimination against ethnic minorities and Roma; substandard living conditions for Roma; inadequate access to schools for Romani children; and child exploitation in nontraditional labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings; however, in September there were reports that coast guard authorities threw detained illegal migrants overboard and six of them drowned. After an investigation, authorities denied the reports.

By year's end authorities had taken no action in the 2004 killing of an Albanian immigrant beaten to death by a person whom witnesses identified as a policeman.

In March police officer George Dimitrakakis, charged with the 2003 murder of a person who failed to stop at a routine automobile checkpoint in Crete, was sentenced to life imprisonment. Two police guards also associated with this case were acquitted of murder charges but received two-year sentences with a three-year suspension for violating the law pertaining to law enforcement officers' use of arms.

In June a border policeman identified in the Greek press as Pavlos Papageorgiadis was convicted of a felony—reckless homicide—in the September 2003 shooting and killing of an Albanian trying to cross illegally into the country. He received a suspended prison sentence of two years and three months.

During the year two migrants were killed in minefields along the border with Turkey. Sixty-eight persons have died over the previous 15 years in the Evros minefields.

The appeals process remained ongoing for 15 members of the 17 November terrorist organization, who were found guilty and sentenced in 2003 for more than 2,500 crimes, including homicide.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other inhuman or degrading treatment or punishment; however, security forces abused a few persons, particularly immigrants and Roma (see section 5).

International organizations and human rights nongovernmental organizations (NGOs) repeatedly alleged that illegal immigrants and refugees were subjected to violence by border guards and coast guard officers when caught entering the country illegally (see section 1.a.). Violence also occurred as coast guard officials tried to prevent illegal immigrants from leaving the country en route to other European Union (EU) countries.

The Council of Europe's Committee for the Prevention of Torture (CPT) reported in December that the rights of persons in police detention centers were not respected in practice and that there continued to be widespread use of violence against persons deprived of their liberty. The CPT delegation doctors found that persons who had alleged ill-treatment during interrogation or while in border guard stations were found to have injuries consistent with their allegations.

NGOs expressed continuing concern over the mistreatment of individuals during arrest and detention and for the failure of judicial and administrative systems to deal promptly and effectively with cases of police misconduct (see section 1.d.).

By year's end no results had been released concerning the investigation of a case of two civilians who alleged in 2004 that police beat them in Pyrgos, Peloponnese, during a routine identity check. Similarly, no results had been announced regarding allegations that three armed forces officers abused and beat 10 illegal immigrants on an islet in the Aegean Sea in 2004.

By year's end no date had been set for the trial of two police officers charged with subjecting a group of Afghan asylum seekers in 2004 to interrogation techniques that allegedly included torture.

In a letter to the Ministry of Public Order made public in January 2005, the deputy ombudsman for human rights noted numerous procedural and substantive shortcomings in the investigation concerning the alleged police torture in 2002 of Nigerian citizen Joseph Okeke and the alleged 2002 beating and torture of Yannis Papacostas in a police station near Athens. The deputy ombudsman called for police to re-evaluate their report on Okeke on the basis that the procedure suffered from gross errors concerning the evaluation and appraisal of the available evidence. At year's end an application based on this case was pending with the European Court of Human Rights (ECHR) alleging violation of the article in the European Convention on Human Rights that prohibits torture and inhuman or degrading treatment or punishment.

In December 2005 the ECHR ordered the Government to pay a fine of \$13,100 (10,000 euros) to each of two Romani men for inhuman and degrading treatment by police in Mesolonghi in 1998; the Government paid the fine during the year.

In December 2004 the ECHR ordered the Government to pay a fine of \$19,650 (15,000 euros) for failing to carry out an effective investigation of a 1995 shooting incident in which police officers seriously injured an unarmed person; the Government reportedly paid the fine during the year.

Police were more likely to abuse Roma than other minority groups. Immigrants, including Albanians, also accused police of abuse (see section 5).

Police beat a protester during the year (see section 2.b.).

*Prison and Detention Center Conditions.*—Prison conditions remained harsh due to continued overcrowding and outdated facilities; however, in December the Government appointed a former prosecutor as an Inspector for Prisons and opened one new prison facility. As of September the Ministry of Justice reported that the total prison population was 10,114, while the official capacity of the prison system was 6,019.

Many pretrial detainees were held with convicted prisoners in the high security Korydallos Prison in central Piraeus. In March three inmates (two Romanians and one Greek) were burned to death and another was seriously injured after setting a fire in their cell at Korydallos. In April inmates in the old section of the Trikala prison, where 350 inmates were housed in a building intended for 125, organized a riot to protest the prison's overcrowding. Since the riot, a new wing has opened at the Trikala prison and the old wing was renovated. Trikala's overall capacity was increased to 400 in the enlarged facility and there were approximately that number incarcerated there at year's end. In August a facility in Chania, Crete, designed for 10 inmates was holding 130, and another in Thessaloniki, built for 80 inmates, was holding 181. The Thessaloniki Bar Association reported that inmates in local police detention facilities did not have access to a yard or basic sanitary items, and they were poorly nourished.

In an August-September 2005 visit, the CPT examined the treatment of persons detained by law enforcement authorities, focusing in particular on detention facilities for illegal immigrants in the eastern Aegean and Thrace. The delegation visited prisons, police detention centers, police stations, holding facilities for illegal immigrants, and psychiatric hospitals. The CPT released its report in December which found that most detention centers for illegal immigrants it visited were in a poor state of repair, unhygienic, and lacking in basic amenities. The CPT noted that prisons remained largely overcrowded and that inter-prison violence appeared to be on the rise. The CPT reported that conditions of detention in police establishments generally were unsatisfactory, and in certain cases amounted to inhuman or degrading treatment. The CPT found that facilities designed for holding suspects for short periods were used for holding persons for prolonged periods.

The CPT recommended measures to stamp out ill-treatment by law enforcement officials that included investigating allegations of ill-treatment thoroughly and, where appropriate, imposing disciplinary and criminal sanctions. The committee also recommended the establishment of an independent police inspectorate and rigorous recruitment and training programs for the police.

The CPT also found that detention establishments of the Coast Guard on the islands of Chios and Mytilini were unacceptable, because metal containers lacking functioning hygienic facilities and natural light and ventilation were used to hold irregular immigrants. The CPT recommended that containers should never be used to hold persons for more than a few hours and should always be equipped with suitable facilities and ventilation.

In November-December 2005, the Council of Europe Commissioner for Human Rights examined the treatment of persons detained by law enforcement authorities, focusing on detention facilities for illegal immigrants in Attica. The delegation visited police detention centers, holding facilities for illegal immigrants, and Romani camps. The commissioner noted that overcrowding in prisons had increased. The deputy ombudsman for human rights described conditions in the detention centers as "an insult to human dignity." During a separate mission, in December 2005, the commissioner noted that the situation had not improved. Although the Attica police station was no longer used as a holding center due to its poor conditions, the replacement, a newly constructed facility at Petrou-Ralli designed as a short-term detention and transit facility, was only marginally better. The Council of Europe commissioner and the CPT found that the new facility, used to detain foreigners awaiting deportation, was unsuitable for stays over two days. In practice foreigners were confined for three months in cells that contained up to eight persons with only bunks for furniture, very limited access to showers, and only brief exercise possibilities. The CPT noted that the design of the facility was extremely poor, that it was suffering from a total lack of communal spaces, and characterized it as a missed opportunity for authorities to construct an appropriately designed center for administrative detention of aliens.

In its 2006 annual report, Amnesty International (AI) and the CPT stated that detention conditions for aliens, including asylum seekers, irregular migrants, and unaccompanied minors, in some cases "may have amounted to cruel, inhuman, and degrading treatment," and that overcrowding remained a serious problem (see section 2.d.).

At the Hellenikon holding center for irregular immigrants a man has been detained for almost one and a half years without being able to communicate with anyone; he appeared to have developed symptoms of mental illness. The CPT delegation reported that this man had been placed in a cage-like cell for several months.

In April 120 alien detainees in the main Thessaloniki detention center protested overcrowding conditions and lack of access to proper sanitation in the facility.

Disciplinary actions were initiated in late September 2005 against two police officers who disturbed four jailed Muslims during prayer at the police detention center in Aspropyrgos.

The UN High Commissioner for Refugees (UNHCR) reiterated observations about overcrowding and poor conditions in detention centers during the year.

The CPT reported that conditions in Peplos (Thrace) and the island of Mytilini (Aegean) detention centers were unacceptable, and found multiple shortcomings at the Chios Judicial prison.

There were reports that juveniles seeking asylum were held with adults.

The Council of Europe commissioner for human rights reported that local and international independent human rights observers were not consistently permitted access to prisons, police detention centers, or detention centers for illegal immigrants. The commissioner recommended the authorities increase and improve cooperation with NGOs, permitting regular access to all facilities where foreigners were detained. International human rights observers reported fewer problems re-

ceiving permission for visits than did local human rights groups, and the International Committee of the Red Cross had a regular program for prison visits. There was insufficient access to detention centers for independent organizations wanting to screen for victims of trafficking in persons.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention. However, police conducted large-scale sweeps and temporarily detained large numbers of foreigners, often under crowded and squalid conditions, while determining their residence status.

*Role of the Police and Security Apparatus.*—The police are responsible for law enforcement and maintenance of order within the country and are under the authority of the Ministry of Public Order. The coast guard is responsible for law enforcement in territorial waters and is under the authority of the Ministry of Mercantile Marine. While the country's law enforcement agencies were generally effective, police did not adequately deal with self-styled "anti-imperialist" anarchists, who used crude gas canister bombs and Molotov cocktails to attack property, government offices, targets representing "Western interests," and the police, particularly in central Athens.

Police corruption continued to be a problem. While a police anticorruption unit in the Ministry of Public Order's Bureau of Internal Affairs investigated alleged abuses, human rights and antitrafficking groups asserted that anticorruption efforts needed to be given higher priority. The ombudsman for human rights and NGOs noted that the Bureau of Internal Affairs' investigations determined culpability in very few cases and that the penalties handed down were disproportionately lenient. The Council of Europe commissioner for human rights reported that few cases against law enforcement personnel were brought before the courts and that there was leniency in the courts when addressing cases involving law enforcement personnel. The commissioner noted that the widely reported failure of authorities to examine cases of ill treatment by law enforcement personnel remained of particular concern and the mechanisms in place to address anticorruption and law enforcement abuse claims needed to be reviewed.

During the year the Bureau of Internal Affairs took several disciplinary measures, including dismissal and suspension, against officers involved in corruption, primarily for forging documents and taking bribes. Most charges against police involved violation of duty, false certificates, abuse of power, corruption, violations with arms and explosives, illegal release of persons in police custody, procuring, and violations related to alien registration.

As of December the trial of the Charilaou precinct commander on charges of blackmail, fraud, and illegal possession on firearms was pending.

In April a police officer identified in published reports as Nikos Kanellopoulos was convicted and given a three-year suspended sentence for mistreating a Roma in August 2001.

The Ministry of Public Order conducted regular training to address a variety of problems, including corruption and police abuses. The ministry also issued a new code of conduct, new booklets, and other material to police officers to promote reform.

*Arrest and Detention.*—The law requires judicial warrants for arrests except when they are made during the commission of a crime, and it prohibits arbitrary arrest orders. Authorities generally respected these provisions in practice. Police must bring persons who are detained or arrested before an examining magistrate within 24 hours. The magistrate must issue a detention warrant or order their release within three days unless special circumstances justify a two-day extension of this limit. Bail is available for defendants detained or arrested on felony charges, unless the judicial officer determines that such incentives would not adequately assure the defendant's appearance at trial or that the defendant is a flight risk or a danger to the community.

Under the law persons in detention had the right to inform a close relative or another third party, to have access to a lawyer and to have access to a doctor; however, the CPT found that the Government did not respect these rights in practice. The CPT heard a number of claims that access to a lawyer had been delayed for periods up to three days, and that in most of these cases the persons detained, mostly foreigners, alleged that they were ill-treated during arrest and interrogation. The CPT received a number of complaints from irregular immigrants in detention that the information sheets with explanations of their rights that they received were only in the Greek language and that they were either coerced physically or threatened with ill-treatment in order to ensure the slips were signed (in Greek).

Defendants have the right to legal counsel. In felony cases the bar association provides lawyers to defendants who prove they cannot afford legal counsel.

Defendants brought to court on the day following the alleged commission of a misdemeanor may be tried immediately under expedited procedures. Although legal safeguards, including representation by counsel, apply in expedited procedure cases, the short time period limited defendants' ability to present an adequate defense. Defendants may request a delay to prepare a defense, but the court is not obliged to grant the request. Expedited procedures were used in less than 10 percent of applicable cases.

There continued to be reports that police took citizens to detention centers for arbitrary identity checks, used insulting language and threats of force, and conducted bodily searches in public. Police reportedly targeted persons based on their race, color, nationality, or their presence in "high-crime" areas (see section 5).

In December 2005 the chief prosecutor of the Supreme Court opened investigations into allegations made by 28 Pakistanis resident in the country that they were abducted in July 2005, hooded, held for up to seven days in a secret location, and interrogated by persons who claimed to be police officers. One of the claimants also alleged that he was beaten. The minister of public order reported that up to 5,000 foreign national residents were legally questioned in the aftermath of the July 2005 London bombings but that no such abuses took place. In May the prosecutor filed abduction charges against unidentified suspects after completing a four-month investigation and established that at least 14 Pakistanis were abducted.

While members of the Church of Jesus Christ of Latter-day Saints (Mormons) and Jehovah's Witnesses reported having difficulties with harassment and police detention due to antiproselytizing laws, they noted a marked improvement during the year (see section 2.c.).

The law allows pretrial detention for up to 18 months for felonies and nine months for misdemeanors. Defense lawyers asserted that pretrial detention was excessively long and overused by judges. A panel of judges may release detainees pending trial, with or without bail. Pretrial detainees made up approximately 30 percent of those incarcerated and contributed to overcrowding, according to figures provided by the Ministry of Justice.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice. Observers reported that the judiciary is subject to influence. On several occasions in the last three years, the ECHR has penalized the Government for the unreasonably long lengths of trials and found the Greek court system to be inefficient. During the year a number of judges were under investigation or had been dismissed on corruption-related charges (see section 3). The judiciary acted more leniently toward those claiming a political motivation for their acts of property destruction (so-called anarchists) than it did for those who claimed no political motivation (such as hooligans). For example, anarchists were given suspended prison sentences in lieu of prison time or punitive fines.

The judicial system consists of three levels of civil courts (first instance, appeals, and supreme), three levels of criminal courts (first instance, divided into misdemeanor and felony divisions; appeals; and supreme), appointed judges, and an examining magistrate system, with trials by judicial panels.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public in most instances, and juries are used in all first and second-degree felony cases. An antiterror statute permits denial of the right to a jury trial in cases of violent terrorism. Defendants have the right to be present and to consult with an attorney in a timely manner. An attorney is provided at public expense if indigent defendants face serious criminal charges. Defendants may confront and question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and have the right to appeal. Defendants who do not speak Greek have the right to a court-appointed interpreter. According to several immigrant associations in Athens, the low fees paid for such work often resulted in poor interpretation. Foreign defendants who used these interpreters frequently complained that they did not understand the proceedings at their trials. Defendants often were not advised of their rights during arrest in a language that they could understand. Several complained that they were not shown the Hellenic Police Informational Bulletin, which contains prisoners' rights in a variety of languages, and that they were forced to sign blank documents later used for their deportation.

The Government recognizes Shari'a (the Muslim religious law) as the law regulating family and civic issues of the Muslim minority in Thrace (see section 5).

In March the ECHR ordered the Government to pay \$11,259 (9,000 euros) to an applicant who had been subjected to a criminal proceeding that lasted an "undue

length of time.” The ECHR court ruled that a proceeding of six years and eight months was excessive and did not comply with the reasonable time requirement of the European Convention on Human Rights. The Government paid the fine during the year.

In May 2005 the ECHR ordered the Government to pay \$18,000 (15,000 euros) for nonpecuniary damages to an applicant for the undue length of a criminal proceeding; the Government paid the fine during the year.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is a generally independent and impartial judiciary in civil matters. There are no administrative remedies available beyond the judicial remedies for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits the invasion of privacy and searches without warrants, and permits the monitoring of personal communications only under strict judicial controls; however, these provisions were not always respected in practice.

Police and prosecutors regularly conducted raids and searches of Romani neighborhoods, frequently entering Roma homes without authorization in search of criminal suspects, drugs, and weapons. Local authorities threatened to evict, and evicted, Roma from camps and tent dwellings during the year (see section 5).

Unlike in the previous year, Turcophone and Slavophone activists did not complain of police surveillance.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice; however, legal restrictions on free speech remained in force. The law prohibits exposing to danger of disturbance the friendly relations of the state with foreign states, spreading false information and rumors liable to create concern and fear among citizens and cause disturbances in the country’s international relations, and inciting citizens to rivalry and division leading to disturbing the peace or acts of violence. However, these prohibitions were very rarely invoked. In most criminal defamation cases, defendants were released on bail pending appeal without serving time in jail.

By year’s end the results had not been made public of an inquiry by the Mercantile Marine Ministry into 2004 allegations by two foreign journalists that members of the coast guard arrested and beat them when they attempted to film a restricted security area during the Olympic Games.

There were numerous independent newspapers and magazines in circulation. Throughout the year, and consistent with past years, satirical and opposition newspapers routinely criticized state authorities. Members of ethnic, religious, and linguistic groups were generally able to publish materials freely, including in their native languages.

The law provides that the Government exercise “immediate control” over radio and television and establishes ownership limits on media frequencies. The Ministry of Press and Mass Media has authority over radio and television licensing, while the National Radio and Television Council (ESR) maintains an advisory role.

Independent radio and television stations were active and expressed a wide variety of views with little government restriction. State-operated stations tended to emphasize the Government’s views but also reported objectively on other parties’ programs and positions. Turkish-language television programs were widely available via satellite in Thrace.

The law allows for seizure, by order of the public prosecutor, of publications that insult the President, offend Christianity “or any other known religion,” contain obscene articles, advocate violent overthrow of the political system, or disclose military and defense information. There were no such seizures during the year.

In February a court in Patras convicted and sentenced a journalist and a cameraman to eight months imprisonment and a fine of \$37,530 (30,000 euros) each for conducting an interview with an Albanian migrant who was arraigned for allegedly driving drunk in a stolen car. The conviction was based upon a law that prohibits photographing or filming individuals while they are pending trial; however, the Albanian individual requested the interview in order to denounce a racial attack that occurred while he was being arrested. The Greek Helsinki Monitor (GHM) alleged that this was the first invocation of the law, despite the fact that newspapers and television stations routinely violated it.

In February 2005 police arrested an Internet artist on charges of Internet fraud for creating a satirical web site entitled “Dirty Works in Greece.” The site described

corruption in the civil service hiring process. Police confiscated his computer, notes, and other materials. The artist was released on bail after three days. There were no further developments in the case during the year.

Unlike in the previous year, no newspapers censored articles regarding the Slavophone dialect.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Internet use was widely available throughout the country.

Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail. However, in June Athens police arrested a search engine blog administrator and confiscated his computer hard drive. He was charged with libel and defamation based upon comments that appeared in one of the blogs under his administration. The comments allegedly used the word “stupid” to describe a nationalistic television religious evangelizer who claimed that all things on earth come from Greece and from ancient Greeks. The administrator, however, was not the author of the comments. He was released on bail and then suspended the operation of the blog. A lawsuit was filed against him, and his trial was still pending at year’s end.

*Academic Freedom and Cultural Events.*—The Government did not restrict academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice.

In November police severely beat a 24-year-old Cypriot student during a student protest commemorating the 1973 student uprising against the military junta. The incident was caught by television cameras and caused a public outcry. The Government condemned the incident, apologized for it, and ordered a judicial investigation, the results of which had not been announced by year’s end. The Ministry of Public Order suspended two police officers and ordered the transfer of a police director and three low ranking officers.

A human rights activist was held at a police station for four hours in October 2005 and was told that he was under arrest after having participated in demonstrations against the expulsion of Romani children from their school. A parent lodged a complaint against him for libel and defamation, but at year’s end the case was still pending, and no trial date had been set.

*Freedom of Association.*—The law provides for freedom of association; however, the courts continued to place legal restrictions on the names of associations involving certain ethnic minorities.

In February 2005 the Supreme Court announced its rejection of the appeal of the Turkish Union of Xanthi, upholding the 1983 lower court decision to dissolve the association because it used the adjective “Turkish” in its title. The same court rejected the application for registration of the Rodopi Turkish Women’s Cultural Association for the same reason. The Supreme Court ruling ended a 20-year legal struggle for recognition by the Turkish Union, which had normal legal status from 1927 to 1983. The Turkish Union of Xanthi and the Rodopi Cultural Association applied to the ECHR for redress, but by year’s end, no decision had been reached.

In October the Home of Macedonian Culture (Stegi Makedonikou Politismou) filed an appeal to a previous decision denying to the organization legal status; however, the appeals court in Florina rejected the appeal in September. Having exhausted all state avenues of redress, the only avenue left for the group is to file an appeal with the ECHR.

*c. Freedom of Religion.*—The law provides for freedom of religion; however, non-Orthodox groups at times faced administrative obstacles or legal restrictions on religious practices.

The law establishes the Eastern Orthodox Church of Christ (Greek Orthodoxy) as the “prevailing” religion. The Greek Orthodox Church continued to exercise significant political and economic influence. The Government financially supported the Greek Orthodox Church and also paid the salaries and some expenses of the two official Muslim religious leaders in Thrace. Jewish leaders requested that the Government pay rabbis’ salaries, given its practice of paying Orthodox priests’ and Muslim muftis’ salaries; the Government had not responded to this request by year’s end.

The Government, by virtue of the status of the Greek Orthodox Church as the prevailing religion, recognizes de facto its canon law. Privileges and legal prerogatives granted to the Orthodox Church are not extended routinely to other recognized religions. Orthodox Church officials refused to enter into dialogue with religious groups that they considered harmful to Orthodox worshippers, and they instructed

their members to shun followers of these faiths. In June an Orthodox Bishop in the Dodecanese group of islands reportedly harassed and verbally abused an Old-Calendar bishop (a separate sect of Orthodoxy) who was conducting a liturgy in a private church on Kalymnos island.

Several religious denominations reported difficulties dealing with authorities on a variety of administrative matters, including gaining recognition as a "known religion," opening new houses of worship, and moving a house of worship from one location to another.

Only Greek Orthodoxy, Islam, and Judaism are recognized as "known religions." No formal mechanism exists to gain recognition as a "known religion." Recognition is granted indirectly by applying for and receiving a "house of prayer" permit from the Ministry of Education and Religion. In July the Government repealed a law that allowed the ministry to base its decisions on the issuance of house of prayer permits on the opinion of the local Orthodox bishop. New religions had problems obtaining these permits.

According to Ministry of Education and Religion officials, applications for additional places of worship were numerous and were approved routinely once a recognized religion received a permit; however, members of the Church of Scientology have not been able to register or build a house of prayer. A group that follows the ancient polytheistic Hellenic tradition applied twice in the last three years for a house of prayer permit, but by year's end the group had not received an official response to its applications. The Jehovah's Witnesses have several pending house-of-prayer permit requests, but they have not taken the cases to the ombudsman because they received a verbal commitment from the Ministry of Education and Religion that it would approve their applications. In addition non-Orthodox religious groups must provide separate and lengthy applications to authorities on such matters as gaining permission to move an official house of prayer to a larger facility.

In 2004 a former Greek Orthodox priest who became a priest of the Macedonian Orthodox Church was issued a three-month prison sentence, later suspended, for holding religious services without a house of prayer permit. The priest's sentence could not be appealed in the country and for this reason he intended to appeal to the ECHR.

Although parliament approved a bill in 2000 allowing construction of the first Islamic cultural center and mosque in the Attica area, no construction had started by year's end. In October the Government passed legislation providing for the establishment of a mosque in central Athens, as opposed to the initial site chosen in an outlying suburb in Attica. In the meantime, Muslims in Athens continued congregating in dozens of unofficial prayer rooms and were forced to travel to Thrace for official weddings and funerals because there were no official Muslim clerics outside of Thrace.

Muslims are accorded the status of an official minority in Thrace, and the Government selects two official Muslim religious leaders, or muftis, there. While part of the community accepted the two officially appointed muftis, some Muslims "elected" two different muftis. In the past, the courts repeatedly convicted one "elected" mufti for usurping the authority of the official mufti; however, his sentences remained suspended. The "elected" mufti appealed to the ECHR which found in July the Government had violated his right of freedom of religion (article 9 of the European Human Rights Convention on freedom of thought, conscience and religion) and ordered the Government to pay \$3,930 (3,000 euros) in court costs. The Government paid the fine during the year.

Non-Orthodox citizens claimed that they faced career limits in the military, police, fire-fighting forces, and civil service due to their religion.

The law specifically prohibits proselytizing and stipulates that religious rites must not disturb public order or offend moral principles. Police conducted arbitrary identity checks and arrested and detained Mormons and members of Jehovah's Witnesses, usually after witnessing or receiving complaints that they were engaged in proselytizing. In most cases, police held persons for several hours and then released them without filing charges. Mormons and Jehovah's Witnesses arrested and held by the police reported that police did not allow them to call their lawyers and verbally abused them for their religious beliefs. However, the proselytizers reported a marked improvement during the year due to increased training and instruction given to police officers.

Legislation providing for religious worker visas was passed in 2005, remedying the difficulty reported in the past by some religious denominations in renewing the visas of non-EU citizen religious officials.

Religious instruction is mandatory for all Greek Orthodox students in primary and secondary schools, but not for non-Orthodox students. Some government-approved religious textbooks made derogatory statements about non-Greek Orthodox



faiths. Since schools did not supervise non-Orthodox children while Greek Orthodox children were taking religious instruction, non-Orthodox parents complained that they were effectively forced to have their children attend Greek Orthodox classes. In Thrace the Government subsidized public schools for the Muslim minority and two Koranic schools. Turcophone activists criticized the quality of instruction at the minority schools and the state-sponsored Pedagogical Academy that trains teachers. In September the Government began a pilot program of teaching Turkish as a foreign language in five public high schools in Thrace. Turkish teachers expressed reservations about the program and ultimately refused to teach Turkish in these public high schools.

*Societal Abuses and Discrimination.*—Members of non-Orthodox faiths reported incidents of societal discrimination, such as local Greek Orthodox bishops warning parishioners not to visit clergy or members of these faiths and requesting that police arrest missionaries for proselytizing. Some non-Orthodox religious communities encountered difficulty in communicating with officials of the Orthodox Church and claimed that the attitude of the Orthodox Church toward their faiths has increased societal intolerance toward their religions. However, with the exception of the growing Muslim population, most members of non-Orthodox faiths considered themselves satisfactorily integrated into society.

The Orthodox Church maintained on its Web site a list of religious groups—including Mormons, Jehovah's Witnesses, evangelical Protestants, Scientologists, Bahá'is, and others—and practices that it considers sacrilegious.

The Jewish community has approximately 5,000 members. Anti-Semitism continued to exist, particularly in the extremist press. The mainstream press and public often did not clearly distinguish between criticism of Israel and comments about Jews. In 2004 the European Commission against Racism and Intolerance, the Wiesenthal Center, the Anti-Defamation League, and GHM criticized the press for carrying anti-Semitic stories and cartoons on several occasions. For example, on August 16, *Eleftherotypia*, the second largest daily newspaper, published a cartoon depicting an Israeli soldier praying with a rifle that was firing swastikas. Candidates for the political party LAOS, the fifth largest party, have made anti-Semitic statements during the campaign for municipal offices in the Fall. The party's weekly paper *A1* published strongly anti-Semitic articles accusing the Israelis of genocide against the Lebanese people. A July editorial stated that if "the Jews continue this way, they will beat Hitler's number of victims." Anti-Semitic references as well as comparisons with the Holocaust were common in the press during the July-August conflict involving Israel and Lebanon, while some major media promoted the image of Israel as the "Nazi-state." On the other hand, Hezbollah fighters were often seen as "freedom fighters" and "resistance groups."

Vandalism of Jewish monuments decreased, although the Holocaust monument in Thessaloniki was vandalized during an antiwar demonstration in August; the Government condemned the vandalism. As of December, police had not found the perpetrators of the 2004 desecration of Holocaust memorials in Komotini in Thrace. Several times throughout the year extreme right-wing groups painted anti-Semitic graffiti along with their symbols and organization names at multiple locations, including the busy Athens-Corinth and Athens-Tripoli highways, and other public structures. In February the prosecutor filed a lawsuit against "Golden Dawn" for defacing public property and painting anti-Semitic graffiti during the course of the last several years.

In April the Central Board of the Jewish Communities of Greece continued to protest the Easter tradition of burning a life-size effigy of Judas, sometimes referred to as the "burning of the Jew," which they maintained propagated hatred and fanaticism against Jews. One Greek Orthodox bishop, a local NGO, and the Wiesenthal Center expressed formal written objections to this tradition. The Jewish Community also protested anti-Semitic passages in the Holy Week liturgy and it reported that it maintained a dialogue with the Orthodox Church about the removal of these passages.

Some schoolbooks carried negative references to Roman Catholics, Jewish persons, members of Jehovah's Witnesses, and others.

Negotiations continued between the Jewish community of Thessaloniki and the Government to find acceptable restitution for the community's cemetery, expropriated after its destruction during the Holocaust. Aristotle University, a public institution, was built on top of the expropriated cemetery.

Jewish community leaders condemned anti-Semitic broadcasts on small private television stations, but authorities did not bring charges against these largely unlicensed operators.

The Government co-sponsored commemorative events in Athens and Thessaloniki in January for Holocaust Remembrance Day. This was followed two weeks later by

the visit of Israel's President Moshe Katsav, the first official visit of an Israeli head of state. The Ministry of Education distributed materials to schools on the history of the Holocaust to be read in all schools on Holocaust Remembrance Day, and teacher-training seminars on the Holocaust were held.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for free movement or residence in the country as well as free entry and exit of citizens and noncitizens. The Government generally respected these rights in practice.

The law prohibits forced exile, and the Government did not employ it.

The law permits the Government to remove citizenship from persons who commit acts contrary to the interests of the country for the benefit of a foreign state. While the law applies to citizens regardless of ethnicity, it has been enforced in all but one case against persons who identified themselves as ethnic "Macedonians." The Government did not reveal the number of such cases, but it was reported to be low, and there were no reports of new cases during the year. There were reports that citizens of the United States, Canada, Australia, and the Republic of Macedonia were prevented from entering the country because their names appeared on a blacklist of people who had taken an anti-Greek political position on the Macedonia issue.

The Ministry of Interior reported to parliament in May 2005 that 46,638 Muslims from Thrace and the Dodecanese islands lost their citizenship when they left the country between 1955 and 1998. The law that permitted this divestment of citizenship was repealed in 1998, and the "stateless" residents are eligible to recover their citizenship as long as they live in Greece. According to the Ministry of Foreign Affairs, by December 2005 there were 64 persons in possession of government-issued identification documents characterizing them as "stateless." By December the ministry reported that approximately 55 applications were pending for citizenship through naturalization by these residents. In March the ombudsman for human rights noted that delay in processing applications for recovering citizenship was "excessive and unjustified." According to the Ministry of Foreign Affairs, the Ministry of Interior has made no decisions on the applications. Stateless persons continued to be denied access to state benefits such as social security, medical care, and pensions.

Due to serious bureaucratic problems in the legalization process for immigrants, many aliens were in a semilegal status (have expired permits but have filed for renewal or are entitled to renewal, but a renewal stamp had not yet been placed in their passports). Many of these were subject to deportation without legal process following police sweeps. In August 2005 a new immigration law was passed providing for legalization of undocumented migrants who can prove by a visa stamp or possession of a tax roll number that they entered the country before December 31, 2004. Immigrants and human rights organizations complained that out of an estimated population of 450,000 undocumented immigrants, only 180,000 immigrants had successfully legalized under the new law because many immigrants did not meet the qualification of legal entry into the country or due to stringent application requirements.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. However, the Government largely has not implemented a 1999 Presidential decree that brought the law into compliance with the standards of the UNHCR with regard to asylum procedures. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. Although the UNHCR observed an attempt by the Government for a more realistic and humanitarian approach to refugees during the year, they, together with the Greek Council for Refugees, the ombudsman for human rights, the European Commission against Racism and Intolerance, AI, and the Council of Europe commissioner for human rights, expressed concern that very few applicants were granted asylum and that new arrivals that might include potential asylum seekers were at risk of refoulement. In March the ombudsman for human rights noted that the asylum application process remained problematic, primarily due to selective acceptance and processing procedures for asylum applications by the police Aliens Directorate. During 2005 the Government granted refugee status to 39 out of 4,624 applicants, whereas the overall recognition rate, including humanitarian status (granted to 49 persons) stood at 1.9 percent. The UNHCR remained concerned that the refugee recognition rate remained very low.

Although the Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers, the UNHCR and others ex-

pressed concern over the country's asylum policy and practices. They cited its insufficient reception facilities, underdeveloped systems for providing for refugee welfare, insufficient counseling to assist integration of refugees and asylum seekers, and lack of appropriate treatment for unaccompanied minors who were potential asylum seekers. In February the UNHCR issued a position paper on refugee protection with 25 recommendations for the Government regarding: improvement of reception capacity and living conditions; provision of legal counseling; and protection for asylum-seeking children, women, and victims of human trafficking. In 2005 the ombudsman pointed out inadequacies in laws for detaining and deporting underage foreign nationals, including asylum seekers, and a lack of infrastructure and services for handling juvenile detainees who tried to enter the country illegally or sought asylum. In June the ombudsman recommended that the Ministry of Public Order add staff to the Aliens Directorate to handle the 50,000 pending asylum applications, simplify asylum procedures, and follow UNHCR recommendations and guidelines; the Government had not responded to the recommendation by year's end.

By November two policemen were awaiting trial for allegedly subjecting a group of 40 to 60 Afghan asylum seekers to interrogation techniques that included torture in 2004.

Conditions for illegal immigrants and asylum seekers detained by authorities were sometimes unsatisfactory (see section 1.c.). The UNHCR observed an improvement of detention conditions at border areas, but this improvement was not uniform, and conditions in many areas remained substandard. Moreover, inadequate counseling to ensure the accurate identification of asylum seekers was prevalent. In May AI charged that several irregular immigrants, who arrived on the island of Chios in April 2005, were detained in conditions that amounted to cruel, inhuman, and degrading treatment, including being held in a metal container close to the island's main harbor. In April 2005 human rights activists on the island demonstrated against the use of the metal container to hold migrants. Human rights groups reported limited provisions and medical care as well as lack of hot water at some facilities. Improvement was noted in some parts of the Evros region, but old warehouses continued to be used to house illegal immigrants.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In the most recent elections, held in 2004 and considered free and fair, the New Democracy Party won the majority of seats in parliament. Opposition parties functioned freely and had broad access to the media.

Romani representatives reported that local authorities often deprived Roma of the right to vote by refusing to register them. Many Roma had difficulty meeting municipal residency requirements to register to vote. There were a few complaints that the Government harassed the Rainbow Party, a small political party that included Slavophone activists, prior to the 2004 elections.

Voting is mandatory for citizens over age 18, according to the law; however, there are many conditions under which citizens may be exempted, and the Government did not apply a penalty for not voting.

There were 38 women in the 300-seat parliament and one woman in the 19-member cabinet. A quota system requires 30 percent of all local government candidates to be women. At the three high courts, there were 14 women out of 61 council of state justices, 28 women out of 59 supreme administrative court justices, and three women out of 62 Supreme Court justices.

There was one member of the Muslim minority in the 300-seat parliament. There were no Muslim minority members in the cabinet.

A government-appointed regional administrator of Eastern Macedonia and Thrace has statutory responsibility for oversight of rights provided to the Muslim minority in Thrace, but the Ministry of Foreign Affairs retains an important advisory role.

*Government Corruption and Transparency.*—Corruption was a problem. International and domestic NGOs stated that anticorruption efforts needed to be a higher government priority, and opinion polls suggested widespread public perception of corruption in the executive and legislative branches. Mutual accusations of corruption between political parties were a daily staple of political life.

By December, 13 justices had been dismissed, 14 were temporarily suspended from duty, two were detained and being prosecuted for money laundering and receiving bribes, 33 were indicted, and disciplinary action had been initiated against 49 for charges related to corruption. In October the immunity of a member of par-

liament was lifted on allegations of corruption. The deputy minister of national economy and finance was fired based on the public allegations of corruption; however, he was not prosecuted.

The constitution provides for the right of access to government-held information, and the Government granted access for citizens.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction in the country, investigating and publishing their findings on human rights cases. Cooperation with domestic groups varied; some received government funding, while others received no official or unofficial cooperation. The Government usually cooperated with international human rights groups and made an effort to be responsive to their views.

A CPT delegation, the Commissioner for Human Rights at the Council of Europe, and the UN special rapporteur on the sale of children, child prostitution, and child pornography visited the country during the year (see sections 1.c., 1.d., and 5).

The UN special rapporteur on the sale of children, child prostitution, and child pornography, after a November 2005 visit, called on the Government to foster a more efficient and cooperative relationship with NGOs "to make children a recognized priority for the country beyond political, institutional, and ideological disputes"; appoint a focal point on children's issues; improve institutional capacity for protecting unaccompanied minors, street children, and victims of trafficking; and complete the pending bilateral child repatriation agreement with Albania. He further recommended that the state take specific measures to improve the living conditions of Roma and give Romani children alternatives to street work and prostitution as survival strategies. He also recommended the creation of an advisory board of civil society and public authorities to coordinate children's policies as well as the creation of a joint Greek-Albanian commission to investigate the "disappearances" from a children's institution from 1998 to 2003 (see section 5). He called NGOs an "indispensable asset" in implementing the measures. The Government did not take any steps to implement his recommendations during the year.

The law provides for an independent ombudsman, whose office provided an effective means for citizens to address human rights and religious freedom problems. The widely recognized office was granted adequate resources to perform its functions: mediating between private individuals and public administration and defending and promoting children's rights. There were five deputy ombudsmen who dealt respectively with human rights, children's rights, citizen-state relations, health and social welfare, and quality of life. The Department of Human Rights received 2,506 complaints in 2005, 983 of which were pending in January. Problems included complaints regarding residence and work provisions for immigrants, overcrowding in prisons and aliens' detention centers, unjustified procedural difficulties to acquire citizenship, excessive and unjustified delays in processing applications for recovering citizenship for "stateless" persons, arbitrary acceptance of applications of asylum seekers and negative references to non-Orthodox religions in schoolbooks.

The government-funded National Human Rights Committee is an autonomous human rights body that operates independently of government or party control or influence. The committee is the Government's advisory organ on the protection of human rights and had adequate resources. It cooperated effectively with the Government to promote legislation protecting and enhancing human rights. During the year it produced a major report on Roma which found that Roma remained the most discriminated against and marginalized social group in the country. In 2005 it produced two television spots against racism and promulgated reports and recommendations on human rights problems, including teenage violence, gender equality, affirmative action, and refugee matters.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and the law prohibit discrimination based on race, gender, disability, language, or social status; however, government respect for these rights was inconsistent in practice. Violence against women and children, trafficking in persons, and discrimination against ethnic minorities (particularly Roma) and homosexuals were problems.

*Women.*—Domestic violence, including spousal abuse, continued to be a problem. The Government passed legislation in August that charges spousal rape as a felony, prohibits corporal punishment of children, and provides for ex relatione prosecution (prosecution by force of law) for all domestic violence crimes. Penalties provided range from two years to 10 years depending on the gravity of the crime. The General Secretariat for the Equality of the Sexes (GSES), an independent government

agency, estimated that only 6 to 10 percent of domestic violence victims contacted the police, and only a small fraction of those cases reached trial. The GSES claimed that police tended to discourage women from pursuing domestic violence charges, instead encouraging them to undertake reconciliation efforts, and that courts were lenient when dealing with domestic violence cases. The GSES, in cooperation with the Ministry of Public Order, continued courses to train police on ways to deal with domestic violence victims.

The GSES provided counseling and assistance to domestic violence victims. Two GSES shelters for battered women and their children, in Athens and Piraeus, offered services including legal and psychological help. The GSES operated a 24-hour emergency telephone hotline for abused women. A unit of the Ministry of Health and Welfare also operated a hotline that provided referrals and psychological counseling. There were additional shelters operated by the municipality of Athens, the Orthodox Church, and various NGOs for domestic violence victims.

Rape, including spousal rape, is a crime according to a law passed in August. Conviction rates for rape were low for first-time offenders, but sentences were harsh for repeat offenders. According to the Ministry of Public Order, 127 rapes and attempted rapes were reported in the first six months of the year. In December an academic researcher estimated that approximately 4,500 rapes occurred annually in the country, of which only 270, or 6 percent, were reported to the police. Of the reported rapes, only 183 resulted in an arrest, and of the 47 cases that reached the Felony Court, only 20 ended in conviction. Medical, psychological, social, and legal support from the Government and NGOs for victims of maltreatment was also usually available to rape victims.

Prostitution is legal at the age of 18. Prostitutes must register at the local prefecture and carry a medical card that is updated every two weeks. It was estimated that fewer than 1,000 women were legally employed as prostitutes. Approximately 20,000 women, most of foreign origin, were engaged in illegal prostitution. According to academics, many illegal prostitutes may be trafficking victims (see section 5, Trafficking). While there were reports that prostitutes were abused and subjected to violence and harassment by pimps and clients, there were no reports that prostitutes were specifically targeted for abuse.

A new law on sexual harassment was passed in August. The law implements an EU directive on sexual harassment that provides guidelines for sanctions, legal action, and compensation for victims. Labor unions reported that lawsuits for sexual harassment were very rare and that only four women had filed such charges in the past seven years. In all four cases, the courts reportedly imposed very lenient civil sentences. KETHI reported that the vast majority of women who experienced sexual harassment in the workplace quit their jobs and did not file charges. KETHI estimated that 30 to 50 percent of working women and 10 percent of working men have experienced sexual harassment at their work place.

The Government recognizes Shari'a (the Muslim religious law) as the law regulating family and civic issues of the Muslim minority in Thrace. The first instance courts in Thrace routinely ratified decisions of the muftis who have judicial powers in civic and domestic matters. The National Human Rights Committee, an autonomous body that is the Government's advisory organ on protection of human rights, stated that the Government should limit the powers of the muftis to religious duties and should stop recognizing Shari'a, because it can restrict the civic rights of the citizens it is applied to. In 2005 the UN High Commissioner for Human Rights expressed concern regarding the impediments that Muslim women in Thrace face under Shari'a law. In March the Council of Europe's commissioner for human rights and the UN special rapporteur reported that they were informed of cases of both early marriages and marriages by proxy. Muslim female activists claimed that because all Muslim women in Thrace were married under Shari'a, they were therefore obliged to acquire mufti consent to obtain a divorce. These decisions were based on interpretations of Shari'a law that do not exist in written form and therefore cannot be appealed. The courts routinely ratified these mufti decisions.

The law provides for equal pay for equal work; however, according to official 2005 statistics, women's pay amounted to 81 percent of men's pay. Although relatively few occupied senior positions, women continued to enter traditionally male-dominated professions such as law and medicine in larger numbers. Women were underrepresented in labor union leadership.

*Children.*—The Government was strongly committed to children's rights and welfare.

The law provides for free and compulsory education for a minimum of nine years. According to the 2001 census, 99.4 percent of school-age children attended school, and most children completed secondary education. However, noncompliance with the compulsory education requirement was a significant problem in the Romani commu-

nity. Research conducted by the Aghlaia Kyriakou state hospital showed that 63 percent of Romani children did not attend school. There were reports of non-Romani parents withdrawing their children from schools attended by Romani children, and of non-Romani parents attempting to prevent Romani children from studying at the same schools that their children attended. In February the European Roma Rights Centre and the International Helsinki Federation expressed concern about the placement of Romani pupils in segregated classes in Aspropyrgos, Attica.

Violence against children occurred, particularly against street children. The law prohibits the mistreatment of children and sets penalties for violators, and the Government generally enforced these provisions effectively; however, government-run institutions were understaffed, and NGOs complained that they did not have available positions for all children in need of alternative placement. Welfare laws provide for treatment and prevention programs for abused and neglected children and seek to ensure the availability of alternative family care or institutional placement. However, children's rights advocacy groups claimed that government residential care centers provided inadequate and low quality protection for children at high risk of abuse due to a lack of coordination between welfare services and the courts, inadequate funding of the welfare system, and poor staffing of the care centers. In March the UN special rapporteur on the sale of children, child prostitution, and child pornography, who visited in November 2005, reported that children's social protection institutions lacked sufficient resource capacity and that there was no centralized child protection system.

Child marriage was common within the Romani community. Additionally, there were limited numbers of marriages of persons under 18 among the Muslim minority in Thrace and Athens. The state-appointed muftis, who may apply Shari'a law in family matters, noted that they did not allow marriage of children under age 15. In November 2005 the official mufti of Komotini reported issuing instruction to imams in Thrace not to conduct underage marriages; however, the Council of Europe's commissioner for human rights reported that he was informed of cases of both early marriages and marriages by proxy of underage persons. The Government has youth centers, parent counseling, and programs that address poverty and lack of education, two factors which were believed to contribute to child marriage.

There were reports that trafficking of children, mainly for forced labor and sexual exploitation, was a problem (see section 5, Trafficking, and section 6.d.).

The Police Division for Internet Crime dismantled 25 networks dealing in child pornography through the Internet in the period between July 2004 and June of this year. They arrested 35 citizens identified as members of networks, and charged them with buying and selling child pornographic materials. The country does not have legislation punishing possession and circulation of pedophilic materials. The Internet Crime Police Division arrested nine persons and filed lawsuits against 19 others for dealing in internet child pornography during the coordinated EU "Operation Purity" in April 2005. The division reported a 600 percent annual increase of crime through the Internet.

According to the UN Children's Fund (UNICEF) and local NGOs, the majority of street children (often indigenous Roma or Albanian Roma) were exploited by family members who forced them to work in the streets, usually begging or selling small items (see section 6.d.).

In 2004 the UN Committee Against Torture expressed concern that inadequate measures had been taken to protect 502 Albanian children who remained unaccounted for after being picked up by the security police and kept in state custody at the Agia Varvara orphanage between 1998 and 2003. The prosecutor accepted a criminal complaint submitted by the GHM and an appeal by the UN Committee Against Torture, and in 2004 it pressed felony charges against members of the administration of the institution relating to the case; however, no action was reported on the case during the year. The UN special rapporteur on the sale of children, child prostitution, and child pornography who visited in November 2005 noted a "deficiency in the design of the educational and social methodology" of the Agia Varvara institution.

During the year the Government, the UNHCR, and the deputy ombudsman for children's rights announced guidelines for the management of separated children seeking asylum, based on internally agreed upon principles of separated child protection. Among the 11 detailed guidelines is one specifying the appointment of a special temporary guardian as soon as a separated child is identified as an applicant for asylum. However, by November, there remained problems with the implementation of the guidelines, and the UNHCR, Greek Council for Refugees, and deputy ombudsman for children's rights called on the Government to improve protection for separated migrant children, notably potential asylum seekers and victims of trafficking, and appoint legal guardians for them.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was both a transit and destination country for significant numbers of women, children, and smaller numbers of men trafficked for the purposes of sexual exploitation and forced labor.

Major countries of origin for trafficking victims included Nigeria, Ukraine, Russia, Bulgaria, Albania, Moldova, Romania, and Belarus. Women from many other countries were trafficked to the country and in some cases were reportedly trafficked on to Italy and other EU countries as well as to the Middle East.

According to an academic observer in 2005, trafficking in women and children for sexual exploitation in the country decreased from approximately 20,000 victims in 2003 to approximately 10,000 during 2005. Unofficial NGO estimates placed approximately 13,000 to 14,000 trafficked persons in the country at any given time.

NGOs reported a decrease in the number of Albanian children trafficked to the country in 2005 and 2006; however, there were reports that Albanian Roma children continued to be trafficked for forced begging and stealing. Albanian children made up the majority of children trafficked for forced labor, begging, and stealing. NGOs reported that the practice of “renting” children had dramatically decreased in recent years as it became easier for Albanian parents to immigrate to the country. In February the Government concluded a protocol with Albania on the repatriation of Albanian child trafficking victims which by year’s end remained unratified by the parliament.

Problems persisted with police detaining minors trafficked into the country as criminals or repatriating them without ensuring proper reception by their home country authorities.

Women and children arrived as “tourists” or illegal immigrants and were lured into prostitution by club owners who threatened them with deportation. There were reports that traffickers kidnapped victims, including minors, from their homes abroad and smuggled them into the country, where they were sold to local procurers. Some rescued victims reported being given small stipends, mobile phones, and limited freedoms but nevertheless they coerced, threatened, and abused by their traffickers.

A few police officers reportedly were involved in trafficking rings or accepted bribes from traffickers, and a few Greek diplomats abroad reportedly facilitated trafficking by issuing visas with little documentary evidence and no personal interviews to women subsequently identified as trafficking victims, according to a lawsuit filed in April by the Greek Helsinki Monitor.

The law considers trafficking in persons a criminal offense and provides for imprisonment of up to 10 years and fines of approximately \$12,000 to \$60,000 (10,000 to 50,000 euros) for convicted traffickers. Penalties are harsher for traffickers of children.

The Government continued to investigate cases of trafficking and secured convictions for traffickers. In January the Government established 12 additional anti-trafficking task forces throughout the country and funded specialized training for over 1,000 police officers.

In the first half of the year the Government investigated several trafficking cases and arrested 95 suspected traffickers. In 2005 there were nine convictions and sentences for these convicted traffickers ranging from one to 12 years. The Government could not, however, confirm whether any traffickers were actually serving the time sentenced. While the Government reported that over 95 illegal-alien defendants were awaiting prosecution on trafficking charges, courts released and deported the majority of such foreign defendants.

There is an interministerial committee to coordinate antitrafficking efforts. During the year, the Government participated in international investigations in cooperation with regional authorities, including the Southern European Cooperative Initiative.

Police officers reportedly were involved in trafficking rings or accepted bribes from traffickers, including organized crime networks. During the year charges were filed against three police officers—two of them senior—relating to trafficking complicity. As of year’s end, no trial date had been set. The Ministry of Public Order’s Bureau of Internal Affairs investigated charges of police involvement in trafficking cases.

While the immigration law provides for a “reflection period” for trafficking victims facing deportation, the screening and referral process did not adequately identify and protect most vulnerable potential victims in the country. Some trafficking victims were prosecuted for immigration violations, sometimes alongside their traffickers. A few trafficking victims and NGOs that supported them stated that inadequate police protection for victims who were witnesses in trials meant that those victims lived in constant fear of their traffickers. A few victims were provided with the reflection period and testified against their traffickers.

During the year the Government granted 15 new and 24 renewed residence permits for trafficking victims. In the first half of the year the Government identified 48 trafficking victims, 28 of whom accepted assistance and protection; however, anecdotal reports indicated that trafficking victims continued to be deported.

A number of domestic NGOs worked on trafficking problems, but victim protection measures and referral mechanisms remained weak. In November 2005 the Government signed a Memorandum of Cooperation with 12 NGOs and the International Organization for Migration (IOM) to improve government-NGO coordination in a screening and referral process for trafficking victims. The Government supported a 24-hour hotline for trafficking victims, operated by an NGO.

There were several NGO-operated shelters. The GSES produced a television ad which appeared in the media in February, March, and April targeting commercial sex procurers, trafficking victims, and citizens, and distributed information materials in Greek, English, Albanian, Russian and French. The campaign encouraged the public to report incidents of trafficking.

In May the IOM, in conjunction with the Ministry of Foreign Affairs, led a training program for approximately 200 prosecutors on the subject of dealing with and prosecuting human trafficking cases. In November the Ministry of Public Order initiated an antitrafficking transborder police action plan on regional police cooperation. The Secretariat for Gender Equality held a joint conference with the Council on Europe on combating trafficking and the GSES conducted a series of seminars for civil servants and local administration officers in various cities to alert them to and educate them about trafficking. In October the IOM, in conjunction with the Ministry of Employment, led a training program for labor inspectors to learn how to identify victims of labor trafficking.

The Ministry of Foreign Affairs and the GSES launched a development assistance project to combat trafficking in persons in Bosnia-Herzegovina, Serbia, and Kosovo that empowered female trafficking victims, raised the public's awareness of trafficking, and educated relevant agencies.

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other government services and the Government effectively enforced these provisions. The law mandates access to buildings for persons with disabilities; however, authorities enforced this law poorly. In May members of parliament, rapporteurs to a special parliamentary committee on the disabled reported that the lack of accessibility forced persons with disabilities to stay home and led to serious social exclusion. Only five percent of public buildings were fully accessible to persons with disabilities; most buildings with special ramps did not have special elevators and lavatories. The deputy ombudsman for social welfare handled complaints related to persons with special needs, especially related to employment, social security, and transportation.

The Ministry of Welfare estimated that there were 180,000 to 200,000 children with special education needs, of whom only 18,585 were attending school in 2004 due either to a lack of special schools in their area or deficient accessibility. The National Confederation of Persons with Disabilities reported that the education system for the persons with disabilities fostered discrimination and social exclusion. The confederation noted that education was not available for persons with serious disabilities and that many persons with disabilities were either forced to leave schools due to lack of accessibility or were receiving very low quality education at the special schools.

In July 2006 the deputy ombudsman reported that nearly 60 percent of persons with disabilities had been barred from the benefits of affirmative action employment to which they were entitled because they were misinformed or inadequately informed about the supporting documents they should provide and because of unclear interpretations of the law itself. The deputy ombudsman stated that unemployment of persons with disabilities estimated by the National Confederation of Persons with Disabilities and the Human Resources Employment Organization at approximately 80 percent, was the greatest social problem for persons with disabilities and recommended that the Government prepare new legislation or improve existing laws.

*National/Racial/Ethnic Minorities.*—Albanian immigrants, who made up approximately five to seven percent of the population, faced widespread societal discrimination, although Albanian community representatives said that it was slowly decreasing. Immigrants accused police of physical, verbal, and other mistreatment. They also reported the confiscation and destruction of personal documents, particularly during police sweeps to apprehend illegal immigrants. The media blamed Albanians and immigrants for a reported rise in crime in recent years. AI, GHM, and the deputy ombudsman for human rights alleged that complaints of police ill-treatment of



Albanians were rejected as unfounded, although the authenticity of the complaints was supported by documents such as certificates from state hospitals concerning recent injuries and issued shortly after the complainants' release from police stations. Moreover, Albanian community leaders reported that it was difficult to be granted citizenship, even after all objective citizenship requirements had been met.

The citizenship application approval procedure is secret, and as a result the Ministry of Interior is not obliged to substantiate or to explain the reasons for rejection. Community leaders stated that persons who believed they met all criteria for citizenship saw their applications rejected. Reapplication is discouraged by the fact that an applicant has to pay a \$1,251 (1,000 euro) non-refundable application fee.

A September 2005 deputy ombudsman's report on police abuse found that police took citizens to detention centers for arbitrary identity checks, used insulting language and threats of force, conducted bodily searches in public, and did not inform citizens on the progress of internal investigations unless cases were made public through the press. The report found that the police conducted arbitrary identity checks on the basis of stereotypes, targeting persons based on their race, color, nationality, or who happened to be in "high-crime" areas (see section 1.d.).

In February the minister of development issued a decree prohibiting immigrants from selling items in the street-markets. The communities appealed to the country's highest administrative court; however, the appeal remained pending at year's end.

In May a felony court in Patras sentenced the person charged with the September 2004 killing of an Albanian immigrant in Zakynthos following a soccer game to life imprisonment.

A number of citizens identified themselves as Turks, Pomaks (Slavic speaking Muslims), Vlachs, Roma, Arvanites (Orthodox Christians who speak a dialect of Albanian), or Macedonians. While some members of these groups sought to be identified as "minorities," or "linguistic minorities," others did not consider that these identifications made them members of a "minority." The Government considers that the 1923 Treaty of Lausanne provides the exclusive definition of minorities in the country and defines the rights they have as a group. In accordance with its view of the treaty, the Government recognizes only a "Muslim minority." It does not officially confer status on any indigenous ethnic groups nor does it recognize "ethnic minority" or "linguistic minority" as legal terms. However, the Government affirmed an individual right of self identification.

Many individuals who defined themselves as members of a "minority" found it difficult to express their identity freely and maintain their culture. Use of the terms *Tourkos* and *Tourkikos* ("Turk" and "Turkish") is prohibited in titles of organizations, although individuals legally may call themselves *Tourkos* (see section 2.b.). To most Greeks, the words *Tourkos* and *Tourkikos* connote Turkish identity or loyalties, and many objected to their use by Greek citizens of Turkish origin.

The Government did not recognize the Slavic dialect spoken by persons in the northwestern area of the country as "Macedonian," or as a language distinct from Bulgarian. Most speakers of the dialect referred to themselves as "natives." A small number of Slavic speakers insisted on the use of the term "Macedonian," a designation that generated strong opposition from the ethnic Greek population. These Slavic speakers claimed that the Government pursued a policy designed to discourage use of their language. Government officials and the courts deny requests by Slavic groups to identify themselves using the term "Macedonian," because approximately 2.2 million ethnic (and linguistically) Greek citizens already use the term to identify themselves.

In October 2005 the ECHR ordered the Government to pay \$42,294 (35,245 euros) to the Rainbow Party for violations of two ECHR articles: the right to a fair hearing and the right to freedom of assembly and association; the Government paid the fine during the year.

Roma continued to face widespread governmental and societal discrimination including systematic police abuse; mistreatment while in police custody; regular raids and searches of their neighborhoods for criminal suspects, drugs, and weapons; and educational discrimination. Organizations substantiating these reports included a UN special rapporteur, the European Committee of Social Rights in 2005, the International Helsinki Federation in 2005, AI, the European Roma Rights Center, the European Commission against Racism and Intolerance, the ombudsman for human rights, the National Commission for Human Rights, and GHM.

In August the European Committee of Social Rights held that government policies regarding housing and accommodation of Roma infringed upon the European Social Charter, due to an insufficient number of dwellings to meet the needs of settled Roma, an insufficient number of stopping places for Roma who follow an itinerant lifestyle, and the systemic eviction of Roma from sites or dwellings. The International Helsinki Federation found in June 2005 that approximately half of the

Roma population lived segregated from non-Roma in substandard housing conditions. A UN special rapporteur noted in March that families in a Romani settlement in Athens lived in unacceptable conditions, lacking access to running water and sanitation and other basic services, while children were denied entry to schools. The Council of Europe commissioner, who visited the largest Romani settlement in Aspropyrgos, Attica, found that measures formerly promised to remedy the situation had not been taken, and he noted the situation was intolerable, citing a lack of access to basic public utilities, including water, electricity and sewage systems.

In May AI published a report criticizing the Government for its treatment of Roma, stating that Romani families continued to be targeted for eviction and home demolition and that Roma faced discrimination and racist attacks by both representatives of local administration and society.

The law prohibits the encampment of "wandering nomads" without a permit and forces Roma to establish settlements outside inhabited areas and far from permanent housing. There were approximately 70 Romani camps in the country. Local and international NGOs charged that the enforced separation contravened the country's commitments under the International Convention on the Elimination of All Forms of Racial Discrimination.

There were frequent police raids on Romani settlements and reported harsh police treatment of Roma. In March the ombudsman for human rights, after visiting areas in Athens, Patras, and Thessaloniki, reported a series of cases that reflected inherent societal and law enforcement discrimination against Roma. The visits revealed poor housing conditions and lack of access to medical care and education.

The UN special rapporteur's statement after his November 2005 visit called the housing and sanitation conditions of the Romani settlement he visited unacceptable, highlighting that "access to health and education is limited or lacking and social programs are not providing assistance to the community." He recommended that the state take specific measures to develop and improve living conditions in Romani communities to give Romani children alternatives to street work or prostitution as survival strategies for them and their families. The Government had not taken any action in response to the rapporteur's recommendations by year's end.

Local authorities continued to harass and threaten to evict Roma from their camps or other dwellings. In July and in August, GHM and the Council of Europe commissioner for human rights reported that the Municipality of Patras demolished the homes of 18 Greek and Albanian Romani families in two settlements near the city while the owners were away for seasonal work. The municipality also served the two settlements' remaining families with notices of emergency police eviction and proceeded to conduct forced evictions. In June all Romani families of the Riganocambos, Patras district were served notice to appear in a criminal court for illegal squatting on state land and were told to leave. For some of the homeless Roma, this was the fourth actual or threatened eviction since August 2004. In June municipal crews assisted by police, demolished the homes of 14 Romani families in Kladissos, Chania.

Nine local and international NGOs, including the European Roma Rights Center, appealed to the mayor of Athens in July 2005 over the announced evictions of approximately 70 Albanian Romani families living in squalid conditions in communities around Votanikos, Athens, to make way for a new soccer stadium. Authorities had made no provision for resettlement of the families. By year's end the evictions were still planned, but no action had been taken.

Roma frequently faced societal discrimination in employment and in housing, particularly when attempting to rent accommodations. The illiteracy rate among Roma was estimated at 80 percent. Poverty, illiteracy, and societal prejudice were most severe among migrant Roma or those who lived in quasi-permanent settlements. Most Romani camps had no running water, electricity, garbage disposal, or sewage treatment. For example, in 2005 the approximately 400 Romani families in Tyrnavos, Thessaly, lived in tents because authorities refused to include the area in city planning. The municipality of Rachoula in Larissa took action to delay the permanent settlement of Roma in the region on property owned by Roma.

Romani representatives reported that some local authorities have refused to register Roma as residents or that the Roma were unable to satisfy the requirements to be registered. Until registered with a municipality, a citizen cannot vote or exercise other civil rights, such as contributing to social security or obtaining an official marriage, commercial, or driver's license. It was estimated that 90 percent of Roma were not insured by the public social security system because they were unable to make the required contributions. Indigent Roma were entitled to free health care provided all citizens; however, at times, the distance between their encampments and public health facilities hindered their access.

The Government considered the Roma to be a “socially excluded” or “sensitive” group, not a “minority.” As a result government policy encouraged the integration of Roma. For example, the Ministry of Education has instructed school principals to promote integration.

The Ministry of Interior headed an interministerial committee that coordinated projects for the 85,000 to 120,000 Roma the Government estimated were in the country (unofficial estimates ranged from 250,000 to 350,000). In 2005, due to low local authorities’ participation, the Government suspended a Romani housing project that required cities with Romani populations to identify areas suitable for building housing for Roma. During the year the Government provided approximately 5,000 low-interest housing loans of \$75,060 (60,000 euros) each to Roma living in tents to enable them to obtain appropriate housing.

The Ministry of Health and Welfare and the Ministry of Foreign Affairs continued projects to address the chronic problems of the Romani community, including training courses for civil servants, police, and teachers to increase their sensitivity to Romani problems; the development of teaching materials for Romani children; the establishment of youth centers in areas close to Romani communities; and the deployment of mobile health units and community social workers to address the needs of itinerant Roma. However, Romani community representatives reported that these programs either did not always reach their communities or were of limited effectiveness.

*Other Societal Abuses and Discrimination.*—The NGO Greek Homosexual Community (EOK) alleged that police often abused and harassed homosexuals and transvestites and subjected them to arbitrary identity checks and bodily searches in public places.

The Government took no action regarding a Gay and Lesbian Community of Greece and EOK complaint that the Government made a discriminatory decision when it fined a radio station in 2004 for using insulting language on a radio show presented by a lesbian.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, with the exception of members of the military, have the right to form and join unions of their choice without any previous authorization or excessive requirements, and workers exercised this right. Approximately 26 percent of nonagricultural salaried employees were union members. Approximately 30 percent of the total labor force was unionized. There were no unionized agricultural employees.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law generally provides for the right to bargain collectively in the private sector and in public corporations, and unions exercised this right freely. The law provides for the right to strike, and workers in the private sector and in public corporations exercised this right in practice. Police have the right to organize and demonstrate but not to strike.

There are some legal restrictions on strikes, including a mandatory notice period of four days for public utilities and 24 hours for the private sector. The law mandates a skeleton staff during strikes affecting public services. Courts may declare a strike illegal; however, such decisions were seldom enforced. Unions complained that this judicial power deterred some of their members from participating in strikes. Courts declared some strikes (of transportation workers, air-traffic controllers, garbage collectors, and others) illegal during the year for reasons such as failure of the union to give adequate advance notice of the strike or a union making new demands during the course of the strike, but no workers were prosecuted for striking.

In February the Government invoked the civil mobilization act, which required workers to return to work, in order to break a seamen’s strike.

There are no special laws or exemptions from regular labor laws in the country’s three free trade zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits all forced or compulsory labor; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The laws protect children from exploitation in the workplace and prohibit forced or compulsory labor; however, the Government did not adequately protect children who were exploited in nontraditional environments, such as begging on the street.

The minimum age for employment in the industrial sector is 15 years, with higher limits for some activities. The minimum age is 12 years in family businesses, thea-

ters, and the cinema. These limits were enforced by occasional spot checks and were generally observed. However, families engaged in agriculture, food service, and merchandising often had younger family members assisting them at least part time.

Child labor was a problem, although international and local observers agreed that the number of working children had decreased in recent years. A number of children begged or tried to persuade persons to buy small items in the streets. The Government and NGOs reported that the majority of beggars were either indigenous or Albanian Roma.

There were reports that children from Albania were trafficked and forced to beg; however, antitrafficking NGOs reported a decrease in this abuse as more Albanian parents entered the country legally with their children (see section 5). A few parents forced their children to beg for money.

The labor inspectorate is responsible for enforcement of labor legislation; however, trade unions alleged that enforcement was inadequate.

*e. Acceptable Conditions of Work.*—The national minimum wage of approximately \$35 (29 euros) daily and \$779 (649 euros) monthly provided a decent standard of living for a worker and family. Officially, wages should be the same for local and foreign workers, but in practice there were some reports of undocumented foreign workers being exploited by employers, receiving low wages and no social security contributions.

The maximum legal workweek is 40 hours in the private sector and 37.5 hours in the public sector. The law provides for at least one 24-hour rest period per week, mandates paid vacation of one month per year, and sets limits on overtime. Premium pay and authorization by the Ministry of Employment is required by law for overtime work.

The law provides for minimum standards of occupational health and safety. The Greek General Confederation of Labor characterized health and safety laws as satisfactory but stated that enforcement by the labor inspectorate was inadequate. Workers do not have the legal right to remove themselves from situations that they believe endanger their health; however, they have the right to lodge a confidential complaint with the labor inspectorate. Inspectors have the right to close down machinery or a process for up to five days if they see safety or health hazards that they believe represent an imminent danger to the workers. In 2005 the labor inspectorate conducted a nationwide campaign against noise at work places, made 25,477 inspections and imposed 4,459 sanctions and penalties that included lawsuits, fines, and closing down of machineries and processes.

## HUNGARY

The Republic of Hungary is a multiparty, parliamentary democracy with a population of approximately 10 million. Legislative authority is vested in the unicameral National Assembly. The President assigns the Prime Ministerial candidate from the party that won the elections or is able to form a majority coalition. The President is head of state and is elected by the National Assembly. In April Prime Minister Ferenc Gyurcsany and his Socialist-Liberal coalition were returned to office in a free and fair election. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, problems in some areas remained. Incidents where police used excessive force against suspects, particularly Roma, were reported, and allegations of government interference in editorial and personnel decisions of state-owned media persisted. Violence against women and children as well as sexual harassment remained a problem. Discrimination against Roma continued to be widespread, and there were acts of anti-Semitic vandalism. Trafficking in persons was also a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

At year's end the manslaughter case against two police officers in connection with the July 2004 death of a Bulgarian national remained pending.

In April 2005 a court in Bacs-Kiskun county upheld a finding by the chief prosecutor's office that there was no criminal negligence on the part of police in the 2004 death of a Romani man who died while being arrested. The case stemmed from an

appeal by a Romani family who rejected findings by the country's minority affairs ombudsman and a medical examiner that there was no link between the arresting officer's actions and the death.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, according to non-governmental organization (NGO) reports police used excessive force, beat, and harassed suspects, particularly Roma (see section 1.d.). NGOs reported that Roma remained fearful to report police abuse, but the number of reports of police abuse of Roma increased slightly during the year. Observers attributed the increase to a greater public willingness to report abuse.

During the first six months of the year, 26 police officers were charged with assault and four others were charged with "forced interrogations." NGOs estimated that approximately half of the police abuse cases involved Romani victims (see section 1.d.).

There was no reliable data on the ethnic background of victims of police abuse; however, human rights NGOs asserted that a high number of complaints were made by Roma and other dark-skinned persons.

The Government investigation into the June 2005 beating of a Romani man by five police officers in Tolna County continued. At year's end three police officers were cleared; charges against two others were pending. The investigation stemmed from accusations that police beat the man after taking him into custody and later went to his brother's home where they beat him and threatened his family.

Investigations begun in August by the county prosecutor and the national Roma self government into accusations of police abuse in Szany were closed due to insufficient evidence. The case involved complaints by a Romani youth and his two non-Romani friends who claimed that they were beaten by the local police chief and two of the chief's relatives following a complaint that the three were making excessive noise.

*Prison and Detention Center Conditions.*—Prisons generally met international standards; however, overcrowding continued to be a serious problem.

At year's end 14,568 persons were being held in prisons and detention centers. During the year the overall prison population rose to 158 percent of capacity as compared with 146 percent in 2005. Due to changes in 2005 to regulations on detentions, the vast majority of pretrial detainees were held in prisons. At year's end there were 3,786 pretrial detainees in prisons and police detention cells.

According to the Hungarian Helsinki Committee, the negative effects of prison overcrowding included a severe shortage of bed linen, towels, clothing, and inadequate medical care. Sanitation and toilet facilities were also poor; in some prisons toilets were not separate from living spaces. Many police holding cells did not have toilets; lighting and ventilation was also inadequate.

The Government permitted independent monitoring of prison conditions by local and international human rights groups, and such visits occurred during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

From September 18 to 20 and again on October 23, police used force to stop violent antigovernment demonstrations. According to a report prepared by the independent Gonczol Commission on the protests, 326 persons and 399 policemen were injured, and 380 protestors were either arrested or detained as a result of the demonstrations. Opposition parties and NGOs alleged that police excessively and illegally used of a water cannon, tear gas, rubber bullets, and pepper spray (see section 2.b.). Police officials denied the allegations saying that while some officers were under investigation for possible abuse, riot police generally used appropriate force to handle violent protestors. At year's end allegations of police abuse and government charges against civilians who took part in the violent demonstrations remained under investigation by police and the Gonczol commission.

*Role of Police and Security Apparatus.*—The National Police, which is under the direction of the Ministry of Justice and Law Enforcement, is responsible for enforcing laws and maintaining order. City police forces and national border guards also share security responsibilities under direction of the ministry. Police corruption was a problem, particularly soliciting or accepting of bribes from motorists to ignore traffic violations. The Government pursued allegations of police abuse and corruption. Penalties include reprimand, dismissal, and criminal prosecution. Generally, officers are suspended from duty during an investigation for abuse or corruption. According to police most officers are dismissed when found guilty of wrongdoing. During the year 16 police officers were convicted of corruption; one was acquitted.

At year's end investigations continued into numerous offensive, anti-Roma, racist postings made on Holdudvar, an internal Web site of the national police. The Web site postings were reported to authorities by two police officers. The Web site was immediately suspended and investigations were launched by the head of the national police and the country's ombudsman for minority affairs.

*Arrest and Detention.*—The law requires police to obtain warrants to make arrests. Police must inform suspects upon arrest of the charges against them and may detain persons for a maximum of 72 hours before filing charges. The law requires that all suspects have access to counsel prior to questioning and throughout all subsequent proceedings. Authorities must also provide counsel for detained suspects, juveniles, the indigent, and those with mental disabilities. However, in practice police did not always allow access to counsel, particularly for persons accused of minor crimes. In 2003 a bail system was introduced to decrease the number of pretrial detainees. However, it was not used often because most detainees were not eligible under the statutes of the bail system. Bail has been granted 376 times since it was introduced.

In certain circumstances the law permits police to hold suspects for only 12 hours or for up to 24 hours of "public security detention" for persons detained without identification.

During the first six months of the year, 2,658 persons were in pretrial detention for an average of 123 days, according to the prosecutor General's Office. Of that number 103 (3.9 percent) were held longer than 12 months. In 2005 the average number of days in pretrial detention was 126. In some cases time spent in pretrial detention equaled but did not exceed prison sentences. The law provides monetary compensation for persons who were detained and later acquitted.

According to NGO reports, Roma were more frequently held in pretrial detention than non Roma.

On April 24, an appeals court in Debrecen upheld a district court ruling to free two Romani men from prison because evidence used to convict them in 1999 of murder was weak. The court ruled that conviction and subsequent sentencing of up to 15 years in prison was unlawful. They spent nearly six years in custody.

*e. Denial of Fair Public Trial.*—The law and the constitution provide for an independent judiciary, and the Government generally respected judicial independence in practice.

Under the constitution courts are responsible for administering justice; the Supreme Court exercises control over the operations and judicial procedure of all other courts and in certain cases can review lower court decisions. District courts are courts of first instance; regional courts hear appeals from district courts and also function as courts of first instance. Five appellate courts handle appeals from regional courts.

The Constitutional Court is independent of the judicial system and cannot overturn decisions made by other courts. It is charged with reviewing both the constitutionality of laws and statutes and international treaties ratified by the Government. The court's 11 members are appointed directly by the National Assembly for nine-year terms. Citizens may bring cases directly to the Constitutional Court. The court is required to address all petitions; however, it retains discretion on when to issue decisions, which has resulted in a backlog of cases and charges of politicization. The Constitutional Court generally receives more than 1,000 cases annually. During the year 1,214 cases were filed with the court; in 2005, 1,208 cases were filed. During the year the Constitutional Court issued 413 decisions, as compared with 264 in 2005.

*Trial Procedures.*—Trials are public, but in some cases judges may close a trial to protect the accused or the victim. There is no jury system; judges are final arbiters. Judicial proceedings generally were investigative rather than adversarial in nature. Defendants are presumed innocent until proven guilty and are entitled to counsel during all phases of criminal proceedings. Counsel is appointed for persons in need and for the indigent, but public defenders were generally considered to be substandard.

Judicial proceedings varied in length, and delays of several months to a year were common. Appeal cases may remain pending for indefinite periods, during which time defendants are held in detention. Defendants can challenge or question witnesses and present witnesses and evidence on their own behalf. They also have access to government held evidence relevant to their case. Human rights and Romani organizations claimed that Roma received unequal treatment in the judicial process.

Military trials follow civil law and may be closed on national security or moral grounds. In all cases sentencing must take place publicly. Civilians cannot be tried in military courts.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Under the law persons may initiate lawsuits to seek damages for human rights violations. However, fines levied in such cases are often too small to deter violations. During the year the Legal Defense Bureau for National and Ethnic Minorities succeeded in bringing six cases to court for alleged labor discrimination, discrimination in restaurants and bars that denied service, and for police abuse. The defense bureau stated that more cases of human rights violations should have been lodged with the courts, but it lacked the resources to do so.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

Roma faced discrimination in housing and at times were either displaced or forced by local officials to live in less desirable areas (see section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were allegations of political interference in editorial and personnel decisions of state owned media.

There are no laws to prohibit hate speech, denial of the Holocaust or similar views. The Constitutional Court has ruled that previous attempts by the Government to enact laws to protect human dignity and penalize hate speech are a violation of the right to freedom of speech. However, there are laws that prohibit public display of symbols such as the swastika, hammer and sickle, the red star, among others.

The media were generally free and independent and expressed a wide variety of views without restriction. Several state owned radio and television stations were governed by a state appointed public media oversight board. In August the President of the European Broadcasting Union expressed his concern in a letter to the Prime Minister about the poor financial situation of the country's two public television stations, claiming that this made them particularly prone to political influence.

Under the law the National Television and Radio Board is responsible for monitoring public and commercial broadcasting programs and grants licenses and frequencies. All members are appointed proportionally by governing and opposition political parties. The board monitored news broadcasts for equal treatment of all political parties and could fine public and private broadcasters for noncompliance. Unlike the previous year, there were no cases of the board levying fines or censoring broadcasters. However, opposition political parties continued to be critical of the progovernment news coverage in state owned media.

In August a two-year long, political dispute over electing a new President of public radio ended with the election and confirmation of Gyorgy Such. After taking office Such took steps to increase objectivity and more neutral news reporting by eliminating personal opinion from news reports and merging news and current affairs programs. He also appointed younger journalists to senior positions and named a new editor in chief.

At year's end authorities continued to investigate harassment of two photojournalists in June by police who were covering a street brawl after a soccer match in Budapest.

Under the law libel and violations of government secrecy laws are criminal offenses. Journalists and other persons can be held liable for their statements or for publicizing the statements of others.

As in previous years, officials resorted to libel laws to claim compensation for perceived injuries to character. In May the prosecutors's office indicted Gyula Thurmer, President of the Workers Party and six co-workers, for alleged slander after Thurmer described a 2005 decision by Municipal Court President, Laszlo Gatter, as politically motivated. In June 2005 Gatter denounced Thurmer and his six co-workers for their accusations. At year's end the case remained pending.

Unlike the previous year, there were no reports of journalists being prosecuted for slander. In May an appeals court upheld a lower court decision to dismiss charges against journalist Margit Klucsik for breaching secrecy laws. Klucsik, who works for the daily newspaper Nepszava, was prosecuted after publishing an article in 2005 that cited a secret police memorandum about criminal evidence gathered against a member of the National Assembly.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including via electronic mail. There also were no reports of the Government blocking access to specific Web sites. However, according to NGOs the Government monitored a number of far-right and openly anti-Semitic Web sites (see section 2.c.). According to a Eurostat study published in the Magyar Hirlap newspaper, 42 percent of the country's population had Internet access during the year. Academic Freedom and Cultural Events There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected this right in practice.

On September 18, an estimated 10,000 antigovernment protestors gathered in front of parliament to demand the Government's resignation. Some of the protests turned violent overnight as crowds damaged the headquarters of the country's public television station and a World War II memorial to Soviet soldiers who liberated Budapest. The protests continued on September 20. According to a report by the independent, government-sponsored Gonczol Commission, 185 protestors and more than 200 policemen were injured in attempts by police to disperse the demonstrations. Riot police used tear gas and a water cannon; 345 persons were either arrested or detained.

On October 23, police again clashed with antigovernment protestors in Budapest during commemorations to mark the country's 50th anniversary of its uprising against Soviet rule. Riot police used rubber bullets, pepper spray, and a water cannon to disperse the crowds. The Gonczol Commission report stated that 141 persons were injured and 35 protestors were arrested or detained.

As a result of the September and October demonstrations authorities filed 120 lawsuits against civilians for alleged involvement in violent protests. At the same time, according to the Gonczol report, 156 cases of alleged police abuse against protestors were lodged with the chief prosecutor's office for police investigations. The National Police also lodged eight abuse cases against police officers, and the head of the Police Security Service lodged three cases of police abuse. The investigations into allegations of police abuse have been complicated because some officers covered their badges and other forms of personal identification. At year's end 60 officers were identified for alleged abuse, and 18 were charged with abuse.

While the report by the Gonczol Commission criticized police officers who concealed their identities and used excessive force, it said it was more concerned that police did not break up the demonstrations sooner. The commission blamed demonstrators and demonstration organizers for causing the violence and injuries and said the violent behavior necessitated the use of force by police.

There was no decision in the ongoing case by the Hungarian Farmer's Alliance against Budapest city authorities who blocked the group's plans to demonstrate in front of parliament with tractors. In November the alliance filed suit with the Constitutional Court claiming city officials violated its right to freedom of assembly by erecting traffic signs to prohibit entry of tractors into the city center.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice.

At year's end the appeal of a militant, neo-Nazi group to reorganize under a new name to regain its legal status remained pending. In October 2005 the Blood and Honor group disbanded following a Supreme Court ruling that an appeals court could proceed with a hearing on its legal status. In the opinion the Supreme Court found that there was no constitutional issue with regard to the right of freedom of association and the concept of human dignity as it pertains to protecting persons from hate speech and humiliation. In November a Budapest court denied the group's reregistration as the "Pax Hungarica Society" on the grounds that it was no different than Blood and Honor.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

There is no state religion; however, there are four historically recognized religious groups (Roman Catholic, Reformed, Evangelical, and Jewish) and 146 other registered denominations. The four historic religions enjoyed government privileges not extended to the other religious groups.

During the year the Government continued to expedite an estimated 300 religious property restitution cases filed under a September 2005 government resolution that was reconfirmed during the year. Under the resolution religious groups may "buy out" their claims before the official restitution procedure ends in 2011. Of the four



historically recognized churches, the Reformed and Evangelical churches chose not to exercise the so-called “fast-track” option to resolve their cases.

*Societal Abuses and Discrimination.*—There were acts of anti-Semitic vandalism and other anti-Semitic incidents. Jewish community representatives continued to express concern over the existence of anti-Semitism in some media outlets, in society, and in coded political speech. They also said they believed that there was a rise in anti-Semitism towards the end of the year.

The estimated size of the Jewish population was between 80,000 and 100,000, or less than 1 percent of the country’s population.

Police said they closed the investigation into a vandalism incident on November 6 at a Jewish synagogue in Vac because they could not identify any suspects. Unknown offenders painted black paint over the fence of the synagogue and sprayed anti-Semitic graffiti, swastikas, and other fascist symbols.

In April during elections for the National Assembly, candidates of the nationalistic, far right-wing Hungarian Justice and Life Party (MIEP-Jobbik) espoused xenophobic and anti-Semitic slogans. The party has not been represented in the assembly since 2002.

On July 28, two members of the Left-Wing Front-Communist Youth Alliance who participated in an anti-Israel protest in Budapest carried Israeli flags defaced with swastikas.

In September and October, some participants in the antigovernment protests displayed images linked to the World War II-era, right-wing Hungarian Arrow Cross party. Nazi symbols and chants were also seen and heard. Some demonstrators erected a “wall of shame,” which displayed a list of names of those thought to be responsible for the Government crisis. The list stressed Jewish personalities.

The private, right of center weekly newspapers Magyar Demokrata and Magyar Forum continued to publish anti-Semitic articles.

There were numerous far-right Web sites in the country, many of which are openly anti-Semitic. NGOs reported that these Web sites were monitored by the Government for content because under the law public display of symbols such as the swastika, sickle and hammer, and red star is prohibited.

According to police there were 387 reports of vandalism or destruction of Jewish and Christian properties (35 in churches and 352 in cemeteries) during the year, as compared to 216 reported cases in 2005 and 339 in 2004. Police and religious authorities considered the incidents to be acts of youth vandalism and not manifestations of religious intolerance.

There were no developments in the police investigation into the vandalism of 130 graves in June 2005 at the largest Jewish cemetery in Budapest.

During the year the Government continued its efforts to combat anti-Semitism by clearly speaking out against the use of coded speech by right-wing extremists and efforts to promote tolerance education. The Prime Minister publicly stated that the country’s citizens bore responsibility for the Holocaust and facilitated the opening of a permanent, state-financed Holocaust Memorial Center. However, the status of certain portions of the Government’s Holocaust records remained unclear. In November a working group under the direction of the Prime Minister’s office convened to determine the status and whereabouts of the country’s Holocaust records.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law does not provide for forced exile, and the Government did not employ it.

The law permits the Government to delay, but not deny, emigration for those who have significant court assessed debts or who possess state secrets.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared prosecution. The Government granted refugee status or asylum.

During the year the Government did not provide temporary protection to individuals who do not qualify as refugees under the 1951 Convention and its 1967 Protocol.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to assist refugees and asylum seekers. According to the UNHCR, 2,117 asylum applications were filed during the year, as compared with 1,609 in 2005.

There were no reports of refugee abuse; however, NGOs continued to criticize the Government for prolonged detention of persons who were denied refugee status and of other stateless and undocumented persons, who awaited adjudication of deportation cases.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The April 2006 National Assembly elections were free and fair. The election marked the first time a government won a consecutive term in office since democracy was restored in the country in 1990.

There were 42 women in the 386 seat National Assembly, and two women in the Council of Ministers.

There was no readily available information on the number of minorities in the National Assembly or the Council of Ministers. However, minorities did not appear to be well represented.

In October following minority self-government elections, there were 4,533 Roma members of local and national minority self governments (MSGs). The MSGs are responsible for organizing minority activities and handling cultural and educational affairs. The President of each self governed entity also has the right to speak at and attend local government assemblies. At year's end 1,118 of the 2,045 active minority self governments were Romani.

As of July 199,789 persons had registered as members of one of the country's 13 recognized minority groups that could establish a minority self-government.

*Government Corruption and Transparency.*—There was a widespread perception of corruption in the executive and legislative branches. During the year the country received a score of 5.2 on Transparency International's 10-point index of the degree to which corruption is perceived to exist among a country's politicians and public officials. The country's 2005 score was slightly better at 5.0, where 10 indicates the lowest level of corruption.

During the year there were no reported police investigations or prosecutions of corruption in government. Low level corruption among law enforcement officials remained a problem.

The National Police maintained a nine-person anticorruption unit to investigate corruption within the Government, although persons with legislative immunity were exempt from its purview. There was no independent government body to investigate internal corruption; however, the protective service of law enforcement agencies is empowered to investigate corruption cases. In February the National Assembly adopted a lobbying law designed to increase transparency and to regulate lobbying activity that was often perceived to be associated with corruption.

The law provides for access to government information and the Government generally provided it upon request. However, many court rulings remained unavailable to the public. In January according to a new freedom of electronic information law, the Government launched a Web site to provide public access to various government actions and information. The law, which also took effect in January, obligates public institutions to post information of public interest on the Internet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

In August the UN Committee to Eliminate Discrimination Against Women stated that the Government was responsible for violating the rights of a Romani woman in 2001 in connection with a sterilization procedure that was performed without consent. The committee recommended that the Government pay the woman compensation commensurate with the gravity of the violation of her rights and that medical personnel in public and private health centers be made aware of women's reproductive rights.

The committee also recommended that the Government review its laws on the principle of informed consent in cases of sterilization to ensure that they conform to international human rights and medical standards. Other recommendations included the repeal of provisions that allow physicians to sterilize persons in certain circumstance without informed consent, and monitoring of public and private health

centers to ensure that fully informed consent is given by patients before sterilization procedure are carried out.

During the year the 19 member National Assembly's Committee for Human, Minority, and Religious Rights conducted hearings and participated in the legislative process with regard to funding programs and proposals affecting minority groups. Separate ombudsmen for human rights, data protection, and minority affairs are independent of the Government and report annually to the National Assembly on their activities and findings. The National Assembly is not legally bound to act on the reports. The National Assembly elects the ombudsmen for six year terms.

Persons may seek direct assistance from one of three ombudsmen if their complaints have not been addressed elsewhere. Ombudsmen do not have the authority to issue legally binding judgments; they act as mediators and conduct fact finding inquiries.

In a report in January, the office of the minority affairs ombudsman condemned the activities of a school in Kerepes that discriminated against Romani children and included recommendations to school authorities and to city officials. The report stemmed from an investigation by the minority affairs ombudsman into allegations of discrimination against the Romani community involving school segregation, access to housing, and employment (see section 5).

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, or social status. However, in practice widespread discrimination persisted, particularly against Roma. Violence against women, child abuse, and trafficking in persons were also problems.

In January the Government's newly established Equal Treatment Authority began operating. It has authority to investigate cases of discrimination and to levy fines against violators.

*Women.*—The law does not specifically prohibit domestic violence or spousal abuse. The general charge of assault and battery, which carries a prison term of up to eight years, is used to prosecute domestic violence cases. Expert research in the field of family violence indicated that an estimated 20 percent of women were threatened or victimized by domestic violence.

Societal attitudes tended to blame the victim as the cause of abuse, and NGOs reported that police generally remained reluctant to arrest abusers. Victims' rights advocates indicate that some police reluctance may be due to a lack of faith that the judicial system will effectively resolve abuse cases. Most incidents of domestic violence went unreported from fear and shame on the part of victims. According to the national police, 4,620 women were victims of domestic violence during the year.

In June a report released by the UN Committee to Eliminate Discrimination Against Women stated that 5.6 percent of all known criminal perpetrators, or 7,500 persons, committed crimes against family members or relatives. Overall, 25 percent of all crimes against persons were committed in the family.

In February the National Assembly passed a restraining order law to help protect persons from abusive spouses. However, NGOs continued to criticize the Government for not focusing more attention on the problem of domestic violence. The Ministry of Social Affairs operated a 24-hour hot line for victims of domestic abuse and provided accommodations at government-run shelters.

Rape, including spousal rape, is illegal, but the crime was often unreported. Penalties for rape range from two to eight years in prison to up to 15 years in prison in aggravated cases.

During the year police investigated 206 rape-related cases as compared with 264 cases in 2005. Allegations of rape are included in cases of indecency and crimes against sexual morals. There were no figures available, however, on the number of convictions. Police reportedly were unsympathetic toward victims of sexual abuse, particularly if the victim had been acquainted with her abuser.

Prostitution is legal, but there are many restrictions on where it may be carried out. Estimates of the number of prostitutes in the country varied widely. Some observers put the number at 17,000; others said it was 30,000. Many prostitutes were either forced or coerced into prostitution by pimps. Police regularly fined prostitutes and targeted them for physical and verbal abuse.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Although the law does not explicitly prohibit sexual harassment in the workplace, general harassment is illegal, and the law provides for the right to a secure workplace. Nonetheless, sexual harassment remained a widespread problem. Women's groups continued to report that there was little government support for efforts by

NGOs and some legislators to criminalize sexual harassment, and that many women tolerated sexual harassment in the workplace because they feared losing their jobs.

Women have the same rights as men under family law, property law, and in the judicial system. However, there was economic discrimination against women in the workplace, particularly against jobseekers over the age of 50 and those who were pregnant. During the year the Equal Treatment Authority determined that employers had illegally discriminated in four cases, with most of the victims being women or Roma. The fines levied in the cases ranged from \$1,500 (300,000 forints) to \$5,000 (1 million forints).

*Children.*—The Government remained committed to children's rights and welfare. The law provides for free, compulsory education for children through 18 years of age. The Ministry of Education estimated that 95 percent of school age children were enrolled in school, although the drop-out rate for Romani children was much higher than for the overall student population. During the year one study found that over 82 percent of Roma have eight years of education or less, compared with 36 percent of the rest of the population. Similarly, while an estimated 40 percent of the population had some form of secondary schooling, among Roma the number was 3.1 percent.

Although the law forbids official segregation of children according to ethnicity or nationality, segregation of Romani children remained a problem. Romani children were often placed in remedial classes without cause, effectively separating them from other students. NGOs and government officials estimated that 20 percent of Romani children were in remedial programs and that 700 such segregated classes existed. Many schools with a majority of Romani students had substandard buildings and resources and simplified teaching curricula. According to the European Roma Rights Center, Romani students made up 20 percent of the country's student population, but more than 50 percent of students in special schools for children with developmental disabilities.

At year's end a segregation case filed in February by the NGO Chance for Children Foundation (CFCF) against city authorities in Hajdúhadház remained pending. The CFCF claimed that two of the city's elementary schools openly relegated most Roma students to substandard buildings. In June CFCF won the first case of educational segregation in the country against the city of Miskolc. In that 2005 case, the CFCF stated that school officials relegated Romani and other disadvantaged children to separate, poorly maintained buildings and used a simplified curriculum to teach children.

Although the Government provided medical care to school-age children, NGOs and Romani activists claimed that Romani children did not have equal access to these and other government services.

According to police there were 1,135 reported crimes against children during the year. However, police continued to lack the necessary training, capacity, and institutional support to adequately protect children, particularly in instances of domestic violence. NGOs reported that neglect and abuse occurred in state care facilities such as orphanages. In May the ombudsman for civil rights found shortcomings in three, state-run child care facilities, the most serious of which was the lack of professional care given to children with special needs.

Child prostitution was not a common practice, and police claimed to investigate all such reports vigorously. The law provides for severe penalties for persons convicted of sexually abusing children. Although child prostitutes were not criminally prosecuted, they can be remanded to juvenile centers for rehabilitation and to complete school.

Trafficking in children for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons to, from, and primarily through the country remained a problem.

The country was a source, transit, and destination country for women and girls trafficked for the purpose of sexual exploitation. Victims were also trafficked for domestic servitude and manual labor. Victims were primarily trafficked from Romania, Ukraine, Moldova, Poland, the Balkans, and China. They were trafficked to and through the country to Austria, Germany, Spain, the Netherlands, Italy, France, Switzerland, and the United States. There was also evidence of trafficking to Central American and Scandinavian countries, as well as to Japan and the United Kingdom.

Internal trafficking was also a problem. There was no systematic method of documenting or estimating the number of women who were trafficked from or through the country each year. However, NGOs and other organizations that deal with traf-

ficking estimated that 3,000 to 4,000 persons were trafficked from the country annually.

Those most at risk of being trafficked were orphans who had reached adulthood, young women from the countryside, and young Romani women. Women and children from the country were trafficked primarily to wealthier destinations in Western and Northern Europe and North America. Some NGOs reported anecdotal evidence of trafficking of men and boys as young as 12 from Romania to Budapest for the purpose of sexual exploitation. Police said they pursued all such information but were not able to find corroboration to support these claims. Other NGOs also stated that they had not seen any evidence of this type of trafficking.

According to government officials and NGOs, the majority of traffickers are individuals or small, family based groups. There also are some instances of organized crime engaging in trafficking. Organized crime syndicates transported many of the trafficking victims for forced prostitution in the country, or through it as a transit country. Russian speaking, organized- crime syndicates were active in trafficking women through the country.

Victims were recruited at night clubs and modeling agencies, as well as through word of mouth, or even advertisements in local newspapers and magazines. Some victims reported that they knew that they were going to work illegally; some believed they were getting foreign visas, while others expected to work but believed their employers were obtaining the appropriate documents.

Under the law penalties for trafficking range from one to 15 years in prison, depending on the circumstances of the case. Trafficking of minors is punishable by up to 10 years in prison. In cases where a trafficking victim is under 12 years of age, the penalty is five to 15 years, or life imprisonment. If an organized trafficking ring is involved, the sentence can be life imprisonment and seizure of assets.

Government agencies most directly involved in efforts to combat trafficking included the newly formed Justice and Law Enforcement Ministry, the foreign ministry, as well as police, border guards, and custom authorities.

During the year the Government's interministerial working group on trafficking was not able to develop a unified national approach to antitrafficking programs. Government officials cited difficulty in coordinating trafficking programs and policies overseen by the ministries of Interior, Foreign Affairs, and Equal Opportunity. In addition, a large-scale government restructuring during the year that merged the interior Ministry into a new Justice and Law Enforcement Ministry also hindered the interministerial group's efforts.

A special government task force investigated trafficking cases involving organized crime, and the Government regularly cooperated with other countries in joint trafficking investigations. During the year seven foreign nationals were extradited from the country on trafficking charges.

On December 22, the National Assembly ratified the United Nations Convention against Transnational Organized Crime which is supplemented by the so-called "Palermo Protocol" to prevent, suppress, and punish trafficking in persons, especially women and children.

There was no evidence of official government involvement in, or tolerance of trafficking. However, reports continued that individual border guards were corrupt.

The Government provided limited financial and property assistance to antitrafficking NGOs, donated several buildings to establish an NGO trafficking shelter, and allocated \$47,000 (10 million forints) for trafficking victim protection. During the year the shelter assisted 23 trafficking victims. There were approximately 60 regional and local victim protection offices, which provided psychological, social support, and legal aid to trafficking victims and to victims of violent crime, including domestic violence. The Ministries of Youth, Family, Social Affairs, and Equal Opportunity operated a hot line for victims of trafficking. Trafficking victims who cooperated with police and prosecutors could receive temporary residency status, short term relief from deportation, and shelter.

The Government continued to work closely with NGOs and the International Organization Migration (IOM) to promote public awareness programs about trafficking. Antitrafficking materials prepared by NGOs continued to be included in state-run university programs. The Government cooperated with IOM to conduct trafficking prevention and awareness programs for potential victims as well as trafficking awareness training for police, border guards, prosecutors, consular officers, and judicial officials. During the year approximately 160 teachers and social workers took university classes on trafficking, and the Government sponsored trafficking awareness programs in public and religious schools.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, persons with disabilities faced societal discrimination

and prejudice. Government sources estimated that there were between 600,000 and 1 million persons with disabilities (6 to 10 percent of the population).

Persons with disabilities most commonly faced discrimination in employment and access to health care. Approximately 90 percent of working-age persons with mental disabilities were not employed. NGOs expressed concerns over the lack of independent oversight at government-run, long-term care institutions for persons with mental disabilities. Sporadic reports of excessive restraint have been reported, which experts attributed partly to a lack of sufficient numbers of qualified staff to care for patients.

The international NGO Mental Disability Rights International and the local NGO Hungarian Mental Health Interest Forum noted that the Government lacked procedures to supervise the treatment and care of persons with disabilities who were under guardianship. This lack of oversight often resulted in the blanket institutionalization of many individuals who did not require it.

A government decree mandates that all companies with more than 20 employees must reserve 5 percent of their jobs for persons with physical or mental disabilities, with fines of up to 75 percent of the average monthly salary for noncompliance. In practice employers typically paid fines rather than employ persons with disabilities.

In December 2005 the National Assembly extended a legal deadline to make all public buildings accessible to persons with disabilities by 2013. To date between 30 and 35 percent of public buildings operated by the central and local governments are accessible.

In February parliament adopted a resolution on the National Disability Plan that outlined key strategic goals for government action with regard to persons with disabilities. NGOs welcomed the action, which among other measures, emphasized a desire to give more individual rights to individuals under state guardianship.

The National Council for the Disabled under the leadership of the Minister of Social Affairs and Labor, served as an advisory board to the Government. It assisted the Government with the National Disability Plan and also monitored its implementation. NGOs, however, noted that the council's meetings during the year were sporadic, due in part to large-scale government restructuring.

*National/Racial/Ethnic Minorities.*—Widespread discrimination against Roma remained a problem. Reports of police abuse against Roma were common, but many Roma remained fearful of seeking legal remedies or of notifying NGOs (see section 1.c.).

Living conditions for Romani communities continued to be significantly worse than for the general population. Roma were significantly less educated and had below average income and life expectancy. The unemployment rate for Roma was estimated at 70 percent, more than 10 times the national average, and most Roma lived in extreme poverty. Discrimination against Roma continued in education, housing, penal institutions, employment and access to public places, such as restaurants and bars.

According to the European Roma Rights Center (ERRC) some media outlets in the country promoted anti-Roma hatred and violence following the October 17 beating death of Lajos Szogi by a mob in the village of Olaszliszka. Two days earlier Szogi hit an 11-year-old Romani girl with his vehicle in a road incident. The ERRC condemned the mob violence and expressed concern over how major broadcast and print media reported the incident. For example, an opinion article in *Magyar Nemzet* advised drivers to drive away without stopping should they run over a Romani child.

In March and August, the Equal Treatment Authority fined two companies for discriminating against Roma job seekers in their hiring process. In the first case, the fine was \$6,500 (1.3 million forints); in the second the fine was \$3,500 (700,000 forints). In one of the cases, officials uncovered clear evidence that a Romani man was denied employment solely because of his ethnic background.

Roma schools were generally more crowded, more poorly equipped, and in significantly worse condition than those attended by non Roma students (see section 5, Children).

In a report in January the office of the minority affairs ombudsman condemned the activities of a school in Kerepes that discriminated against Romani children by regularly segregating them by race in special classes, which were separated from the rest of the school by locked doors between hallways (see section 4).

According to the Roma Civil Rights Foundation, many municipalities used a variety of techniques to prevent Roma from living in more desirable urban neighborhoods. Such techniques included auctioning by local governments of special housing for the poor to the highest bidder and evicting Roma from areas slated for renovation without financial compensation that was adequate to allow them to return after the renovations. The foundation also reported that district councils threatened to

take children from Roma families who could not pay for public utilities in order to expedite evictions.

At year's end the National Assembly passed a law designed to end racial discrimination in housing. The law was passed following a national investigation into racial discrimination against Roma in the allotment of social housing. The investigation was requested by the ombudsmen for national and ethnic minority rights and for human rights.

During the year the position of Political State Secretary for Roma Affairs was eliminated as part of the Government's restructuring plan. However, most ministries retained Roma coordinators, and the Roma Affairs Interministerial Commission continued its work to integrate and coordinate Roma affairs.

The 20 county labor affairs centers also had Romani affairs officers focusing on the needs of the Romani community. The Ministry of Education and Culture continued to offer financial incentives to encourage schools to integrate Romani and non-Romani children in the same class rooms and to reintegrate those Roma inappropriately placed in remedial programs. The Ministry of Social Affairs and Labor operated a program to finance infrastructure development in Romani communities.

The Ministry of Justice and Law Enforcement also funded a Roma antidiscrimination legal service network, which provided free legal aid to Roma in cases where they encountered discrimination based on their ethnicity.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice, and workers exercised these rights in practice. Approximately 23 percent of the labor force was unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference and the Government protected this right in practice. Collective bargaining is protected by law, and it was freely practiced. Approximately 38 percent of the workforce was covered by collective bargaining agreements.

With the exception of military personnel and police officers, workers have the right to strike, and workers exercised this right in practice. The law permits the unions of military personnel and police officers to seek resolution of grievances in the courts.

There are no export processing zones, but individual foreign companies frequently were granted duty free zone status for their facilities. There are no exemptions from regular labor laws in the duty-free zones.

*c. Prohibition of Forced or Compulsory Labor*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace. Children under 16 are prohibited from working, except under certain conditions, such as temporary work during school vacations for those between 14 and 16. Children may not work night shifts, overtime, or at hard physical labor. The National Labor Center enforced these regulations in practice, and there were no reports of any significant violations.

Trafficking in children was a problem (see section 5).

*e. Acceptable Conditions of Work.*—The national minimum monthly wage of \$310 (62,000 forint) did not provide a decent standard of living for a worker and family. The minimum wage was regularly evaluated and raised by the National Council for Interest Reconciliation, a tripartite body of employers, employees, and the Government. An increased minimum wage of \$334 (65,000 forint) will take effect in 2007.

The law sets the official workday at eight hours, although it may vary depending upon the nature of the industry. A 48 hour rest period is required during any seven day period. The regular work week is 40 hours, with premium pay for overtime, and the law prohibits overtime exceeding 200 hours per year. The law applies equally to foreign workers who have work permits.

Labor courts and the country's labor inspectorate enforced occupational safety standards set by the Government, but specific safety conditions were not consistent with internationally accepted standards, and enforcement was not always effective. Under the law workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and this right generally was respected in practice.

## ICELAND

Iceland, with a population of 300,000, is a constitutional, parliamentary republic. The President is the head of state; a prime minister, usually the head of the majority party, is head of government. There is a unicameral parliament (Althingi). In 2004 Olafur Ragnar Grimsson was reelected President in free and fair elections. On June 7, Geir Haarde (Independence Party) replaced Halldor Asgrimsson (Progressive Party) as prime minister when the latter retired from politics. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. The following human rights problems were reported: violence against women, societal discrimination against minorities and foreigners, and isolated reports of women trafficked to, through, and possibly from the country.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers.

In a December 2005 report, the Council of Europe (COE) commissioner for human rights expressed concern that prisoners did not have access to specialized mental health care services. The commissioner urged the authorities to arrange for treatment—outside the prison system if necessary—to meet individual care requirements. Prisoners needing psychological and psychiatric services continued to experience delays, but prison authorities hired a second part-time psychiatrist at the prison to ensure that psychiatric personnel were present at least 50 percent of the time by year's end, up from 25 percent in the summer. Emergency needs for either service received immediate attention.

During the late summer, an increase in arrests and resulting pretrial detention caused some overcrowding at the detention facility in Reykjavik. At the problem's peak, the facility held between five and 10 more detainees than its designed capacity. Authorities were forced to move some detainees temporarily to the main prison and release others sooner than originally planned. Opposition parties criticized the minister of justice for not doing enough to construct new prison housing to meet increased demand for pretrial detention space. In December the Althingi enacted the Government's 2007 budget, which included funds for the expansion, modernization, and upgrade of two smaller prisons in Kviabryggja and Akureyri, but not for the main prison at Litla-Hraun. Throughout the entire prison and detention system, during the year an average of 117.7 prisoners occupied facilities designed for 137 inmates.

The Government maintained a separate minimum-security prison for female inmates; however, because so few women were incarcerated (five or six in July) some men were also held there. Men housed in facilities with women were closely monitored and only interacted with women in the common areas—they did not share cellblocks. In the rare instances when juvenile offenders were incarcerated, they were held with adults, since there was no separate facility for juveniles. Pretrial detainees were held with convicted prisoners.

The 110 persons placed in custody during the year spent an average of 11.2 days each in solitary confinement. In nine cases prisoners spent more than a month in isolation. The average prisoner awaiting trial or being tried spent 1.7 days in isolation. Most of the minors who were held in custody during the year (fewer than 20 in all) spent some time in isolation. The Government permitted visits by independent human rights observers during the year. Prisoners could, and did, request visits from volunteers from the Icelandic Red Cross, or so-called "prisoners' friends." The volunteers talked with the prisoners and provided them with second-hand clothes upon request. There were no prison visits by the International Committee of the Red Cross (ICRC) during the year.



*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The minister of justice heads the police force. The national commissioner of police administers and runs those police operations requiring centralized coordination among various offices. Various district chiefs of police have responsibility for law enforcement in their areas. The police were effective, and corruption was not a problem. Complaints regarding police abuses could be directed to a state prosecutor, who in turn would seek investigative assistance from the national commissioner or, if the national commissioner were the subject of the investigation, the Reykjavik police department.

*Arrest and Detention.*—Police may make arrests under a number of circumstances: when they believe a prosecutable offense has been committed, where necessary to prevent further offenses or destruction of evidence, to protect the suspect's safety, or when a person refuses to obey police orders to move. Arrest warrants were usually not required; the criminal code explicitly requires warrants only for arrests when individuals fail to present themselves in court to attend a hearing or a trial, or to prison to serve a sentence.

Persons placed under arrest are entitled to legal counsel, which is provided by the Government if they are indigent. Authorities must inform persons under arrest of their rights and must bring them before a judge within 24 hours. The judge determines whether a suspect must remain in custody during the investigation; the judge may grant conditional release, subject to assurances that the accused will appear for trial.

In his December 2005 report, the COE's commissioner for human rights recommended that only judges, not police officers or prosecutors, be permitted to place detainees, particularly minors, in solitary confinement. The Ministry of Justice disagreed with this recommendation and no action was taken.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

There are two levels of courts: district courts, of which there are 8, and the Supreme Court. The minister of justice appoints all judges, who serve for life.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and with limited exceptions an independent judiciary enforced this right.

Courts do not use juries, but multi-judge panels are common, particularly in the Supreme Court. The courts presume defendants' innocence and generally try them without delay. Defendants receive access to legal counsel of their own choosing. For defendants unable to pay attorneys' fees, the Government covers the cost; however, defendants who are found guilty must reimburse the Government. Defendants have the right to be present at their trial, to confront witnesses, and to participate in the proceedings. They and their attorneys have access to government-held evidence relevant to their cases. At the discretion of the courts, prosecutors may introduce evidence that police obtained illegally. With limited exceptions trials were public and conducted fairly. Defendants have the right to appeal, and the Supreme Court handles appeals expeditiously.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is a single court system that handles both criminal and civil matters. The two levels of the judiciary—the district courts and the Supreme Court—are widely considered to be independent and impartial in civil matters. There were no significant reports of problems enforcing domestic court orders. Courts often awarded civil payment of damages in criminal cases. In both criminal and civil cases, if a guilty party fails to pay awarded damages, the Government will intervene to pay the damages and then initiate collection action against the delinquent party.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected this prohibition in practice.

In order to obtain a permit to stay in the country based on marriage to a citizen or the holder of a resident permit, a partner or spouse must be at least 24 years of age. In 2005 the UN Committee on the Elimination of Racial Discrimination (CERD) and the Council of Europe commissioner for human rights both expressed concern about this requirement; however, there was no official action during the year in response to these concerns.

Immigration law allows authorities to conduct house searches without a prior court order when there is a significant risk that any delay would jeopardize an investigation of immigration fraud; they may also request DNA tests without court

supervision in cases where they suspect immigration fraud. In practice neither home searches without warrants nor DNA tests took place during the year.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The law establishes fines and imprisonment of up to three months for those who publicly deride or belittle the religious doctrines of a lawful religious association active in the country. Additionally, the law establishes fines and imprisonment of up to two years to anyone who publicly ridicules, slanders, insults, threatens, or in any other manner publicly assaults, a person or a group of people on the basis of their nationality, skin color, race, religion, or sexual orientation. There were no reports that the law was invoked during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the state financially supported and promoted the official religion, Lutheranism. This adversely affected other religions in that they did not receive equal time and deference in school curricula or comparable subsidies for their faith-based activities.

The law specifies conditions and procedures that religious organizations must follow to be registered by the Government. Such recognition was necessary for religious organizations other than the state church if they wished to receive a per capita share of church tax funds from the Government. Of three groups that applied to register as religious organizations during the year, two, the Free Church of Iceland and the Baptist Church of Sudurnes, had their applications denied on grounds of not being sufficiently well established. The Government did not place any restrictions or requirements on unregistered religious organizations, which had the same rights as other groups in society.

All citizens 16 years of age and older must pay an annual church tax of approximately \$121 (8,472 krona). For persons who were not registered as belonging to a religious organization, or who belonged to one that was not registered and officially recognized, the tax payment went to the University of Iceland, a secular institution. Atheists and humanists objected to having their fee go to the university, asserting that this was inconsistent with the right of freedom of association.

In January the Icelandic Pagan Association (Asatuarfelagith) sued the Ministry of Justice and Ecclesiastical Affairs and the Ministry of Finance to receive funding proportional to its membership from monies currently made available only to the national church. These monies supplement the income that the national church receives from church taxes, exclusively favoring state Lutheranism, which the plaintiff alleged was a violation of the antidiscrimination provisions of the European Convention of Human Rights. In November the Reykjavik District Court ruled that the state does not have to give the association comparable funding to what the national church is receiving. The court based its reasoning on the fact that the national church is obligated by law to provide a number of services and carry out specific functions, so it is not unjust that it gets more funding from the state than other religious organizations. Representatives of the pagan association said they intended to appeal the verdict to the Supreme Court but had not done so by year's end.

The law mandates religious instruction in Christianity in the public schools; however, students may be exempted from attending the classes upon parental request.

*Societal Abuses and Discrimination.*—There are no official groups representing Jews in the country, and the community numbers under 100 individuals.

The law establishes penalties of fines and up to two years in prison for verbal or physical assault on an individual or group based on religion. The law also establishes fines and imprisonment of up to three months for those who publicly deride or belittle the religious doctrines of a lawful religion association active in the country. There were no reports that the law was invoked during the year.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees, but it had no fixed refugee acceptance requirements.

Asylum seekers were eligible for state-subsidized health care during the processing of their cases, which at times took a year or more. They could enroll their children in public schools after being in the country for three months, and some children of asylum seekers were enrolled in public schools during the year. Asylum seekers could also apply for work permits. However, human rights advocates criticized the law for not specifying which “significant human rights reasons” must underpin granting temporary residence (and eligibility for work permits) while asylum cases are processed, arguing that the situation created the possible appearance of arbitrary decisions. This echoed such groups’ criticism of the vagueness of criteria for granting asylum.

Since 1984 only one person has been granted asylum as a political refugee. Officials rejected most asylum applications and eventually deported most applicants; however, some asylum seekers have been accepted on humanitarian grounds. The minister of justice appoints the director of immigration, who heads the deciding body for asylum cases. Some observers have asserted, as the Council of Europe commissioner for human rights did in a December 2005 report, that this hierarchy could constitute a conflict of interest. The law is ambiguous about the criteria for granting and denying asylum, and this ambiguity, combined with the low number of approved asylum applications, left unclear the considerations that are applied in adjudicating the applications of asylum seekers. The law allows for accelerated refusal of applications deemed to be “manifestly unfounded.”

Asylum seekers also faced other impediments. They were not entitled to legal representation during their initial asylum interviews before the Directorate of Immigration, although legal assistance was provided for any appeals. Asylum seekers had no access to the court system. They could address appeals against negative decisions only to the Ministry of Justice.

In August 2005 CERD expressed concern about reports that border guards did not always handle asylum requests properly and encouraged the Government to intensify its efforts to provide systematic training to these officials. The Government did not directly respond to this concern and did not announce any action during the year to address it.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The most recent Presidential election was held in 2004, when Olafur Ragnar Grimsson won 85.6 percent of the valid votes for his third term in this mostly ceremonial office. Elections to parliament in 2003 were free and fair. Center-right coalitions have governed since 1991.

There were 23 women in the 63-seat parliament and four women in the 12-member cabinet. Two of nine Supreme Court members and 13 of 38 district court judges were women. Foreigners who have resided in the country legally for five years (three years for citizens of Scandinavian countries) may vote in municipal elections. No members of minority groups held seats in the parliament.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year.

The law provides for public access to government information, and the Government provided access in practice for citizens and noncitizens, including foreign media. Appeals against refusals by government authorities to grant access to materials may be referred to an information committee consisting of three persons ap-

pointed to four-year terms by the Prime Minister. Permanent employees of government ministries may not be members of the committee.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Icelandic Human Rights Center acted as the country's leading human rights organization, vetting government legislation and reporting to international treaty monitoring bodies as well as promoting human rights education and research. The center was funded primarily by the Government but also by nongovernmental organizations (NGOs), unions, and the city of Reykjavik; it operated as an NGO. The Government did not respond to criticism from CERD and the COE commissioner for human rights in 2005 regarding its decision to cease direct support for the center's operating expenses, but it continued to provide grants to the center for specific initiatives.

The Government cooperated with international organizations and permitted visits by the ICRC.

An independent ombudsman, elected by parliament, monitored and reported to national and local authorities on human rights developments to ensure that residents, whether citizens or aliens, received equal protection. Individuals could lodge complaints with the ombudsman regarding decisions, procedures, and conduct of public officials and government agencies. The ombudsman may demand official reports, documents, and records, may summon officials to give testimony, and has access to official premises. He continued to complain during the year that government agencies were responded slowly to requests for information and documents, causing delays in his handling of cases. By year's end the Government had not responded to these complaints. While the ombudsman's conclusions are not binding on authorities, his recommendations were generally followed. There was also a children's ombudsman (see section 5).

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides that everyone shall be equal before the law and enjoy human rights irrespective of gender, race, social status, or language. Various laws implement these principles, and the Government effectively enforced them.

*Women.*—The law prohibits domestic violence; however, violence against women continued to be a problem. Police statistics indicated that the incidence of reported violence against women, including rape and sexual assault, was low; however, the number of women seeking medical and counseling assistance indicated that many incidents went unreported. During the year 99 women sought temporary lodging at the country's shelter for women, mainly because of domestic violence. The shelter offered counseling to 219 clients. Also during the year, 143 women sought assistance at the National Hospital's Rape Crisis Center.

Legislation enacted in April permits judges to increase the sentences of persons who committed violence against persons with whom they had a domestic relationship or other close bond. Neither the Ministry of Justice nor the Office of the State Prosecutor maintained statistics on prosecutions and convictions for domestic abuse.

The Government helped finance various facilities and organizations that provided assistance to victims of violence. In addition to partially funding such services, the Government provided help to immigrant women in abusive relationships, offering emergency accommodation, counseling, and information on legal rights. Courts could issue restraining orders, but there were complaints that police were reluctant to recommend them and that courts granted them only in extreme circumstances. Victims of sexual crimes were entitled to lawyers to advise them of their legal rights and help them pursue cases against the alleged assailants; however, a large majority of victims declined to press charges or chose to forgo trial, in part to avoid unwanted publicity. Some local human rights monitors also attributed underreporting to the infrequency of convictions, due to the heavy burden of proof and to traditionally light sentences. While average sentences for domestic violence showed a gradual increase, the courts continued in many cases to base sentences on precedent and rarely made full use of the more stringent sentences available under the law. According to statistics from the Women's Shelter, 19 percent of their clients pressed charges during the year, up from 13 percent in 2005.

In September the Government set into motion a plan for reducing domestic and sexual violence against women and children during the years 2006–11. Its main goals were: to increase preventive measures that should encourage an open debate

on violence against children and gender-based violence, as well as foster a shift in societal attitudes; to train and encourage staff in all public institutions to recognize the symptoms of violence against children and gender-based violence; to provide victims of domestic or sexual violence with proper care; and to break the "circle of violence" by stepping up therapy options for perpetrators.

Rape carries a maximum penalty of 16 years in prison. Judges typically imposed sentences of one to three years. Spousal rape is not explicitly addressed in the law. In 2005 the Icelandic Counseling and Information Center for Survivors of Sexual Violence in Reykjavik noted that the number of reported rapes rose faster than the number of convictions when compared to previous years. In March 2005 the UN Human Rights Committee expressed concern that what it considered a heavy burden of proof for rape complainants was leading to a low conviction rate. The Government did not address this point in its response to the committee's concerns.

Prostitution was legal but rare. It was illegal to engage in prostitution as a main source of income or to act as an intermediary in the sale or procurement of sex.

There were concerns that some foreign women were trafficked to work as exotic dancers or in massage parlors where sexual services are offered (see section 5, Trafficking).

The law prohibits sexual harassment and stipulates that violations are punishable by fines; however, the law was not effectively enforced in practice. There was no central authority that plaintiffs could report to, or from which they could seek redress, and employers were free to decide whether to provide their employees with information on the legal prohibitions against sexual harassment in the workplace. While gender equality advocates reported receiving several complaints a year, the charges never became court cases, suggesting that victims were unsure how to proceed with their claims and skeptical as to their reception.

Women enjoy the same legal rights as men, including under family law, property law, and the judicial system. Despite laws that require equal pay for equal work, a pay gap existed between men and women. According to a study commissioned by the Ministry of Social Affairs, during the year women on average earned 15.7 percent less than men in the same professions. Affirmative action provisions in the law state that if women are underrepresented in a certain profession, employers have an obligation to hire female candidates over equally qualified male candidates.

The Government continued to fund a center for promoting gender equality to administer the Act on Equal Status and Equal Rights of Women and Men. The center also provided gender equality counseling and education to national and municipal authorities, institutions, companies, individuals, and NGOs. The minister of social affairs appoints members of a Complaints Committee on Equal Status, which adjudicates alleged violations of the act; the committee's rulings are nonreviewable. The minister of social affairs appoints an Equal Status Council, with nine members drawn from national women's organizations, the University of Iceland, and labor and professional groups, which makes recommendations for equalizing the status of men and women in the labor market.

During the year the Complaints Committee on Equal Status decided 13 cases involving hiring during the year and found that the law on equal rights had been breached in two of them. Both involved the public University of Iceland where authorities hired male rather than female candidates for openly advertised positions. In one case in June, the complaints committee ruled that the rector's appointment of an associate professor represented gender bias and observed that the rector had not provided an adequate explanation for appointing a man instead of a woman (in August the female candidate was hired as a professor at Reykjavik University, a private institution). In the second case, the complaints committee ruled in December that the hiring of a male candidate for a research position similarly represented gender bias and was in breach of the law.

In June parliament amended the law on public corporations to place greater emphasis on gender representation on their boards of directors.

*Children.*—The Government was strongly committed to children's rights and welfare; it funded public education and health care. School attendance is compulsory through the age of 15 and free through public university level. According to government-published statistics for 2005, approximately 94 percent of students continued to advanced secondary education.

The Government provided free prenatal and infant medical care, as well as heavily subsidized childcare; girls and boys had equal access to these services.

There were reports of abuse of children during the year. The Agency for Child Protection received 1,047 reports of abuse. Of these 353 cited emotional abuse, 385 were related to physical abuse, and 317 to sexual abuse. The agency operated seven treatment centers and a diagnostic facility for abused and troubled minors. It also coordinated the work of 32 committees throughout the country that were responsible

for managing child protection issues (for example, foster care) in their local areas. The local committees hired professionals knowledgeable about sexual abuse.

In an effort to accelerate prosecution of child sexual abuse cases and lessen trauma to the child, the Government maintained a children's assessment center (Barnahus). During the year the center conducted 194 investigative interviews, 117 children underwent assessment and therapy, and 14 medical examinations were performed. The center was intended to create a safe and secure environment where child victims might feel more comfortable talking about what happened to them. It brought together police, prosecutors, judges, doctors, and officials from child protection services. District court judges were not required to use the center and could hold investigatory interviews in the courthouse instead, a practice that concerned some children's rights advocates. In practice all district courts except for the Reykjavik District Court opted to use the center's services. In September, in response to public complaints by the Agency for Child Protection, the presiding judge for the Reykjavik District Court responded that the court had sufficient staff expertise and did not require the center's services.

The children's ombudsman, who is appointed by the Prime Minister but acts independently of the Government, fulfilled her mandate to protect children's rights, interests, and welfare by, among other things, seeking to influence legislation, government decisions, and public attitudes. When investigating complaints, which typically involved physical and psychological abuse and inadequate accommodation for children with illnesses or disabilities, the ombudsman had access to all public and private institutions and associations that house children or otherwise care for them; however, the ombudsman's conclusions were not legally binding. The ombudsman was not empowered to address individual cases.

*Trafficking in Persons.*—Law prohibits trafficking in persons; however, there were isolated reports that persons were trafficked to, through, and possibly from, the country.

Although information about trafficking is based on hearsay, the total number of cases during the year was under 100. Cases fell into several categories, none of which involved more than a few documented victims: young Asian men and women caught while being trafficked via Keflavik International Airport; "mail-order" or "Internet" brides (both Eastern European and Asian) trapped with abusive, controlling Icelandic husbands; and underpaid or mistreated prostitutes and workers in nightclubs and massage parlors.

There were reports of foreign women, married to local men, who lived in conditions akin to slavery. These women worked long hours, and their husbands took their salaries, and some of the men sold the sexual services of their wives.

In January a Chinese citizen won a civil suit of approximately \$71,000 (4.7 million krona) for unpaid wages for administering therapeutic massages at a Kopavogur massage parlor.

Responsibility for efforts to prevent and punish trafficking lay mainly with the Ministry of Social Affairs and the Ministry of Justice; the Ministry of Foreign Affairs was also involved in antitrafficking efforts.

Women's aid groups reported that there was evidence that foreign women were trafficked to the country primarily to work in striptease clubs or massage parlors offering sexual services. A number of municipalities have banned private clubs that feature dancing, believed to serve as a front for prostitution and possibly trafficking, but clubs appeared able to circumvent the regulations with impunity. One club marketed private dances on its Web site and in full-page newspaper advertisements that depicted a seminude woman reclining on a bed. The Baltic countries were the main countries of origin for women working in such clubs and parlors, with others coming from Central and Eastern Europe and Russia. There were no statistics on the number or origin of women actually trafficked. To work as an exotic dancer, any person from outside the European Economic Area (EEA) must first obtain a work permit, which is typically valid for three months. Social workers suspected that most foreign women working in this field came from within the EEA and were thus impossible to track through work permit applications. A specialist at the Intercultural Center stated in a newspaper interview that one or more foreign women sought assistance at the center every week to protect themselves from violence caused by an abusive husband or boyfriend. Two of the women interviewed during the year said their husbands had forced them into prostitution.

The law prohibits trafficking in persons with the aim of sexual abuse or forced labor and provides for imprisonment of up to eight years for those found guilty of these offenses. During the year police did not charge any persons with trafficking.

Although the Government sought to clamp down on elements of the sex industry thought to be primary venues for victims of trafficking, there was no coordinated government effort to investigate the trafficking phenomenon outside of the general

context of increased government efforts to combat organized crime, and no public officials were specifically designated to prosecute trafficking cases, which senior officials described as very few. During the year the Government reorganized the national police to provide more effective analysis and investigation against organized crime and sexual offenses, to include prostitution and trafficking. The minister of justice called for further efforts to combat such crimes.

The Government provided funding for the Women's Shelter (Stigamot), the country's counseling and information center for survivors of sexual violence, and the rape crisis center of the National Hospital, whose services included assistance to victims of trafficking. However, there was no established government assistance program specifically for victims of trafficking. Some NGOs provided government-supported counseling and shelter to women and children who were victims of violence or sexual abuse, including victims of trafficking. The Human Rights Center and Intercultural Center were also available to assist with trafficking cases and make referrals.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities, and there were no reports of official discrimination in employment, education, access to health care, or the provision of other state services. The law also provides that persons with disabilities receive preference for government jobs when they are at least as qualified as other applicants; however, advocates for persons with disabilities asserted that the law was not fully implemented and that such persons constituted a majority of the country's poor.

Building regulations require that public accommodations and government buildings, including elevators, be accessible to persons in wheelchairs, that public property managers reserve 1 percent of parking spaces (a minimum of one space) for persons with disabilities, and that sidewalks outside the main entrance of such buildings be kept clear of ice and snow to the extent possible. Violations of these regulations are punishable by a fine or a jail sentence of up to two years; however, the main association for persons with disabilities complained that this regulation was not regularly enforced and that authorities rarely assessed penalties for non-compliance.

Some mental health advocates criticized the Government for not devoting sufficient attention and resources to the care of persons with mental disabilities. Although the law provides them with rights to a number of services at no cost, a large number of persons with mental disabilities remained on waiting lists for housing, education, and employment programs. Advocates alleged that government funding for the care of persons with mental disabilities was inadequate and that the government-financed health system funded too few hospital places for acute patients and thus exacerbated a shortage of publicly funded preventative and follow-up mental health care.

In October the Government initiated an action plan for the years 2006–10 to strengthen residential services such as group homes for those with mental disabilities. The action plan also covers support services such as rehabilitation and employment participation. The 2007 government budget enacted in December contained funding increases to initiate several of the projects covered by the plan.

The Ministry of Social Affairs was the lead government body responsible for protecting the rights of persons with disabilities. It coordinated the work of six regional offices that provided services and support to persons with disabilities. It also maintained a diagnostic and advisory center in Reykjavik that aimed to create conditions allowing persons with disabilities to lead normal lives.

*National/Racial/Ethnic Minorities.*—Immigrants were visible in the largely homogeneous population and suffered occasional incidents of harassment based on their race and ethnicity.

The Immigrant Council, established in November 2005 to coordinate the work of four ministries and the municipalities on immigrant and refugee issues, began its work in May. The council began gathering statistical data on immigration and coordinating outreach efforts to assist immigrants, including refugees, to integrate successfully.

An April poll indicated that a third of respondents would consider voting for a party with an anti-immigrant platform if one were to be established. Most "anti-immigrant" respondents were in their late teens or early twenties, were not highly educated, and lived in the Reykjavik suburbs.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights. Labor unions were independent of the Government and political parties. Approximately 85 percent of all eligible workers belonged to unions.

The law requires employers to withhold union dues (1 percent gross pay) from the pay of all employees, regardless of their union status, to help support disability, strike, and pension funds, and to finance other benefits to which all workers are entitled.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law allows workers to bargain collectively, and workers exercised this right in practice. Nearly 100 percent of the workforce was covered by collective bargaining agreements. Workers had the right to strike and exercised this right in practice.

There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively implemented laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children younger than age 16 in factories, on ships, or in other places that are hazardous or require hard labor; this prohibition was observed in practice. Children 14 or 15 years old may work part-time or during school vacations in light, nonhazardous occupations. Their work hours must not exceed the ordinary work hours of adults in the same occupation. The Administration of Occupational Safety and Health enforced child labor regulations effectively.

*e. Acceptable Conditions of Work.*—The law does not establish a minimum wage, but the minimum wages negotiated in various collectively bargained agreements applied automatically to all employees in those occupations, regardless of union membership. While the agreements can be either industry- or sector-wide, or in some cases firm-specific, the minimum wage levels are occupation-specific. Labor contracts provided a decent standard of living for a worker and family.

The standard legal workweek was 40 hours, which included nearly three hours of paid breaks a week. Work exceeding eight hours in a workday must be compensated as overtime. Workers were entitled to 11 hours of rest within each 24-hour period and to a day off every week. Under special defined circumstances, employers may reduce the 11-hour rest period to no less than eight hours, but they then must compensate workers with one and a half hours of rest for every hour of reduction. They may also postpone a worker's day off by a week. The Occupational Safety and Health Administration effectively enforced these regulations.

There were indications that immigrant workers received substandard treatment. The media and labor organizations reported that a number of immigrant workers were paid wages well below union-mandated minimum, were denied medical coverage, and were required to work very long hours while living in substandard housing or even sleeping on building sites. Judging by anecdotal evidence from press accounts, such cases may have numbered in the dozens. The country's labor unions took the lead in investigating and protesting this mistreatment. They began inspecting conditions at work sites, including construction sites and restaurants, noting the number and nationality of workers employed. Citizen employees reported to their unions on working conditions and treatment of foreigners, and this practice acted as a check on mistreatment. In December 2005 parliament passed legislation to regulate temporary-work agencies that imported laborers and to protect their employees. Protective measures included prohibiting the agencies from charging the employees, in addition to the employers, for their services; requiring that the agencies establish written contracts with workers specifying the work to be performed; and giving employees the right to change employers. The Directorate of Labor of the Ministry of Social Affairs was charged with enforcing the new law.

The legislature set health and safety standards, and the Ministry of Social Affairs administered and enforced them through its administration of occupational safety and health. The ministry could close workplaces until they met safety and health standards. Workers had a collective, but not individual, right to refuse to work at a job that did not meet occupational safety and health criteria. It is illegal to fire workers who report unsafe or unhealthy conditions.

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## IRELAND

Ireland is a multiparty parliamentary democracy with an executive branch headed by a prime minister (Bertie Ahern), a bicameral parliament (Oireachtas), and a



directly elected head of state, the President (Mary McAleese). The country's population is approximately 4.23 million. Free and fair parliamentary elections took place in 2002. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens. The law and judiciary provided effective means of addressing individual instances of abuse. Overcrowding and other harmful prison conditions, societal mistreatment of children, domestic violence, and trafficking in persons were the main human rights abuses during the year.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, there were reports of abuse by police officers.

In 2005 the Police Complaints Board recorded 1,173 complaints, including abuse of authority, discourtesy, neglect, and discreditable conduct by police officers, compared with 1,232 such complaints in 2004. Of the 2005 complaints, 51 were adjudicated as minor breaches of discipline and referred to the police commissioner, and 23 were deemed breaches of discipline and referred to a tribunal.

The Morris Tribunal, established in 2002, continued to investigate allegations of police corruption in County Donegal. Several police officers were accused of planting evidence, changing official statements, and intimidating witnesses in relation to the 1996 death of a local businessman. During the year the tribunal determined that two officers had planted evidence and that three others attempted to cover up the crime. The tribunal highlighted a pattern of insubordination and lack of discipline within the Donegal police force.

During the year the independent police inspectorate, created in 2005 in response to concerns about police conduct, continued to examine operational, investigative, managerial, and policing strategies relating to the police force and published its first report. The report recommended changes in two serious structural issues: lack of civilian support within the police organization and an overemphasis on headquarters and specialized units. However, at year's end no action had been taken on the recommendations (see section 1.d.).

In several communities there were reports that violence against racial minorities and immigrants occurred; however, police stated that they received no complaints about misconduct from ethnic or religious groups (see section 5).

*Prison and Detention Center Conditions.*—While prison conditions generally met international standards, there was some overcrowding, and work and sanitation conditions remained poor in some prisons.

Overcrowding in prisons became a public concern following the death of three inmates within a four-week period in August at Dublin's Mountjoy Prison. In an overcrowded holding cell, one inmate with a history of psychiatric illness beat another inmate to death. Another inmate died of a drug overdose, and the third committed suicide. The inspector of prisons had informed authorities of the overcrowding at Mountjoy in a report that covered 2004–05. In an effort to alleviate Mountjoy Prison's overcrowding, some prisoners were sent during the year to other prisons. The same report also strongly criticized St. Patrick's Institution, a detention center for young men aged 16 to 21, for its lack of focus on rehabilitation. During the year approximately 70 of the 198 inmates at St. Patrick's Institution were school-aged, although only 31 attended school. In October the educational workshops at the institution, which had been closed since 2003 for budgetary and health-related reasons, reopened.

The law permits children between the ages of 15 and 17 to be placed in prison if they are found to be unsuitable for a detention school. An estimated 170 children and teenagers were placed in adult prisons during 2005.

Human rights groups continued to criticize understaffing and poor infrastructure at the Central Mental Health Hospital in Dundrum, the country's only secure hospital for prisoners with mental disabilities. In May the Government approved construction of a new secure hospital for mentality ill patients.

In most cases the Government permits prison visits by domestic and international human rights observers but requires prior appointments for such visits. There were no visits by such groups during the year; however, on October 18, the Council of

Europe's Committee for the Prevention of Torture or Degrading Treatment or Punishment (CPT) announced it had visited a number of penal institutions earlier in the month and presented recommendations to the Government.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The use of special arrest and detention authority continued, primarily for those involved in paramilitary organizations.

*Role of the Police and Security Apparatus.*—The national police have primary responsibility for internal security but are generally unarmed; therefore the army, under the minister of defense, may act in support of police when necessary. There were limited problems of police corruption, which the Government investigated, and no known problems of impunity (see section 1.c.).

*Arrest and Detention.*—In order to make an arrest, authorities must have a warrant issued by appropriate authorities, except when police, with reasonable cause, suspect that an offense has been committed and that a person is guilty of that offense. Suspects detained by police must be promptly informed of the charges against them and may not be held more than 24 hours without charge. For "scheduled offenses," i.e. crimes involving firearms, explosives, or membership in an unlawful organization, a judge has discretion to extend, upon the police superintendent's request, the detention of a suspect for an additional 24 hours.

The law requires that authorities bring a detainee before a district court judge as soon as possible to determine bail status pending a hearing; the judge decides whether to release the detainee on bail or continue detention until an appointed court date.

The law permits detention without charge for up to seven days in cases involving individuals suspected of drug trafficking; however, to hold a suspected drug trafficker for more than 48 hours the police must seek a judge's approval.

Detainees and prisoners are allowed unrestricted access to attorneys. If the detainee does not have an attorney, the court appoints one; for indigent detainees the Government provides an attorney through the free legal aid program.

There is a functioning bail system; the law allows a court to refuse bail to a person charged with a serious offense (one that carries a penalty of five years' imprisonment or more) or when deemed necessary to prevent the commission of another serious offense.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system consists of district courts, circuit courts, the High Court, the Court of Criminal Appeal, and the Supreme Court. The President appoints judges recommended by the Judicial Appointment Board, which makes its selection from a list presented by the Government.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The director of public prosecutions, an independent government official, prosecutes criminal cases. Jury trials are generally used in criminal cases, and the accused may choose an attorney. Indigent defendants have the right to an attorney at public expense. Defendants enjoy a presumption of innocence and have the right to present evidence, to question witnesses, and to appeal.

The law explicitly allows "special courts" to be created when "ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order." A nonjury "special criminal court" tries "scheduled offenses" and any other case that the director of public prosecutions certifies as one that an ordinary court cannot adequately handle. The composition of the special criminal court, always a three-judge panel, is determined by the judicial branch and usually includes one high court judge, one circuit court judge, and one district court judge. The panel's verdicts are by majority vote. Rules of evidence are generally the same as in regular courts, but the sworn statement of a police chief superintendent identifying the accused as a member of an illegal organization is accepted as prima facie evidence of the accused person's membership in the organization. Proceedings of special criminal courts are generally public, but judges may exclude certain persons other than journalists. Special criminal court decisions, like decisions in all criminal cases, may be appealed to the Court of Criminal Appeal.

The constitution also allows parliament to pass legislation that establishes tribunals with limited powers to investigate certain matters, usually cases of government corruption, although, if warranted, formal charges may be brought on the basis of the tribunal findings. The legislation sets out the powers of the tribunal and the procedures that will be applied. Some tribunals are established to last indefinitely.

Others are established for a specific task only and cease to exist when that task is completed.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The independent and impartial judicial system hears civil cases and appeals on civil matters, including damage claims resulting from human rights violations; such claims may be brought before all appropriate courts, including the Supreme Court.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech, and the Government generally respected this right in practice.

The constitution provides for freedom of the press with the qualification that it not “undermine public order or morality or the authority of the state.” The constitution prohibits the publication or utterance of “blasphemous seditious, or indecent” matter.

The law prohibits the use of words, behavior, or the publication or distribution of material which is threatening, abusive, or insulting and intended or likely to stir up hatred. There were no reports that these provisions were invoked during the year.

The law empowers the Government to prohibit the state-owned radio and television network from broadcasting any material “likely to promote or incite to crime or which would tend to undermine the authority of the State.” Authorities did not invoke this prohibition during the year.

The independent print media were active and expressed a wide variety of views without government restriction.

Broadcasting remained mostly state controlled, but private-sector broadcasting continued to grow. There were 54 independent radio stations and two independent television stations. Access to cable and satellite television was widespread.

A Publication Board has the authority to censor books and magazines that it finds indecent or obscene. The board did not exercise this authority during the year.

The Office of the Film Censor must classify films and videos before they can be shown or sold; it must cut or ban any film that is “indecent, obscene, or blasphemous,” or which tends to “inculcate principles contrary to public morality or subversive of public morality.” During the year the film censor did not ban any films, but it did ban one video because of its pornographic content.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The Internet was widely available and used by citizens.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution generally provides for freedom of assembly, and the Government respected this right in practice. The law allows the state to “prevent or control meetings” that are calculated to breach the peace or to be a danger or nuisance to the general public.

On February 27, police dispersed demonstrators who responded violently to a “love Ulster” march in Dublin involving Northern Ireland unionists. The demonstrators attempted to block the march and then attacked police deployed at the scene, precipitating a riot. The rioters set fire to several vehicles, damaged local buildings, and looted a small number of shops. The police subdued the rioters and dispersed the protestors within hours of the initial outbreak of violence. Several police, protesters, and bystanders were injured. The police arrested 41 persons, 13 of whom were charged.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice. Approximately 88 percent of the population is Roman Catholic. There is no official state religion.

The Government permits, but does not require, religious instruction in public schools, and parents may exempt their children from such instruction.

*Societal Abuses and Discrimination.*—In February a man was sentenced to 20 months in jail for multiple counts of anti-Semitic vandalism, including painting swastikas on three synagogues and painting swastikas and anti-Semitic graffiti on the Dublin Jewish Museum in 2005. He was released on bail pending an appeal. He was also scheduled to face 23 further charges of sending offensive e-mails to Jewish individuals. The trial for these charges was scheduled for January 12, 2007, in the Drogheda District Court.

In July unknown persons painted anti-Semitic graffiti on the exterior wall of an embassy during the conflict involving Israel and the terrorist organization Hizballah in Lebanon. The police promptly removed the graffiti, but those responsible for the graffiti were never identified. According to the Coordination Forum for Countering Anti-Semitism (CFCA), the Israeli embassy received dozens of telephone calls during the July-August conflict between Israel and the terrorist group Hizbolah in Lebanon. Several of the calls compared Israel to Nazi Germany, and one caller said that “it was a pity Hitler did not finish the job.” Also according to the CFCA, the country’s Chief Rabbi received an anti-Semitic phone call in mid-July, and a pair of children’s shoes, on which the word, “Qana,” (a reference to a community in Lebanon shelled by the Israeli Air Force) was written in red ink, was found outside the synagogue in Cork in August.

According to the 2002 census, the Jewish community numbered 1,790 persons. The 2006 census did not give respondents a box marked “Jewish” to check, due to the small number of Jews in the country. Jewish respondents had the option of writing in their religion under the “other” category.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government recognized 648 asylum seekers as refugees during the year. The Government also provided temporary protection to individuals who did not qualify as refugees under the 1951 Convention and its 1967 Protocol and provided it to approximately 39 persons from January through May. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Parliamentary elections, which observers considered to be free and fair, were held in May 2002. In 2004, in accordance with the constitution, the President began her second term in office; the absence of any other candidates at the end of her first seven-year term eliminated the need for a ballot.

There were 23 women in the 166-seat House of Representatives (Dail Eirann) and 10 women in the 60-seat Senate (Senad Eirann). The President is was woman, and three of the 15 government ministers were women. Three women sat on the 34-member High Court, and three of the eight Supreme Court judges were women.

There were no members of minorities in the lower House of Representatives, the Senate, or the Cabinet.

*Government Corruption and Transparency.*—There were isolated reports of possible government corruption. The most widely publicized instance involved the Prime Minister, who was under scrutiny for financial payments and loans accepted from friends and business associates during his tenure as minister for finance in 1993–94. The Irish Times reported details of the Prime Minister’s actions after an anonymous source within the Tribunal of Inquiry into Certain Planning Matters and Payments, commonly known as the Mahon tribunal, passed confidential information from the tribunal to the newspaper. Although the Prime Minister’s actions were not unlawful, the opposition political parties criticized the Prime Minister for unethical behavior.

The law provides for public access to government information and obligates statutory agencies to publish information on their activities and make it available to citizens and noncitizens upon request. Authorities generally granted requests by the public for information and did not charge prohibitive fees. There were mechanisms for appealing denials.

Tribunals operated on the basis of confidential information but published their findings and made them available to the public.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination in employment on the basis of gender, marital status, family status, sexual orientation, age, disability, race, and membership in the Traveller community. However, discrimination against racial minorities, including immigrants and Travellers, remained a problem.

*Women.*—Domestic violence, including spousal abuse, was a problem. A July 2005 study by the National Crime Council and the Economic and Social Research Institute reported that 15 percent of women at some time experienced domestic abuse by a partner. Of these women, 29 percent reported the abuse to police, while only 7 percent contacted a help line.

The law prohibits domestic violence, authorizes prosecution of a violent family member, and provides victims two types of protection: safety orders and barring orders. Safety orders prohibit a person from engaging in violent actions or threats but do not require the individual to leave the home, while barring orders prohibit a person from entering the family home for up to three years. The law allows claimants to apply for interim protection while courts process their cases. Violations of these orders are punishable by a fine of up to approximately \$2,489 (1,900 euros) or 12 months' imprisonment. According to official statistics, in 2005 the courts received 2,866 safety order applications and 3,183 barring applications; in both categories, more than a third of the applications were granted and nearly two-thirds were withdrawn. Of the safety and barring orders granted, more than half were related to the spouse of the applicant. In 2005, 1,103 proceedings for breach of orders were initiated.

The Government funded centers throughout the country for victims of domestic abuse.

The law criminalizes rape, including within marriage, and provides for free legal advice to victims of serious sexual assault. The Courts Service annual report documented a total of 75 rape cases tried in 2005, in which 40 persons were convicted of rape and other sexual offenses. They received sentences of between five and 12 years in prison. At the end of 2005, 58 rape cases were pending.

In rape cases, the Government brings formal charges against the accused, with the victim acting as a witness. The law provides for separate legal representation for victims in rape and other serious sexual assault cases when counsel for the defendant applies to enter evidence or to cross-examine the victim about his or her past sexual experience.

Strengthened statutory rape legislation to eliminate ignorance of the victim's age as a mitigating circumstance in sentencing prevented convicted perpetrators from leaving prison by arguing that they were unaware of the victim's age, an acceptable legal argument under the previous law. The law changed after one man convicted of statutory rape successfully appealed his conviction on this premise and was released. Several other appeals were pending when the law changed, effectively eliminating the basis for the appeals.

Rape crisis centers, funded in part by the Government, provided support by immediate telephone contact and one-on-one counseling. Government programs provided long- and short-term housing options for victims of sexual violence. All police received training on the investigation of cases of domestic violence, rape, and sexual assault.

In 2005 the Dublin Rape Crisis Center reported receiving 12,244 counseling calls in all categories (child sexual abuse, adult rape, adult sexual assault, and sexual harassment), an upward trend in the frequency of calls. The center reported that 95 of the 335 rape victims recorded in 2005 reported their attacks to the police, resulting in five defendants being tried and four convicted.

Although prostitution is not a crime, it is illegal for a person in a street or public place to solicit for the purposes of prostitution. The offense applies equally to a prostitute soliciting a client, a client soliciting a prostitute, or a third party soliciting one on behalf of the other. The same offense and penalties apply to prostitutes, clients, or anyone who solicits in a public place. It is also an offense to solicit another person in order to commit certain sexual offenses, such as sexual offenses with underage persons or to keep or to manage a brothel. Reports of, and arrests for, prostitution were rare.

There was anecdotal evidence that women were trafficked for sexual exploitation (see section 5, Trafficking in Persons).

The law obliges employers to prevent sexual harassment and prohibits dismissing an employee for making a complaint of sexual harassment. The Equality Authority investigates claims of unfair dismissal and may require an employer charged with unfair dismissal to reinstate the employee or pay the employee up to 104 weeks' pay. In the few cases of sexual harassment that were reported to them, authorities effectively enforced the law.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. The Equality Tribunal and the Equality Authority are the main statutory bodies that enforce and administer the discrimination laws. Nonetheless, inequalities persisted regarding pay and promotions in both the public and private sectors. Women constituted 45 percent of the labor force but were underrepresented in senior management positions.

*Children.*—The Government was strongly committed to children's rights and welfare, allocating ample funds to systems of public education and health care. Education is free and compulsory for children from age six to 15. The Department of Education reported that approximately 99 percent of children between the ages of five and 16 attended school and that 92 percent completed upper secondary education.

The Government makes available to all children a range of health services, including free immunizations and vaccinations and free prescribed drugs and medications. The Government covers all health services for residents below a certain income level.

The law establishes strict guidelines for organizations providing services to children to identify and report cases of physical and sexual child abuse. Numerous nongovernmental organizations (NGOs) offered support for victims as well as resources for parents and professionals who work with children.

During the year the UN Committee on the Rights of Children expressed concern over the level of child poverty, alcohol abuse among children, and proposed changes to the youth justice system that would permit criminal prosecution of children as young as 10 years old.

In 2005 the Dublin Rape Crisis Center reported that 46 percent of calls to its crisis line involved child sexual abuse. The 15 member centers of Rape Crisis Network Ireland provided face-to-face support to 3,529 individuals, 39 percent of whom were children. The law requires government health boards to identify and help children who are not receiving adequate care, and it gives police increased powers to remove children from the family if there is an immediate and serious risk to their health or welfare.

The law prohibits the trafficking and sexual exploitation of children; however, there were reports that such practices occurred (see section 5, Trafficking in Persons).

An ombudsman for children investigates complaints from children or persons acting on their behalf against various governmental and nongovernmental bodies and has a role in promoting general child welfare.

*Trafficking in Persons.*—The law prohibits trafficking in persons. There were reports, which the Government investigated, that the country was a transit and destination point for a significant number of trafficking victims from Eastern Europe, Africa, Latin America, and Asia. The country may also be a transit point for persons trafficked to or from Northern Ireland. There was anecdotal information that some women were trafficked within the country.

Socially disadvantaged noncitizen women and children, asylum seekers, refugees, and economic immigrants were most likely to be trafficking victims.

NGOs reported that women were smuggled or trafficked into the country primarily for sexual exploitation and that men may be smuggled or trafficked into the country for work in the construction industry or agricultural sector. There were no reliable statistics on the number of possible victims of trafficking, but press reports and anecdotal information from the police indicated that the number increased during the year. However, the most credible NGOs reported there were fewer than 30

victims. NGOs also reported that traffickers targeted more vulnerable younger women who knew little English, lacked legal status, and had no recourse to social or familial networks. The traffickers generally placed their victims in apartments, where illegal activities were easier to hide. NGOs reported that traffickers used the Internet to advertise and solicit victims. NGO and press accounts of the experiences of trafficking victims identified both Irish and foreign nationals among the traffickers. The majority of foreign traffickers were from Eastern Europe.

The law expressly criminalizes trafficking in children for the purpose of sexual exploitation, with penalties of up to life imprisonment. The law also criminalizes trafficking in illegal immigrants and asylum seekers. The Police National Immigration Bureau (GNIB) and the Department of Justice are responsible for combating trafficking.

In July 2005 the Dublin District Court began the trial of a man charged with trafficking a Mauritius national into the country. The trial was still pending at year's end. There were no trafficking convictions during the year.

The Government trained law enforcement officials on how to extend protection assistance to potential victims of trafficking. In August the Government initiated an antitrafficking campaign, using multilingual posters to advertise a toll-free telephone number that victims of trafficking could call for assistance. Through this number they were referred to police and various NGOs for such services as temporary accommodations and access to social and legal counsel.

The ministries of justice and foreign affairs and the GNIB were involved in antitrafficking efforts, and there was coordination between government officials, NGOs, and other elements of civil society on trafficking issues.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, and the Government effectively enforced these provisions. The law requires access to buildings for persons with disabilities, where possible, and the Government generally enforced these provisions in practice.

A National Disability Authority has responsibility for setting disability standards, monitoring the implementation of these standards, and researching and formulating disability policy.

*National/Racial/Ethnic Minorities.*—Societal discrimination and violence against immigrants and racial and ethnic minorities, including Asians, East Europeans, and Africans, continued to be a problem. Racially motivated incidents involved physical violence, intimidation, graffiti, and verbal slurs; the majority of the incidents took place in public places. In November the Economic and Social Research Institute issued a publication, *Migrants' Experience of Racism and Discrimination in Ireland*, which reported that 35 percent of migrants interviewed had experienced discrimination or harassment in public places.

During the year 141 racially and ethnically motivated incidents were reported, an increase from the 94 incidents reported in 2005. The Police Racial and Intercultural Office trained police on interacting with persons of different racial and ethnic backgrounds. There were also 34 officers who were specially trained in conflict resolution involving foreign nationals where language was a problem.

Approximately 25,000 nomadic persons regard themselves as a distinct ethnic group called "Travellers," who have their own history and culture. Travellers faced societal discrimination and were regularly denied access to premises, goods, facilities, and services; many restaurants and pubs, for example, would not serve them. While the law does not recognize Travellers as an ethnic group, there is a specific designation that protects them under the antidiscrimination laws.

Despite national regulations providing that no child may be refused admission to school on account of social position, Travellers frequently experienced difficulties enrolling their children in school. Traveller students were not taught in separate classrooms. Of the estimated 5,000 Traveller families, approximately 1,000 lived on roadsides or other temporary sites without electricity or sanitary facilities. Many Travellers depended on social welfare for survival and their participation in the economy was limited by discrimination and lack of education.

The law specifically prohibits discrimination against Travellers, and a small number of discrimination lawsuits were filed and won during the year against proprietors for refusing to serve Travellers. The Housing (Traveller Accommodation) Act requires local elected officials to draw up and implement Traveller accommodation plans on a five-year basis and requires them to solicit Traveller input into the process. Under this act, each community must provide adequate accommodations for Travellers. Traveller NGOs argued, however, that many communities provided Travellers with housing, such as government-owned apartments or townhouses, which was inconsistent with the nomadic Traveller lifestyle or provided halting sites

that did not include basic amenities such as sanitary facilities, electricity, and water. Government expenditures on Traveller-specific reached an estimated \$148 million (114 million euros) during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join unions of their choice, and workers exercised this right in practice. Approximately 33 percent of workers in the private sector were union members, compared with 95 percent in the public sector. Police and military personnel may form associations, but technically not unions, to represent themselves in matters of pay, working conditions, and general welfare.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Labor unions have the right to pursue collective bargaining and unions exercised this right in practice; however, employers are not required to engage in collective bargaining with employees. The law provides for the right to strike, and workers exercised this right in both the public and private sectors. Police and military personnel, however, are prohibited from striking.

There are no special laws or exemptions from regular labor laws in the export processing zone at Shannon Airport.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government implemented laws and policies to protect children from exploitation in the workplace. Under the law, employers may not employ children under the age of 16 in a regular, full-time job. Employers may hire 14- or 15-year-olds for light work on school holidays as part of an approved work experience or educational program. Employers may hire children over the age of 15 on a part-time basis during the school year. The law establishes rest intervals and maximum working hours, prohibits the employment of 18-year-olds for late night work, and requires employers to keep more detailed records on workers under 18 years of age. The Office of the Labor Inspectorate at the Department of Enterprise, Trade and Employment is responsible for enforcement.

*e. Acceptable Conditions of Work.*—The national minimum wage is \$10.02 (7.65 euros) per hour, which did not provide a decent standard of living for a worker and family; however, low-income families are entitled to such benefits as subsidized housing, medical coverage, and children's allowances. During the year reports persisted that the pay of non-Irish migrant workers was sometimes below the minimum wage, particularly in the rural agricultural and construction sectors. Partly in response to these reports, the Government established a labor-monitoring agency independent of the Department of Enterprise, Trade, and Employment, which primarily represents business interests.

The standard workweek is 39 hours. Working hours in the industrial sector are limited to nine hours per day and 48 hours per week. Overtime work is limited to two hours per day, 12 hours per week, and 240 hours per year. The Government effectively enforced work-hour standards. Although there is no statutory entitlement to premium pay for overtime, it could be arranged between employer and employee.

The Department of Enterprise, Trade, and Employment is responsible for enforcing the laws dealing with occupational safety, and these laws provided adequate and comprehensive protection. There were no complaints from either labor or management during the year regarding significant shortcomings in enforcement. Regulations provide workers with the right to remove themselves from dangerous work situations that present a "serious, imminent, and unavoidable risk" without jeopardy to their continued employment.

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## ITALY

Italy is a multiparty parliamentary democracy with a population of approximately 58.4 million. The bicameral parliament consists of the Chamber of Deputies and the Senate. National parliamentary elections, which determine who will be President and prime minister, were held in April and were considered free and fair. A center-left coalition led by Prime Minister Romano Prodi replaced the center-right coalition led by former prime minister Silvio Berlusconi. The parliament elected Giorgio



Napolitano as the new President. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, although there were problems in some areas. Despite extensive delays, the law and judiciary otherwise provided effective means of addressing individual instances of abuse. Journalists and prosecutors increased their criticisms of police behavior and filed a greater number of cases against them for various crimes. Lengthy pretrial detention, excessively long court proceedings, violence against women, trafficking in persons, and abuse of Roma remained problems.

Parliament adopted a law reducing the prison sentences for minor crimes committed before May 2, a measure that resulted in the release of 17,400 prisoners and significantly reduced prison overcrowding.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings, and courts and investigators dealt with earlier killings by government agents and with politically motivated killings by nongovernmental actors.

In 2005 a police officer in Turin shot and killed a Senegalese immigrant who refused to exit his vehicle during a drug search. The incident was under investigation at year's end.

In March a court sentenced each of seven police officers in Naples to seven years in prison for the shooting death of a military parachutist in 2003.

In April the Court of Cassation, the country's highest appellate court, sentenced a policeman to 10 years in prison for the 2000 killing of a 16-year-old boy.

In March a court sentenced the leader of the New Red Brigades (Communist Combatant Party) to life in prison for the March 2003 murder of a police officer. In July and in 2005, in cases involving some of the same suspects, the Rome appeals court sentenced three Red Brigade members to life in prison and nine others to lesser sentences for the 1999 killing of Massimo D'Antona, an academic advisor to the labor ministry. In December the Bologna court sentenced four Red Brigade members to life in prison and one to 21 years for the 2002 murder of another labor ministry academic advisor, Marco Biagi. In March and June, the Rome court sentenced five Red Brigade members to life and one to 16 years' imprisonment for the 2002 killing of Marco Biagi.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that police occasionally used excessive force against persons detained in connection with common criminal offenses or in the course of identity checks. While this behavior affected both citizens and foreigners, Roma and immigrants were at particular risk (see section 5).

In 2004 authorities charged a prison guard in Lombardy with raping an Albanian immigrant in custody. The case remained under investigation at year's end.

The investigation of an off-duty police officer who shot and injured a 16-year-old boy in 2004 was still ongoing at year's end.

In 2003 a Nigerian immigrant accused two policemen in Rome of abusing him while he was in their custody; the alleged abuses included burns to his abdomen. The incident occurred after the immigrant had attempted to escape. The case was under investigation at the end of the year.

In March the court gave a seven-month sentence to a police officer convicted of using excessive force and causing personal injury to a number of individuals when police were trying to clear approximately 100 activists from a Milan emergency room waiting area in March 2003. During the year one of two other officers charged in the incident was acquitted, and a court sentenced two of four activists investigated for violence against police on the same occasion to 20 months in prison.

At year's end the trial continued of 27 police officers, including senior officers, charged with perjury, conspiracy, or assault during a 2001 police raid on a building used by protesters at the G-8 summit in Genoa in 2001. A separate trial continued of 45 police officers indicted for "inhuman or degrading treatment," including assault, during the subsequent detention of those protesters.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, although some prisons remained overcrowded and antiquated. In July parliament approved a reduction in sentences for minor crimes that significantly reduced the number of prisoners (see section 1.d.). In November, after many

prisoners were released, there were 39,200 inmates (down from 61,300 in June) in a prison system designed to hold 42,500; however, the uneven distribution of those released left a few institutions still overcrowded. Older facilities lacked outdoor or exercise space; some prisons lacked adequate medical care. Approximately 62 percent of the inmates were serving sentences; the other 38 percent consisted mainly of detainees awaiting trial or the outcome of an appeal.

During the year, according to an independent research center, 58 prisoners died while in custody, 35 of them by suicide.

The 20 temporary detention centers for illegal immigrants continued to be overcrowded. The newly elected government provided improved access to detention centers for representatives of the UN High Commissioner for Refugees (UNHCR) and nongovernmental organizations (NGOs.)

The law does not require that pretrial detainees be held separately from convicted prisoners, and they are held together in some smaller prisons.

The Government permitted visits by independent human rights organizations, parliamentarians, and the media. Amnesty International (AI), the UN Human Rights Commission, the Committee Against Torture of the Council of Europe (CPT), and the UN Special Rapporteur on Torture regularly assessed the country's judicial and prison systems. Several municipalities appointed independent ombudsmen to promote the rights of detainees and facilitate access to health care and other services.

In April the Government authorized publication of a report of the CPT, whose representatives visited prisons, detention centers, and police stations in 2004. The report noted that some inmates suffered such abuses as incarceration in cramped conditions, lack of access to lawyers, poor medical treatment, and xenophobic and racist insults. In response to the report, the Government indicated that it had built four new prisons, was upgrading another eight, and had hired additional prison staff, including psychologists and cultural mediators.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Four separate police forces, which report to different ministerial or local authorities, effectively enforced law and order. The national police and the financial police are under the jurisdiction of the interior and finance ministries, respectively. The Ministry of Defense controls the carabinieri, a military security force; however, the Ministry of Interior assumes control of carabinieri and financial police units when they perform law enforcement functions. Under exceptional circumstances the Government may call on the army to provide security in the form of police duty in certain local areas, thereby freeing the carabinieri and local police to focus on other duties.

Allegations of police corruption by journalists and prosecutors increased. In January eight carabinieri officers in Milan were arrested on charges of graft and evidence tampering. The officers reportedly used false evidence to extort money from a number of previous offenders, three of whom were wrongfully convicted and returned to prison until an investigation raised questions about the evidence. The accused were released. The officers' trial had not begun by year's end.

In April 2005 authorities charged 12 police officers with corruption, abuse of authority, and perjury, because of their contacts with criminal organizations. The charges were based on wiretaps. The case remained under investigation at year's end.

Both the Government and the judiciary investigated police abuses and prosecuted police who mistreated persons in custody. The trial of 29 police officers charged in 2003 with unlawful imprisonment and assault in Genoa in 2001 continued (see section 1.c.).

*Arrest and Detention.*—To make arrests, police are required to have warrants issued by duly authorized officials, unless there is a specific and immediate danger to which they must respond. The examining magistrate must decide within 24 hours of a suspect's detention whether there is enough evidence to proceed with an arrest. The investigating judge then has 48 hours in which to confirm the arrest and recommend whether the case goes to trial. Authorities generally respected the right to a prompt judicial determination in practice. Under the law detainees are entitled to prompt and regular access to lawyers of their choosing and to family members. The state provides a lawyer to indigents. In exceptional circumstances—usually in cases of organized crime figures—where there is danger that attorneys may attempt to tamper with evidence, the investigating judge may take up to five days to interrogate the accused before the accused is allowed to contact an attorney. There is no provision for bail; however, judges may grant provisional liberty to suspects awaiting trial. As a safeguard against unjustified detention, a detainee may request that

a panel of judges (liberty tribunals) review his case on a regular basis and rule on whether continued detention is warranted.

In 2005 the President signed into law a new antiterrorism decree that: doubles to 24 hours the amount of time police can hold suspects without charge; makes arrests for crimes involving terrorism obligatory; allows police to take DNA samples from suspects for identification purposes; makes it easier for intelligence services to conduct wiretaps; requires identification to purchase telephone cards and a license to operate an Internet cafe; increases penalties for concealing one's identity in public places; allows the Government to deport suspects under investigation without court approval (suspects may appeal only after the deportation occurs); and expands the legal grounds for deportation to include concern that an individual's presence might facilitate terrorist activities or organizations. In November the European Human Rights Committee blocked deportation orders against three individuals the authorities considered terrorists, citing the need to investigate whether they would be subject to persecution if they were returned to their home country, Tunisia.

Since adoption of the 2005 law, authorities have employed it to deport 32 immigrants suspected of links to terrorist networks.

Preventive detention may be imposed as a last resort if there is clear and convincing evidence of a serious offense. Serious offenses are defined as those that carry maximum prison sentences of four years or more, such as some crimes involving the Mafia or crimes related to terrorism, drugs, arms, and subversion. Authorities may also use preventive detention if there is a risk that an offense might be repeated or that evidence might be falsified. Except in extraordinary situations, preventive detention is prohibited for pregnant women, single parents of children under age three, persons over age 70, and those who are seriously ill.

Despite restrictions on pretrial detention, it remained a serious problem. During the first half of the year, 20 percent of all prisoners were in pretrial detention awaiting the beginning of their trials and 16 percent were awaiting a final sentence. The maximum term of pretrial incarceration is two years for a crime with a maximum penalty of six years in prison, four years for a crime with a maximum penalty of 20 years, and six years for a crime with a maximum penalty of more than 20 years.

According to some judicial experts, a few prosecutors used pretrial detention as pressure to obtain confessions.

In July parliament approved a law that granted a three-year reduction in prison sentences for minor crimes committed before May 2; it does not apply to sentences committed for the crimes of terrorism, trafficking in persons, mafia-related crime, pornography, rape, or drug trafficking. The effect of the law was to release 17,400 prisoners, greatly easing overcrowding of prisons.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, most court cases involved long trial delays. Pressure on the judicial system, primarily through the intimidation of judges by organized crime groups, further complicated the judicial process. In February and March, a judge who was a member of a court of appeals that sentenced 39 mafia members to prison for life was the target of a series of episodes of intimidation (notes, graffiti, bullets were left in front of his apartment) in Catanzaro.

There are three levels of courts. Either a single judge or a court, which may consist of a panel of judges or include a jury, hears cases at the level of first instance. At the second level, civil and criminal appeals are heard by separate courts with juries. Both sides may appeal decisions of the court of appeals to the highest court, the Court of Cassation in Rome, but only for reasons related to law, not to the merits of the case. A separate Constitutional Court hears cases involving possible conflict between laws and the constitution or involving conflicts over the duties or powers of different units of government.

Legislation enacted in 2005 reformed the judicial system by altering the career track of professional magistrates (who previously functioned as both prosecutors and trial/appellate judges) to require them to become either prosecutors or judges. It also made the promotion of judges conditional upon passage of an examination and allows district prosecutors to determine the priority of cases. The legislation gives the Court of Cassation authority to discipline magistrates who participate in political activities, leak information, or otherwise violate judicial rules of procedure.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public. Defendants have access to an attorney in a timely manner to prepare a defense. Defendants may confront and question witnesses against them, and they may present witnesses and evidence on their behalf. Prosecutors must make evidence available to defend-

ants and their attorneys upon request. The law grants defendants the presumption of innocence. Defendants may appeal verdicts to the highest appellate court.

Domestic and European institutions continued to criticize the slow pace of justice in the country. In 2005 over 800 petitions were pending in the European Court of Human Rights seeking compensation from the Government for excessively long proceedings. Observers cited several reasons for delays: the absence of effective limits on the length of pretrial investigations; the large number of minor offenses covered by the penal code; unclear and contradictory legal provisions; and insufficient resources, including an inadequate number of judges.

In January 2005 the chief prosecutor of the Court of Cassation estimated that 81 percent of reported crimes went unpunished. A year later he reported that on average it took 401 days to complete a criminal trial, 860 days to complete an appeal, an additional 918 days if a case was referred to the Court of Cassation.

The courts had significant leeway to determine when the statute of limitations should apply, and defendants often took advantage of the slow pace of justice to delay trials through extensive pleas and appeals (see section 3). In February parliament enacted a law that limits the power of prosecutors to appeal acquittals by eliminating the intermediary appellate level and requiring that appeals go directly to the Court of Cassation. For the first time the new law also allows appeals based on evidence presented during the trial; previously, the grounds for appeal were limited to interpretation or application of the law itself.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution provides for an independent and impartial judiciary in civil matters. Administrative remedies are determined by law and arbitration is allowed and regulated by contracts. In most cases citizens turned to arbitration because of trial delays. In 2004 the average time required to complete a civil trial was 798 days; 636 days were required to complete an appeal, and another 317 days to appeal to the Court of Cassation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Searches and electronic monitoring were generally permissible under judicial warrant and in carefully defined circumstances; however, the new antiterrorism decree made it easier for intelligence agencies to obtain permission to conduct wiretaps. The new antiterrorism decree also required the purchasers of telephone cards to provide identification.

The media published leaked transcripts of both legal and illegal wiretaps during the year. Prosecutors and magistrates called for new legislation making it a crime to publish transcripts of illegal wiretaps. Published wiretaps included information relating to the arrest of Prince Victor Emanuele on charges of corruption and running a brothel, charges of game-fixing against coaches and referees of major soccer teams, and charges of inappropriate interference in the sale of banks that led to the resignation of the governor of the Bank of Italy. There were also accounts of alleged industrial espionage and illegal wiretaps relating to the sale of a national telecommunications company (see section 1.f.).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press and judiciary and a functioning democratic political system combined to ensure freedom of speech and the press.

Individuals could criticize the Government publicly or privately without reprisal, and the authorities did not impede such criticism. In January parliament enacted a law that replaces imprisonment with fines as punishment for desecrating the flag or insulting the President.

The independent media were active and expressed a wide variety of views.

There were approximately 80 newspapers in circulation, eight of them national. Former prime minister Berlusconi (leader of the opposition coalition, controlled two of the national newspapers. Critics charged that through his ownership share of the company Mediaset, Berlusconi also directly or indirectly controlled three of the country's seven national television broadcast channels. The three state-owned channels (Radiotelevisione Italiana or RAI) and other networks broadcast a wide range of opinion that reflected the full spectrum of political views in the country. Disputes over partisanship on the airwaves continued to prompt frequent political debate, and NGOs contended that media ownership was concentrated in too few hands.

On April 29, according to the Committee to Protect Journalists, a judge ordered journalist Mario Spezi released after 22 days in jail. Authorities detained Spezi in Perugia. His detention occurred days before the appearance of a book he coauthored that criticized the Perugia public prosecutor's investigation of a series of long-unresolved killings. News reports indicated that the journalist was under investigation for attempting to sidetrack an investigation and defaming Perugia prosecutors in the media.

The NGO Reporters Without Borders and the journalists' union criticized several judicial actions against journalists. In August prosecutors ordered police to search the premises of two national newspapers to ascertain the source of articles related to the investigation of an alleged rendition by foreign officials of an imam who was being investigated for terrorist activities by the Milan prosecutor. The case remained under investigation at year's end.

In September two journalists claimed they were the subject of illegal wiretaps and that the country's intelligence services followed them because of their reports on alleged illicit activities by the security services.

In May 2005, on the orders of a prosecutor, financial police searched the office of a national newspaper and interrogated some journalists to ascertain the source of an article on arms trafficking. Neither the newspaper nor the prosecutor took further action on the case. Observers noted that there were contradictory statutes that maintained the sanctity of journalistic sources on the one hand and authorized magistrates to carry out investigations into journalistic sources on the other.

Unlike in previous years, politicians filed no defamation suits against journalists; however, action was pending or taken on several suits filed by politicians in earlier years. In July 2005 former prime minister Berlusconi filed a libel suit against a British journalist over a book in which the journalist alleged that Berlusconi was involved in criminal activity and political corruption; Berlusconi was seeking \$1.27 million (one million euros) in compensation; no action was taken in the case by year's end. In March a judge dismissed charges filed by the former prime minister against another journalist who published a book about the alleged involvement of Berlusconi's companies in mafia-related crime. In April 2005 a trial of three journalists from the newspaper, *Corriere della Sera*, began; they were accused of defaming Umberto Bossi, the leader of the Northern League party in 2003; the trial was ongoing at year's end.

In 2005 the President of a Muslim association filed a defamation suit against the writer Oriana Fallaci for the publication of a book critical of Islam. The prosecutor first ordered the dismissal of the case, but a judge subsequently sent the case to trial in Bergamo. The book remains on sale, and Ms. Fallaci died in September, effectively ending the suit.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail; however, the Government could block foreign-based Internet sites if they contravened national laws. The new antiterrorism decree requires that the operator of an Internet cafe obtain a license.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice.

There is no state religion; however, an agreement between the Roman Catholic Church and the Government provides the Catholic Church certain privileges. For example, it may select Catholic religion teachers, whose earnings are paid by the Government. The law authorizes the Government to enter into relations with organizations representing non-Catholic religions pursuant to an accord (*intesa*) that allows the Government to provide support (including financial) to the organization; these accords are voluntary and initiated by the religious groups themselves. Several minority religious groups benefited from such accords. The Government has also negotiated accords with several others, including the Buddhist Union and Jehovah's Witnesses organization; however, the parliament recessed in April without enacting the legislation necessary to put them into effect. Divisions between the country's Muslim organizations, as well as large number of Muslim immigrant groups, hindered that community's efforts to seek an *intesa*.

There were occasional reports that government officials or the public objected to women wearing a burqah (a garment that completely covers the face and body). The

2005 antiterrorism decree doubled existing penalties for persons convicted of wearing such attire as a burqah (or a crash helmet) in order to hide their identity. Penalties were increased to two years in jail and fines of approximately \$1,310 (1,000 euros) to \$2,620 (2,000 euros) (see section 1.d.).

In May an administrative tribunal ruled that the 2005 deportation of the imam of Turin on the grounds that he was preaching hate and violence was groundless. The courts did not review the use of similar grounds in 2005 to expel the vice President of the Como Muslim Cultural Center. There were no reports of such expulsions during the year.

The continuing presence of such Christian symbols as crucifixes in many government offices, courtrooms, and other public buildings drew criticism and continued to be the subject of lawsuits. In February an appeals court rejected a mother's efforts to remove crucifixes in her children's classroom in Albano Terme; the judge noted that the crucifix is not just a religious symbol but can express secular values as well. A poll conducted during the year indicated that 80 percent of the population supported having crucifixes in schools and public buildings.

*Societal Abuses and Discrimination.*—The country's approximately 30,000 Jews maintain synagogues in 21 cities. There were no violent anti-Semitic attacks during the year, but societal anti-Semitic prejudices persisted, and small extremist fringe groups were responsible for anti-Semitic acts.

Swastika graffiti appeared in some cities and during some soccer matches. In January fans at a soccer match displayed anti-Semitic banners and Nazi symbols. On July 10, neo-Nazis celebrating the country's World Cup victory vandalized walls, doors, and vehicles in the Jewish quarter of Rome with swastikas and other anti-Semitic graffiti. The Prime Minister and other politicians strongly condemned the incident as an "ignoble gesture of hate and intolerance."

On May 16, unknown persons vandalized 40 graves in a large Jewish cemetery in Milan. Authorities started an investigation, but there were no reports of progress at year's end.

During the July-August conflict involving Israel and the terrorist organization Hizballah in Lebanon, Jewish citizens were sometimes held collectively responsible for actions of the state of Israel. For example, the Anti-Defamation League (ADL) reported that on July 28, in Livorno, graffiti translating roughly to "Israel is an evil state" was written on the walls of Jewish-owned businesses. The ADL also reported that on August 1, 20 shops in Rome were vandalized with swastikas and other damage. Fliers found at the shops were signed by the Armed Revolutionary Fascists, a neo-fascist group, and denounced "the Zionist economy" and included pro-Hizballah statements.

Also in August the National Secretary of the Union of Islamic Communities in Italy (UCOII) placed an advertisement in local newspapers comparing the alleged massacres committed by the Israeli Army in Lebanon to the massacres committed by the Nazis. Politicians, government officials, and the minister of the interior's Muslim advisory board, the Islamic Consulta, (except for the UCOII member) condemned the statement.

The Government hosted meetings to increase educational awareness of the Holocaust and to combat anti-Semitism.

For a more detailed discussion, see the 2006 Report on International Religious Freedom.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. In 2005 the Government granted refugee status or asylum to 907 persons.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to 4,375 persons during the year.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees, and it provided temporary protection to refugees fleeing hostilities or natural disasters. Such refugees were granted temporary residence permits, which had to be renewed periodically but did not ensure future permanent residence.

In the first half of the year, authorities identified 62,000 individuals in the country illegally and deported 24,125. Those who were apprehended, usually attempting entry by sea, were sent to temporary detention centers for processing, and a magistrate determined whether an illegal immigrant would be deported (if their identity could be ascertained), issued an order to depart (if their identity could not be ascertained), or would be accepted for asylum processing. In February AI released a report on the rights of migrants and asylum-seeking minors which highlighted 890 allegations regarding the presence of unaccompanied children who were restricted in temporary detention centers in unhygienic and unsuitable conditions. AI stated that it possessed detailed information about 28 of these cases. The Government had not responded to these allegations by year's end.

The 20 temporary detention centers for illegal immigrants continued to be overcrowded (see section 1.c.).

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Executive authority is vested in the Council of Ministers, headed by the President of the council (the Prime Minister). The head of state (President of the republic) nominates the Prime Minister after consulting with the leaders of all political forces in parliament. National parliamentary elections (which determine who will be President and prime minister) were held in April and were considered free and fair. Authorities invited the Organization for Security and Cooperation in Europe (OSCE) to observe the process for the first time and that organization reported that overall the elections were in keeping with the country's tradition of democratic elections. A center-left coalition led by Prime Minister Romano Prodi was elected, replacing a center-right coalition led by former prime minister Silvio Berlusconi. Under a law enacted in 2001, citizens living abroad were able to vote in national elections for the first time.

Parliament also elected a new President, Giorgio Napolitano.

There were numerous political parties, which functioned without government restrictions.

The elections resulted in a significant increase in the number of women who won elective office. There were 40 women in the 315-seat Senate (up from 25) and 108 women in the 630-seat Chamber of Deputies (up from 63). The number of women in the cabinet increased from two to six of 25 cabinet positions.

The only legally defined minorities are linguistic—the French-speaking Valdostani and the German-speaking Altoatesini/Suditirolese. In the new parliament there were four members of linguistic minorities in the 315-seat Senate and five in the 630-seat Chamber of Deputies. In a largely monolithic society, immigrants represented approximately 4 percent of the population, and fewer than half of these qualified as ethnic/racial minorities. Two members of immigrant groups (of Moroccan and Palestinian origin) were elected to the Chamber of Deputies.

*Government Corruption and Transparency.*—In December the High Commissioner of the independent Task Force on Corruption resigned, citing a lack of political support and budgetary pressure to eliminate the office. Established in 2004, the task force conducted over 50 investigations but had little real power to address corruption. There continued to be isolated reports of government corruption during the year, and the general public believed that politicians were corrupt. According to press reporting, between November 2003 and November 2005 a special court dealing with financial issues issued 201 summonses in response to complaints from private citizens and public officials regarding allegations of bribery or graft in public administration. It also issued 265 rulings on various cases. There was no information on the number of cases referred to a prosecutor for further action. In 2005 the NGO Transparency International rated perceptions of corruption in the country at 5.0 on a scale of one to 10 with 10 indicating the least corruption. The rating reflected the perceptions of business people and country analysts concerning the prevalence of overall corruption in the country. Its rating in 2003 was 4.8.

In July 2005 prosecutors charged 148 persons with involvement in a 1999 scheme to avoid military service by bribing officials. The trial had not concluded by year's end.

In November the Court of Cassation annulled the 2005 conviction of Cesare Previti, previously former prime minister Berlusconi's lawyer and a former minister of defense. He had been convicted of corruption and sentenced to six years' imprisonment by an appeals court in a case that involved the possible corruption of a judge.

The law gives citizens the right to access government documents and to be informed of administrative processes. With some exceptions for security issues, the Government and local authorities respected this right in practice for citizens, non-citizens, and the foreign press.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuse, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, gender (except with regard to hazardous work), ethnic background, and political opinion and provides some protection against discrimination based on disability, language, or social status. The Government generally enforced these prohibitions. However, some societal discrimination against women, persons with disabilities, immigrants, and Roma persisted.

*Women.*—Violence against women, including spousal abuse, remained a problem. The NGO Telefono Rosa, which provided a hot line through which abused women could obtain legal, medical, and other assistance, reported that 13 percent of the calls it received involved sexual violence, 37 percent involved physical violence in the home, and more than 31 percent involved psychological violence. Telefono Rosa reported receiving an average of 600 calls a month.

Rape, including spousal rape, is illegal, and the Government enforced the law effectively. In 2004, 4,578 cases of rape were reported, 3,412 persons were charged, and 1,530 were convicted.

The law criminalizes physical abuse of women, including by family members, allows for the prosecution of perpetrators of violence against women and helps women who have been victims of attack avoid publicity. Law enforcement and judicial authorities were not reluctant to prosecute perpetrators of violence against women, but victims frequently declined to press charges due to fear, shame, or ignorance of the law. According to a national survey, only 9 percent of rape victims reported the crime to police. In March the Ministry of Equal Opportunity established an additional hot line for victims of violence seeking immediate assistance and temporary shelter.

Individual acts of prostitution in private residences are legal. It is legal for adults to solicit or pay for acts of prostitution. It is illegal to operate a brothel, traffic in human beings, or engage in sex with a minor.

In August, in Brescia, the father of a 20-year-old Pakistani immigrant woman allegedly killed her because she refused an arranged marriage with her cousin and had adopted a western lifestyle. His trial was pending at year's end.

In September an immigrant Indian woman, aged 31, committed suicide, allegedly to avoid an arranged marriage.

Trafficking of women for sexual exploitation remained a problem (see section 5, Trafficking).

The law permits domestic courts to try citizens and permanent residents who engage in sex tourism, including outside the country, even if the offense is not a crime in the country in which it occurred. The country also has what is considered a model code of conduct for tourist agencies to help combat sex tourism. In January four persons accused of organizing tours to Brazil that included the sexual services of girls ages 12 to 17 were put on trial; the trials were ongoing at year's end. In September, in the first case applying the extra-territorial aspect of the law against sexual tourism, prosecutors charged an individual for his activities in Thailand in 2003–2005; the trial was ongoing at year's end.

In 2003 authorities charged two individuals with sex tourism; their trials had not concluded by year's end.

Sexual harassment is illegal, and the Government effectively enforced the law. In 2005, in an effort to combat sexual harassment in the workplace, the Government issued a decree that makes emotional abuse based on gender discrimination a crime.

The law provides women the same rights as men, including rights under family law, property law, and in the judicial system.

According to the well-respected research center Censis, the overall gap between salaries for men and women averaged 26 percent. Women were underrepresented in many fields, including management, entrepreneurial business, and the professions. According to the Superior Council of the Judiciary, 40 percent of magistrates were women, but only 5 percent of chief justices were women.



A number of government offices worked to ensure women's rights. A woman heads the Ministry for Equal Opportunity, and there is an equal opportunity commission in the Office of the Prime Minister. The labor ministry has a similar commission that focuses on women's rights and discrimination in the workplace. Many NGOs, most of them affiliated with labor unions or political parties, actively and effectively promoted women's rights.

*Children.*—The Government demonstrated a commitment to children's rights and welfare. Schooling is free and compulsory for children from age seven to 18; those unable or unwilling to follow the academic curriculum may shift to vocational training at age 15. In 2005 the Ministry of Education reported that 72.9 percent of children aged 15 to 18 attended secondary school. There was no difference in the treatment and attendance of girls and boys at the primary, secondary, and post-secondary levels. Completion of secondary school was the highest level achieved by most children.

The state provides free medical care for all citizens.

Child abuse was a problem; in 2005 the NGO Telefono Azzurro received approximately 380,000 calls related to child abuse. Approximately 5 percent involved sexual abuse, 11 percent physical violence, and 8 percent psychological exploitation. In 60 percent of the cases, the victims were female; 46 percent were 10 years old or younger. In the first six months of 2005, judicial authorities registered 748 allegations of sexual abuse of minors and accused 276 persons of abuse. Between 2001 and 2003, the Government funded 144 projects carried out by NGOs to improve parent-child relations and combat child abuse.

NGOs estimated that eight to 10 percent of prostitutes were minors. An independent research center estimated that there were between 1,800 and 3,000 minors who worked as street prostitutes; of these, 1,500 to 2,300 were trafficked into the country and forced into prostitution (see section 5, Trafficking).

Illegal immigrant child laborers from northern Africa, the Philippines, Albania, and China continued to enter the country. In December the prosecutor of Agrigento alleged that criminal organizations were responsible for trafficking thousands of minors from outside the European Union through Sicily. He reported that the most organized gangs were Romanian, Albanian, Egyptian and Moroccan.

An interministerial committee chaired by the minister of equal opportunity coordinates the fight against pedophilia. A special unit of the police monitored 33,000 Web sites between January and November, investigated 337 persons for crimes involving child pornography online, and arrested 16 of them.

There were reports of child labor (see section 6.d.)

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, persons were trafficked to, from, and within the country. According to government and NGO sources, approximately 2,500 new victims were trafficked to and within the country in 2005, the latest year for which data was available. Eight to 10 percent were believed to be underage.

The country was a destination and transit point for trafficked persons. Immigrants, mostly from Nigeria, North Africa, and Eastern Europe, played a major role in trafficking for the purpose of sexual exploitation, both as traffickers and victims, although citizens were also involved. Press reports estimated that over 85 percent of prostitutes in the country were immigrants, primarily from Nigeria and Eastern Europe.

Sexually exploited victims of trafficking faced health risks resulting from unsafe and unprotected sex. Trafficking victims in the Tuscany region who worked in sweatshops were possibly exposed to dangerous chemicals in the leather industry.

Organized criminal groups were responsible for most trafficking; prostitution rings routinely moved trafficked persons from city to city to avoid arrest.

Italian victims of trafficking were usually lured to other countries in Western Europe with promises of a job, or sold by relatives, friends, or acquaintances. Traffickers then forced their victims to work as prostitutes, laborers in restaurants or sweatshops, or beggars in the street. The traffickers enforced compliance by taking the victims' documents, beating and raping them, or threatening to harm their families. There were no reports that traffickers killed trafficked women during the year.

The law provides sentences of eight to 20 years in prison for trafficking in persons and for enslavement. Sentences for persons convicted of trafficking in minors for sexual exploitation increase by one-third to one-half. The law mandates special prison conditions for traffickers designed to limit their ability to continue their operations from jail.

The number of persons investigated for trafficking increased from 1,861 in 2004 to 2,054 in 2005, but arrests decreased from 341 to 304; the number of prosecutions decreased from 120 to 102 and convictions from 77 to 50. The Government cooper-

ated with foreign governments, including those of Nigeria, Ukraine, Bulgaria, and Moldova, to investigate and prosecute trafficking cases. For example, in May authorities arrested and charged 41 Bulgarian nationals with trafficking in minors; at year's end they continued to investigate another 75 persons for bringing children of Romani and poor families into the country to commit robberies in Trieste.

In June police in Rome arrested three Romanian nationals and charged them with smuggling persons with disabilities and forcing them to work as beggars; one victim was assisted and repatriated. The case was pending at year's end.

In July police arrested six Romanians in Rome and Milan on charges of trafficking at least 100 children whom they allegedly forced to beg on the streets and steal from private residences. The case was pending at year's end.

In July, in Puglia, Italian and Polish police arrested 25 individuals, including Poles, Ukrainians, Algerians, and an Italian, for trafficking up to 1,000 Poles over several years for forced agricultural labor. The traffickers hired the workers out to local farmers. Reportedly, the victims responded to an advertisement for migrant workers, paid a travel fee, received \$4 per hour and were kept in penury by the traffickers, who charged them for food, water, and squalid sleeping quarters. Police freed 113 workers and were investigating reports of at least two suspicious suicide deaths in the work camps as well as reports of beatings and rape. The interior ministry was investigating the abuses at year's end.

In April police unveiled a criminal ring and arrested twelve Italians and six Romanians charged with forced prostitution and exploitation since 2004 of hundreds of Romani minors who were persuaded to have sexual intercourse with adults in exchange for small gifts. Pedophiles allegedly lured children at intersections where they used to beg or sell merchandise.

There were no reported developments in the case involving 25 Italians and Bulgarians arrested in 2005 and charged with trafficking in persons, criminal conspiracy, kidnapping, and sexual assault.

The following reported 2004 trafficking investigations remained ongoing at year's end: a Romanian father who was selling his 10-year-old child for sex in the outskirts of Milan; two Albanians, one Egyptian, one Pakistani, and one Italian involved in trafficking women from Eastern Europe for prostitution; six Bulgarian men who accompanied Bulgarian women into the country who gave birth and then sold the babies to Italian families for \$13,100 (10,000 euros) each; 12 persons, including two police officers, who were arrested in Sassari and charged with trafficking for prostitution and falsification of documents; and four persons who were accused of organizing tours to Brazil that included the sexual services of girls ages 12 to 17.

Government officials generally did not participate in, facilitate, or condone trafficking.

The law provides temporary residence or work permits to persons who seek to escape their exploiters. Authorities and NGOs encouraged victims to file complaints, and there were no legal impediments for them to do so. Unlike most other illegal immigrants, who face deportation if caught, persons who qualify as official trafficking victims under law receive numerous benefits, including legal residence, whether or not they filed a complaint. To date, only prostitutes have received assistance under the law. However, NGOs alleged that the Government did not always allow enough time between apprehension and deportation of illegal immigrants to screen them for trafficking victims.

The Government provided legal and medical assistance once authorities identified a person as having been trafficked. There were shelters and programs for job training. There also were assistance and incentive programs for those willing to return to their home country; in 2005, 78 victims who chose to go home were repatriated. The domestic NGO Social Service International assisted in repatriating unaccompanied immigrant minors.

The law empowers magistrates to seize convicted traffickers' assets to finance legal assistance, vocational training, and other social integration assistance for trafficking victims.

The Government worked with other governments and NGOs to orchestrate awareness campaigns. The law directs the foreign ministry, together with the equal opportunity ministry, to conclude additional antitrafficking agreements with trafficking source countries.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services; and the Government effectively enforced these provisions; however, there was some societal discrimination. Although the law mandates access to government buildings for persons with disabilities, mechanical barriers, particularly in public transport, left such persons at a disadvantage. The Ministry of Labor and Welfare was responsible for protecting the rights of persons with disabilities.

In January parliament enacted legislation to broaden the definition of discrimination against persons with disabilities by public and private entities and, for the first time, allowed NGOs to file complaints on behalf of persons with disabilities.

In August 2005 carabinieri closed a private health facility for the mentally ill in Reggio Calabria for structural, health, and safety violations.

In June 2005 the national airline Alitalia refused to board a disabled person, claiming it would cause delays for other passengers. There were no reports of follow-up by authorities.

Of the 587,000 workers with disabilities registered at public employment centers during the year, only 5.2 percent found work, even though 101,000 positions that are reserved by law for persons with disabilities remained vacant.

*National/Racial/Ethnic Minorities.*—Police continued to mistreat Roma. The NGO Opera Nomadi reported cases of discrimination, especially with regard to housing and evictions, deportations, and efforts by the Government to remove children for their protection from Romani parents. Government officials at the national and local levels, including those from the Ministries of Interior and Equal Opportunity, met periodically with Roma and their representatives. Opera Nomadi held conferences, applied for tax exempt status, and lobbied the Government throughout the year.

In April the European Committee of Social Rights ruled that the country systematically violates the right to adequate housing for Roma by not providing sufficient camping sites, not providing permanent housing, and evicting Roma from housing.

Public opinion surveys indicated that negative societal attitudes toward immigrants continued to increase, especially among young persons and in the North. Immigrants continued to assert that they were discriminated against in employment.

There were no accurate statistics on the number of Roma in the country. NGOs estimated that a population of 120,000, up to 80 percent of whom could be citizens, was concentrated on the fringes of urban areas in the central and southern parts of the country, living in camps characterized by poor housing, unhygienic sanitary conditions, limited employment prospects, inadequate educational facilities, and the absence of a consistent police presence. Faced with limited income and job opportunities, and suffering from harassment, some Roma begged or engaged in petty crime, which led to repressive measures by police and some judicial authorities.

The Government's Office to Combat Racial and Ethnic Discrimination in the Ministry of Equal Opportunity provided assistance to victims of discrimination. In 2005 it received 3,400 calls on its national hot line, of which it considered 282 to be genuine cases of discrimination against racial or ethnic minorities. The majority of complaints related to wage and overtime issues and discrimination in public. The office provided legal assistance and help in mediating disputes.

*Other Societal Abuses and Discrimination.*—In June 2005 the Administrative Court of Catania condemned the Ministry of Transport for having requested the revocation of a driver's license of a homosexual based on his sexual orientation. A civil trial seeking restitution was underway at year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to establish, join, and carry out union activities in the workplace without previous authorization or excessive requirements, and workers exercised these rights in practice. Unions claimed to represent between 35 and 40 percent of the workforce.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right of workers to organize and bargain collectively, and workers exercised this right. Approximately 35 percent of the workforce works under a collective bargaining agreement, but nonunion members working alongside union employees also benefited from the same agreements. The law provides for the right to strike, and workers exercised this right by conducting legal strikes. The law restricts strikes affecting essential public services (such as transport, sanitation, and health), requiring longer advance notification and precluding multiple strikes within days of each other.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5, Trafficking).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government implemented laws and policies designed to protect children from exploitation in the workplace; however, there were reports of child labor. The law prohibits em-

ployment of children under age 15 (with some limited exceptions), and there are specific restrictions on employment in hazardous or unhealthy occupations for boys under age 18 and girls under age 21. Enforcement of these laws was generally effective in the above-ground economy; however, the enforcement of minimum age or other child protection laws was difficult in the extensive informal economy. In 2005 an independent research center estimated that approximately 460,000 children under age 15 worked at least occasionally, while 70,000 worked for at least four hours per day. Many of these children were helping in family-owned farms and businesses, work which is illegal if it interferes with education.)

Illegal immigrant child laborers from northern Africa, the Philippines, Albania, and China continued to enter the country (see section 5, Children).

Trafficking in children was a problem (see section 5).

The Government, employers' associations, and unions continued their tripartite cooperation on child labor. The Ministry of Labor, working with police and carabinieri, is responsible for enforcement of child labor laws, but their efforts generally were ineffective. In the first half of the year, the Ministry of Welfare conducted inspections of 2,311 companies, which had a total workforce of 12,830. Of these, the Ministry found 2,276 citizens aged 14–18 and 259 immigrants, legal and illegal. They fined companies for violations related to lack of periodic medical check-ups (600), work hours and leave (158), and minimum age (84 cases of children under 15 being employed).

*e. Acceptable Conditions of Work.*—While the law does not set minimum wages, it provides for them to be set through collective bargaining agreements on a sector-by-sector basis. The minimum wage in most industries provided a decent standard of living for a worker and family. Courts effectively enforced the wages set through collective bargaining agreements, but workers in the informal sector often worked for less.

The legal workweek is 40 hours. Overtime work may not exceed two hours per day or an average of 12 hours per week. Unless limited by a collective bargaining agreement, the law sets maximum overtime in industrial sector firms at no more than 80 hours per quarter and 250 hours annually. The law required rest periods of one day per week and 11 hours per day. Premium pay is required for overtime. These standards were effectively enforced.

The law sets basic health and safety standards and guidelines for compensation for on-the-job injuries. There were labor inspectors in both the public health service and the Ministry of Labor, but their numbers were insufficient to ensure adequate enforcement of health and safety standards. The standards were not enforced in the significant unofficial economy. Workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and the Government effectively enforced this right.

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## LATVIA

The Republic of Latvia is a parliamentary democracy with a population of approximately 2.3 million; legislative authority is vested in the unicameral Saeima. The October elections for the 100-seat Saeima were free and fair. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens and the large resident noncitizen community. However, there were problems in some areas, including the following: police mistreatment and severe abuse of detainees; poor conditions at police detention facilities; poor prison conditions and overcrowding; judicial corruption; obstacles to due process; violence against women; child abuse; trafficking in women; violence against ethnic minorities; and societal violence and occasional government discrimination against homosexuals.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and laws prohibit such practices; however, there were reports that government officials employed them.

In May 2005 the Council of Europe's Committee for the Prevention of Torture (CPT) released a report on its 2002 visit to the country. The CPT noted that its delegation received a considerable number of credible allegations of physical abuse by police throughout the country, particularly of juveniles, some of which the CPT felt were of sufficient severity that they could be considered to amount to torture. The majority of the allegations concerned mistreatment at the time of or immediately following arrest. While the Government stated that it had not received any complaints of such mistreatment during the time period that included the CPT visit, it noted in its response to the report that it had already implemented a number of new policies and devoted additional resources that addressed the concerns which the CPT report raised. For example, a code of professional ethics for the State Police was introduced in 2003, an Internal Security Office was established to investigate alleged misconduct within units of the State Police in 2003, and police officers participated in a series of seminars focused on human rights and ethics issues.

The Latvian Center for Human Rights and Ethnic Studies (LCHRES) stated that severe abuse of persons in custody was a problem. Detailed statistics on reports of police mistreatment during the year were unavailable. In 2005 the state police initiated a criminal case against two police officers, Ivars Lastins and Dmitry Martinsons, who beat two individuals apprehended for public drunkenness. Both officers were convicted in February and received suspended sentences. State prosecutors appealed the suspended sentences, and the case was outstanding at year's end.

LCHRES expressed concern that victims underreported incidents of police mistreatment. In 2004 LCHRES conducted a study in which it operated a hot line to collect allegations of police misconduct from anonymous callers. Over a 3-day period, LCHRES received 283 complaints regarding police misconduct, 130 of which referred to police brutality. LCHRES has not conducted a study since 2004. During the year the Latvian National Human Rights Office (NHRO) received approximately 30 complaints regarding misconduct, which was consistent with the amount of complaints from preceding years.

There were several instances of attacks against ethnic minorities throughout the year (see section 5).

*Prison and Detention Center Conditions.*—Prison conditions remained poor. Prisons also continued to be overcrowded. Prison hospitals and general medical care were major concerns. There were 28 short-term facilities designed to hold detainees less than 72 hours. The NHRO stated that conditions such as poor ventilation and damp, dark, and unsanitary cells in at least half of these centers violated human rights standards. The NHRO added that persons with poor health cannot get adequate health care; that detainees for life sometimes spend 23 hours per day in their cell, causing psychiatric problems; and that in most detention centers there was only one psychiatric practitioner per facility.

In its May 2005 report, the CPT noted it found extremely poor material conditions at police detention facilities during its 2002 visit. The report stated that conditions were particularly bad at the Daugavpils, Liepaja, and Ventspils police headquarters, where cells were described as overcrowded, humid, dirty, and poorly ventilated. Sleeping and hygiene facilities were also described as falling short of European standards. Since that time the Government has built a new police detention facility in Liepaja, which opened during February and which addresses the conditions described in the CPT report. The state police budget since the time of the visit also included increases to improve detention facilities.

The NHRO stated it received complaints of pretrial abuse during the year, although a large percentage of these complaints could not be substantiated.

The Government permitted independent human rights observers to visit prisons and detention centers. During the year domestic groups, such as LCHRES, closely monitored prison conditions.

*d. Arbitrary Arrest or Detention.*—The constitution and laws prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The security forces consist of the national police, the special immigration police, the border guards, and other services, who are subordinate to the Ministry of Interior; municipal police who are under local government control; the Military Counterintelligence Service and a protective service, which are under the Ministry of Defense; and the national guard, an element of the armed forces. Allegations of corruption and bribery within law enforcement ranks were frequent and affected the public's perception of police effectiveness.

In 2005 the Corruption Prevention and Combating Bureau (KNAB) initiated cases against the following members of the security forces: three members of the Riga city main police board (Oskars Berzins, Vjaceslavs Andrianovs, Edgars Bebriss) for allegedly demanding and receiving a bribe from a businessman to avoid inspections;

a member of the traffic police for his role in an alleged attempt to falsify blood-alcohol tests; and a police inspector for extortion and bribery. These cases were still outstanding at year's end. On December 6, Riga City Police Board members Jevgenijs Nezincevs and Eduards Sabanovs were convicted for taking bribes; they received four years and three years in prison, respectively. In December the KNAB submitted documents for the prosecution of six high-ranking border guard officers, including the Head of the Procurement Department, for demanding and receiving bribes from businessmen for tender contracts with the border guard service. On July 20, the prosecutor general charged Ventspils' mayor, Aivars Lembergs, with bribery, money laundering, and abuse of office in connection with several different incidents over the previous 15 years. The case was still in the court system at year's end.

*Arrest and Detention.*—The law requires that persons be arrested openly and with warrants issued by a duly authorized judicial official, and the Government generally respected this requirement in practice. The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, and authorities generally respected this right in practice. Detainees were promptly informed of charges against them. The law requires the prosecutor's office to make a formal decision whether to charge or release a detainee within 48 hours after arrest. This requirement was followed in practice. A bail system exists; however, it was infrequently used and applied most often in cases of economic crimes. Detainees have the right to have an attorney present at any time; however, authorities did not fully respect this right in practice. If a detainee is indigent, an attorney is provided by the Government. Detainees were allowed prompt access to family members. These rights are subject to judicial review but only at the time of trial.

In its May 2005 report, the CPT noticed that, during its 2002 visit, it appeared that the right of access to a lawyer was not fully respected in practice. The report noted that, in many cases, fulfillment of the right was delayed or in some case denied, to juveniles in particular. In 2003 employees of the state police participated in a number of training events focused on human rights and ethics. Also in 2003 a code of professional ethics for the State police was affirmed. A temporary detention cell at Riga Principal Police Office was terminated in 2003. In addition, in 2003 an Internal Security Office was established to investigate alleged misconduct within units of the state police.

The law limits pretrial detention to no more than 18 months from the first filing of the case. In its May 2005 report, the CPT noted that, during its 2002 visit, its delegation met a number of remand prisoners who had spent up to six years in prison awaiting the outcome of their trials and appeals. These persons had limited contact with outside NGOs or family and suffered under poor conditions. Upon passage of the Criminal Procedure Law in 2005, problems concerning pretrial detention decreased and mechanisms for bringing cases to court were simplified.

*e. Denial of Fair Public Trial.*—The constitution and laws provide for an independent judiciary; the Government generally respected this provision in practice though there were significant problems, including inefficiency and corruption.

The judicial system is composed of district (city) courts; regional courts, which hear appeals from district courts and can also serve as courts of first instance; a separate administrative court, which adjudicates administrative violations; the Supreme Court, which is the highest appeals court; and the seven-member Constitutional Court, which hears cases regarding constitutional issues at the request of state institutions or individuals who believe that their constitutional rights were violated. For more serious criminal cases, two lay assessors join the professional judge on the bench at the district and regional levels.

During the year the KNAB initiated 51 criminal cases against various government officials (including the judiciary), compared with 34 in 2005 and 30 in 2004. During the year the KNAB passed 41 criminal cases to the prosecutor's office for prosecution of 65 persons. In September 2005 the Supreme Court sentenced one former prosecutor, Stanislavs Nazarovs, to seven years in prison with confiscation of property for demanding and receiving a bribe in the amount of \$10,000 for withdrawing an appeal. Another prosecutor, Juris Pelss, received a suspended sentence for a term of four years and a probation term of two years for a similar offense. Criminal prosecution was started against six bailiffs. A time-consuming judicial process and a shortage of judges overloaded the courts.

On October 10, two district court judges, Irena Polikarpova and Beatrise Talere, were arrested and suspended from duty for allegedly taking bribes, and the Prosecutor General's Office launched a criminal investigation.

Steps have been taken to lessen conflict of interest within the Government. Approximately 1,000 government officials attended training and seminars on various

aspects of conflicts of interest and on internal controls against corruption during the year.

*Trial Procedures.*—The constitution and laws provide for the right to a fair trial, and an independent judiciary generally enforced this right. Trials generally are public; however, they may be closed if government secrets might be revealed or to protect the interests of minors. Juries were used in some cases, but not in all. Defendants have the right to be present at their trial and to consult with an attorney in a timely manner. The Government provided funds to indigent defendants for this purpose. Defendants have the right to read all charges, confront all witnesses, and call witnesses and offer evidence to support their case. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and can make multiple appeals.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Laws provide for an independent and impartial judiciary in civil matters, including access to a court to bring lawsuits seeking damages, or cessation of, a human rights violation. The Government generally upheld the law concerning civil procedures.

*Property Restitution.*—On November 23, the Saeima used a procedural motion to effectively reject a draft bill that would have provided financial assistance to the local Jewish community to compensate losses suffered during the Holocaust. The bill addressed Jewish communal properties and heirless private property last owned by members of the Jewish community that could not earlier be regained via the country's denationalization laws because there were no identifiable heirs for the property. Both President Vike-Freiberga and the local Jewish community expressed their disappointment over the vote.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and laws prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and laws provide for freedom of speech and of the press, and the Government generally respected these rights in practice. However, although the press law prohibits censorship of the press or other mass media, the media law contains a number of restrictive provisions regulating the content and language of broadcasts.

Primary broadcast radio and television stations are required to use the state language, Latvian, and secondary broadcasters are allotted up to 20 percent of total broadcast time for non-Latvian language programming, which should be simultaneously translated using subtitles. However, these laws only apply to terrestrial broadcasts. Non-Latvian language broadcasts were available on cable and satellite services.

The independent media were active and expressed a wide variety of views without restriction. On September 12, however, transcripts of a television investigative journalist's private phone conversations appeared in a daily newspaper. It was soon discovered that the finance police, who had requested the phone tap for an alleged investigation into organized crime activities, had leaked the information. The prosecutor's office launched an investigation. Four officials from the financial police were suspended for the duration of the internal investigation of the leaked information. On November 1, the judge who authorized the wire tapping received an official sanction from the Judicial Disciplinary Committee on procedural grounds. . The investigation was ongoing at the end of the year. In another incident on September 4, a court ordered a television station to reveal sources from a story on a search conducted in connection with criminal charges brought against an influential regional politician. The journalist refused to reveal her sources; and the case was on appeal at year's end.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by electronic mail. The Internet was widely used by the public.

*Academic Freedom and Cultural Events.*—The constitution recognizes the freedom of scientific, artistic, and other creative works. There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and laws provide for freedom of assembly, and the authorities may not prohibit public gatherings; however, organizers of demonstrations must provide ad-

vance notice to local authorities, who may change the time and place of public gatherings for such reasons as fear of public disorder. The law also requires protesters to remain specified distances from foreign diplomatic missions, the parliament, the Prosecutor's Office, and certain other public institutions. Numerous demonstrations took place peacefully and without government interference during the year. However, in July authorities denied a permit for a gay pride parade on grounds of unspecified security threats to the marchers. Parade organizers attempted to host a private event at a local hotel as an alternative to the denied march. This event was disrupted by protesters who opposed homosexuality (see section 5).

On November 23, the Constitutional Court ruled that several provisions in the law on meetings, parades, and picketing were unconstitutional and contravened the European Convention on Human Rights. The court ruled that demonstrators should only be required to inform a municipality of a planned event, rather than having to ask for permission, as the requirement to receive permission unnecessarily restricts the right of assembly.

*Freedom of Association.*—The constitution and laws provide for freedom of association, and the Government generally respected this right in practice; however, the law bars the registration of Communist, Nazi, or other organizations whose activities would contravene the constitution. Nevertheless, some nationalist organizations using fascist-era symbols, slogans, and rhetoric operated openly. Noncitizens may join and form political parties. Every party must have at least 200 citizens as members in order to register. At least half of the total membership must be citizens.

*c. Freedom of Religion.*—The constitution and laws provide for freedom of religion, and the Government generally respected this right in practice; however, bureaucratic problems for “nontraditional” religions persisted.

There is no state religion, but the Government distinguishes between “traditional” (Lutheran, Roman Catholic, Orthodox, Old Believers, Baptist, and Jewish) and “new” religions. The “new” religions were subject to bureaucratic regulations and paperwork requirements not applicable to “traditional” religions and had more difficulties purchasing property.

Although the Government does not require registration of religious groups, the law accords religious organizations certain rights and privileges when they register, such as a separate legal status for owning property or for other financial transactions, as well as tax benefits for donors.

According to Ministry of Justice officials, most registration applications were approved once proper documents were submitted. The law does not permit simultaneous registration of more than one religious group (church) in a single confession, and the Government has denied the applications of splinter groups on this basis.

The Government denied foreign evangelists and missionaries permission to hold meetings and to proselytize unless domestic religious organizations invited them to conduct such activities. Foreign religious denominations criticized this provision.

The law provides that only representatives of the Lutheran, Roman Catholic, Orthodox, Old Believers, Baptist, and Jewish religions may teach religion to public school students who volunteer to take the classes.

*Societal Abuses and Discrimination.*—During the year there were a few reports of harassment and discrimination against resident missionaries of the Church of Jesus Christ of Latter-Day Saints.

The Jewish community numbers approximately 11,000 and was largely secular and Russian-speaking. There was one synagogue operating in Riga. A newly renovated synagogue opened in Daugavpils in April. Unlike last year there were no reported incidents of violent attacks targeting Jews. However, there were reports of anti-Semitic graffiti painted on buildings in old town Riga. On March 16, Latvian Waffen SS veterans held a ceremony at the Cathedral in Riga and at a World War II cemetery near Riga in honor of their dead comrades. On the same day approximately 200 nationalists demonstrated near the Occupation Museum in Riga on behalf of a former Latvian Waffen SS unit despite a ban by the city authorities. A total of 65 persons were detained for participating in an unauthorized demonstration. On May 24, the Rezekne police reported that vandals had damaged a memorial which was scheduled to be unveiled on June 4 in memory of 120 local Jews who were killed during the Holocaust. In addition anti-Semitism continued to be expressed in Internet chat rooms and forums. In July the Ministry of Foreign Affairs hosted a conference entitled “Holocaust: Remembrance and Lessons” over which the President of the country presided. In 2005 a local NGO Education Development Center created educational materials about the Holocaust. The NGO regularly provided seminars to teachers to assist them in developing a methodology to teach about the Holocaust.



For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and laws provide for these rights, and the Government generally respected them in practice.

The law stipulates that noncitizens are prohibited from owning land in the border zones.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. Eight persons requested asylum in the country during the year. In that time two persons were granted refugee status as per the 1951 Geneva Convention, as compared to none in 2005. In addition eight people were granted alternative status (subsidiary protection) during the year, as compared to none in 2005. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. However, there were reports that authorities systematically turned away persons attempting to enter the country at border checkpoints; it is unclear how many of these people may have been refugees or asylum seekers.

Illegal immigrants held at the Olaine detention center did not have access to information about their rights, including their right to apply for asylum, and had limited recreation opportunities. In August 2005 seven Somali refugees were detained at the Olaine detention center. A court declared them to be illegal immigrants, but NGOs and a former government official claimed that the Somalis were not made aware of their legal rights or offered an opportunity to request asylum. In September the seven refugees were granted residency and work permits.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and laws provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic and generally free and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Free and fair elections for the Saeima were held in October, and the new parliament will elect a new President in the first half of 2007. In March 2005 nationwide local elections were held; although largely free and fair, vote-buying scandals resulted in the election outcomes being challenged in the city of Jurmala and overturned in Rezekne. Both incidents prompted KNAB investigations in 2005. In March the Riga district prosecutor decided to close the Jurmala-related case due to a lack of evidence. On May 17, Juris Zacests, Grigorijs Bekasovs, and Olga Skutane were found guilty of various offences associated with the Rezekne vote-buying scandal.

In March the Prime Minister demanded the resignation of the transport minister, Ainars Slesers, who had been implicated in a corruption scandal related to the 2005 mayoral elections in Jurmala. The scandal involved attempts by politicians and business people to bribe a critical swing vote in the election of the Jurmala city mayor. Four persons were charged with bribery in connection with the scandal, and the investigation was ongoing at year's end. Slesers, against whom no criminal charges had been filed by year's end, returned to the transport ministry following the October parliamentary elections.

In November the KNAB also initiated an investigation into violation of campaign financing rules over a series of television commercials placed by individuals affiliated with the People's Party, the senior partner in the country's minority coalition government. The investigation was still in progress at year's end, although the Supreme Court ruled November 3 that the spending violated election law.

The election law prohibits the holding of elective office by persons who remained active in the Communist Party or various other pro-Soviet organizations after 1991 or who worked for such institutions as the former Soviet Committee for State Security.

There were 19 women in the 100-member Saeima, and there were four women in the 18-member Cabinet of Ministers. The President was a woman.

Members of minorities, including ethnic Russians and Poles, served in various elected bodies. According to the Saeima's Web site, there were 22 members of minorities in the 100-seat Saeima, including 15 ethnic Russians, one German, two Jews, one Karelian, and three others who declined to list their ethnicity.

*Government Corruption and Transparency.*—There was a widespread perception of corruption throughout all levels of the Government. During the year the KNAB initiated 51 criminal cases, compared with 34 in 2005.

A Cabinet of Ministers regulation provides a mechanism for public access to government information, and the Government generally provided access in practice.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

On April 25, a law to create an ombudsman as a separate office responsible for the protection of individual citizens' rights in relation to the Government was enacted; it was scheduled to come into force on January 1, 2007. However, no person had been selected as ombudsman by the Saeima by the end of the year.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination due to race, gender, language, disability, or sexual orientation; however, violence against women and racial minorities, societal discrimination against women and homosexuals, child abuse, and trafficking in persons were problems.

*Women.*—Violence against women, including spousal abuse, is against the law. Although domestic violence was a significant problem, the Government did not effectively enforce the law, in large part because abuse was underreported. Victims of abuse often were uninformed about their rights and were reluctant to seek redress through the justice system. Human rights groups asserted that the legal system, including the courts, sometimes did not take domestic violence cases seriously and that police were often reluctant to make arrests. There were no shelters designed specifically for battered or abused women. Women who suffered from violence could seek help in family crisis centers; however, these centers had limited capacity and, therefore, gave priority to women with children. There were no dedicated rape or assault hot lines; however, NGOs managed approximately five general crisis hot lines, a number comparable to last year. In January the NGO Marta Center together with a Norwegian NGO launched a Web site that provided information for women were victims of violence.

The law specifically criminalizes rape but does not recognize spousal rape. A local NGO, the Skalbes Crisis Center, reported that rape laws were ineffective and stated that rapes were underreported due to a tendency by police to blame the victim.

Prostitution is legal, although procuring is not. Prostitution was widespread and often was linked to organized crime. During the year the popularity of Riga as a sex tourism destination generated increased public and political debate over whether changes in the law were needed, although no action was taken.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment is illegal; however, in the absence of complaints, the Government was unable to enforce the law. Sexual harassment of women in the workplace reportedly was common. Cultural factors tended to discourage women from coming forth publicly with complaints of harassment.

Women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The law prohibits employment discrimination; however, in practice women frequently faced hiring and pay discrimination, especially in the private sector. The law also prohibits women from performing "hard jobs or jobs having unhealthy conditions," which are specified in a list agreed by the Cabinet of Ministers.

The law prohibits work and pay discrimination based on gender and requires employers to set equal pay for equal work. Although the Government agencies responsible for enforcing such laws lacked skills and resources to fully implement the law, some progress was made during the year. The Welfare Ministry implemented an awareness raising campaign using EU funds and staged numerous educational seminars.

*Children.*—The Government was committed to children's rights and welfare; however, authorities did not fully enforce constitutional provisions on children and the law on the rights of the child in practice.

Primary schooling is free, compulsory, and universal through the ninth grade (between the ages of seven and 16) and free through the twelfth grade (age 18).

Access to health care was universal, and there were no reports of discrimination based on sex.

A local NGO working with abused children, Dardedze Center Against Violence, reported that the number of child abuse cases, including sexual abuse, increased in the past several years. However, the NGO attributed this rise largely to better detection of child abuse due to increased awareness of the issue. Laws against child abuse were enforced effectively, although the same NGO noted that there was weak coordination among various institutions and law enforcement agencies involved in the protection of children's rights. Law enforcement authorities have won court suits to remove children from abusive parents and secured convictions in child molestation cases. Children from families that were unable to care for them had access to government-funded boarding schools that provided adequate living conditions; however, these schools had lower educational standards than regular state schools.

Police reported that, due to the imposition of severe penalties for rape and sexual exploitation of minors, the reported incidence of child prostitution declined in recent years.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in women to, from, and within the country was a problem. In contrast to previous years, there were no reports that minors were trafficked.

The law provides for prison sentences of up to 15-years' imprisonment for trafficking. Most perpetrators, however, continued to be prosecuted under a statute that prohibits "pimping." This statute carries a lesser sentence of only up to six years. The legal definition of trafficking in persons includes internal trafficking.

The country was both a source and transit point for trafficked victims. The main countries of destination were Germany, Spain, the United Kingdom, Italy, Switzerland, and the Nordic countries. The number of cases reported by the Government for this year was 24. This figure was similar to 2005, in which 23 cases were reported. However, law enforcement agencies reported that most victims insisted that they consented to participate in the sex industry and were not willing to cooperate with law enforcement officials. Many traffickers disclosed the sexual nature of the work they offered but concealed true information about working conditions, clientele, freedom of movement, and compensation. Many victims were not willing to cooperate with law enforcement officials.

NGOs reported that women from economically poor districts continued to be trafficked inside of the country for sexual exploitation to Riga, Liepaja, and Ventspils. However, no criminal cases have been initiated for trafficking in persons within the country.

Traffickers, primarily organized criminal groups, regularly lured victims through false offers of employment as dancers, bartenders, and babysitters in European countries. A large number of victims were drawn from the economically depressed areas of the country's eastern regions. While some victims were recruited through job advertisements or modeling and travel agencies, most victims were solicited through direct contact with the traffickers. Recruiting occurred most often at cafes and clubs, and victims themselves sometimes were enlisted to recruit new victims for the traffickers.

The Government reported that during the year, five cases were prosecuted under the statute that criminalizes trafficking in persons; 23 cases were prosecuted under the statute that makes sending persons abroad for sexual exploitation a crime. Of these cases 40 people were convicted. Of those 26 received a conditional sentence, three received a prison sentence of five to 10 years, three received a prison term of three to five years, four received a sentence of less than three years, and the remaining four were fined. Additionally, from January to September, 34 persons, including 12 females, were convicted under the "pimping" laws. Of those 22 received sentences similar to probation, four received a prison sentence of not more than 12 months, six were given a prison sentence from one to five years, and two were fined.

Cooperation between the border guards, police, and NGOs improved efforts to identify trafficking victims and help them gain access to assistance programs. This cooperation contributed to the effective control of the border areas. International cooperation in investigations and prosecutions was well established with Germany and the Nordic countries.

Beginning in 2005 government funding was made available to cover rehabilitation costs for trafficking victims. During the year six trafficking victims qualified for government funded rehabilitation and 13 trafficking victims received rehabilitation services funded by other sources. In December the Ministry of Welfare announced that amendments to the eligibility criteria for trafficking victims to qualify for government-funded rehabilitation had been approved. As in previous years, most assistance to trafficking victims came from local NGOs and the International Organization for Migration (IOM). Marta Centers, operating in cooperation with the IOM, offered assistance to trafficking victims in the form of crisis counseling, professional

referrals, and reintegration assistance. Additionally, the Government provided shelter to trafficking victims in a government center as needed.

Training programs for combating trafficking and for victim's assistance continued during the year. Although these were principally organized by NGOs and the IOM, the Government recognized it needed greater involvement. Marta Centers, in cooperation with the Ministry of Interior and other partners, continued its operations to educate adolescents. The Council of Youth Health Centers (CYHC) operated centers in Daugavpils and Liepaja. During the year the Government jointly sponsored and funded training for law enforcement specialists and judges on investigation techniques applicable in trafficking cases as well as training on rehabilitation services for victims for social workers. The IOM and several NGOs also sponsored conferences on trafficking and introduced several antitrafficking education campaigns.

After two years of limited funding, the Government began devoting financial resources to the National Action Plan to Combat Trafficking in Persons with financial assistance from local NGOs and international organizations. Despite the increased funding, budgetary constraints continued to impede overall progress. The performance of law enforcement agencies continued to be professional. Although only partial funding for planned anti-trafficking programs was directly provided in the state budget for the year, the Government demonstrated commitment to implement the National Action Plan with the limited resources available.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government effectively enforced these provisions. The law mandates access to buildings for persons with disabilities; however, most buildings were not accessible.

In October LCHRES stated that the review procedure for detention on grounds of mental disability fails to meet human rights standards, the criteria for compulsory admission into psychiatric institutions were too broad, and the provisions on consent to treatment did not meet international principles.

The NHRO further stated that there were no restrictions on corresponding with relatives. However, institutions continued to restrict private correspondence and the number of visits a patient received per month.

*National/Racial/Ethnic Minorities.*—The Ministry of Social Integration and the National Human Rights Office are responsible for the protection of minority rights.

During the year attacks against racial minorities were a problem. During the year there were 14 reported violent attacks against ethnic minorities, including one on June 10 against a member of the country's African-Latvian community NGO. The NGO member's attackers accosted him before a local police academy trainee intervened and helped the victim apprehend the two assailants. Both of the perpetrators were charged with incitement to racism, and the case was still outstanding at year's end. The Interior Ministry met with NGOs and minority groups to discuss their concerns. However, racial minorities expressed frustration that there was not greater police presence and patrolling in those locales where they felt most vulnerable to violence.

On December 27, one individual was sentenced to four years of conditional punishments and three years of probation in connection with an attack on a Sri Lankan medical student in 2005. The sentence was suspended because the perpetrator was a minor. This conviction was the first time that a case had gone from charge to conviction as a racially motivated crime.

There was limited improvement in the effectiveness of prosecution of such crimes; most perpetrators were charged with petty hooliganism, a misdemeanor offense.

The country's population of approximately 8,000 Roma faced high levels of unemployment and illiteracy, as well as widespread societal discrimination.

*Other Societal Abuses and Discrimination.*—Societal violence and discrimination against homosexuals was a problem. On July 19, the Riga city government, after coming under pressure and criticism from various political parties and religious groups, denied a permit for a gay pride parade. The reasons cited for the cancellation were security considerations, although the specifics were never made public and all court hearings were closed to the press and public. On July 22, parade organizers attempted to host several private functions as alternatives to the cancelled march. Demonstrators opposed to homosexuality surrounded and harassed participants outside these events, throwing eggs, shouting aggressive insults, and dumping human excrement on them. Police arrested 14 people for public disorder. In late August the Riga Vidzeme District Court and Riga Central District court fined seven opponents of the gay pride events charged with causing public disorder. In addition all seven faced prosecution for inciting public disorder. These cases were outstanding at the end of the year. Human Rights Watch, Amnesty International, and

the International Gay and Lesbian Human Rights Commission all voiced their concern during the year over the failure of authorities to protect the gay pride event participants as well as the imposition of a ban on the originally planned parade.

As of October 1, about 400,000 people in the country were classified as non-citizens. These individuals were primarily ethnic Slavs, most of whom were eligible for citizenship but had not pursued naturalization. These individuals had full rights for employment and access to most government social benefits, but they could not vote in local or national elections. The most often stated reason for not pursuing naturalization was perceived unfairness in the requirements for citizenship. The country did not grant automatic citizenship to those individuals who moved in during the Soviet occupation or to their descendants. Additionally, to qualify for citizenship, applicants must pass a Latvian language test, which ethnic Russians claimed was unfair. Since 1995 nearly 120,000 individuals have naturalized and the numbers of naturalizations, remained stable each year. The Government defined as stateless only those individuals, estimated at under 1,000, who did not have a claim to foreign citizenship and were not eligible to apply for naturalization.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law entitles workers, except for the uniformed military and police, to form and join unions of their choice without previous authorization or excessive requirements; workers exercised this right in practice. As of January approximately 16 percent of the workforce was unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining, and workers exercised this right in practice. The law recognizes the right to strike, subject to limitations including prolonged pre-strike procedures and prohibition of some types of solidarity strikes and political strikes. Workers generally exercised the right to strike during the year, but labor regulations prohibit judges, prosecutors, police, fire fighters, border guards, employees of state security institutions, prison guards, and military personnel from striking. A labor law addressing disputes identifies arbitration mechanisms that unions and members of the professions forbidden from striking may use in lieu of striking. There are no special laws or exemptions from regular labor laws in the four special economic zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law and policies protect children from exploitation in the workplace, including policies regarding acceptable working conditions, and the Government effectively implemented these laws and policies in practice. The law restricts employment of those under the age of 18 by prohibiting night shift or overtime work. The statutory minimum age for employment of children is age 15, although children between the ages of 13 and 15 may work in certain jobs outside of school hours with written permission from a parent.

Inspectors from the Ministry of Welfare's State Labor Inspectorate were responsible for enforcing the child labor laws, and they enforced the laws effectively.

*e. Acceptable Conditions of Work.*—The legally mandated monthly minimum wage of approximately \$156 (90 lats) did not provide a decent standard of living for a worker and family. As of September the actual average monthly wage was \$463 (267 lats). The State Revenue Service is responsible for enforcing the minimum wage regulations, and it effectively enforced them.

The law provides for a mandatory 40-hour maximum workweek with at least one 42-hour rest period weekly. There is a prohibition on excessive compulsory overtime. Maximum permitted overtime is 200 hours per calendar year. Premium pay is one of the ways workers may be remunerated for overtime. By law an employee performing overtime work must receive additional pay of at least 100 percent of the regular pay rate. An employer and employee can agree for a higher overtime rate as well.

The laws establish minimum occupational health and safety standards for the workplace, which were effectively enforced. Workers have the legal right to remove themselves from situations that endangered health or safety without endangering their continued employment; however, authorities did not enforce this right.

## LIECHTENSTEIN

The Principality of Liechtenstein, with a population of approximately 35,000, is a constitutional monarchy with a parliamentary government. The unicameral Landtag (parliament) nominates, and the monarch appoints, the members of the Government. A two-party coalition government was formed after free and fair parliamentary elections in March 2005. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. There were reports of violence against women, including spousal abuse, and reports of child abuse. The authorities dealt effectively with these matters.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. The most recent visit was in 2004, when the Council of Europe's (COE) commissioner for human rights visited the only prison and reported that it generally met international standards.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The security forces are composed of the regular and auxiliary police under the Ministry of Interior. There is no standing military force. Corruption and impunity were not problems. Police automatically report allegations of misconduct to the prosecutor's office, and any person subject to wrongful police action also can file a complaint with the chief of police. A failure of either the prosecutor's office or the chief of police to open an investigation can be appealed to the Government and, subsequently, to the administrative courts.

*Arrest and Detention.*—Police arrest a suspect based on an arrest warrant issued by the national court. Within 48 hours of arrest, police must bring suspects before an examining magistrate who must either file formal charges or order release; authorities respected this right in practice. Release on personal recognizance or bail is permitted unless the examining magistrate has reason to believe that the suspect is a danger to society or would not appear for trial. The law grants suspects the right to legal counsel of their own choosing, and counsel was provided at government expense to indigent persons. However, the law grants the suspect access to a lawyer only after an examining magistrate has filed formal charges. During police detention, visits are commonly not allowed, although in practice suspects may contact family members. During investigative detention, visits can be monitored to prevent tampering with evidence.

The COE's commissioner for human rights in May 2005 criticized the law for not providing prompt access to legal counsel at the outset of detention.

In 2004 the UN Human Rights Commission (UNHRC) expressed similar concerns about shortcomings in the protection of arrested or detained persons, noting that the law does not require police to inform them of their right to remain silent, to be brought promptly before a judge, and to have access to legal counsel. In response to these criticisms, police issued internal regulations in 2004 instructing staff to grant suspects access to a lawyer upon request.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

The judicial system has three tiers: a court of first instance, an appellate court, and the Supreme Court. The national court is the court of first instance in all civil and criminal matters. In addition, there are two courts outside the three tiers: the administrative court hears appeals against government decisions, and the state court reviews the constitutionality of laws, ordinances, and international treaties. It also protects the rights accorded by the constitution, decides conflicts of jurisdiction

between the law courts and the administrative authorities, and acts as a disciplinary court for members of the Government.

In 2004 the UNHRC expressed concern that the procedure for appointment and tenure of judges may not be compatible with the principle of the independence of the judiciary.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Trials involving minor offenses are heard by a single judge, more serious or complex cases by a panel of judges, and the most serious cases, including murder, by a public jury. The law grants defendants the right to legal counsel of their own choosing, and counsel was provided at government expense to indigent persons. Defendants may challenge witnesses or evidence and present witnesses or evidence on their own behalf. Defendants are presumed innocent and have access to government-held evidence relevant to their case. Those convicted have the right to appeal, ultimately to the Supreme Court.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

The Roman Catholic Church is the official state church; its finances are integrated directly into the budgets of the national and local governments. The Government also provided financial support to the Protestant, Christian Orthodox, and Muslim communities. Smaller religious groups are eligible to apply for grants as associations of foreigners or specific projects.

Roman Catholic or Protestant religious education was compulsory in all primary schools, but the authorities routinely granted individual exemptions for children whose parents requested them.

The COE's commissioner for human rights in May 2005 criticized government policy for favoring the Catholic Church over other religious communities in the distribution of state subsidies, and urged the Government to review its policies to ensure an equitable distribution of these funds. In 2004 the UNHRC also expressed concern about the unequal treatment of different religious denominations in the allocation of public funds. In November the Government hosted another session of the working group seeking consensus on the redefinition of the relationship between the state and the Roman Catholic Church. The issue of state subsidies to religious communities formed part of these government-sponsored discussions.

*Societal Abuses and Discrimination.*—In a 2004 report the UNHRC found evidence of religious intolerance and discrimination against Muslims (see section 5).

According to 2002 data, there were 18 members in the Jewish community. (After 2002 the Government discontinued collecting statistics on religious affiliation.) There were no reports of anti-Semitic attacks, but some acts of vandalism by right-wing extremists had anti-Semitic overtones (see section 5).

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law does not prohibit forced exile, but the Government did not employ it.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol, and provided it to two persons during the year. The Government also provided 37 residency permits on humanitarian grounds.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

A trilateral agreement with Switzerland and Austria requires the Government to return persons to the respective authorities if they have entered from those countries without permission.

#### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

The monarchy is hereditary in the male line. Prince Hans Adam II is the head of state. Since 2004 Hereditary Prince Alois has taken on the duties of head of state, exercising the rights of office on behalf of the reigning prince. All legislation enacted by the parliament must have the concurrence of the monarch and the Prime Minister.

*Elections and Political Participation.*—Parliamentary elections, considered free and fair, were held in March 2005; the center-right Progressive Citizens' Party won 12 seats, the center-left Fatherland Union won 10 seats, and the green-alternative Free List won three seats in the 25-member parliament.

Individuals and parties could freely declare their candidacy and stand for election.

There were six women in the 25-seat parliament and one woman in the five-seat cabinet.

There were no known members of minorities in the Government.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year.

The law requires the Government to inform the public of its activities, and government information was freely available to all persons living in the country, including domestic and foreign media.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A few domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, gender, language, or social status. The law also prohibits public incitement to violence or public agitation or insult directed against a race, people, or ethnic group.

*Women.*—The law prohibits all forms of domestic violence and provides for restraining orders against violent family members. However, there were reports of violence against women, including spousal abuse. According to police, there were 28 police interventions in cases of domestic violence during the year; five aggressors were prevented from re-entering the family home for 10 days and 10 for a further period of three months. The Government may file charges without a complaint from the victim. In 2005 nine women and 10 children spent a total of 1,088 nights at Frauenhaus, a woman's shelter. That nongovernmental organization (NGO) reported conducting 97 counseling contacts related to domestic violence. Frauenhaus provided both counseling and refuge for battered women (including nonresidents) and dependent children.

In 2004 the Government concluded a joint project with Swiss and Austrian neighboring regions to combat domestic violence with awareness-raising activities, and



issued a best-practice guideline in several languages for affected friends and relatives.

Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted those accused of such crimes. Spousal rape has the same penalties as rape under other circumstances. The sentence may be reduced if the victim decides to remain with the abusive spouse. There were two investigations for rape resulting in one prosecution during the year. Police statistics do not separately record spousal rape.

Prostitution is illegal; however, police tolerated it in the country's few nightclubs, as long as it did not cause public offense. Leading a person into prostitution is punishable by up to six months in prison, heavy fines, or both, and up to three years in prison if the victim was under 18.

NGOs believed that trafficking in women occurred; however, no specific cases were documented during the year (see section 5, Trafficking).

Sexual harassment is illegal and punishable by up to six months in prison or a fine, and the Government effectively enforced these prohibitions. Employers are required to take reasonable measures to prevent sexual harassment; failing to do so may entail damages to a victim of up to \$32,000 (40,000 Swiss francs). There were 14 investigations for sexual harassment during the year, resulting in four prosecutions and three convictions.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The Equal Opportunity Office and the Commission on Equality between Women and Men worked to eliminate all forms of gender discrimination. However, societal discrimination continued to limit opportunities for women in fields traditionally dominated by men. Men earned more than women, and women generally did not receive equal pay for equal work. Implementing a European Union directive, parliament in May unanimously adopted amendments to the labor contract law and the equal opportunity law to combat gender discrimination in the workplace.

*Children.*—The Government was committed to children's rights and welfare and amply funded a system of public education and health care. Education is universal and compulsory until the ninth grade; it is free through the end of high school. Virtually all school-age children attend school. Approximately 50 percent complete professional, vocational, or technical training, with another 30 percent going on to earn higher-level specialized or university degrees.

The Government provided free health care for all children under the age of 16.

There were some reports of abuse of children. During the year there were five prosecutions but no convictions for child abuse. In April 2005 the commission for the coordination of professionals in cases of sexual offenses against children published a brochure for professionals likely to be confronted with child abuse that included best-practice guidelines to facilitate the exchange of information among all parties. Each year the commission generally is contacted in 12 to 14 cases of suspected sexual abuse.

Possession of child pornographic material is a statutory offense. The Government has extended the statute of limitations for sexual offenses against children. In January 2005 an amendment to the Code of Criminal Procedure was implemented that takes special account of the protective needs of young victims of crimes or victims of sexual offenses.

The Government supported programs to protect the rights of children and made financial contributions to three NGOs that monitored children's rights. The Office for Social Services oversaw the implementation of government-supported programs for children and youth.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country; however, some NGOs believed that trafficking in women occurred but was not reported.

In May 2005 the COE's commissioner for human rights expressed concern that the temporary immigration status, together with the precarious economic situation, of the majority of foreign cabaret dancers increased their risk of falling prey to trafficking networks. The commissioner called on the authorities to be vigilant in monitoring respect of contractual obligations by nightclub owners. The Government established an expert working group on public assistance to victims of crime, including victims of trafficking.

*Persons With Disabilities.*—Although the law does not prohibit discrimination against persons with disabilities, there were no reports of discrimination against such persons in employment, education, access to health care, or in the provision of other state services. In October the parliament adopted a new Equal Opportunity

Law for Persons with Disabilities which requires that all public buildings be accessible to persons with disabilities within five years.

*National/Racial/Ethnic Minorities.*—In 2004 the UNHRC expressed concern about the persistence of xenophobia and intolerance, especially against Muslims and persons of Turkish origin.

Right-wing extremists, including skinheads, were publicly active during the year, but police estimated their numbers to be no more than 30 to 40. There were some reports during the year of skinhead incidents, but none involving racially motivated assaults on foreigners or ethnic minorities. In April unknown vandals all over the country blackened a large number of billboard advertisements of a government anti-racism campaign, rendering them illegible and covering some of them with right-wing extremist propaganda.

The Government continued to monitor right-wing groups. A government advisory commission attempted to raise public awareness in order to address the problem of acts of violence in public areas such as schools and playgrounds. A commission was working on guidelines to reduce violence at public events.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including foreigners, are free to associate, join unions of their choice, and select their own union representatives, and workers exercised these rights in practice. Due to the country's small size and population, there was only one trade union, which represented approximately 13 percent of the work force. The law does not prohibit antiunion discrimination, but there were no reports that antiunion discrimination occurred.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right of workers to organize and bargain collectively. About 25 percent of workers were covered by collective bargaining agreements. Workers have the right to strike except in certain essential services. No strikes occurred during the year; there were no reports of denials of the right to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children younger than 16 years of age; exceptions may be made for the limited employment of children age 14 and over and for those who leave school after completing nine years of compulsory education. Children age 14 and older may be employed in light duties for not more than nine hours per week during the school year and 15 hours per week at other times.

In May 2005 a new ordinance was implemented prohibiting labor that subjects children to physical, psychological, moral, or sexual abuse. There are no reports that any cases have been brought under the ordinance.

The Government devoted adequate resources and oversight to child labor policies, and the Department for Worker Safety of the Office of the National Economy effectively supervised compliance with the law. The department completed 253 onsite inspections during the year and found no major violations of the law.

*e. Acceptable Conditions of Work.*—There was no national minimum wage; however, the average daily wage provided a decent standard of living for a worker and family.

The law sets the maximum workweek at 45 hours for white-collar workers and employees of industrial firms and sales personnel, and 48 hours for all other workers. The law provides for a daily mandatory one-hour break and an 11-hour rest period for full-time workers; with few exceptions, Sunday work was not allowed. Pay for overtime was required to be at least 25 percent higher than the standard rate and overtime generally was restricted to two hours per day. Over a period of four months the average total work week including overtime may not exceed 48 hours.

The law sets occupational health and safety standards, and the Department for Worker Safety generally enforced these provisions effectively. The law provides for the right of workers to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, and workers exercised this right in practice.

## LITHUANIA

The Republic of Lithuania is a constitutional, multiparty, parliamentary democracy with a population of approximately 3.4 million people; legislative authority is vested in the unicameral Seimas (parliament). In 2004 citizens elected President Valdas Adamkus in free and fair elections. In July Prime Minister Gediminas Kirkilas formed a new government from a minority coalition of center-left parliamentary parties. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens. Nonetheless, the following human rights problems were reported: poor prison conditions; police mistreatment of detainees and misuse of detention laws; government corruption; incidents of anti-Semitism; widespread domestic violence and child abuse; and trafficking in women and girls for the purpose of sexual exploitation.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

Both the International Commission to Investigate the Crimes of Nazi and Soviet Occupation Regimes and the prosecutor general's office continued investigations of genocide, war crimes, and crimes against humanity related to Nazi crimes committed against Jews during World War II. From January to October, the prosecutor general's office initiated nine pretrial investigations and continued investigations in 20 cases related to Nazi-era crimes. The prosecutor general dismissed two pretrial investigations for lack of evidence. In September 2005 the Government brought criminal charges against Algimantas Mykolas Dailide, alleging collaboration with Nazis and persecution of Jews. In March the Vilnius District Court convicted him of crimes against Jews in Nazi-occupied Lithuania during World War II, but did not impose a sentence due to the 85-year-old convict's age and infirmity. The prosecutor appealed the verdict. During the year prosecutors initiated ten pretrial investigations for crimes against humanity or war crimes against Lithuanian people during the Nazi occupation and 17 pretrial investigations related to discrimination or incitement to racial or ethnic hatred during the Soviet occupation.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits inhuman or degrading treatment or punishment. There were fewer reports that police physically mistreated detainees than in 2005.

During the year the ombudsman's office received complaints that officials used force and psychological pressure to obtain evidence in pretrial investigations. The ombudsman's office was unable to find evidence to support any of these allegations and dismissed them.

Reported incidents of noncommissioned military officers hazing recruits decreased during the year. The military police opened seven hazing-related criminal cases, compared with 11 cases in 2005. The military police terminated one pretrial investigation due to lack of evidence. Most reports of hazing alleged that draftees beat each other or subjected each other to psychological pressure. Investigators are preparing to pass six of the seven cases to the prosecutor's office.

*Prison and Detention Center Conditions.*—Human rights advocates claimed that prison conditions remained poor and life threatening, although the Government continued to upgrade prisons to meet international standards. Nevertheless, inadequate sanitation, overcrowding, and limited access to medical services persisted. Renovation of several prisons reduced overcrowding, but inmate populations remain above capacity.

The Seimas ombudsman's office received complaints that prison authorities arbitrarily restricted rights of prisoners who had good conduct records, interfered with inmates' correspondence, separated prisoners with HIV, and did not ensure access to medical services in jails. Arrested and detained persons generally suffered worse conditions than did convicts imprisoned for longer periods. In 2006 the ombudsman received 270 complaints from prisoners compared to 283 in 2005. Most complaints were related to prison conditions and actions of prisons department personnel. Investigators determined that 30 complaints were valid and the others were outside the ombudsman's purview.

In November the European Court of Human Rights (ECHR) ruled that the monitoring of a Siauliai inmate's correspondence with his wife was inappropriate and

that the country should amend its regulations on inmate correspondence monitoring.

During the year 18 prison inmates died (five by suicide, 12 of natural causes, and one killed by another inmate), compared with 23 inmate deaths in 2005. There were 41 injuries inflicted by other inmates during the year, compared with 59 in 2005, and 30 self-inflicted injuries, compared to 62 in 2005.

Two correctional institutions remained seriously overcrowded during the year. For example, the facility in Siauliai had a capacity of 425 inmates after recent remodeling but held 527. Additionally, the ombudsman concluded that conditions in the jails in the towns of Ukmerge, Anyksciai, and Zarasai made them unfit for use. The ombudsman received no complaints that working inmates were paid for fewer hours than they worked.

Pretrial detainees were generally held separately from convicted criminals, but there were reports that police held individuals in jail for minor offenses together with criminal suspects.

The Government continued renovation and reconstruction of 11 correctional facilities and increased funding for prisoner rehabilitation and job training by 10 percent over spending in 2005.

The Government permitted visits to prisons by independent human rights observers and researchers.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Nevertheless, there were complaints of illegally prolonged pretrial detentions.

*Role of the Police and Security Apparatus.*—A unified national police force is responsible for law enforcement and operates under the authority of the Ministry of Interior. The State Security Department is responsible for internal security, intelligence operations, and reports to the Seimas and the President.

Corruption in the police system remained a problem. Transparency International reported that the police force was among the country's most corrupt institutions, but that lower ranking officials were more corrupt than their superiors. Although police officers and other government officials occasionally exceeded their official authority, they were subject to prosecution or punishment for doing so. The inspector general's office and the police department's internal investigation division investigated alleged cases of police abuse. Prosecutors and the Seimas ombudsman's office carried out independent investigations.

During the year 17 police officers were found guilty of abuse of power. In 2004 the Seimas expanded the authorities of the ombudsman's office and authorized it to investigate complaints of actions of the prosecutors and pretrial investigation officers that violate human rights. The ombudsman has observed an increase in such complaints since that time. During the year the ombudsman investigated 510 complaints regarding police activities and determined 152 to be valid. In all cases authorities disciplined the police officers involved. In most cases police officers faced administrative disciplinary actions such as demotions or reprimands.

*Arrest and Detention.*—Warrants are required for arrest and must be granted by judges upon the presentation of reliable evidence of criminal activity. Police are allowed to detain suspects for up to 48 hours. There were no complaints of failure to inform detainees of the charges against them. Bail was available and was used widely. The law provides for the right to an attorney from the moment of detention and, if indigent, to one provided by the state; however, this right was not always respected in practice. The law provides a person in detention the right to a prompt judicial determination of the legality of the detention, and authorities effectively respected this right in practice.

Judges may order pretrial detention only to prevent flight or the commission of new crimes, to allow unhindered investigation, or to comply with extradition requests; they may do so only in the case of felonies. The pretrial judge may order a suspect's detention for up to three months. In exceptional cases the detention may be extended to 18 months (12 months for juveniles), subject to appeal to a higher court. The law provides for civil liability for damage caused by the unlawful actions of pretrial investigation officials, prosecutors, judges, and courts. During the year the average length of pretrial detention was approximately six months, and 12 percent of the incarcerated population were pretrial detainees.

The Seimas ombudsman's office reported that the number of prolonged pretrial detention complaints has gradually decreased.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government respected this provision in practice.

The law provides for a four-tier court system: the Supreme Court, the Court of Appeals, district courts, and local courts. The law also provides for a constitutional

court and specialized courts for consideration of cases involving administrative, labor, and family problems.

District courts hear juvenile criminal cases and cases related to children's rights (including domestic adoption and paternity matters). The local courts are tribunals of first instance for criminal, civil, and administrative offences, and all cases that are not assigned by law to other courts. The constitutional court reviews the constitutionality of laws and other legal acts, as well as actions by the President and the cabinet.

*Trial Procedures.*—The law establishes the right to legal counsel for defendants and provides for legal assistance for indigent persons. The Seimas ombudsman reported only a few cases of authorities failing to provide counsel during the year. Defendants have access to government evidence and may present evidence and witnesses and confront or question witnesses against them. Defendants enjoy the presumption of innocence. The law permits trials in absentia when a defendant is outside the country and avoids trial. Local human rights experts criticized these provisions, because in such trials defendants do not cross-examine witnesses or present their own defense. Defendants have the right to appeal. The law provides for public trials. There is no trial by jury.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The judicial system provides for an independent and impartial judiciary in civil matters. Plaintiffs may sue for legal or injunctive relief based on human rights violations. Apart from redress in the court system, victims of human rights abuses may appeal to the parliamentary ombudsman for a determination on the merits of their claim. Although the ombudsman makes only a recommendation to the offending institution, his findings are commonly honored in practice.

*Property Restitution.*—The 1995 law on restitution places significant restrictions on claims for communal property and, as a result, the Jewish community has regained only a fraction of the communal property owned by the country's prewar Jewish population of more than 200,000. Only 28 properties have been restituted under the 1995 law, which is limited to religious properties.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits the arbitrary interference in an individual's personal correspondence or private and family life. There were reports of incidences where the Government did not respect these prohibitions in practice.

The law requires a judge's authorization to search an individual's premises and prohibits indiscriminate monitoring of the correspondence or communications of citizens. However, local human rights groups allege that the Government did not properly enforce these laws.

From January to September, the State Data Protection Inspectorate (SDPI) conducted 92 investigations of alleged arbitrary interference with privacy. This was a marked decrease from the 294 cases in 2005. Most of the violations involved violations of data processing rules and failure to inform individuals that their personal data was processed. The SDPI received one complaint of telephone tapping in 2005, but the SDPI determined in 2006 that there was no violation of law in that case.

In May 2005 the Vilnius police published on its Web site the name, age, place, time of the violation, alcohol level, and penalties imposed on persons convicted of driving while intoxicated. The subjects of the publication contended that such publication constituted a violation of their privacy rights. However, the SDPI investigated and found no privacy violation. Similarly, in September 2005 a television program broadcast photographs of drivers whom police traffic cameras recorded violating traffic rules, which generated complaints from the local NGO community regarding privacy rights. The SDPI concluded that the Vilnius city administration and the Vilnius police did not violate the law, but that the company responsible for the traffic cameras had committed an administrative violation. It turned the case over to the Vilnius city court. The court did not impose any penalty.

In March the Seimas ombudsman's office found that the Lustration Commission charged with investigating Soviet-era practices violated the privacy rights of a government official by publicizing details and comments about his relationship with the Soviet Committee on State Security (KGB) without awaiting the decision of the Administrative Court. The Administrative Court ultimately overturned the Lustration Commission's finding that he had collaborated with the KGB.

There were no reports that doctors divulged confidential data about patients to employers and others.

In 2005 the ECHR issued a judgment that the Government discriminated against and violated the privacy of two former Soviet KGB employees. The two complained

that the Government prohibited them from seeking employment in various private-sector fields until 2009, that they were deprived of their jobs in the private sector, and that they were subjected to daily embarrassment on account of their past. Following the 2004 ECHR judgment in favor of plaintiffs in a similar case, the Government introduced amendments to the law to lift its bars on employment. For the second consecutive year, the Seimas did not pass the amendments, although the Government has reintroduced them several times. One similar case remains pending at the ECHR. During the year the ECHR issued three judgments that the Government violated the procedural right of the plaintiffs guaranteeing a speedy trial but did not address the merits of the privacy case.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals could criticize the Government publicly or privately without reprisal and the Government did not attempt to impede criticism.

The independent media were active and expressed a wide variety of views. Radio and television included a mix of independent and public stations. International media generally operated without restriction. In March the Radio and Television Commission prohibited the rebroadcast on local channels of Belarusian state television on the grounds that it disseminated disinformation. The Vilnius Administrative District Court overturned the decision in September, holding that the Commission violated its decision-making procedures and exceeded its authority by considering abstract opinions about the political situation in Belarus.

The law prohibits the dissemination of information that is untrue and that is damaging to an individual's honor and dignity. Libel is punishable by a fine or imprisonment of up to one year or up to two years for dissemination of libelous material through mass media.

Editor-in-chief of the daily *Respublika*, Raimundas Celencevicius, was sued in September 2005 by Audrius Cininas for libel for a series of articles that the latter claimed portrayed him as biased in favor of the country's Jewish minority. The case was still pending at year's end. Cininas, a judge, had presided over a trial in 2005 against the owner of *Respublika*, Vitas Tomkus, who was convicted at that time for inciting ethnic and racial hatred for a series of editorials with anti-Semitic overtones. The conviction was later overturned by the Supreme Administrative Court, which in August refused to reconsider its reversal.

In September the State Security Department briefly detained a publisher and seized one day's issue of *Laisvas Laikraštis* newspaper on the grounds that the paper was publishing information classified as a state secret. President Adamkus issued a statement criticizing the Security Department's action and called the detention of the publisher and seizure of the issue an attack against free press. Neither the publisher nor the newspaper sought legal redress.

In November a Siauliai City Court found Mindaugas Murza, a Siauliai city council member, guilty of incitement of ethnic and racial hatred because he had started a nationalist political party with an anti-Semitic agenda and presented speeches and written materials inciting disrespect for Jews. Politicians and high-ranking government officials had publicly criticized the founder's statements, and the State Security Department had recommended that the Siauliai prosecutor's office bring charges against Murza. He was fined \$1,760 (5,000 litas). Several of his supporters received lesser fines. Prosecutors also charged him for organizing a demonstration at a menorah lighting ceremony in 2003, but the court dismissed the case because the statute of limitations had expired.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. According to the Department of Statistics, 42 percent of the country's residents between the ages of 16 and 74 used the Internet in the first quarter of the year.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law and constitution provide for the right to peacefully assemble; the Government respected this in practice. There were no reported abuses by police in dealing with demonstrators.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice; however, the Government

continued to ban the Communist Party and other organizations associated with the former Soviet regime (see section 3).

*c. Freedom of Religion.*—The constitution and the law provide for the free practice of religion, and the Government generally respected this right in practice. There is no state religion; however, some religious groups enjoyed special government benefits.

The law divides religious communities into state-recognized traditional religious communities, other state-recognized religious groups, and registered communities and associations. The nine traditional religious communities received special exemptions and rights not available to other religious groups. Both traditional and non-traditional religious communities that are state-recognized may receive state subsidies; however, in practice only the traditional groups regularly received the subsidies. Registered but unrecognized religious communities did not receive the benefits and exemptions enjoyed by traditional and state-recognized communities, but they may act as legal entities. Unregistered religious communities have no juridical status or state privileges, but there were no reports that any such groups were prevented from worshiping or seeking members.

Four applications for status as a “state-recognized religious association” have been pending since 1999, from the Seventh-day Adventist Church, the United Methodist Church of Lithuania, the New Apostolic Church, and the Union of Evangelical Christians (Pentecostals) of the Republic of Lithuania.

The Government did not restrict activities of foreign missionary groups within the country.

The law stipulates that state educational institutions may offer religious instruction only of traditional and other state-recognized religions; however, participation in religious classes is not mandatory, and parents can choose either religious instruction or secular ethics classes for their children.

In July the Office of the Equal Opportunities Ombudsperson found that the English language graduation exams discriminated against non-Catholic or nonreligious students by requiring examinees to write essays about what All Saints’ Day and Christmas Eve meant to them personally.

*Societal Abuses and Discrimination.*—There are approximately 4,000 Jews in the country, and various Jewish communities are active. Anti-Semitism was manifest in acts of vandalism against Jewish graves and monuments, displays of neo-Nazi sentiment, and public anti-Semitic comments. The political leadership and most media outlets generally criticized anti-Semitic acts of vandalism. A poll reported by the Baltic News Service in February indicated that 31 percent of individuals asked do not want Jewish neighbors. The same poll indicated that 51 percent of respondents do not want Muslim neighbors. The poll did not allow respondents the option to refrain from specifying any group they would not want as neighbors.

In May several young people wearing Nazi-style uniforms and riding Nazi-era motorcycles drove past the Jewish community center in Vilnius, and community members heard the riders yell slogans glorifying Hitler and belittling Jews. The Vilnius city mayor immediately asked the police to investigate the incident. The Vilnius prosecutor’s office initiated a pretrial investigation but by year’s end had not charged anyone with a crime.

In June vandals tore down 22 monuments at a Jewish cemetery in Vilnius. The President, prime minister, and Vilnius mayor criticized the desecration and urged local law enforcement to find and punish the perpetrators. In a separate incident in September, 18 tombstones in a Vilnius Jewish cemetery were vandalized. In both cases, the Vilnius municipality restored the monuments with city funds. The police had not identified any suspects in either case by year’s end.

In August the Supreme Administrative Court refused to reconsider its reversal of the lower court conviction of the owner of the daily *Respublika*, Vitas Tomkus, for inciting ethnic and racial hatred in connection with a series of editorials with obvious anti-Semitic overtones that were carried by the newspaper in 2004. In July 2005 the lower court found Tomkus guilty and fined him \$1,035 (3,000 litas). The Supreme Administrative Court reversed the lower court’s ruling in September 2005, ostensibly because of prosecutorial error, and cancelled the fine. The judge in the case later sued an editor of *Respublika*, Raimundas Celencevicius, for libel for a series of articles that the judge claimed portrayed him as biased in favor of Lithuania’s Jewish minority. The case was still pending at year’s end.

In September a customer dressed up as Hitler greeted other customers at the door of the Fortas bar in Kaunas. Jewish leaders asked the Government to state clearly that Nazi symbols and figures should have no place in the country. Several politicians, including members of parliament and a deputy mayor of Kaunas, made public statements condemning the incident and the bar for its role in it. The same bar

drew condemnation from politicians and television commentators in April when it marked Hitler's birthday by decorating the bar with Nazi paraphernalia and its staff dressed as Hitler and SS officials. The bar's director called the event a "masquerade, a carnival, and a funny show." Shortly after the September incident, the owner of the bar sent a letter of apology to the local Jewish community, stating that the management and the staff do not tolerate anti-Semitism.

In November a Siauliai City Court found Mindaugas Murza, a Siauliai city council member, guilty of incitement of ethnic and racial hatred because he had started a nationalist political party with an anti-Semitic agenda and presented speeches and written materials inciting disrespect for Jews. Politicians and high-ranking government officials had publicly criticized the founder's statements, and the State Security Department had recommended that the Siauliai prosecutor's office bring charges against the member. He was fined \$1,760 (5,000 litas). Several of his supporters received lesser fines. Prosecutors also charged him for organizing a demonstration at a menorah lighting ceremony in 2003, but the court dismissed the case because the statute of limitations had expired.

In August 2005 a small political party with no seats in the Seimas, the Lithuanian Liberty Union, issued a public statement that Jews were assuming power in the country. The union urged people not to trust Jewish-owned banks or insurance companies. The State Security Department determined that there was insufficient evidence to support charges of ethnic hatred against Jews.

The Government continued its investigations in to Nazi-era war crimes (see section 1.a.).

An estimated 10 percent of the pre-World War II population was Jewish. More than 200,000 Jews (approximately 95 percent of the immediately prewar Jewish population) died as victims of the Holocaust. The country continued to work to better understand its past and to make just recompense for its Holocaust legacy. In 1998 President Valdas Adamkus established a historical commission to investigate crimes of both the Holocaust and the subsequent Soviet occupation. The commission has held annual conferences and several seminars, published several reports, and co-sponsored a Holocaust education program. During the year the commission continued to organize conferences and publish reports on the subject. In July the President presented state awards to members of the International Commission for Evaluation of the Crimes of the Soviet and Nazi Occupation Regimes in the country.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law generally allows emigrants to retain citizenship as long as they hold no other citizenship. In April the Seimas amended the law to allow persons to recover Lithuanian citizenship if they lost it under previous laws. In November the Constitutional Court ruled unconstitutional provisions in the same law that allowed for dual citizenship.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. Asylum seekers coming from a safe country of transit are prohibited from entering the country and are returned to the transit country.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The Presidential and parliamentary elections in 2004 were generally free and fair. However, there were complaints that campaign financing lacked transparency and reports of vote buying during the parliamentary elections. Some vote-buying charges centered on one party's populist campaign tactics of holding political rallies-cum-concerts and distributing candy or



campaign paraphernalia. The court found guilty and fined three persons for vote-buying in the parliamentary elections.

In January 2005 an amendment increased the number of enrolled party members necessary to register a political party from 400 to 1,000. The Government continued to ban the Communist Party.

There were 35 women in the 141-seat Seimas and three women in the 14-member Council of Ministers. In July 2005 the interior ministry reported that more than 60 percent of civil servants were women and that women occupied 30 percent of the high-level positions within the Government.

At year's end, there were six members of ethnic minorities in the 141-seat Seimas and no members of ethnic minorities in the Council of Ministers.

*Government Corruption and Transparency.*—Numerous reports of government corruption received widespread public attention during the year. The new government took steps to highlight corruption as a problem and strengthen oversight.

Polls revealed the public perception that corruption was most prevalent among midlevel civil servants, traffic police, university officials, and those working in the health sector. Public corruption scandals arose among leading politicians as well.

In March two top Presidential advisors resigned when it was revealed that they purchased homes in a prestigious district of Vilnius that had formerly been owned by the Government and recently sold to developers. The Chief Official Ethics Commission concluded that the officials did not violate ethics rules by purchasing the houses.

In June Prime Minister Brazauskas resigned after the Labor Party withdrew from the ruling coalition amid allegations of the misuse of state and party funds by leading Labor Party politicians. The health minister in the Government admitted to using party funds to repair his car. State investigators also found that the culture minister broke ethics rules by paying family travel expenses from state funds. The Labor Party leader left the country and sought political asylum in Russia following allegations of fraudulent accounting of Labor Party funds and providing false information to election commission officials. A request for his extradition was pending at year's end.

In October 2005 a court sentenced a former parliamentarian to 18 months in a correctional institution for soliciting a bribe (in the form of a contribution to his campaign) while he was a member of parliament. The ex-parliamentarian appealed this ruling in November 2005. In February the appellate court postponed the sentence for one year.

In December 2005 the Seimas approved the conclusions of an ad hoc parliamentary commission that the mayor of Vilnius had received payments in exchange for ensuring that municipal decisions favored certain business interests. A local human rights organization claimed that the Seimas decision interfered in the judicial process. There was no further legal action on these allegations during the year.

The law provides for public access to government information, and government institutions generally provided access in practice. During the year, however, the ombudsman received some complaints regarding delays in providing information, the quality of the information provided, and failure of municipal institutions to provide material requested. The ombudsman requested heads of institutions and other unit supervisors to consider disciplinary actions against the officials involved. Although the ombudsman's recommendations are not binding, state institutions have implemented recommended disciplinary actions in 86 percent of the cases.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, social status, or ethnic background as well as discrimination based on age, sexual orientation, disability, religion, or belief. The law provides penalties for discrimination on the basis of age, disability, race, ethnic origin, religion or belief, and sexual discrimination. Despite these programs and prohibitions, discrimination against women and minorities persisted.

*Women.*—Societal violence against women, particularly alcohol-related domestic violence, remained a serious problem. The law does not specifically criminalize domestic violence, but authorities prosecuted domestic violence under general assault laws. There was no authoritative information on the extent of the problem.

When such violence occurs in the home, the victim must file a complaint to initiate an investigation. Certain NGOs maintained that few victims of domestic violence reported abuses to police because they preferred to avoid publicity and were not confident that the courts would punish their assailants. Only a few of the reported complaints reached the criminal court. The maximum penalty the courts imposed was two years' imprisonment. Observers criticized the Government's ability to enforce the law prohibiting domestic violence. Since domestic violence is prosecuted under general assault laws, the data was not segregated, and no reliable information existed on either the number of complaints of domestic violence or the number of convictions resulting from these complaints.

Thirty-nine women's shelters, operating with the funding and under the direction of NGOs or municipal governments, provided assistance to domestic violence victims. Shelters reported that the increase in women applying for assistance was attributable to the growing availability of services rather than an increase in violence against women. During the year the Vilnius-based Shelter for Children and Mothers provided assistance to 287 victims of domestic violence, forced prostitution, and human trafficking.

The law specifically criminalizes rape, including spousal rape. Persons convicted of rape generally received sentences of three to five years' imprisonment. During the year there were 253 rapes reported. Police were sometimes reluctant to act in cases of domestic abuse.

Prostitution is illegal but remained a problem. The penalty for prostitution is a fine of \$107 to \$178 (300 to 500 litas) for a single offense and up to \$345 (1,000 litas) for repeat offenses. According to the police, 2,100 women engaged in prostitution in 2006, compared to an estimated 3,000 to 5,000 in 2004.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment. A 2004 survey reported that 14 percent of university students surveyed, most of them female, experienced sexual harassment from professors and university staff. The equal opportunities ombudsman reported that the lack of authority to compel witnesses to testify, or to caution witnesses against presenting false evidence, hampered investigations of sexual harassment.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. Women nevertheless continued to face discrimination. A May 2005 report of the Open Society Institute and the Equality Center stated that gender equality institutions existed exclusively in the large cities and that they provided inadequate outreach at the regional or local level.

National policy requires equal pay for equal work; however, employers often paid women less than their male counterparts. During the year a woman's average wage was 84 percent that of a man; in the public sector, women's wages were 82 percent those of men. Women were underrepresented significantly in some professions and in business and the managerial sector as a whole.

The public opinion and market research company TNS Gallup released results of a labor market survey which showed that women felt discrimination in the labor market and that men also noticed unequal conditions for women. Only 37 percent of the country's residents thought that men and women had equal opportunities.

*Children.*—The Government was committed to children's rights and welfare.

Public education was compulsory, free, and nearly universal for children through the age of 15. According to the children's rights ombudsman's data for 2005, approximately one percent of children under 15 did not attend school.

Boys and girls had equal access to government-provided medical care.

Child abuse, particularly in connection with parental alcohol abuse, continued to be a problem. According to the Department of Statistics, approximately 36,500 children lived in 16,400 abusive or dysfunctional families. Several media sources reported that incidents of cruelty to children, including sexual abuse, intentional starvation, beatings, and killings, were common. Authorities reported that child abuse caused the death of 14 children during the year.

The children's rights ombudsman reported 316 complaints during the year, compared to 430 in 2005. During the year, the ombudsman initiated 107 investigations, compared to 74 in 2005. The ombudsman attributed the increase to greater awareness of children's rights and reporting, rather than an increase in violence against children. The Seimas' board allocated additional staff and funding for the ombudsman during the year.

The penalty for violence or cruelty against minors is a one to two year prison sentence. In addition, authorities may remove abused children from their families and place them in foster care. Despite government efforts to combat child abuse and aid abused children, the ombudsman reported that the Government provided insufficient assistance for abused children.

There was one report of child abuse at a state correctional institution. In September 2005 a study by the Lithuanian Law Institute reported that children in orphanages continued to suffer physical abuse. The Government relocated children from Soviet-style orphanages to residential foster families, thus permitting children to attend regular schools rather than orphanage schools. Foster families, however, did not always ensure adequate care for children. During the year, the children's rights ombudsman received 30 complaints about violations of children's rights in orphanages and no complaints about such violations in foster homes.

The law provides for up to 13 years' imprisonment for sexual abuse of a child; however, sexual abuse of children remained a problem. During the year the interior ministry registered 69 cases of child sexual abuse (excluding child rape). In 2004 a Vilnius hospital and private firm conducted a survey of 18- to 20-year-olds indicating that 31 percent of those surveyed experienced sexual abuse during their childhood and adolescence; the children's rights ombudsman stated that the survey exaggerated the number of victims.

The Government operated a children's rehabilitation center to provide special care for sexually abused children.

As in 2005 the Child Line (a children's hotline) received more than 40,000 calls from children, who complained about problematic relations with their parents and friends, violence in their families, and sexual abuse.

Trafficking of girls was a problem (see section 5, Trafficking).

During the year the Equal Opportunities Ombudsman initiated two pre-trial investigations regarding sexual exploitation of a child.

Several thousand children reportedly lived on the street. Sixty regional government children's rights protection agencies, other institutions, and numerous NGOs routinely assisted these children. Street children had full access to government sponsored free services. There were no reports of police abuse of street children.

*Trafficking in Persons.*—The law prohibits all forms of trafficking in persons. The country remained a source, transit, and destination point for trafficking in women and girls. Women were primarily trafficked to Western Europe. Most women trafficked into or transiting the country were from Eastern Europe.

Europol estimated that over 1,200 women and girls were victims of human trafficking every year. The Government estimated that approximately 1,000 to 1,500 women, many of them trafficking victims, left the country each year to engage in prostitution. In addition, women from Belarus, Russia, and Ukraine comprised approximately 12 percent of the country's prostitutes.

Traffickers targeted the most vulnerable social groups: young females from poor or unstable families. Traffickers also commonly targeted young women from ethnic minorities. Many were lured by deceptive offers of employment as household helpers, bar dancers, nannies, nurses, models, or waitresses, or through false marriage advertisements. In many cases close relatives or friends made the offers. Victims' compliance was ensured via threats and the withholding of their documents. Families often were unaware of their predicament and believed that they had been kidnapped. Boarding schools that also serve as orphanages were targets of traffickers.

Police reported that nearly half of traffickers were linked to organized crime, including international groups.

The International Organization for Migration (IOM) stated that trafficking activity increased after the country joined the European Union in 2004. The IOM and NGOs also noted, however, that trafficking may have decreased or stabilized at least during the year, compared to 2005. During the year the Government opened ten criminal cases of trafficking in persons and referred seven of these to the criminal court system. Four prosecutions ended in convictions, with sentences ranging from three years to four years of imprisonment. The Government cooperated with other European governments on several cases of trafficking in persons. During the year police determined that 27 women, including three minors, were victims of trafficking; investigations in other cases continued at year's end.

The ministries of interior, justice, social security and labor, education and science, the police department, the State Border Guard Service, the general prosecutor's office, and the National Courts Administration are responsible for enforcement of trafficking laws.

Early in 2005 a joint government task force uncovered an organized crime gang that had transported nearly 100 young females from the country to the United Kingdom. In December law enforcement officers completed their investigation of 12 suspects and transferred the case to prosecutors.

In 2005 the police detained five employees of model agencies amid allegations that the agencies were fronts for human trafficking to Western Europe and the United Arab Emirates. The investigation was continuing at year's end.

The Government partially funded 15 day centers that assisted various groups at risk, including victims of trafficking. The Government also provided grants to 12 NGOs that offered trafficking victims assistance or temporary shelter. No formal screening and referral procedures existed, but police worked closely with these assistance providers.

Prevention programs focused on disseminating information, promoting awareness of trafficking, especially among at-risk populations, and engaging policymakers and community actors in finding solutions to the problem. The Government improved training for law enforcement officials. During the year the police organized two specialized antitrafficking training courses (trafficking awareness and investigation of cases) for 60 law enforcement officials, prosecutors, and judges.

In coordination with the Government and its national antitrafficking plan, the IOM carried out comprehensive research of the problems of legal prosecution of human trafficking in the country during the year. The IOM continued consultations on safe migration (on-line and by phone) and provided assistance to 16 victims of trafficking during the year. In 2005 the IOM and the Ministry of Social Affairs trained 34 social workers on trafficking prevention and providing assistance to victims. The IOM also published a handbook about preventing human trafficking for teachers to use in schools.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. The Equal Opportunities Ombudsman received complaints concerning discrimination against persons with disabilities. The law mandates access to buildings for persons with disabilities; however, the Government generally did not enforce this provision in practice. Individuals involuntarily declared as incapacitated have no right to appeal the decision in court.

In 2005 the NGOs Human Rights Monitoring Institute, Global Initiatives in Psychiatry, the Fellowship for Care of Mentally Challenged People Viltis, and the Vilnius Center of Psycho-social Rehabilitation surveyed nine sanitariums and five mental institutions and found that the institutions and sanitariums were operating in gross violation of patients' rights to information, privacy, and freedom from torture. The survey reported discriminatory staff treatment that extended greater privileges to favored patients. The NGOs also reported violations of patients' rights to education and property. The study recommended making available 24-hour special community services in the workplaces and homes of persons with disabilities and guaranteeing care to people suffering from serious mental disabilities.

The Ministry of Social Affairs and Labor and the Lithuanian Council for the Affairs of the Disabled focused on developing equal opportunities in the labor market and improving government effectiveness in meeting the needs of and augmenting the social security net for persons with disabilities.

*National/Racial/Ethnic Minorities.*—Discrimination and intolerance against ethnic minorities persisted despite laws that prohibit discrimination of ethnic or national minorities. Minority ethnic groups, including Russians, Poles, Belarusians, Ukrainians, Tatars, and Karaites constitute approximately 16.5 percent of the population.

The small Romani community (approximately 3,000) experienced discrimination in education, employment, health care, housing, services, citizenship, and in contacts with the police. The Human Rights Monitoring Institute reported that Roma alleged mistreatment by the police. The Human Rights Monitoring Institute also reported that on two occasions restaurants in Vilnius refused to serve Romani patrons. There were also reports of ambulances refusing to respond to calls in a predominantly Romani community.

Minority advocates continued to criticize the Vilnius city government for focusing law enforcement attention on the Roma but doing little to integrate them into the broader community. After demolishing five allegedly illegal houses in a predominantly Romani area in 2004, the municipality did not immediately relocate the displaced occupants. A woman with three children lived in a tent until the municipality offered housing at the end of the year. Four families found shelter with relatives or friends. Some Romani families agreed to move to public housing in other parts of the city. The ombudsman, who had attempted to intervene in the demolition of the Romani houses, referred this matter to court, where it was pending at year's end. In August a Romani resident requested that the Vilnius city prosecutor's office acknowledge her as a victim of the demolition to give her standing to sue for damages.

Although public sector employees are formally required to have a functional knowledge of the Lithuanian language, there was no documented evidence of job dismissals based on the language law. Authorities indicated that, while the law's intent

is to encourage competence in Lithuanian as the official language of the state, the Government would not dismiss persons solely because of an inability to meet the language requirements.

*Other Societal Abuses and Discrimination.*—During the year the ombudsman received 130 complaints of discrimination and initiated 135 investigations (including five not based on complaints). Most complaints concerned either age discrimination in obtaining insurance, loans, and leases, or sexual discrimination in the workplace and labor market.

Local human rights organizations and members of the homosexual community reported that physical abuse on the street, discrimination, and persistent social exclusion of homosexuals were problems.

In October the ECHR opened a hearing into a case against the Government by a young transsexual woman who appealed to the ECHR to order the Ministry of Health to provide a sex change operation as recommended by her doctors. The ministry deferred acting on the doctors' recommendation on the grounds that the Seimas had not approved a law on sex change. The ECHR had not reached a decision in the case by year's end.

#### *Section 6. Workers Rights*

*a. The Right of Association.*—The law allows workers, including members of the police and armed forces, to form and join unions of their choice, and workers exercised this right in practice. However, unions represented only approximately 10 percent of the workforce.

Unions must have at least 30 founding members in large enterprises or a membership of one-fifth of all employees in small enterprises to legally register. There were no reports of direct discrimination against members of unions. The law provides that trade unions shall be freely established and function independently. Although the law prohibits employer discrimination against union organizers and members, this prohibition was often ineffective in practice, and there were cases of employees punished for attempting to organize. According to the International Trade Union Confederation, no employer has yet "faced the penal sanctions foreseen by law for antiunion discrimination." Some large retail stores hired short-term contract labor and sometimes did not renew contracts of union members.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law protects collective bargaining for all workers except government employees involved in law enforcement and security-related work. The Lithuanian Tripartite Council, comprising representatives from labor, business, and government, estimated that between 5 and 25 percent of workers were covered under collective bargaining agreements. The law provides for the right to strike, except for workers in essential services; however, labor code procedures made it difficult to exercise this right, and there were no official strikes during the year. The law provides that only a union or a union's strike committee may call a strike; thus employees without union representation are unable to strike legally.

Managers often determined wages without regard to union preferences, except in large factories with well-organized unions. The Government periodically issued guidelines for state enterprise management in setting wage scales.

There are no special laws or exemptions from regular labor laws in the four free economic zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits exploitation of children in the workplace, and the Government generally enforced these laws effectively. In 2004 statistics indicated that 10 percent of children working did so illegally, mostly in the agricultural sector where children sometimes received unlawfully low compensation.

The law sets the minimum employment age at 16, but allows employment of 14-year-olds to perform light labor with the written consent of the child's parents and school. The law provides for reduced working hours for children, allowing up to two hours per day or 12 hours per week during the school year and up to seven hours per day or 32 hours per week when school is not in session. Authorities generally enforced these laws.

In May 2005 the media reported that a number of school-age children performed farm fieldwork without contracts and received \$5.20 (15 litas) per day.

During the year, the Equal Opportunities Ombudsman initiated two pre-trial investigations regarding sexual exploitation of a child.

The State Labor Inspectorate (SLI) is responsible for receiving complaints related to employment of persons under 18. During the year, the SLI received six complaints of illegal child labor and courts initiated pretrial investigations of these cases. The court fined an employer \$1,100 (3,000 litas) in one case and dismissed another which is now under appeal. The other cases remain pending.

The ministries of social security and labor, education, health, and interior administered programs to protect children's rights.

*e. Acceptable Conditions of Work.*—In July the Government increased the legal minimum wage to approximately \$214 (600 litas) per month. The national minimum wage did not provide a decent standard of living for a worker and family.

The law provides that maximum working hours within a seven-day period, including overtime, may not exceed 48 hours. Overtime can be allowed only in cases stipulated by law and, along with night work, must be compensated at a minimum of 1.5 times the hourly rate.

The SLI is responsible for implementing the labor laws; in 2006 it conducted 19,729 inspections of companies. The most numerous abuses included wage arrears, illegal employment, violation of labor contracts, accounting for time off and hours worked, and unsatisfactory investigation of accidents.

The law provides that workers have the right to safe and healthy working conditions, and this was generally enforced. During the year the state labor inspection service recorded 79 fatal accidents at work. Workers have the right, both in law and practice, to remove themselves from dangerous work environments without jeopardizing their continued employment.

## LUXEMBOURG

The Grand Duchy of Luxembourg, with a population of approximately 460,000, is a constitutional monarchy with a democratic, parliamentary form of government. The role of the grand duke is mainly ceremonial and administrative. Legislative authority is vested in the unicameral Chamber of Deputies. The Prime Minister is the leader of the dominant party in the popularly elected parliament. Generally free and fair parliamentary elections took place in 2004. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. Prison overcrowding, domestic violence, and child abuse were reported, and there was one confirmed case of trafficking.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers, but there were no such visits during the year.

Overcrowding in the Schrassig penitentiary remained a problem.

During the year one refused asylum seeker from Algeria died in prison. He was killed in a fire started by a group of refused asylum seekers. Two prisoners were treated for severe burns, and 10 sustained minor injuries in the fire. The incident may have been exacerbated by overcrowding in the prison. Refused asylum seekers have since been relocated to a more spacious section of the prison.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The grand ducal police and its investigative branch, the judiciary police, are responsible for law enforcement and maintenance of order within the country. The police force is under the direction of the Ministry of Justice. Neither corruption nor impunity were problems. A special police body is in charge of investigating cases of police abuse. Police officers are required to attend in-service training at the police academy at least every two years.

*Arrest and Detention.*—Warrants issued by a duly authorized official are required for arrests except in cases of hot pursuit. Within 24 hours of arrest, the police must inform detainees of charges against them and bring them before a judge for a determination of the legality of the detention, and these rights were generally respected in practice. There is a functioning bail system, which judges freely employ. Detainees are given immediate access to an attorney, at government expense for indigents. Detainees are allowed prompt access to family members.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

The judiciary is headed by the Supreme Court of Justice, whose members are appointed by the grand duke. One of the country's three justices of the peace has jurisdiction over minor criminal, civil, and commercial cases, and one of two district courts heard more serious cases. The youth and guardianship court ruled on matters concerning the protection of young persons. An administrative court system reviewed citizen challenges to legislation. The Supreme Court of Justice is composed of the cour de cassation, a court of appeal, and a department of public prosecution. The defendant or prosecutor may appeal verdicts in criminal cases to the administrative court and the administrative court of appeal before going to the Supreme Court of Justice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public except for those involving sexual abuse or child abuse. There are no jury trials. Defendants have the right to be present and to consult with an attorney in a timely manner. An attorney is provided at public expense if defendants face serious criminal charges. Defendants need to ask the judge for permission to confront or question witnesses against them or present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence. Convicted defendants have the right of appeal.

The military and religious courts were rarely used; they also generally respected the aforementioned rights.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The magistrates courts are the courts of original jurisdiction that hear civil and commercial matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restriction.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. A majority of the population had connections to the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

There is no state religion, but the Government provided financial support to some churches which had signed conventions with the Government. Specifically, it paid the salaries of Roman Catholic, and some Protestant, Greek, Russian, Romanian, and Serbian Orthodox, Anglican, and Jewish clergy; several local governments maintained sectarian religious facilities. The Muslim community filed an application for similar financial support in 1998, and named a national representative and sin-

gle interlocutor for negotiations with the Government in 2003; however there was no final agreement at year's end.

*Societal Abuses and Discrimination.*—There were no reported acts of violence or discrimination against religious minorities during the year. There were no reports of anti-Semitic acts. The Jewish community numbered an estimated 600 persons.

For a detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The law provides for the possibility to grant temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol, but did not grant it during the year.

The Government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The Chamber of Deputies adopted new asylum legislation on April 5. The new law establishes mechanisms to reduce the length of asylum procedures, which had lasted up to five years. It also cancelled the right of appeal for previously denied asylum seekers and the provisions for holding refused asylum seekers awaiting repatriation. Those who are refused asylum are to be repatriated more quickly.

#### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—National parliamentary elections are held at least every five years. The most recent national parliamentary elections, held in 2004, were considered generally free and fair.

There were 13 women in the 60-member Chamber of Deputies and three women in the 14-member Council of Ministers. There were 15 women in the 32-member Supreme Court.

There was one member of a minority in the 60-member Chamber of Deputies, and one member of a minority in the Council of Ministers.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year.

The law provides for public access to government information, and the Government freely provided access on its Internet Web site.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government effectively enforced it.

*Women.*—Domestic violence occurred. The law prohibits domestic violence, and the Government effectively enforced the law. The law is gender neutral and provides that a batterer will be removed from the house for 10 days; this can be extended an additional three months. Police are responsible for pursuing the charges so that a victim cannot be intimidated into dropping charges. Penalties may include fines and imprisonment. If a person asks a nongovernmental organization (NGO) for assistance, the police must respond proactively and speak with the person. There were about 350 cases of police intervention relating to spousal abuse during the year, and 155 expulsions by the police of the abusing spouse.

There is a hot line for battered women. During the year government-sponsored NGO shelters provided refuge to approximately 310 women and 340 children. In ad-



dition, the Government provided financial assistance to domestic violence victims. Information offices set up to respond to women in distress reported that they received about 1,000 telephone calls during the year. The Government funded organizations that provided shelter, counseling, and hot lines.

The law specifically prohibits rape, including spousal rape, and the Government enforced these laws effectively. There was a reported average of about 10 rape cases per year. The penalties are five to 10 years' imprisonment.

Prostitution is legal and was common, but the activities associated with organized prostitution, such as profiting from, aiding or abetting prostitutes, are punishable by law.

There were reports that women were trafficked to the country for sexual exploitation (see section 5, Trafficking).

The law prohibits sexual harassment, and the Government generally enforced it.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The law mandates equal pay for equal work; however, according to government reports, women were paid 20 to 30 percent less than men for comparable work. The Ministry of Equal Opportunity is responsible for protecting the legal and social rights of women; in 2005 it began a gender mainstreaming program, which is to assess all government policies in order to determine whether they result in any gender-based disparities. On March 16, the Parliament introduced the principle of non-discrimination in the country's legislation. Article 11 of the constitution was revised to include equality between men and women in the text of the document.

*Children.*—The Government was strongly committed to children's rights and welfare. The law mandates school attendance from four through 15 years of age, and school attendance was universal through that age. Schooling was free through the secondary level, and the Government provided some financial assistance for postsecondary education. Most students completed high school.

The Government provided free medical care, and boys and girls had equal access.

Child abuse occurred. A physicians' organization estimated that approximately 200 cases of child abuse were reported during the year, resulting in about 60 children receiving medical treatment. The Government's hot line for young persons in distress received 600 calls during the year.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was a country of destination for women trafficked transnationally for the purpose of sexual exploitation. There was one confirmed report of trafficking reported during the year.

The law provides penalties from six months' to three years' imprisonment and monetary fines for trafficking. If there are aggravating circumstances, prison sentences can range from one to ten years' imprisonment. The Government effectively enforced the antitrafficking statutes.

During the year one trafficker was sentenced to three years in prison and fined \$39,300 (30,000 euros). The prosecution of a 2004 trafficking case was ongoing at year's end.

There were no government services specifically for victims of trafficking; however, two NGOs, which were fully financed by the Government, provided shelter and counseling assistance to women in distress.

The Ministry of Justice was responsible for the Government's antitrafficking efforts, in cooperation with the Ministries of Foreign Affairs and Equal Opportunity as well as NGOs. The Government conducted specialized training to educate police, immigration officials, and NGOs on recognition and identification of trafficking victims. At the end of the year, the Criminal Investigation Police created a new unit to focus exclusively on trafficking in persons.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government effectively enforced these provisions. The law does not require accessibility for persons with disabilities, but the Government paid subsidies to builders to construct "disabled-friendly" structures. Despite these government incentives, only a small proportion of buildings and public transportation vehicles have been modified to accommodate persons with disabilities. Aid for Handicapped Children, an NGO, is in charge of protecting the rights of persons with disabilities.

There are laws establishing quotas and requiring businesses that employ over 25 persons to hire workers with disabilities and pay them prevailing wages, but the Government acknowledged that these laws were not applied or enforced consistently.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Approximately 50 percent of the workforce (including the trans-border workers) was unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to collective bargaining, and workers exercised this right freely. Approximately 66 percent of workers are under collective bargaining agreements. The law provides for the right to strike, except for government workers who provide essential services; no labor strikes occurred during the year. Five thousand students went on strike in November against proposed legislation that would reduce unemployment benefits for graduates and delay payments by six months for those under 30 years of age who have completed a government pre-employment training program. Legal strikes may occur only after a lengthy conciliation procedure between the parties. The Government's national conciliation office must certify that conciliation efforts have ended for a strike to be legal.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively implemented laws and policies to protect children from exploitation in the workplace. The law prohibits the employment of children under the age of 16. Apprentices who are 16 years old must attend school in addition to their job training. Workers under the age of 18 have additional legal protection, including limits on overtime and the number of hours that can be worked continuously. The Ministries of Labor and Education effectively enforced the child labor laws.

*e. Acceptable Conditions of Work.*—The national minimum wage for a single worker over the age of 18 was approximately \$1,968 (1,503 euros) per month for unskilled workers, and approximately \$2,363 (1,804 euros) per month for skilled workers. The minimum wage was criticized by an NGO as not sufficient to provide a decent standard of living for a worker and family; however, most employees earned more than the minimum wage.

The law mandates a maximum workweek of 40 hours. Premium pay is required for overtime or unusual hours. Sunday employment is permitted in continuous-process industries (steel, glass, and chemicals) and for certain maintenance and security personnel; other industries must request permission for Sunday work, which the Government granted on a case-by-case basis. Work on Sunday, allowed for some retail employees, must be entirely voluntary and compensated at double the normal wage, or with compensatory time off on another day, equal to the number of hours worked on Sunday. The law requires rest breaks for shift workers and limits all workers to a maximum of 10 hours per day including overtime. If employers do not honor the law, workers may successively ask for assistance at the labor inspection court and then the Supreme Court of Justice.

The law mandates a safe working environment. An inspection system provided severe penalties for infractions. The labor inspectorate of the ministry of labor and the accident insurance agency of the social security ministry carried out effective inspections. No laws or regulations specifically provided workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment; however, every worker has the right to ask the labor inspectorate to make a determination regarding workplace safety, and the inspectorate usually did so expeditiously.

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## MACEDONIA

The Republic of Macedonia is a parliamentary democracy with a population of approximately 2.1 million. Legislative authority is vested in the unicameral Sобрание (parliament). Parliamentary elections held in July generally met international standards, although the campaign period and election day were marred by some isolated instances of violence and irregularities. The new prime minister, Nikola Gruevski, was confirmed in office in August and presides over a multiethnic governing coalition. President Branko Crvenkovski was elected to a five-year term in

April 2004 in elections that were generally free and fair but contained some election-day irregularities. Civilian authorities maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police abuse of suspects continued to be a problem, and there were allegations of police harassment of ethnic minorities, particularly members of the Roma community. Corruption and political pressure in the interior and justice ministries, the courts, and the public prosecutor's office impeded the investigation of some human rights abuse allegations and the process of bringing the accused to trial. The country continued to be a transit and destination country for victims of trafficking in persons for sexual exploitation and labor. Societal discrimination against ethnic minorities, particularly Roma, continued to be a problem.

There was a slight overall improvement in the human rights situation compared to the previous year, including improved internal controls and professionalism of security forces and a decrease in the prevalence of interethnic discrimination.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces allegedly caused the wrongful death of a Romani youth suspected of theft.

On March 2, police shot Enver Xhaferi while serving arrest warrants on three ethnic Albanian men in the Skopje suburb of Kondovo. Xhaferi died from gunshot wounds en route to the hospital. Police shot and seriously injured a second man, Fatmir Ljuri, while the third man, Sokol Bega, was arrested without injury. Police reported that force was used to prevent the suspects from attacking other officers. A Ministry of Interior Professional Standards Unit (PSU) investigation concluded that police use of firearms was “founded, justified, and in accordance with the regulation for use of force with a firearm.” International police advisers concurred with the findings.

On May 11, Trajan Bekirov, a Romani youth, was reported missing, and on May 27, his body was found in the Vardar River, which runs through Skopje. Police reported that they had approached and identified themselves to Bekirov and another Romani youth, Orhan Iseni, while patrolling a Skopje neighborhood following reports of thefts from vehicles. Bekirov and Iseni allegedly ran from the police officers. Iseni was apprehended but Bekirov went missing. Bekirov's family and Romani community members accused the police of beating and killing Bekirov and depositing the body in the river. The Macedonian Forensic Institute and a doctor representing a local human rights NGO performed separate autopsies on the body. The cause of death was determined to be drowning; there were no signs of other bodily harm or indications of wrongful death. However, the ombudsman's office filed charges with the public prosecutor's office against the Ministry of Interior for endangering Bekirov's life, alleging that the police chase led to the youth's flight and subsequent death by drowning. In September the public prosecutor decided not to bring an indictment against the Ministry of Interior as the evidence provided did not support any wrongdoing on the part of the police.

On February 3, the Skopje appellate court upheld the April 2005 Skopje trial court verdict that acquitted four persons—three former police officers and a businessman—implicated in the Rastanski Lozja case involving the 2002 police killing of seven South Asian illegal immigrants. The ruling and judicial procedure were met with wide criticism by the public, judicial officials, and international experts. The prosecution submitted a request for protection of legality with the Supreme Court, which challenged the legality of the basic and appellate court rulings based on an alleged violation of the Code of Criminal Procedure. The Supreme Court had not issued an opinion by year's end. High-ranking judicial officials stated that, while the Supreme Court could not reverse the acquittal, its ruling could influence the civil court's decision on monetary awards to the defendants for being unjustly detained. The prosecution had charged that former interior minister Ljube Boskovski ordered the killings, claiming that the immigrants were terrorists who threatened foreign embassies in Skopje. At year's end, Boskovski remained in prison in the Hague awaiting trial on unrelated war crimes charges and was not party to the proceedings in Skopje.

At year's end the Kumanovo trial court was retrying, for the third time, the case against one of the 12 original defendants charged with terrorism for planting explosives in the center of Kumanovo and on railway tracks near that city, killing one person and injuring several others in 2003. Four of the 12 defendants continued to

serve prison sentences after their convictions were affirmed by the Skopje appellate court. The remaining seven defendants had outstanding arrest warrants against them but had not been tried by year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

The International Commission on Missing Persons closed its offices in the country in 2004 after collecting blood samples from relatives of all persons missing from the 2001 conflict. The International Committee of the Red Cross (ICRC) estimated that 14 persons remained missing from the conflict.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, police at times used excessive force during the apprehension of criminal suspects and sometimes abused prisoners.

There were credible reports that police occasionally used violence against or otherwise harassed persons, particularly members of the Roma community, without legal justification. A coalition of local NGOs recorded 62 allegations of police abuse involving 75 victims over the twelve months ending in November. The alleged victims included nine ethnic Albanians, 48 ethnic Macedonians, and 11 Roma. The PSU reported receiving 152 credible citizen complaints of police misconduct during the year; of that number, 83 complaints were for excessive use of force. The ombudsman filed 112 complaints; various nongovernmental organizations (NGOs) filed 93. The PSU recommended disciplinary action be taken against officers in 58 cases and that criminal procedures be initiated in 42 cases. Less stringent punishments, such as a pay reduction, suspension from the police force, or reassignment, were delivered in 216 cases.

In May a number of ethnic Albanian military recruits reported being physically mistreated by their commanding officer, an ethnic Macedonian lieutenant. After the incident was brought to the attention of high-ranking Ministry of Defense officials, the lieutenant was temporarily relieved of his duties pending an investigation. An internal military investigation found the lieutenant guilty of abuse of authority and violation of the dignity of a subordinate soldier. In accordance with military regulations and national law, he was suspended from possible promotion for one year.

In September 2005 the ombudsman announced that he had referred five cases against interior ministry employees to prosecutors for the mistreatment of civilians and other unspecified abuses. Prosecutors agreed to investigate one case and rejected another in 2005; the other three cases remained under review for the second consecutive year.

In June 2005 three Romani men were called into the Kicevo police station for questioning after persons under interrogation there accused one of the individuals of participating in an altercation. A local NGO reported that police did not notify these men of their legal rights or provide explanation for their detention. The police then insulted them and beat them with rubber truncheons. The men filed charges in July 2005, but the public prosecutor dropped the investigation, citing insufficient evidence to prove that the men's injuries occurred while in police custody. The men subsequently submitted a private lawsuit, which was still pending before the trial court at the end of the reporting period.

For the second consecutive year, there were no developments reported on the European Roma Rights Centre's (ERRC) filing of a criminal complaint in connection with the 2004 police beating of two Romani men, Trajan Ibrahimov and Bergiun Ibrahimovic, in Skopje.

On February 13, the public prosecutor dropped criminal charges filed in 2005 against police officers involved in the 2004 case of two ethnic Albanians whom police arrested and allegedly beat near Stenkovec.

*Prison and Detention Center Conditions.*—Prison conditions barely met international standards, but the Government permitted visits by independent human rights organizations. In September a prisoner in Idrizovo prison committed suicide, but there was no direct evidence his action was linked to prison conditions. There were no reported cases of death in prison facilities as a result of adverse conditions during the year. Juvenile prisoners were separated from adults in all prison facilities. In the pretrial detention facility in Skopje, however, juvenile and adult living and eating facilities were separate, while common spaces were collocated.

The Government routinely granted permission for visits to convicted prisoners by independent humanitarian organizations (such as the Council of Europe's Committee for the Prevention of Torture (CPT) and the ICRC) and the ombudsman's office. The law allows access to pretrial detainees for family members, physicians, chiefs of diplomatic missions, and representatives from the CPT and ICRC with the approval of the investigative judge. Unlike in 2005, there were no reports of human rights organizations being denied permission to visit detainees during the reporting period.

In January the Council of Europe released a report on the prison system based on a visit in November 2005. The report found that overcrowding continued to be a significant problem, along with poor hygienic conditions, inferior medical services, and inadequate state funding. However, the report also noted that reforms in the prison system were being implemented to decentralize authority and increase the efficiency and effectiveness of the prison system.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and detention were problems.

*Role of the Police and Security Apparatus.*—The national police are a centralized force subordinate to the Ministry of Interior that consists of uniformed police, criminal (civilian) police, and border police.

The NGO International Crisis Group reported during the year that the police did not function as a fully “transparent and accountable community-based service.” The report cited a lack of staff and resources available for investigating reports of internal corruption and abuse, as well as needs for merit-based career incentives, more police districts, and greater cooperation with other government agencies.

In June the 30-member EU Police Advisor Team’s (EUPAT) six-month mandate ended. EUPAT was replaced by the EU’s Twinning Project, which, along with representatives from the Organization for Security and Cooperation in Europe (OSCE) and the U.S. Government, will continue to advise the Ministry of Interior on police reforms and monitor police operations.

The police force remained largely ethnic Macedonian; however, the Government maintained a 25 percent recruiting quota for ethnic minority officers in order to achieve a police force that accurately reflected the population at large (see section 5). According to the Ministry of Interior, at the end of the year, 80 percent of the police force was ethnic Macedonian, a decrease of 12 percent from 2002.

Ministry of Interior officials were slow to complete investigations and bring charges in outstanding human rights cases from previous years. International observers noted improved ministry response to investigating individual cases of police misconduct and more frequent and consistent disciplining of officers found guilty. However, they cited a limited range of disciplinary options and a restrictive statute of limitations for the punishment of police misconduct as factors that sometimes precluded appropriate sanctions.

International observers and local NGOs cited corruption within the Ministry of Interior as a continuing problem in effectively fighting crime, particularly organized crime. International organizations focused their efforts on police reform and training to professionalize the ministry and aid in fighting corruption.

At the end of the year, the Kavadarci trial court was retrying the case against a Ministry of Interior administrator on charges of corruption stemming from 2004. The appellate court ordered the retrial after overturning the Kavadarci trial court’s original October 2005 conviction and five-month prison sentence.

*Arrest and Detention.*—The law requires warrants for arrest and detention, and police generally followed those requirements in practice.

While the law provides that a detainee must be arraigned in court within 24 hours of arrest, police at times violated this requirement, often by transferring the suspect from one police station to another to avoid exceeding a 24-hour period of detention at a location. Detention of suspects for longer than 24 hours may only be ordered by investigative judges upon request of a prosecutor, and this generally occurred in practice.

There is a functioning bail system that was used primarily by the courts in property-related crimes such as fraud, tax evasion, embezzlement, and abuse of official position. The courts were reluctant to approve bail for defendants accused of violent crimes or crimes against children.

The law permits a detainee to contact a lawyer at the time of arrest and to have a lawyer present during police and court proceedings; however, such access must be approved by the warden of the detention facility and, in rare cases, also by the investigative judge. While wardens and investigative judges generally approved such access, there were occasional reports that detainees were denied access to an attorney during police and investigative proceedings.

There were reports that police continued to call suspects and witnesses to police stations for “informative talks” without informing them of their rights. Two ethnic Albanian suspects in a July 2005 bomb attack on a Skopje police station claimed they were detained without proper legal authority. The ombudsman’s office reported that they were unable to file criminal charges with the public prosecutor’s office regarding the allegations because the Ministry of Interior would not provide information on the identity of the officers involved in the alleged misconduct. A PSU inves-

tigation determined there were no irregularities involved in the arrest and detention of the two men.

The law sets the maximum length of pretrial detention at 180 days; however, NGOs, as well as some legal experts, contended that the judiciary at times abused its detention authority by ordering pretrial detention in cases where other means of guaranteeing the presence of defendants at trial (e.g., bail, home confinement, or relinquishment of the passport) could have been utilized. In addition, there were some reports of government pressure to order pretrial detention in certain instances. However, for the second consecutive year, reports of both these practices decreased.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary was weak, at times inefficient, and occasionally influenced by political pressure, intimidation, and corruption. The Government also used its budgetary authority and modest allocations to the court system as instruments to exert control over the judiciary. Programs for witness protection began to operate with limited capacity during the year. A law enforcement agent successfully testified as a protected witness in a drug smuggling case, and the police also provided protection for a victim of trafficking who testified in court during the year.

The country has a three-tiered court system composed of trial courts, appellate courts, and the Supreme Court. The Constitutional Court is not considered part of the judicial branch and deals with matters of constitutional interpretation and certain human rights protection issues.

The NGO International Crisis Group noted in a January report that judiciary reform was an area of critical concern in the country. The report called for increased judicial and investigative training for officials, removal of corrupt or nonperforming judges, and additional courts to deal with serious crimes and administrative misdemeanors.

In May the parliament adopted a number of judicial reform laws, to be implemented on January 1, 2007. The laws reformed numerous aspects of the judicial system, including reducing executive branch influence over the judiciary, establishing stronger safeguards for citizens' rights, enhancing the ability to file damage claims against judges who violate the law, establishing a system of specialization for judges, and creating separate civil and criminal trial courts in Skopje and a separate administrative court at the Supreme Court level. As a result of judicial reforms adopted in 2005, the process of hiring 140 new law clerks began during the year to help the judiciary reduce its backlog of 1.2 million cases. Based on unofficial reports from government authorities, the judicial backlog was reduced by 15 to 20 percent during the year.

The chief public prosecutor continued to accuse some lower courts of being inefficient or influenced by political factors, which resulted in prolonged trials and an inability to reach final judgments in high-profile corruption or other sensitive cases. In particular, the prosecutor criticized the judiciary for the acquittal of the four defendants in the Rastanski Lozja trial, which involved suspects linked to former Interior Minister Boskovski (see section 1.a.). He also publicly complained that his position did not grant him sufficient independence to fully exercise his powers. The Government discharged the chief public prosecutor on October 18 on the grounds of his alleged failure to perform his duties. Some international and local observers saw this move as politically motivated. The position was vacant at year's end.

The Commission for the Prevention of Corruption reviewed cases of alleged corruption, conflict of interest, and nepotism. It issued several opinions that included recommendations that the prosecutor initiate criminal actions against judges and other state officials where there was sufficient evidence of corruption. The commission accused the public prosecutor of ignoring their recommendations, while the public prosecutor accused a number of the commission members of unevenly applying standards to cases and of blatant conflict of interest in high profile cases. A retrial, ordered by a December 2005 Supreme Court decision, concluded on June 14 with the acquittal of the former public prosecutor of Stip on bribery charges brought in 2005 by the special prosecutors' Unit Against Organized Crime. The public prosecutor's office appealed the case and the Stip appellate court confirmed the ruling on December 20.

*Trial Procedures.*—Court proceedings were open to the public except in limited cases, such as trials involving minors or in which the personal safety of the defendant was at risk. Juries were not used. Trials are presided over by judges; two to three community-member consulting jurors assist each judge in determining the verdict, although the judge generally makes the final decision regarding the sentence. The law provides for the presumption of innocence, the right to consult an attorney in a timely manner in pretrial and trial proceedings, the right to an appeal,

and the right to stand trial within a reasonable period of time after charges are filed. These rights were generally respected in practice; however, lengthy legal procedures and delays were a problem, and access to attorneys was sometimes not granted in a timely manner. Defendants were entitled to have access to government-held evidence, but this did not always occur in practice. The law requires that indigent defendants be given access to attorneys, and this requirement was generally respected in practice.

The law provides that trials may be held in absentia as long as they are repeated if the convicted individuals later become accessible to justice officials.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Separate civil and criminal trial courts in Skopje, along with a separate administrative court at the Supreme Court level to hear cases against state institutions, were created by a law adopted by parliament in May, to be implemented on January 1, 2007.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions and the Government generally respected these prohibitions in practice. There were no reports that the Government illegally used wiretaps to collect information on suspected criminals, although some opposition politicians alleged that the Ministry of Interior used wiretaps for political purposes.

On November 15, the parliament adopted a law to allow for legal monitoring of communications only with a court order and as directed by the minister of interior. Strict conditions, in line with international standards, are stipulated for the use, storage, and application of the data obtained.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the law prohibited speech that incites national, religious, or ethnic hatred. Media institutions and reporting were divided along ethnic lines, with the most striking divisions visible in reports on controversial political issues.

There were no official government-controlled print media. International newspapers and magazines were available throughout the country.

Macedonian Radio and Television (MRTV), which generally favored the Government view on political issues, was the sole public broadcaster in the country. The head of MRTV was replaced after the new government was formed in August. There were five private television broadcasters with national coverage and more than 50 private local television stations. A variety of independent radio stations broadcast throughout the country.

There were two news agencies, the state-owned Macedonian Information Agency and private Makfax.

On April 3, Rajmonda Malecka, a journalist from Albania, and her father, Bujar Malecka, were released from prison and expelled from the country after serving one year in prison. The two were convicted by the Skopje trial court in November 2005 for planning terrorist acts in the Skopje suburb of Kondovo. Police reportedly found a videocassette with footage of an armed group in Kondovo in the suspects' possession when they arrested them in April 2005. The prison sentence was reduced from five years to one year in March by the Skopje appellate court, which also ordered their immediate expulsion from the country.

In May the parliament amended the law to decriminalize defamation, libel, and slander. The new law provides that such offenses can be punished only by fines. Offenders who apologize to the injured party before the court can be relieved of any punishment.

On June 15, a Skopje trial court ordered Nikola Mladenov, owner of the weekly Fokus, to pay \$39,700 (1.84 million denars) in damages to President Branko Crvenkovski. On April 28, the same court ordered Mladenov to pay \$25,800 (1,223,600 denars) to former prime minister Hari Kostov, for Mladenov's unfounded accusation that both men had secret personal bank accounts in Switzerland. On September 19, the Supreme Court acquitted A1 Television journalist Biljana Sekulovska of libel charges related to her criticism of the judge presiding over a trafficking in persons case involving Dilaver Bojku Leku. Goran Mihajlovski, owner of the tabloid Vest, was acquitted on November 2 of libel charges related to his newspaper's allegations that the pharmaceutical company Replek tried to sell unlicensed medications in the country.

Zoran Bozhinovski, a journalist from Kumanovo, was imprisoned on November 18 to serve a three-month sentence for defamation. The conviction and prison sentence were handed down by the Kumanovo trial court in 2004, prior to the adoption of

the law to decriminalize defamation, for the use of offensive expressions in a 2003 article in the weekly Bulevar. Bozhinovski had 14 additional convictions for similar articles and numerous other charges pending. Following a hunger strike and pressure from NGOs, the Kumanovo court freed Bozhinovski on November 21 and stated its intention to retry this case under the amended law, which went into effect on January 1, 2007.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. A survey conducted in April found that 27 percent of the population used the Internet regularly, and the majority of those users accessed the Internet at an Internet cafe or in their homes.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the freedom of assembly and association, and the Government generally respected this right in practice; however, the Ministry of Interior requires approval of any religious gathering held outside of specific religious facilities and limits such gatherings to registered religious groups (see section 2.c.).

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the law places some limits on religious practice by restricting the establishment of places of worship.

The law defines the constitutional provision for religious freedom, designating the Macedonian Orthodox Church, the Islamic Community of Macedonia, the Roman Catholic Church, the Jewish Community, and the Methodist Church as religious communities. All other registered religious associations are considered to be religious groups and must register with the State Commission on Relations with Religious Communities and Groups. In 1998 and 1999, however, the Constitutional Court struck down several provisions of the law on religion, which has resulted in inconsistent enforcement of the remaining provisions.

In November 2005 the Supreme Court rejected the appeal of the “Orthodox Archbishopric of Ohrid,” an affiliate of the Serbian Orthodox Church, to a November 2004 state commission decision to deny it registration. The commission’s decision was based on a law that allows only one religious community to be registered for each confession; the Macedonian Orthodox Church had been registered as a religious community since the country’s independence.

The law requires a group to have a government “opinion” in order to obtain a permit to build a religious facility. However, past court rulings restricting government authority to provide such opinions have effectively blocked religious groups from obtaining construction permits for worship facilities. In practice the Government generally did not take action against religious buildings lacking permits.

The law somewhat restricts the establishment of places of worship, for example, by requiring that a permit be obtained at least 15 days in advance for services in places not specified in the law. The law also states that religious activities “shall not violate the public peace and order, and shall not disrespect the religious feelings and other freedoms and rights” of persons who are not members of that particular religion. The Government did not actively enforce most of these provisions but acted upon complaints when they were received.

Although a permit or permission is not required to perform religious rites in a private home, members of the “Orthodox Archbishopric of Ohrid” reported that police interrupted an April 2005 religious service in a private apartment in Dracevo and asked the worshippers to produce their identification documents.

On August 8, Zoran Vraniskovski, a defrocked Macedonian Orthodox Church bishop now recognized by the “Orthodox Archbishopric of Ohrid” as Bishop Jovan, returned to prison to serve a one-year sentence for embezzlement. The charges stemmed from a September 2005 conviction by the Veles trial court. The sentence was reduced from two years to one year by an appellate court in March. Vraniskovski was acquitted by the Veles trial court on separate embezzlement charges on April 3.

Vraniskovski had been released from prison in March after serving seven months of an 18-month sentence on a separate conviction for “inciting religious or ethnic hatred.” A February Supreme Court decision had reduced the sentence to time served and suspended a sentence for “falsely assuming religious authority.” The 18-month sentence was based on charges that Vraniskovski held private religious services in union with the Serbian Orthodox Church and that he was responsible for the content of a religious calendar calling the Macedonian Orthodox Church “the last fortress of communism” and its believers heretics. The suspended sentence resulted



from charges that Vraniskovski allegedly baptized a relative in a Macedonian Orthodox Church near Bitola in 2003, after Vraniskovski had been defrocked by the Macedonian Orthodox Church.

The law requires that foreigners entering the country with the intent to carry out religious work or perform religious rites receive approval from the State Commission on Relations with Religious Communities and Groups. When applying for visas, persons planning to perform religious work must submit a letter of invitation from representatives of a registered religious group in the country to the commission, which then issues a letter of approval to be submitted with the visa request. Approvals were normally issued within one week.

A Polish-born nun associated with the "Orthodox Archbishopric of Ohrid" claimed that, in 2004, the Ministry of Interior declined to extend her residency permit; the archdiocese is not legally entitled to sponsor foreign religious workers because it has been denied registration under the law permitting only one group per confession. Followers of the church report that the nun entered the country as a tourist during the year and therefore could not remain in the country continuously for a period longer than 90 days.

The restitution of religious properties expropriated by the former Yugoslav government had not been fully resolved. Virtually all churches and many mosques have been returned to the ownership of the appropriate religious community, but that was not the case for most of the other properties, such as larger parcels of land or community centers. Restitution or compensation claims often are complicated by the fact that the seized properties have changed hands many times or have been developed. The Islamic Community of Macedonia claimed it was not able to regain rightful use of several mosques that the Government was to have returned to it. In addition, the Islamic community alleged that the Government in some cases delayed the process of restitution by selling or starting new construction on disputed property and questioning the historical legal claim of the Islamic community to religious properties.

The Jewish community is the only religious community in the country whose communal property has been fully restituted. However, the Jewish community continued to work with the Government for the full restitution of private property of heirless victims of the Holocaust whose property was later nationalized by the former Yugoslav government. The process of private property restitution has been slow due in large part to the extensive documentation required to show the flow of ownership and lack of heirs. However, there was some noticeable progress during the year. Approximately 450 individual property restitution cases were in the settlement process with the Government, and 1,000 cases remained to be documented.

*Societal Abuses and Discrimination.*—There were isolated reports of vandalism of religious properties. The Macedonian Orthodox Church considered the acts of vandalism to its property to be incidents of petty theft or crime and did not believe they were motivated by religious discrimination.

At year's end the long running ownership dispute between the Bektashi religious group and the Islamic community over a religious facility in Tetevo remained unresolved. The Bektashis filed suit against the Government to reverse the former Yugoslavia's nationalization of the property and against the Islamic community, which seized the complex in 2002 and continued to hold services there, excluding Bektashi community members from the majority of the property. There were a number of incidences of vandalism and harassment reported by members of the Bektashi community during the reporting period.

The Jewish community estimated that approximately 600 Jewish persons lived in the country during the year. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

Under the constitution, any Yugoslav citizen who had legal residence in the country in 1991 could acquire citizenship by simple application. However, unresolved citizenship status of long-term habitual residents remained a problem. A 2004 "transitory clause" temporarily eased naturalization requirements for foreigners married to Macedonian citizens, persons without citizenship, and persons with refugee status; however, the transitory clause expired in March.

By year's end, no survey had been undertaken to determine the number of residents without citizenship status. The Office of the UN High Commissioner for Refugees (UNHCR) urged the Government to be flexible in interpreting the citizenship law, and the Government indicated it might consider reinstituting the transitory

clause. UNHCR continued to provide legal assistance to persons wishing to change their citizenship status and generally received good cooperation from the Ministry of Interior.

*Internally Displaced Persons (IDPs).*—At year's end the Government reported a total of fewer than 725 IDPs, most of whom were in collective centers, compared with 1,180 IDPs reported earlier in the year.

IDPs received basic assistance, mostly from the Ministry of Labor and Social Policy, but had few opportunities for engaging in income-generating activities.

Some IDP groups claimed that ethnic Macedonian IDPs could not return to their homes in ethnic Albanian areas due to security threats. Some IDPs asserted the Government was not providing adequate support for them to return to their homes. Other IDPs claimed they had been able to return to homes in predominately ethnic Albanian areas such as the Skopje suburb of Aracinovo and had not faced any threats since doing so.

During the year government relations with IDPs improved, but there were still pressures on some IDPs to return to their homes of origin in areas now considered safe by the Government. The Government informed some IDPs that their monthly benefits would eventually be reduced or eliminated if they did not comply with orders to relocate, but there were no reports that such reductions were undertaken during the year.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared prosecution. The Government granted refugee status and asylum, but only in rare cases. As of October, out of 205 registered asylum seekers, only 28 had been granted humanitarian protection status, and none had received asylum. A total of 1,191 persons had been granted humanitarian protection, a decision subject to annual review. The decline in the numbers of registered asylum seekers and those granted humanitarian protection was due, in part, to some voluntary repatriations and some cases in which the Government discontinued humanitarian protection.

According to UNHCR, the refugee status determination (RSD) mechanism was accessible and active, and the overall process was handled in a generally satisfactory manner. The country's RSD laws were considered satisfactory, but implementation of the RSD procedure in some cases was inadequate. The UNHCR noted shortcomings in refugee interview techniques and worked with Ministry of Interior officials to improve them. A more serious shortcoming in the RSD process noted by the UNHCR was the lack of an effective appeals system for those not initially granted either refugee or asylum status. UNHCR reported that appeals rejected by the administrative courts were usually given only cursory review by the Supreme Court, which simply rubber-stamped the commission's decision to deny the appeal.

The Government provided humanitarian protection status to most refugees and asylum seekers in the country. However, that status was valid for only 12 months and had to be renewed. In addition, it was subject to nonrenewal by the Government at any time, which occurred during the year.

The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees.

In contrast with the previous year, there were no reports that authorities abused or mistreated refugees. In response to reports in 2005 of sexual abuse or violence against female refugees, UNHCR investigated and called in police authorities for follow-up action where necessary. No arrests or formal charges related to these allegations had been made by year's end.

There was strong evidence to suggest that Romani refugees were discriminated against in the RSD process, a reflection of general societal discrimination against the Roma. However, Romani refugees in the predominantly Romani municipality of Suto Orizari were generally well tolerated.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, generally free and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—National parliamentary elections were held on July 5. International observers characterized the elections as generally in accordance with international standards but noted serious irregularities in some areas, such as voter intimidation, ballot stuffing, and family or proxy voting. The official

20-day campaign period was marred by several violent incidents, including attacks on campaign offices, fights among party activists, and nonfatal shooting incidents. Most of these incidents occurred in the northwest part of the country and involved the rival ethnic Albanian political parties, Democratic Union for Integration and Democratic Party of Albanians.

Some women from more traditional communities, particularly ethnic Albanians, were disenfranchised due to the practice of family or proxy voting by male family members on their behalf.

There were 36 women in the 120-seat parliament and three women in the 21-member Council of Ministers. The law requires that one in every three positions on each political party's list in both national and municipal elections must be from the less represented gender, which had the practical effect of increasing the number of female members of parliament.

There were 28 ethnic Albanians, two Roma, two Turks, one Serb, one Bosniak, one Macedonian Muslim, and one Vlach in the 120-seat parliament. There were five members of minorities in the 21-member Council of Ministers.

*Government Corruption and Transparency.*—Corruption was a significant problem in the executive, legislative, and judicial branches of the Government. Instances of corruption in the police and judicial system were of particular concern (see sections 1.d. and 1.e.). The State Commission for the Prevention of Corruption was responsible for investigating charges of corruption as well as complaints submitted by citizens. During the year the commission received 679 complaints concerning the work of state bodies, privatization procedures, judicial procedures, and other relevant cases. For the third straight year, the country received a score of 2.7 on Transparency International's 10-point index of the degree to which corruption is perceived to exist among a country's politicians and public officials, indicating a perception that the country has a serious corruption problem.

During the year there were several high-profile cases reviewed by the State Commission for the Prevention of Corruption. On September 15 the Skopje trial court refused to rehear a 2004 case that awarded \$942,000 (44.7 million denars) in damages to Isnifaris Xhemali in compensation for sheep and other livestock allegedly killed by a bombing conducted by the Ministry of Defense during the 2001 conflict. The commission questioned the high amount of damages awarded to the plaintiff and accused government authorities, including the public prosecutor's office, the Ministry of Defense, and the courts, of failing to perform due diligence in the case. On November 30, a number of individuals were detained on suspicion of corruption, including allegations of receiving a portion of the settlement awarded to Xhemali.

Another high-profile case involved the privatization of property. The commission accused a number of landowners, members of the Government's denationalization commission, and lending institutions of working together to defraud the Government by evading taxes through questionable land acquisitions. Landowners allegedly took out small loans on properties recently restored by the Government, then defaulted on the loan, resulting in foreclosure by the lending institution. The lender was subsequently able to cite the amount of the loan as the price of the land, not the actual market value, resulting in artificially deflated taxes levied on the property. This case remained under review by the public prosecutor's office at year's end.

At the end of the year the Government was awaiting a decision by the Serbian government on an extradition request for Metodija Smilenski. Smilenski was arrested on June 15 in Serbia on charges filed in Macedonia in 2003 for embezzling approximately \$20 million (one billion denars) in state funds through his now bankrupt Export-Import Bank. Smilenski is accused of colluding with the then governor of the Macedonian National Bank, Ljube Trpevski, to embezzle funds by using the nation's currency reserves to guarantee the debts of Smilenski's Export-Import Bank. Trpevski was detained in Skopje on November 23 and was released on bail at the end of the year pending trial. The criminal investigation into Smilenski's business dealing was completed in September, and the special prosecutor's office was preparing an indictment to bring this case to trial.

In March a trial court convicted Vojo Mihajlovski, former director of the state health fund, on charges of abuse of state funds and corruption and sentenced him to four years in prison. In addition, three of his accomplices, all former directors of medical centers, each received 10-month prison sentences.

At year's end a retrial was ongoing in the case against Nikola Tasev, the former general manager of the Nova Makedonija publishing house, on charges of abuse of position for selling 70 percent of the company on the eve of 2002 parliamentary elections. Tasev was sentenced to four years in prison by the Skopje trial court in April 2005. Both the defendant and the prosecution appealed the verdict, and the appellate court ordered a retrial. Besnik Fetaj, who was the economy minister at the time

of the privatization, was acquitted of similar charges. Nova Makedonija was the country's largest publishing house before its liquidation in 2003.

On January 25, the parliament adopted a law guaranteeing citizens' access to government information, which went into effect on September 1. The law requires each public institution to appoint a public relations officer, who must respond to a request for information within 40 days. A fine of \$400 to \$1,000 (20,000 to 50,000 denars) may be levied if the law is not followed.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to the views expressed by these groups and cooperative in working with them.

There were more than 4,000 domestic and international registered NGOs operating in the country, including FORUM, MOST, Macedonian Helsinki Committee, and NGOs devoted to specific causes, including Roma rights, human trafficking, and voters' rights.

The OSCE led international community efforts to engage the Government on human rights issues, and OSCE and EU monitoring missions continued to implement projects to improve relations between ethnic Macedonians and ethnic Albanians.

The ombudsman office has a mandate to improve nondiscrimination and equitable representation of minority communities. The ombudsman's office operated six local branch offices around the country. Representatives from the ombudsman's office have the legal right to visit all persons detained, including those in pretrial detention; this right was exercised without restraint during the year. The ombudsman found that government institutions violated individuals' rights in 623 cases, or approximately 20 percent of the complaints received during the year. Most cases concerned violations of judicial procedures, police abuse, and labor and property rights. The Government acted on the ombudsman's recommendations in 70 percent of these cases but in some instances did not provide information requested by the ombudsman's office in the course of their investigations. During the year the ombudsman's office noted increased cooperation and communication with the Government compared to previous years.

The Government generally cooperated with the International Criminal Tribunal for the former Yugoslavia (ICTY). In March 2005 the ICTY indicted two ethnic Macedonians—former interior minister Ljube Boskovski and former police officer Johan Tarculovski—accused of complicity in the 2001 killing of ethnic Albanian civilians in Ljuboten.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on gender, race, disability, religion, or national, social or political affiliation; however, societal discrimination persisted against ethnic minorities, particularly Roma, and the protection of women's rights remained a problem.

*Women.*—Domestic and other violence against women was a persistent and common problem; one survey, conducted by a local NGO working on family violence issues, found that 56 percent of women claimed to have been a victim of psychological domestic violence, and 18 percent of women claimed to be victims of physical domestic violence.

Cultural norms, including victims' concern over possible shame to the family, discouraged the reporting of violence against women, and victims of domestic violence filed criminal charges only rarely. Although the law specifically criminalizes domestic violence and prescribes substantial punishments for violators, the law was rarely applied in practice. While the law provides for civil restraining orders to protect victims of domestic violence, there were reports that police officers were unaware of provisions of the law that allow them to act ex officio to protect victims of family violence, and police often did not respond to allegations of domestic violence. The Government did not require training for police, prosecutors, or judges; however, international organizations provided training on combating domestic violence to a number of law enforcement officials.

The Government operated six crisis centers for women at risk with limited capacities and funded a national NGO-operated hotline for victims of domestic violence in Skopje. Local NGOs working against domestic violence relied to a large extent on international donor assistance. Public concern about violence against women was not generally evident in the media, although some women's groups worked to raise awareness of the issue.

While the law specifically prohibits rape, including spousal rape, conviction requires proof of both penetration and active resistance by the victim. These requirements are more stringent than for other violent crimes. The penalties for rape or forcible sexual assault range from one to 15 years' imprisonment. Some rape cases were tried during the year. As with domestic violence, police and judicial officials were reluctant to prosecute spousal rape, and many victims did not come forward due to social stigma.

Although prostitution is illegal, the law was not always enforced. Some foreign women accused of prostituting themselves were deported; some men were prosecuted for "mediating" in prostitution.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment of women in the workplace was a problem, particularly in the private sector. Although the law does not specifically address sexual harassment, it could be prosecuted as a criminal act under antidiscrimination legislation; however, this did not occur in practice. Although women remained underrepresented in the higher levels of the Government and the private sector, there were several prominent professional women in the public sector, including a female deputy prime minister, interior minister, and economy minister.

Women from parts of the ethnic Albanian community did not have equal opportunities for employment and education due to traditional and religious restrictions on their schooling and participation in society. In some ethnic Albanian communities, women were disenfranchised by the practice of men voting on behalf of female family members (see section 3). The UN Committee on the Elimination of Discrimination against Women during the year expressed concern over the "vulnerable and marginalized situation" of rural and ethnic minority women, in particular Romani and Albanian women.

The Office of Gender Equality in the Ministry of Labor and Social Policy was responsible for ensuring the legal rights of women. The Law on Equality, implemented in May, established gender commissions at the municipal council level. During the year a gender equality commission established by the parliament began revising laws to ensure equal protection for all genders.

Although the law requires men and women to be paid equally for equivalent work, wage discrimination against women remained pervasive, particularly in the private sector. While the law prohibits dismissal of women on maternity leave, discrimination against pregnant women continued in practice.

Among other activities, women's advocacy groups worked to combat domestic violence through awareness-raising campaigns, increase women's political involvement by training female candidates for local elected office, improve women's access to legal services, and promote the establishment of small and medium enterprises owned by females.

*Children.*—The Government was committed to the rights and welfare of children but provided only limited resources to this end. The Ombudsman's Office had a special unit for children that investigated complaints of violations of children's rights. The Ministry of Labor and Social Policy is responsible for children's welfare.

Education is mandatory through the eighth grade or to the age of 16; however, some children did not enter the educational system at all. The Ministry of Education reported that 95 percent of children were enrolled in school; no official data was available on school attendance or the number of children who did not have access to education. Primary and secondary education was free; however, students had to provide their own books and other materials.

Almost 90 percent of the children who finished primary school continued to secondary school; however, at both the primary and secondary levels, girls in some ethnic Albanian communities did not attend school. Approximately half of ethnic minority students did not go on to high school due to lack of classes in minority languages at the secondary level and to the conviction of many rural, ethnic Albanian families that girls should be withdrawn from school at age 14.

According to Romani community leaders, up to 10 percent of Romani children never enrolled in school. Of those who did enroll, 50 percent dropped out by the fifth grade and only 35 to 40 percent finished the eighth grade.

As in previous years, poor physical conditions of schools and insufficient classroom space were common complaints, particularly in the predominantly ethnic Albanian western parts of the country. Students sometimes protested these conditions by refusing to attend school. Boys and girls generally had equal access to education, although there were instances of discrimination against girls in educational institutions in some ethnic Albanian areas.

Medical care for children was generally adequate but was hampered by the generally difficult economic circumstances of the country and by the weak national health system.

Child abuse was a problem in some areas. During the year, according to Ministry of Interior statistics, there were 56 reported cases of sexual abuse against children, including 53 cases of sexual assault against a child, two cases of showing pornography to minors, and one case of incest with a minor. The Centers for Social Work of the Ministry of Labor and Social Policy and the Department for Juvenile Delinquency of the Ministry of Interior are responsible for addressing child abuse. NGOs are also active in this area.

Child marriage occurred with some frequency in the Romani community and less frequently in the ethnic Albanian community. It was difficult to estimate the extent of underage marriage in the Romani community because such marriages frequently were not registered. A survey of 960 Romani women in 2005 by a local NGO found that 54 percent had given birth to their first child by the age of 18, while 3 percent had given birth between the ages of 12 and 14.

Girls were sometimes trafficked for sexual exploitation (see section 5, Trafficking). Romani adults often organized their children into groups and made them beg for money at busy intersections, street corners, and in restaurants and cafes (see section 6.d.).

According to some estimates, there were between 500 and 1,000 street children in the country, most of whom were Roma. With international support, the Ministry of Labor and Social Policy operated a day center for street children.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, through, and to a lesser degree, from and within the country.

While the country remained primarily a transit and destination point for trafficking, officials and others acknowledged that it was a point of origin for an undetermined number of trafficking victims. The Government and NGOs reported a downward trend in transborder human trafficking. The Government also reported a downward trend in internal human trafficking; however, NGOs and the international community reported an increase in cases of internal trafficking. Since there was no central database for trafficking victim information, NGOs and government officials often disagreed on who was a trafficking victim, resulting in disputed or generally unreliable statistical data. The National Commission for Prevention and Suppression of Trafficking in Persons launched a new Web site on December 28 to serve as a medium for sharing and comparing data on trafficking.

Local NGOs estimated that 100 to 150 women were trafficked to or through the country during the year, primarily for sexual exploitation. Local NGOs reported an increase in the number of victims trafficked for labor exploitation, but there were no specific data due to the lack of information from the Ministry of Labor.

Government data provided on victims of trafficking did not identify the age of the victims; however, local NGOs estimated that 20 percent of victims were minors. There were reports that female minors were recruited by some massage parlor owners to perform sexual services for clients. During the year authorities shut down one such massage parlor, arrested the owner, and charged him with “mediation in prostitution.”

Trafficked women were forced to work in prostitution, often under the guise of dancers, hostesses, or waitresses in local clubs. Police raids and testimony by victims confirmed that a small number of trafficking victims were subjected to threats, violence, physical and psychological abuse, and seizure of documents. NGOs and international community representatives reported that an increasing number of victims were paid a small amount of money for services and were granted limited freedom of movement to ensure they did not identify themselves as victims if questioned by the police.

An analysis conducted by the Ministry of Labor found that young, uneducated women and children from the eastern rural areas of the country were at the highest risk of becoming victims of internal trafficking.

The majority of internal trafficking victims were trafficked by a member of their family or a friend. There were fewer reports of traffickers in the country who were linked to regional trafficking-in-persons networks. The networks typically began in the country of origin, extended through the country, and ended in destination countries in Western Europe.

It is a criminal offense to traffic persons for sexual exploitation, forced labor or servitude, slavery, or a similar relationship. The law provides for a minimum sentence of four years for most trafficking crimes and a minimum of six months for the destruction of identification documents of trafficked persons. Persons convicted of organizing human trafficking receive a mandatory minimum prison term of eight

years and one to 10 years for complicity in the crime of human trafficking. The law provides for a minimum six-month sentence for persons who wittingly use, or enable another person to use, sexual services from a trafficked person. The mandatory minimum sentence for trafficking in children or for knowingly using trafficked children and juveniles for sexual exploitation is eight years.

During the year at least 30 trafficking-related cases were prosecuted, 100 individuals were indicted, and 56 persons were convicted and sentenced for trafficking. There were a number of high-profile cases against traffickers completed or ongoing. On July 18, a case in Kumanovo trial court ended with all seven defendants convicted on trafficking charges and sentenced to prison terms of five to seven years. At year's end an appeal in this case was pending.

On November 14, a Skopje trial court convicted all 28 defendants for trafficking in persons and smuggling of migrants in the country's largest-ever trafficking in persons case, which began in February. Three law enforcement officers who worked at the border crossing with Greece were among the individuals convicted. The defendants received prison sentences of five to 13 years, and their property was seized.

On November 27, the Skopje trial court found 21 defendants guilty of organizing a group for trafficking and smuggling of migrants. The defendants received prison sentences ranging from three to 12 years in prison.

The country's most notorious convicted trafficker, Dilaver Bojku Leku, remained in a Skopje prison after being sentenced in 2004 for "mediation in prostitution." Since he was in an "open regime" facility with liberal release policies, international observers were concerned that Bojku would be able to intimidate witnesses during his periods of authorized leave from prison.

For the second consecutive year there were no developments in the 2004 case involving police complicity in trafficking in Gostivar, which resulted in the suspension from duty of an officer pending his trial on criminal charges for misuse of official position and trafficking in persons. While pretrial procedures had concluded, a hearing had not been scheduled by year's end. Two police officers who testified on behalf of trafficker Dilaver Bojku Leku were under investigation for possible complicity in trafficking.

In March the Government adopted a national action plan and strategy to combat trafficking. The two documents called for increased training, programs for awareness and prevention, and for establishment of a national coordinator for trafficking. By year's end many of the provisions in the action plan had yet to be implemented. Once established, the national coordinator's office will be the chief body responsible for coordinating government efforts to combat trafficking. At year's end the National Commission for Prevention and Suppression of Trafficking in Persons continued to serve this function. The commission is an interministerial effort with representatives from the ministries of interior, justice, labor and social policy, education, and foreign affairs. However, at year's end only some ministries had designated representatives, and the commission had not met for over six months. The Ministry of Interior detailed several law enforcement personnel to work full time in its main trafficking unit in Skopje. It also deployed police officers to combat human trafficking on a local level. The Government routinely cooperated with neighboring countries' national organizations, most notably those in the Southeast European Cooperation Initiative and the Transnational Referral Mechanism project administered by the International Centre for Migration Policy Development.

During the year the International Organization for Migration operated a transit center that assisted 17 victims of trafficking who had crossed international borders. The shelter provides assistance and housing throughout the trial process and until victims can be repatriated to their countries of origin. Four officers from the Ministry of Interior were assigned to the shelter to provide protection to victims. In addition, a local NGO operated a shelter that assisted 14 victims of internal trafficking, who had been referred to the shelter by the National Referral Mechanism of the Ministry of Labor. All victims of trafficking identified in the country are entitled to housing and medical assistance.

*Persons With Disabilities.*—The law prohibits discrimination on the basis of disability; however, there was discrimination against persons with disabilities in employment, education, access to health care, and in the provisions of other state services. There are no laws or regulations requiring buildings to be made accessible to persons with disabilities, and many public buildings remained inaccessible for persons with physical disabilities.

Advocates stated that employers were reluctant to hire persons with disabilities and that the difficulty of accessing educational and other opportunities prevented them from fully integrating into society.

The interparty parliamentary lobby group for the rights of persons with special needs, in cooperation with NGOs, worked to develop and promote comprehensive

legislation promoting the rights of persons with disabilities. The group focused on changes to laws on urban planning and construction.

The Ministry for Labor and Social Policy was responsible for the integration of persons with disabilities into economic life and the payment of benefits. The UN Children's Fund (UNICEF) sponsored several projects aimed at addressing the needs of children with disabilities.

*National/Racial/Ethnic Minorities.*—According to the 2002 census, the population was 64.2 percent ethnic Macedonian; 25.2 percent ethnic Albanian; 3.9 percent ethnic Turkish; 2.7 percent Roma; 1.8 percent ethnic Serb; 0.8 percent Bosniak; and 0.5 percent Vlach.

There were credible reports of police violence against Roma, including beatings during arrest and while in detention (see section 1.c.), as well as incidents of societal violence during the year.

While interethnic relations remained strained, a survey conducted in October 2005 found that 86 percent of ethnic Albanians hold a favorable opinion of ethnic Macedonians, an increase of 17 percentage points from the previous survey conducted in May 2005. There was a decrease, however, in the percentage of ethnic Macedonians who held a favorable opinion of ethnic Albanians during the same period, from 57 to 48 percent.

Unlike in previous years, the annual commemoration of the destruction of Motel Brioni in the village of Celopek in 2001 was not marred by interethnic violence. Motel Brioni, located in the predominately ethnic Albanian village of Celopek, and owned by ethnic Macedonians, was the site of the killing of two ethnic Macedonians during the 2001 conflict. The motel was destroyed at the end of the conflict, and annual commemoration events of the killings had been an interethnic flash point since 2001.

Although interethnic tension in some schools remained a problem, serious disputes between parents and school authorities over ethnic issues decreased for the second consecutive year. Unlike in previous years, there were no reports of ethnically motivated fights between students at the high school in Struga. Altercations between ethnic Macedonian and ethnic Albanian students had been common in the town since 2003.

In November 2005 the NGO European Roma Rights Center reported that a Romani boy was beaten after school in Tetovo in a confrontation with ethnic Albanian students. As of March, ERRC reported that the boy had not returned to school out of fear and that an investigation into the incident was still ongoing.

Students from different ethnic groups sometimes studied in separate shifts or separate facilities, either due to use of different languages of instruction or at their parents' request.

Ethnic Albanians continued to complain of widespread official discrimination. They were concerned about the slow progress in reaching what they considered to be equitable representation in government ministries, while ethnic Macedonians often claimed that they were targeted for downsizing regardless of job performance. Some ethnic Albanians claimed they were effectively disenfranchised by discrimination in citizenship decisions.

Although steady progress was made, and recruitment efforts were in place, ethnic Albanians remained underrepresented in the military and police.

The law establishes that languages of ethnic minorities must be recognized as additional official languages in areas where those minorities comprise at least 20 percent of the population. In those areas citizens had the right to communicate with local offices of the central government in the language of the minority group and to receive responses and personal documents in the same language; however, this did not always occur in practice. Under the law, those accused of crimes have the right to translation at state expense of all relevant judicial proceedings and documents; this did not always occur in practice.

The law provides for primary and secondary education in the languages of the ethnic minorities, and primary education was available in Macedonian, Albanian, Turkish, and Serbian. The number of ethnic minority students who received secondary education in their native languages continued to increase; however, ethnic Albanians complained that distribution of public educational resources was not proportional to ethnic groups' representation within the general population.

Ethnic minorities remained underrepresented at the university level, although there was progress in increasing the number of minority students in recent years due in part to the accreditation of universities that offer Albanian, English, or multilingual instruction.

Ethnic Turks also complained of governmental, societal, and cultural discrimination. Their main concerns centered on the slow progress in achieving equitable representation in government institutions, the absence of Turkish majority municipali-



ties in the 2004 municipal redistricting, and a lack of Turkish-language education and media.

Roma complained of widespread ethnic discrimination. NGOs and international experts reported that Roma were often denied job opportunities, access to public welfare funds, and entrance to establishments such as restaurants and cafes.

Roma had the highest rate of unemployment and the lowest personal and family incomes, were the least educated, and had the highest mortality rates of any ethnic group in the country. The Government provided few social services to Roma despite the belief that unemployment among the Romani population was above 70 percent. In some instances, Romani parents resisted sending their children to school due to their inability to pay for books and other fees, or because they preferred for their children to work, either at home or on the streets.

At year's end there were 1,924 Romani refugees remaining in the country from the 1999 conflict in Kosovo. These Roma, many of whom settled in Skopje, were often targets of harassment and verbal abuse.

*Other Societal Abuses and Discrimination.*—There is no general antidiscrimination law that specifies sexual orientation as a protected class, however, the labor law does prohibit discrimination based on sexual orientation. A local NGO representing the rights of homosexuals reported incidents of societal prejudice against homosexuals, including harassment or discrimination by employers and state officials. During the year this NGO began a project to document human rights violations based on sexual orientation, as it believed abuses were underreported.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form and join unions, and workers did so in practice; however, at times the Government interfered with union activity.

While the law provides that independent unions may freely register with the Ministry of Labor and Social Policy, some unions reported encountering obstacles, particularly delays in the registration process. Without registration a union cannot operate legally. More than 50 percent of the legal workforce was unionized, and unions were particularly well represented in the public sector.

Unions are not required to belong to the Confederation of Trade Unions of Macedonia (SSM), which in the past maintained close ties with government officials. Several new unions formed outside of the SSM in recent years, including unions of journalists, police officers, and farmers.

In July 2005 the largest SSM branch union, the Union of Education, Science, and Culture (SONK), severed ties with SSM and became independent. The Government initially broke off negotiations with SONK after it became independent; however, negotiations later resumed and a wage agreement was signed in March. In December 2005 the SONK and several other unions that were formerly members of SSM formed a new, independent union federation, the Confederation of Free Unions (KCC).

The law prohibits antiunion discrimination; however, antiunion discrimination existed in practice, and there were cases of private companies firing workers who participated in union activities. The companies' justifications for firing the workers were unrelated to their union activities; however, the employees claimed their union activities were the cause of their dismissal. Because of the delays in the court system, it could take a worker two to three years to regain employment through the courts.

Employers were rumored at times to have interfered in the internal affairs of unions, allegedly by dominating union election campaigns or running their own candidates in union elections.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference; however, the Government did not always actively enforce these laws in practice. The law protects the right of employees to bargain collectively, and most branch and local unions had collective bargaining agreements. All legally employed workers are covered by one of two collective bargaining agreements, one for public sector employees and the other for private sector employees. While collective bargaining took place, employees had very little practical negotiating leverage due to the country's weak economic environment, and many collective bargaining agreements failed to keep pace with changes in the environment and workplace.

The SSM negotiated collective bargaining agreement with the Government and an employers' association covering private sector workers, which established minimum standards for working conditions. The other union federation, KCC, contested the right of SSM to negotiate such contracts on its own, and this dispute was not settled

by year's end. In the private sector, branch unions negotiated at the national level with the respective chambers of commerce, and local unions negotiated with individual companies. Collective agreements in the public sector were negotiated between branch unions and the respective ministries.

The law provides for the right to strike, and workers exercised this right in practice. The law allows members of the military and police to strike, but only if they adhere to restrictive guidelines and continue to perform essential services. However, the law allows private employers to "exclude" or temporarily release up to 2 percent of a company's workers during a strike if the company considers these workers to be potentially violent or disruptive. The released workers would be rehired after the strike. The unions maintained that this provision allows employers to exclude union leaders from negotiations during a strike.

There is one export processing zone in the country, but it was not operational during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—While there are laws and policies to protect children from exploitation in the workplace, including a prohibition of forced or compulsory labor, government enforcement was uneven. The law stipulates a prison sentence of at least eight years for anyone who buys, sells, keeps, or takes children or minors for the purpose of exploitation.

The minimum age for employment is 15 years. The law prohibits employing minors under the age of 18 in work that is detrimental to their physical or psychological health and morality. The law also prohibits minors under the age of 18 from working nights or more than 40 hours per week.

There were no official reports of child labor during the year; however, there was evidence that child labor was used in the gray economy, including for begging on the street and selling cigarettes and other small items at open markets, in the streets, and in bars or restaurants, sometimes at night. The children involved in these activities were primarily Roma and most often worked for their parents. Officials did not punish such violations, and children remained vulnerable to exploitation. A UNICEF-funded report published in 2005 found that approximately 500 children worked in such activities.

Minors were sometimes trafficked for sexual exploitation (see section 5).

The Ministry of Labor and Social Policy is responsible for enforcing laws regulating the employment of children. Government efforts to eliminate child labor abuse have been largely ineffective, and while the necessary laws are in place, there has been little practical implementation of the policy and laws.

During the year the Government funded a center in Skopje that provided education, medical, and psychological services to children who work on the street. The Government also worked with UNICEF on developing public awareness campaigns on child labor and trafficking of minors. International donors supported programs to prevent children from working on the street and to increase school enrollment of children at risk for such work.

*e. Acceptable Conditions of Work.*—The country does not have a national minimum wage established by law. The average monthly wage according to official statistics was approximately \$260 (12,464 denars) and did not provide a decent standard of living for a worker and family. The Government statistics office estimated that 29.6 percent of the population lived below the poverty line.

The law establishes a 40-hour workweek with a minimum 24-hour rest period and vacation and sick leave benefits. Employees cannot legally work more than 10 hours of overtime per week, 20 hours per month, or 190 hours per year. According to the collective agreement between the Government and the SSM, employees have a right to overtime pay of 135 percent of regular pay. In addition, employees who work more than 150 hours of overtime per year are entitled to a bonus of one month of salary. However, high unemployment and difficult economic conditions led many employees to accept work that did not comply with the law. In particular, small retail businesses often required employees to work well beyond the legal limits.

The Ministry of Labor and Social Policy did not strictly enforce laws and regulations on worker safety. While workers have the legal right to remove themselves from situations that endanger their health or safety without jeopardy to their future employment, employers did not always respect this right in practice.

## MALTA

Malta is a constitutional republic and parliamentary democracy with a population of approximately 400,000. President Edward Fenech Adami is the chief of state and is appointed by the unicameral parliament. The President appoints as prime minister the leader of the party that gains a majority of seats in the parliamentary elections. The most recent general elections in 2003 were free and fair, and the Nationalist Party remained in power. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens. The law and judiciary provide effective means of addressing individual instances of abuse. There were reports that persons were trafficked to the country.

During the year the Government adopted a number of new laws to protect human rights; for example, following an increase in assault and harassment incidents thought to be racially motivated, the Government amended the law to introduce heavier penalties for crimes related to racial or religious hatred. The Government also approved a domestic violence law to expand the legal prohibition of domestic violence.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. The Council of Europe's Committee for the Prevention of Torture also conducted regular visits. The most recent ad hoc visit was in 2005.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally respected these prohibitions.

*Role of the Police and Security Apparatus.*—The country has a single police department that maintains internal security with backup support from the armed forces. The appointed commissioner who commands the police is under the supervision of the civilian minister of justice and home affairs. The police force includes a number of special squads and the Criminal Investigation Department. The unified armed forces are responsible for defense, with an emphasis on protecting the country's territorial waters and airspace. The commander of the armed forces is under the direct supervision of the Prime Minister. There was one reported case of a senior police official who was arraigned on bribery charges in connection with the organization of an illegal, clandestine lotto. The official resigned from the police corps. He was arraigned and placed under house arrest against a deposit of \$2,994 (1,000 lira) at the court registry and a personal guarantee of \$14,970 (5,000 lira). The case was ongoing at year's end.

There were no reported problems related to impunity within the police force. A Police Board made up of independent members from outside the police force and presided over by a former judge investigates any allegations of police abuse, and appropriate disciplinary action was taken when necessary. Training for members of the police force was ongoing. New recruits are trained at the police academy and current members regularly undergo refresher courses. There were no reported instances where police failed to prevent or to respond to societal violence.

*Arrest and Detention.*—An arrest warrant, issued by a magistrate, is generally required before the police may detain a person for questioning on the basis of reasonable suspicion. The constitution provides that, within 48 hours of detention, police must either release a suspect or file charges and in all cases must inform detainees of the grounds of suspicion for their arrest. These requirements were respected in practice. During the 48-hour period after detention, arrested persons do not have the right to legal counsel or to meetings with family members. Pretrial detainees are granted access to counsel. Once charged, a person may select a lawyer; otherwise the court appoints a lawyer at its expense. Family members may visit detainees once charges are filed. There were no reports of problems or abuse of prisoners during the 48-hour detention period. Bail normally was granted on a case-by-case basis.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The country's highest court, the Constitutional Court, interprets the constitution and has original jurisdiction in cases involving appellate jurisdiction and in cases concerning human rights violations. The Civil Court of Appeal hears appeals from the civil court, court of magistrates, and special tribunals. The Court of Criminal Appeal hears appeals from the court of magistrates and the juvenile court.

*Trial Procedures.*—The constitution provides for the right to a fair public jury trial, and an independent judiciary generally enforced this right. Defendants have the right to counsel of their choice or, if they cannot afford counsel, to court-appointed counsel at public expense. Defendants and their lawyers have access to government-held evidence relevant to their cases. Defendants may confront witnesses and present evidence; defendants enjoy a presumption of innocence and have the right to appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners.

*Civil Judicial Procedures and Remedies.*—The constitution provides for an independent and impartial court for the determination of civil rights or obligations, and also provides for a remedy in the case of damages for, or cessation of, a human rights violation. Excess in the case of a breach of human rights is also covered under the European Convention Act, which incorporates the European Convention of Human Rights and Fundamental Freedoms. The Government generally respected these rights.

The Code of Organization and Civil Procedure was amended during the year to ensure enhanced efficiency in the execution of judgments. The law was coming into force gradually, a mechanism that is permissible in the legal system.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice; violations were subject to effective legal sanctions.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The law prohibits foreign financial support, speakers, equipment, or other materials in politics during the period leading up to elections, although this provision rarely has been used. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In 2004 the broadcasting authority, an independent statutory body that is responsible for television and radio broadcasting, fined a television station for broadcasting an interview with an independent candidate for the European Parliament on the grounds that his statements could have incited racial hatred. The station sought judicial review of the authority's decision, and the case was still ongoing at year's end.

The independent media were active and expressed a wide variety of views without restriction. The international media operated freely.

There were two cases of journalists' homes being targeted for arson after they had published articles advocating tolerance and human rights for migrants and refugees (see section 2.d.).

On May 3, the front door of the editor to the Malta Today was set on fire after he wrote an editorial on immigration and racism. A police investigation was ongoing at year's end.

On May 13, the home of a journalist with the Malta Independent was set on fire; gasoline and broken glass were spread across the road in front of the house. This attack followed the publication of the journalist's articles on immigration and racism. A police investigation was ongoing at year's end.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

The use of the Internet grew significantly over the past few years with broadband connectivity gaining popularity over narrowband connections. The use of the Internet was widespread in all sectors of society. Approximately 50 percent of households and 90 percent of schools (state, church, and private) had Internet access. Some three dozen Internet cafes, as well as a handful of blogs operated freely and without restriction.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice. The constitution establishes Roman Catholicism as the state religion; however, numerous non-Catholic religious groups, including an Islamic community, various Protestant denominations, and a small Jewish community, practiced their faiths freely and were not required to register with the Government.

The Government and the Catholic Church participated in a foundation that finances Catholic schools. While religious instruction in Catholicism was available in all public schools, the law provides that a student may opt out of this instruction if the student or a guardian objects. A Muslim cemetery that was started in 2005 was near to completion at year's end.

*Societal Abuses and Discrimination.*—There was an arson attack against the cars of members of the Jesuit community. The attack was believed to be linked to the community's advocacy for migrants and refugees rather than religious beliefs (see section 2.d.).

There were no reports of anti-Semitic acts during the year. The Jewish community is composed of about 120 persons.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The constitution prohibits forced exile, and the Government did not employ it.

There were no reports of government restrictions on emigration or prohibition against the return of citizens who have left the country.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

From January to October, the Government also provided temporary protection to approximately 416 persons who appeared not to qualify as refugees under the 1951 Convention and the 1967 Protocol.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

Authorities confined asylum seekers for up to 18 months while their cases including appeals were processed.

Authorities placed children, pregnant women, elderly immigrants, and parents with infants in so-called open centers where they were free to move about shortly after their arrival in the country. The armed forces and police are responsible for persons in detention, while the Ministry for Family and Social Solidarity has responsibility for the welfare and accommodation of persons released from detention centers.

Illegal immigrants awaiting a decision on their cases occasionally protested their detention or attempted to escape from detention centers.

In March approximately 370 illegal immigrants broke out of a closed detention center before being captured and returned. The breakout resulted in the hospitalization of a number of immigrants and police officers. Fourteen immigrants attempted to leave for Sicily by boat; the boat capsized leaving one dead and nine missing. A Sudanese man residing in the country and a number of foreigners were detained by the police for organizing the escape. The case was ongoing at year's end.

On June 24, in a separate incident, Algerian national Khaled Masoud was jailed after being found guilty of transporting fifteen immigrants to the country en route to Sicily. During the court hearing, witnesses testified that they had paid almost \$1,000 for the trip.

There were also reports issued by the European Union and the UNHCR criticizing the length of time illegal immigrants were confined in closed detention centers and the conditions within the centers. Reported problems included crowded facilities, the lack of any meaningful activities within the centers, and the lack of access to legal resources.

The Government excluded asylum seekers from the refugee status determination process if it deemed them to be nationals of a safe country of origin. Asylum seekers

who claim to be nationals or citizens of a country of origin which is listed as safe in the country's laws are informed by the immigration police that their application for refugee status is inadmissible. However, such asylum seekers are also informed by the immigration police that they may apply to the refugee commissioner for a reconsideration of their request for refugee status. In all such cases, the Office of the Refugee Commissioner calls the applicants for a full interview and examination of their claims before proceeding to the determination of their application.

There were arson attacks against property of advocates, an attorney for migrants, refugees, asylum seekers, and a journalist and an editor who published articles on the immigration situation. These incidents received widespread condemnation and were believed to be carried out by a small group for the purpose of intimidation, not to cause actual harm.

On March 13, unknown persons burned seven cars belonging to members of the Jesuit community during the night. These attacks were carried out a few days before the release of the National Report on Racism and Xenophobia, which was drawn up by the Jesuit Center for Faith and Justice in Malta, and the European Monitoring Center on Racism and Xenophobia by the European Racism and Xenophobia Information Network. The case was ongoing at year's end. Following this incident, prominence was also given to an incident in November 2005, when two cars belonging to members of the community were burned.

On April 11, unknown persons destroyed the car of a lawyer with the Jesuit Refugee Service, a major nongovernmental organization (NGO) for migrants. No charges were filed, and the case was ongoing at year's end.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The most recent general elections in 2003 were free and fair.

There were six women in the 65-seat parliament. There were two women in the 14-member cabinet of ministers. Approximately 13 percent of senior government officials were women, and two women held ambassadorial rank; one was a judge at the Court of the First Instance of the European Communities, while the other held the rank of a permanent secretary, the most senior civil servant position within a ministry. Two women were appointed judges, one was appointed magistrate, two were appointed to superintendent positions within the police force, and one was appointed to head the Office of the Prime Minister's defense section.

There were no members of minorities in the Government.

*Government Corruption and Transparency.*—There were no reports of government corruption during the year. There was a report of a senior police officer who was charged with receiving protection money in the organization of a clandestine lotto (see section 1.d.).

The country does not have laws providing general access to government law. There are laws which provide access for the press and the public to certain government-held information. The Government retained discretion to release information that does not fall under any of these sector-specific laws. The Government generally provided access to such information.

### *Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally effectively enforced this prohibition. There were incidents of child abuse and trafficking in persons.

*Women.*—Between January and August the police domestic violence unit received 194 reports of domestic violence, compared with 162 reports during the same time period in 2005. The law prohibits domestic violence, including against women, and the Government effectively enforced it. Penalties ranged from three months to 20 years imprisonment.

A special police unit and several voluntary organizations provided support to victims of domestic violence. There is a hotline to assist victims of abuse through coun-

seling and referrals to shelters. The Government provided support to victims of domestic violence through the department of welfare. A government-supported shelter for women and children was in operation throughout the year; and the Government also provided financial support to a shelter operated by the Catholic Church. In addition, the Government maintained an emergency fund and subsidized other shelters. Some NGOs and victims' assistance advocates asserted that domestic violence is underreported, primarily because of societal attitudes and the attitude of law enforcement and medical service providers. The NGOs reported that women were afraid to report the crime because they feared that they would not be believed or protected.

Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted those accused of such crimes. Rape; spousal rape; and violent, indecent assault carry sentences of up to 10 years' imprisonment.

The law prohibits prostitution, and the Government effectively enforced it. The law provides for sentences of between several months and two years' imprisonment. From January to August, 203 persons were arraigned and there were a number of prosecutions during the year. Trafficking in women was a problem (see section 5, Trafficking).

Sexual harassment was unlawful and is punishable by a \$2,800 (1,000 lira) fine, six months' imprisonment, or both. The Government effectively enforced the law.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. Redress in the courts for sexual discrimination was available. The Ministry for the Family and Social Solidarity and the National Commission for the Promotion of Equality for Men and Women were responsible for gender equality issues. The commission's program focused on broader integration of women into society. It advised the Government on the implementation of policies in favor of equality of the sexes.

Although women constituted a growing portion of the higher education graduates and the work force, they were underrepresented in management and generally earned less than their male counterparts. The National Council of Women of Malta reported "extremely low" female representation in the labor force. In the second quarter of the year, 34.5 percent of women between 15 and 65 years of age were employed, and the female unemployment rate was 10.3 percent, compared with an unemployment rate for males of 6.5 percent.

*Children.*—The Government was strongly committed to children's rights and welfare. It provided free, compulsory, and universal education through age 16. During the year approximately 95 percent of school-age children attended school and 70 percent went on to post-secondary education. There were no apparent differences in the access of girls and boys to education.

The Government provided universal free health care to all citizens, and boys and girls had equal access to health care.

In 2005 the Child Protection Services Section of the National Social Welfare Service agency dealt with 995 cases of child abuse. Prison sentences were handed down in a number of cases involving sexual abuse of minors. A number of sources consistently claimed that authorities did not pursue cases of alleged sexual abuse of children by Catholic clerics unless a parent or adult filed a formal complaint, but rather allowed the church to handle the matter internally. The same sources reported that if a parent or victim filed a complaint against a cleric, the police investigated it thoroughly and followed the same judicial process as with other such complaints. There was at least one case involving a cleric pending at year's end.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to the country.

The country was a destination for persons, primarily from Ukraine, Russia, the Czech Republic, and Romania, trafficked for prostitution.

In 2004 reliable law enforcement sources reported that women were recruited for prostitution from Eastern European countries and essentially "purchased" by men, sometimes pimps intent on exploiting them for commercial sex or by individuals for exploitative sex only with the purchaser. These women were often "sold" to other pimps or individuals, who then continued the cycle; it was typical for a woman to be "sold" every three months under these schemes. The victims of this type of sexual exploitation typically arrived in the country legally on a tourist visa and often with the understanding that they would be employed in the sex trade. Once they arrived in the country, it was not known whether these victims cooperated with the "purchasing schemes" or were subjected to coercion or force to ensure that they remained in this trade.

Concerted efforts in 2004 to disrupt these trafficking rings prompted traffickers to devise new schemes for trafficking women to the country for prostitution. Women

were generally recruited in their country of origin by contacts from their respective country who resided in Malta. Jobs were offered and assistance was given in visa and travel arrangements. Once recruited, women arrived in the country legally either without a visa, if they were EU nationals, or on a tourist visa, student visa, or special "dancer's visa" if they were from another country. Police sources reported that brothel managers confiscated passports and intimidated foreign national women to keep them engaged in prostitution. Since the women involved had arrived and departed legally, police found it difficult to detect and interdict this new trafficking scheme.

Additional sources claimed that immigration authorities were aware of the possibility of trafficking from certain countries and screened suspicious persons who attempted to enter the country. Local law enforcement authorities generally believed that women who traveled to the country to provide sexual services were willing participants; that they willingly provided these services for the clients recruited by pimps; that they profited from these activities; and that they were not coerced, forced, or compelled to continue.

The criminal code prohibits trafficking and states that the punishment for trafficking of a person of age for the purpose of exploitation is from two to nine years. The punishment increases if any of the offenses are accompanied by grievous bodily harm, generate over \$15,000 (5,000 lira), or are organized with a criminal network. Persons can be charged if the offence took place within the country, or if the person is a national or permanent resident. The law states that a person who forces by violence, threat, or deceit, another person over the age of 21 to leave the country for the purpose of prostitution can be imprisoned for up to two years. Forcing a person under 21 under the same scenario is punishable by up to four years. During the year the act was amended to prohibit the procurement of persons from abroad for the purpose of prostitution.

Authorities made no arrests during the year for trafficking or trafficking-related offenses; however, an investigation was ongoing at year's end in the case of a police officer involved with trafficking-related corruption in 2004.

The Government sometimes cooperated with other governments in the investigation of trafficking. A police constable coordinated the enforcement of the antitrafficking law.

Authorities generally did not condone or facilitate trafficking in persons. In 2005 authorities arrested and convicted a former constable and a police officer for trafficking in human beings, living off the earnings of prostitution, and keeping a brothel. The victims were an undisclosed number of Russian women. At year's end, one of the two men was reportedly free on bail pending appeal of his conviction. Further information on the case was not available.

Authorities treated victims of trafficking as a culpable part of the criminal enterprise. The Government encouraged victims to assist in the investigation and prosecution of traffickers and provided protection of witnesses; however, victims who had been arrested generally refused to provide testimony or would testify only in closed hearings. Once the victims provided evidence, they were typically deported to their country of origin.

The Government did not provide for social services to victims of trafficking. Law enforcement authorities did not have a screening or referral process in place for victims of trafficking; however, they occasionally referred victims to the array of social and housing services available to victims of domestic violence.

The Government did not offer programs or education for the prevention of trafficking.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government effectively enforced these provisions. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. Through June the National Commission for Persons with Disability (NCPD), the agency responsible for enforcement of this law, continued work on 113 complaints of discrimination against persons with disabilities that were pending from previous years. Since October 2005 the NCPD opened investigations on 38 new cases. A total of 48 cases were satisfactorily concluded.

*National/Racial/Ethnic Minorities.*—A few thousand persons of Arab, African, and Eastern European origin live in the country. There continued to be isolated reports that owners of some bars and discos periodically discouraged or prohibited darker-skinned persons, particularly of African or Arab origin, from entering their establishments. There were no reports of charges being pressed by the alleged victims.



The law criminalizes racial hatred. The Government amended the Criminal Code to introduce harsher penalties for racial or religiously motivated offenses. During the year two persons were charged with two new separate cases of inciting racial hatred. Their trials as well as three cases from 2005 were ongoing at year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The constitution provides for workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. Noncivilian military and police personnel are not allowed to join a union. Approximately 65 percent of the work force was unionized. Although all unions were nominally independent of political parties, the largest, the General Workers' Union, generally was regarded as having close informal ties with the Labor Party.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining, and it was freely practiced. Workers, except non-civilian military and police personnel, have the right to strike, and they exercised this right by conducting legal strikes. There are no special laws or exemptions from regular labor laws in the country's one export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced labor or compulsory labor and the Government generally enforced it; however, there were reports that such practices occurred (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, and the Government effectively implemented them in practice. The law prohibits the employment of children younger than age 16. The Employment Training Corporation, a government entity under the Ministry of Education, Youth, and Employment, which is responsible for labor and employment issues generally enforced the law effectively but allowed summer employment of underage youth in businesses operated by their families; some underage children were employed as domestics, restaurant kitchen help, or vendors.

*e. Acceptable Conditions of Work.*—The national weekly minimum wage of approximately \$172 (57.88 lira) for adults combined with an annual mandatory bonus of approximately \$620 (214 lira) and a \$350 (117 lira) annual cost of living increase to all employees to reflect inflation provided a decent standard of living for a worker and family. Citizens were also entitled to additional government subsidies for housing, health care, and education.

The standard workweek was 40 hours, but in some trades it was 43 or 45 hours. Government regulations provide for a daily rest period, which is normally one hour, and one day of rest per week. Premium pay was required for overtime. Excessive compulsory overtime is prohibited, and workers cannot be obligated to work more than 48 hours, inclusive of overtime. The Ministry of Education, Youth, and Employment's Department of Industrial and Employment Relations generally enforced these requirements effectively.

The Occupational Health and Safety Authority (OHSA), a government entity under the Ministry of Education, Youth, and Employment made up of the Government, unions, and employers, conducted regular inspections at work sites and cited a number of offenders. Enforcement of the health and safety standards continued to be uneven; however, and industrial accidents remained frequent, mostly in the building and construction sector. Workers had the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, and OHSA generally enforced this right. Allegations of physical and sexual abuse of workers existed, but they were rarely made public; even more rarely were they the subject of court proceedings.

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## MOLDOVA

Moldova is a parliamentary republic, with a population of approximately 3.39 million, excluding the estimated 555,000 residents living in the secessionist-controlled region of Transnistria. The constitution provides for a multiparty representative government with power divided among a President, cabinet, a unicameral parliament, and the judiciary. Parliamentary elections in March 2005 generally complied with most international standards for democratic elections. In April 2005 parliament reelected Communist Party leader Vladimir Voronin as President for a sec-

ond term. In 1990 separatist elements supported by Russian military forces in the area declared a “Transdnister Moldovan Republic,” which lies east of the Dniester River along the border with Ukraine. The Government has no authority in Transnistria. Unless otherwise stated, all references herein exclude the secessionist region. Voting for March 2005 parliamentary election did not take place in the area east of the Dniester River; however, more than 8,000 voters residing in Transnistria were able to vote at polling stations established by the Government on government-controlled territory. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Security forces beat persons in custody, there was incommunicado detention, and prison conditions remained harsh. Other problems included selective official harassment and intimidation of the political opposition; judicial and police corruption; monitoring by security forces of political figures through unauthorized wiretaps and, at times, illegal searches; intimidation of journalists; obstacles to official registration of some religious groups; persistent societal violence and discrimination against women and children; trafficking in women and girls for sexual exploitation; discrimination against Roma; limits on workers’ rights, and child labor.

The human rights record of the Transnistrian authorities remained poor. The right of citizens to change their government was restricted and authorities interfered with the ability of residents to vote. Authorities reportedly continued to use torture and arbitrary arrest and detention. Prison conditions remained harsh, and two members of the so-called Ilascu group remained in prison despite a 2004 ruling by the European Court for Human Rights (ECHR) to end their imprisonment. Transnistrian authorities continued to harass independent media and opposition lawmakers, restrict freedom of association and of religion, and discriminate against Romanian-speakers.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings in the country or in the separatist Transnistrian region.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year. There were no developments in the police investigation into the 2004 disappearance of Sergei Gavrilov, who was imprisoned in Transnistria during the early 1990s and allegedly witnessed mistreatment of “Ilascu group” members.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were credible reports that police used cruel and degrading arrest and interrogation methods, and that guards beat prison inmates. In June 2005 parliament approved a law criminalizing torture.

Nongovernmental organizations (NGOs) reported several cases of cruel, inhuman, or degrading treatment of prisoners and detainees during the year. In contrast with 2005, no new cases of police beating Roma were reported (see section 1.d.).

On April 4, the ECHR ruled unanimously in favor of Mihai Corsacov who accused two police officers of torture. Corsacov was arrested for theft in 1998 and alleged that A. Tulbu and V. Tubceac kicked, punched, and beat him with batons. He spent 70 days in a hospital as a result of injuries. Corsacov’s mother opened a case against police; the investigation lasted more than three years, and the case was closed and reopened 12 times. The ECHR ruled that Corsacov was a victim of police torture, and stated that the practice of *falaka* (beating of soles) was “a particularly reprehensible form of ill-treatment.” This was the first such ECHR ruling on torture by police in the country. In its April ruling, the ECHR also found that the prosecutor general’s office failed to effectively investigate Corsacov’s allegations and deprived him of a remedy against mistreatment by refusing to open a case against the police officers. In September the prosecutor general’s office opened a criminal investigation into charges against the two officers.

According to Amnesty International (AI), the prosecutor general’s office refused to charge the police officers who reportedly tortured Vitalii Kolibaba on April 25 and Serghei Gurgurov in October 2005. Kolibaba, who was arrested on April 21, allegedly was hung from a crowbar stuck under his elbows and beaten. He later attempted to commit suicide in his jail cell. Kolibaba was released May 15 following an intervention by AI with the authorities. In December Kolibaba filed a complaint with the ECHR.

*Prison and Detention Center Conditions.*—Conditions in most prisons in the country and in the separatist Transnistria region remained harsh, and in some instances were life threatening, with serious overcrowding. Cell sizes did not conform to local legal requirements or to international standards. The incidence of malnutrition and disease, particularly tuberculosis, was high in all prisons. Conditions were particularly harsh in pretrial and presentencing facilities. On July 12, a detainee died in a hospital after being beaten by a group of police officers while in pretrial detention. The prosecutor general's office launched a criminal investigation into the death. Other detainees reported being denied food and water and confined in underground facilities without medical care, fresh air, ventilation, and proper sanitation.

In June 2005 several hundred inmates of a prison in the Transnistrian city of Tiraspol started a violent hunger strike to protest the conditions of their confinement and treatment. Representatives from the Organization for Security and Cooperation in Europe (OSCE) were later allowed to visit the prison, where conditions continued to be harsh.

On August 14, 170 inmates at the Leova prison 50 miles southwest of Chisinau staged a four-day hunger strike to protest overcrowding, insufficient drinking water, violation of their right to private meetings with lawyers, physical abuse, and intimidation. The Ministry of Justice acknowledged problems at the prison and stated they were due to insufficient state funding. The local office of the International Helsinki Commission reported that authorities denied them permission to visit the Leova prison during the protests. On September 15, a Helsinki Committee mission confirmed that prison authorities segregated prisoners into two groups: prisoners who cooperate closely with authorities, and prisoners who complain about poor conditions.

During the year the Bender prison remained disconnected from municipal water and electricity services. Prison authorities used a generator to provide power and the Department of Penitentiaries arranged special water delivery and improvised outdoor toilets for the 113 prisoners confined to the facility. Bender city officials disconnected the prison in 2003 from water and sewer services out of fear of contamination from inmates infected with tuberculosis. The Helsinki Committee represented nine inmates, who filed court cases to claim compensation for poor detention conditions. The director of the Penitentiary Department denied the prison received running water from Bender and stated that all tuberculosis-infected inmates had previously been transferred to another prison.

In the case of Valeriu Pasat, the country's former defense minister, prison authorities repeatedly refused to abide by three court decisions to allow an independent medical commission to examine Pasat. He was instead examined by Ministry of Interior doctors in the presence of police (see sections 1.d. and 1.e.).

Pretrial detainees generally were held separately from convicted prisoners, although there were reports of convicted prisoners remaining in detention facilities because of prison overcrowding. Children convicted of crimes were sent to adult prisons, where they were held in separate cells.

The Government generally permitted independent human rights observers to regularly visit prisons. As a rule, observers are accompanied by prison officials during visits. Generally, however, prison officials allowed observers to talk in private with inmates, when privacy was requested. The Government cooperated with the International Committee of the Red Cross (ICRC) and permitted visits to prisoners in accordance with standard practices. In Transnistria authorities there allowed the ICRC to visit the Ilascu group prisoners once per year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, in practice the authorities did not observe these prohibitions.

On August 30, police arrested nine members of the NGO Hyde Park during a sanctioned protest. They were detained without food or water for 40 hours in badly ventilated cells (see section 2.b.).

*Role of the Police and Security Apparatus.*—The national police force is the country's primary law enforcement body. It is subdivided into regional and city police commissariats, which are subordinated to the Ministry of Internal Affairs. Police corruption remained a problem. During the first eight months of the year, authorities brought 135 criminal cases against ministry employees, 105 of them for abuse of office by using of violence and torture. Another 1,190 ministry employees received disciplinary sanctions.

Impunity was also a problem. The prosecutor general's office is responsible for investigating the activities of the police. However, the prosecutor general's office stated that it believed the interior ministry often ignored or superficially examined reported violations. An internal affairs unit that reported to the Ministry of Internal Affairs investigated minor incidents of corruption.

*Arrest and Detention.*—The law allows judges to issue arrest warrants based on cases presented by prosecutors. Authorities must promptly inform detainees of the reason for their arrest and the charges against them. Suspects may be detained without charge for 72 hours. The law provides accused persons the right to a court hearing on the legality of their arrest. However, these rights were not always respected in practice.

Once charged, a detainee may be released on personal recognizance pending trial; in some cases friends or relatives were allowed to give a written pledge that the accused would appear for trial. The law provides for a bail system, but it was rarely used and did not function well. Authorities generally did not release detainees accused of violent or serious crimes.

On September 26, the Government's Center for Combating Economic Crimes and Corruption arrested Eduard Musuc, a prominent opposition political party leader, on charges of alleged fiscal impropriety concerning a real estate deal while director of Megadat.com, which is a leading Internet provider. On October 11, a court set bail at the unprecedented sum of \$154,000 (two million lei). Musuc failed to pay bail and remained in detention. On November 14, a court dropped the bail requirement and released Musuc pending trial. The case remained pending at year's end.

Detainees have the right to a defense attorney; however, at times this right was restricted. Authorities generally did not grant detainees access to a lawyer until 24 hours after being detained. Police often told persons that they were witnesses in a case and questioned them without a lawyer present, then subsequently detained them as suspects. Detainees were often informed of the charges against them without a lawyer present. The Government requires the local bar association to provide an attorney to defendants who are unable to afford one, but the Government did not pay legal fees, and defendants often did not have adequate counsel (see section 1.e.). Detainees were generally allowed access to family members.

In contrast to the previous year, local and international NGOs did not report arbitrary arrests or incommunicado detention of Roma.

There were occasional detentions that some observers regarded as politically motivated and retaliation for criticism of government officials. On September 7, police arrested Genadie Braghis, sales director of the independent Pro-TV media company, on allegations of bribery. He was held incommunicado and without effective access to legal counsel. Braghis met with his lawyer only at the time of the arrest and at the court hearing; four requests to meet Braghis were denied either because meetings rooms were not available or visiting hours were over. He was released September 11; the charges were dropped September 17 for lack of evidence, but reinstated on October 7. PRO-TV officials claimed there was a connection between the arrest and critical PRO-TV reports about the interior minister (see section 2.a.). The case remained under investigation at year's end.

In July 2005 according to AI, the police detained more than 30 Romani men and boys, some as young as 12, during a raid in the town of Edineti. Most were held for two days before a local court ordered their release, and most were released without charge. Three others were held incommunicado for several weeks and released without charge.

In October 2005 local authorities briefly detained Mikhail Formuzal, mayor of Ciadir-Lunga in the autonomous Gagauz region and a leading opposition figure, on charges of abuse of office and misuse of funds. Formuzal was forbidden to leave the city during the investigation. According to Formuzal, the prosecutor general's office opened as many as 18 criminal cases against him to thwart his election bid for the office of the Gagauz governor (Bashkan). However, Formuzal was elected governor December 17 with 56 percent of the vote (see section 3).

There were no new developments during the year in the 2003 trial of Chisinau water utility head Constantin Becciev and the case remained pending at year's end. Becciev was held in preventive detention for six months in 2003. In October 2005, in a separate case initiated by Becciev with the ECHR, the court concluded that he had been held in inhuman and degrading conditions and did not receive a fair trial. The ECHR also determined that Becciev should be compensated for moral damages and legal expenses.

The law permits pretrial detention for an initial period of 30 days. The courts may extend pretrial detention for up to 12 months on an individual basis, according to the severity of the alleged crime. Detentions of several months were fairly frequent; in rare instances, pretrial detention was extended for several years. During the year a total of 8,614 persons were being held in detention facilities and prisons. Of that number 234 were minors, 440 were women, and 1,917 were pretrial detainees.

In Transnistria authorities continued to harass and detain persons suspected of being critical of the regime.

On August 17 and 18, the Transnistrian security agency arrested four members of the Slobozia-based NGO Dignitas on charges of alleged involvement in the August 13 explosion of a trolleybus in Tiraspol. The authorities searched the Dignitas office without an arrest or search warrant. All four men were released on August 22.

*Amnesty.*—In May 2005 Gagauz authorities granted amnesty to Ivan Burgudji, an official of the Gagauz autonomous region and a well-known Gagauz nationalist. He was sentenced in 2003 by the Chisinau tribunal court to five years in prison for abuse of power and malicious hooliganism in connection with his opposition political activities. On December 17, Moldovan police, acting without a warrant, arrested Burgudji in Ceadir-Lunga after he voted in the Gagauz elections for governor. Police did not file formal charges at the time he was detained, and Burgudji remained in police custody at year's end.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, official pressure and corruption of judges remained a problem. There continued to be credible reports that local prosecutors and judges asked for bribes in return for reducing charges or sentences, and observers asserted that courts were sometimes politically influenced. Political factors played a large role in the re-appointment of judges.

The judiciary consists of lower courts, courts of appeal, and the Supreme Court of Justice. A separate Constitutional Court has exclusive authority in cases regarding the constitutionality of draft and final legislation, decrees, and other governmental acts. The Constitutional Court was the only court generally regarded as fair and objective.

The prosecutor general's office is autonomous and answers to parliament. It is responsible for overseeing criminal investigations, presenting charges before a court, and protecting the rule of law and civil freedoms. Prosecutors may open and close investigations without bringing the matter before a court, giving them considerable influence over the judicial process.

There is a separate military court system, which generally has the same problems as the civilian courts. The jurisdiction of military courts extends to crimes committed by active duty military personnel and crimes committed by reserve or retired military personnel while they were on active duty. Military courts can also try civilians for crimes committed against military personnel if the plaintiff presses charges through the military prosecutor's office.

*Trial Procedures.*—While defendants in criminal cases are presumed innocent, in practice a prosecutor's recommendation carried considerable weight and limited a defendant's presumption of innocence. Trials were generally open to the public; however, because of a shortage of courtrooms, many cases were heard in judges' chambers. Court-session information, such as trial times, locations, and verdicts, was rarely posted publicly as required by law; this lack of information limited public access to court proceedings. Cases were presented to a judge or panel of judges depending on the complexity of the case. Defendants have the right to a lawyer, to attend proceedings, to confront witnesses, and to present evidence. The law requires the local bar association to provide an attorney to defendants who are unable to afford one; however, since the Government did not pay legal fees, defendants often did not have adequate counsel. Prosecutors occasionally used bureaucratic maneuvers to restrict lawyers' access to clients. Defense attorneys were able to review evidence against their clients when preparing cases. Convicted persons have the right to appeal to a higher court.

The January 17 conviction of former defense minister Valeriu Pasat for unlawfully selling state property followed a civilian court trial held behind closed doors (see section 3). Observers said the proceedings raised questions about the fairness and independence of the judiciary.

The law provides for the accused to have an interpreter, both at the trial and when reviewing documents of the case; however, because of a lack of resources, persons requiring interpretation often had their hearings repeatedly postponed. If the majority of participants agree, trials may be conducted in Russian or another language instead of Romanian.

There is no juvenile justice system, and children accused of crimes usually were tried by criminal courts. There were judges in each region and in Chisinau specializing in cases involving minors.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

However, in March 2005 police arrested former defense minister Valeriu Pasat on charges of defrauding the Government of millions of dollars. Many observers considered the arrest politically motivated. On January 17, a court sentenced Pasat to 10 years in prison on charges of damaging the state. On February 7, the prosecutor

general's office opened a second criminal case, accusing Pasat of attempted murder and usurping power. A third criminal case was launched in September on charges of "weapons smuggling" and abuse of authority. On October 16, an appeals court acquitted Pasat of some of the original charges and reduced his 10-year sentence to five. He remained in prison; the two new cases were pending at year's end (see section 3).

In Transnistria authorities continued to refuse to comply with a July 2004 ECHR ruling to release two members of the Ilascu group convicted in 1993 of killing two Transnistrian officials; their sentence expires in June 2007.

*Civil Judicial Procedures and Remedies.*—By law, citizens can seek damages in civil courts for human rights violations. Under the constitution the government is liable in cases where authorities violate a person's rights by administrative means; fail to reply in a timely manner to an application for relief, or make damaging errors during prosecution. However, judgments awarded in such cases are small, rarely exceeding \$2,000 (26,000 lei) and are frequently not enforced. As of August the ECHR issued 13 decisions faulting the country for failure to enforce judgments for human rights violations. The decisions were part of 44 ECHR findings issued over the last decade against the country for human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Government did not respect these prohibitions in practice.

It was widely believed that authorities, including the interior ministry, the prosecutor's general office, and the Security and Information Services (SIS), conducted illegal searches and wiretaps. Judges may legally authorize wiretaps only in cases where a criminal investigation is underway; in practice, however, the judiciary lacked the ability to control security organizations and police to prevent illegal wiretaps. Courts did not exclude evidence obtained illegally.

During the year several opposition politicians alleged that government authorities continued to monitor them illegally.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government sometimes restricted these rights and on occasion intimidated journalists into practicing self-censorship.

Public criticism of the Government is generally allowed; however members of the media and NGOs believe that authorities try to impede criticism when it is made by influential persons.

The print media expressed a wide variety of political views and commentary. The Government owned a news agency; local and city governments subsidized approximately 25 newspapers. Political parties and professional organizations also published newspapers, most of which had a circulation of less than 15,000. The Government did not restrict foreign publications, but most were not widely circulated because of high costs. Russian newspapers were available; some of them published special weekly supplements for the country.

In contrast to previous years, there were no reports of random beatings or violence against journalists.

According to the Government's Audiovisual Coordinating Council, there were 44 radio stations and 194 television stations and cable operators broadcasting in the country. Most of them rebroadcast programs from Romania, Russia, and Ukraine, offering only a limited amount of locally produced programming. The Government controlled a national radio and television station, Teleradio Moldova (TRM), which covered most of the country. Some local governments, including in Chisinau and in the autonomous territorial unit of Gagauzia, operated television and radio stations and newspapers. A number of cable television operators provided a variety of foreign television programs, including international news programs, to an estimated 202,300 subscribers.

The number of media outlets not owned and operated by the Government or a political party increased slightly during the year, but many remained in the service of, and secured large subsidies from, the Government and political movements.

In June 2005 authorities sold two government-owned newspapers, *Moldova Suverana* and *Nezavisimaya Moldova*. The sale fulfilled one of the conditions by the parliamentary opposition in return for supporting President Voronin's re-election in April 2005. The two newspapers continued as independent publications but retained a strong progovernment stance.

The restrictive regulatory framework for media coverage of the March 2005 parliamentary election campaign made it difficult for citizens to get information about the candidates. In February 2005, responding to international and domestic con-

cerns, the Central Election Commission (CEC) revised regulations to increase airtime for debates on public stations and allowed news programs to cover the campaign. However, the CEC decision came less than two weeks before the election.

The law prohibits foreign governments from funding or supporting domestic publications. In practice, however, publications supported by the Romanian government complied with the law by receiving funds from specially-created "foundations." The Government did not prosecute publications receiving funds from other countries.

In October 2005 the Audiovisual Coordinating Council (CCA) suspended the license of the Analytic Media Group (AMG) to rebroadcast the Russian ORT television channel on a nationwide television network, awarding it to a new company, Media Satellite, which is believed to have ties to individuals close to President Voronin. AMG filed a court case against CCA calling the action illegal on the grounds that it had both a valid license to broadcast on a major frequency and possessed the sole contract to rebroadcast the Russian ORT channel. However, in December 2005 an appeals court ruled in favor of the CCA's action. In the meantime, CCA awarded AMG a new but weaker frequency to allow it to continue broadcasting. Foreign observers in the country expressed concern over the lack of transparency and independence of the CCA in granting broadcast licenses and frequencies.

On July 27, parliament adopted the Audiovisual Code that combined and revised several media laws according to OSCE and Council of Europe recommendations. The new code regulates the activity of private television and radio stations, the government-controlled public broadcaster Teleradio Moldova (TRM), and the CCA. However, critics and local media NGOS expressed concern that the law, which placed all public television and radio stations under TRM, would hurt media independence and stifle independent and dissenting media.

On December 14, the Chisinau Municipal Council dismissed the directors of two local public broadcasters, Radio Antena-C and Euro-TV Chisinau, and put both stations up for sale. Journalists at both stations protested the action, and opposition parties, NGOs, and the international community expressed concern about possible muzzling of independent media. On December 16, Radio Antena-C FM broadcasting was abruptly stopped, but its outdated cable network, connected to residences was allowed to continue broadcasting.

Controversy continued over alleged government control of TRM, despite efforts begun in August 2004 to transform the broadcasting entity into an independent public company. TRM employees charged that selection of employees for the new TRM was biased against journalists who were critical of the Government. Several journalists who had been dismissed sued TRM to be reinstated. In one case, a local court upheld the legality and competency of TRM's hiring committee; other lawsuits remained pending at year's end. At least nine other dismissed TRM journalists, including Larisa Manole, filed cases with the ECHR, accusing the broadcaster of censorship. The cases remained under special ECHR review.

Both print and broadcast journalists reportedly continued to practice self-censorship out of concern that government officials and other public figures may use civil defamation and calumny laws in retaliation for critical news coverage. While journalists and media outlets continued to face potential fines for libel under the civil code, there were no new reported libel cases during the year.

In July, following the Council of Europe's recommendations, parliament amended the civil code to place a ceiling on the fines imposed for moral damages for libel. The new law established criteria that judges may take into consideration when deciding the amount of libel awards, such as the social impact of the information on the aggrieved person and the gravity of moral and physical suffering.

On July 12, a court ordered the Moldavskie Vedomosti newspaper to pay a penalty of \$2,000 (25,000 lei) in connection with a \$50,000 (620,000 lei) "moral damages" civil suit filed by the head of the government-owned Moldovan railroad. The independent Russian-language newspaper appealed the order to the ECHR; the case was pending at year's end.

In 2004 the weekly newspaper Timpul lost a lawsuit in which the Daac-Hermes Company alleged \$2 million (24.8 million lei) in damages for publishing "calumnious" information. In response, the newspaper voluntarily closed down and re-registered under a new name, Timpul de Dimineata.

In Transnistria authorities limited freedom of speech and of the press. Alternative viewpoints were stifled by widespread censorship, and residents were wary of voicing alternative opinions and engaging in meaningful debate over key issues affecting the region. It was difficult to register, maintain, and financially sustain an independent newspaper, radio, or television station in the separatist region. In November 2005 Ion Iovcev, the principal of a Romanian-language school in Transnistria and active advocate for human rights as well as a critic of the Transnistrian leader-

ship, received threatening calls that he attributed to his criticism of the separatist regime.

Both of region's major newspapers, Pridnestrovie and Dnestrovskaya Pravda, were controlled by the authorities. There was one independent weekly newspaper in Bender and another in the northern city of Ribnitsa. Opposition newspapers, such as Novaia Gazeta and Chelovek i yevo Prava (Man and His Rights), had limited circulation and impact. Separatist authorities harassed independent newspapers for critical reporting of the Transnistrian regime. Other print media in Transnistria did not have a large circulation and appeared only on a weekly or monthly basis; some of the publications also criticized local authorities. Most Moldovan newspapers did not circulate widely in Transnistria, although they were available in Tiraspol.

Most television and radio stations and print publication were controlled by Transnistrian authorities, which largely dictated their editorial policies and finance operations. Some broadcast networks, such as the TSV television station and the INTER-FM radio station, were owned by Transnistria's largest monopoly, Sherriff, which also holds a majority in the region's legislature. While these outlets on occasion expressed alternative views for political purposes, in general their editorial policy did not greatly differ from government-owned and controlled media.

In July 2005 the Transnistrian Supreme Soviet amended the election code to prohibit media controlled by the Transnistrian authorities from publishing results of polls and forecasts related to elections.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. According to the country's technology regulatory agency, 712 companies are authorized to provide information technology services in the country. Internet penetration was estimated at 11.5 percent, and more than 394,000 persons in the country used the Internet during the year.

In Transnistria the Internet is not readily affordable and broadband access is rare. Only a small segment of the population uses and has access to the Internet.

*Academic Freedom and Cultural Events.*—On August 22, the Ministry of Culture refused for the third consecutive year to install a bust in central Chisinau of Romanian writer Liviu Rebreanu, stating that it had not received an authentication certificate. The Union of Writers, the Academy of Science, and several NGOs protested the ministry's refusal. On August 30, nine Hyde Park NGO members were arrested and detained during a protest against the ministry's refusal (see section 2. b.).

On October 11, several hundred historians, politicians, teachers and students protested in the capital against a new "Integrated History" course introduced by the education ministry to replace the History of Romanians and Universal History courses. Protest organizers claimed that new textbooks reflect Stalinist ideas and promote xenophobia and anti-Romanian sentiments. The ministry stated that the textbooks had been compiled with wide input from the academic community and would be subject to any necessary revisions in the future.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly; however, at times the Government limited this right in practice. In several instances authorities arrested and detained citizens during peaceful protests and released them hours later without charges.

On April 28, the Chisinau authorities refused for a second year to issue a permit to the NGO GenderDoc-M for a peaceful demonstration in connection with the country's fifth annual gay pride events (see section 5).

On August 30, police arrested nine members of the NGO Hyde Park, which campaigns for freedom of expression, during a lawful protest and detained them for 40 hours (see section 1.d.). Authorities ignored a court-issued permit for the protest and charged them with participating in an unsanctioned meeting and resisting arrest. The NGO members were subsequently acquitted on both charges. However, on November 1, the Supreme Court upheld a decision by municipal authorities to disregard the court-issued permit.

On November 22, the Buiucani Prosecutor's Office in Chisinau summoned two members of the Social Democratic Party of Moldova (PSDM) for questioning about their participation in a sanctioned protest and alleged threats against the constitutional order of the country.

On November 15, the Supreme Court declared illegal the refusal by the city government to permit AI to hold a protest on October 10 against the death penalty at the embassies of two foreign governments.

The OSCE's Office for Democratic Institutions and Human Rights' (ODIHR) observer report on the country's March 2005 parliamentary elections noted several



cases where local officials either did not authorize campaign meetings or obstructed access.

In Transnistria authorities usually did not permit free assembly; on those occasions when permits were issued for demonstrations, authorities often harassed organizers and participants. Permits for demonstrations and public meetings are issued only to those organizations and public movements that are loyal to the authorities, such as the youth group Proryv (Breakthrough), and other organizations that the authorities consider to be patriotic.

*Freedom of Association.*—The constitution provides for freedom of association and states that citizens are free to form parties and other social and political organizations; however, the constitution also prohibits organizations that are “engaged in fighting against political pluralism,” the “principles of the rule of law,” or “the sovereignty and independence or territorial integrity” of the country. While authorities have not applied these provisions to prevent groups from forming, organizations favoring unification with Romania charged that the provisions were intended to impede their political activities. Authorities routinely approved applications to register private organizations, including political parties.

In Transnistria authorities restricted freedom of association by intimidation and prosecution for alleged offenses or on fabricated charges. In April Transnistrian leader Igor Smirnov issued a decree prohibiting external financing of NGOs. After criticism from the international community and Transnistrian NGOs, Smirnov later changed the decree to prohibit external financing of only those NGOs that are directly “engaged in political activities” (see section 4).

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the law includes restrictions that inhibit the activities of some religious groups. There is no state religion; however, the Moldovan Orthodox Church received special treatment from the Government. For example, the Metropolitan of Chisinau and All Moldova and other high-ranking Orthodox Church officials received diplomatic passports.

In the separatist region of Transnistria the authorities continued to deny registration and harassed a number of minority religious groups.

The law requires religious groups to register with the State Service for Religions (SSR). Unregistered religious groups may not buy land or obtain construction permits for churches or seminaries. Unregistered groups often conduct services, but at the risk of harassment.

At year's end the SSR still had not registered the True Orthodox Church of Moldova, despite a 2002 Supreme Court ruling in the church's favor. The Church of Jesus Christ of Latter-day Saints (Mormons), The Ukrainian Orthodox Kiev Patriarchate, the Central Muslim Spiritual Board of Moldova, a variety of Protestant congregations, and the Spiritual Organization of Muslims in Moldova continued to encounter bureaucratic obstacles to registration.

However, on December 29, the SSR, responding to a supreme court of justice ruling, registered the Church of Jesus Christ of Latter-day Saints (Mormons), ending its six-year legal struggle to obtain official government recognition. In a September 27 ruling, the court said the Government had a duty to legally recognize the two local Mormon congregations, which have a total of approximately 250 members.

With regard to the Muslim organizations, the SSR continued to maintain that they had failed to present necessary documents for registration. The Spiritual Organization of Muslims reported continued harassment by the police who conducted document checks and took pictures of members at Friday prayers. For example, on May 19, police filmed attendees during Friday prayers and tried to bring charges of administrative violations. The court dismissed the charges as unfounded. Police claimed the services were illegal because the organization was not registered and the meeting place was not being used in accordance with the organization's status as a charity. During the year authorities did not follow up with the group on the March 2005 Ministry of Justice letter, which demanded that the organization stop propagation of an “unregistered cult.”

There were no legal developments in the 2004 case of the halted construction of a Baptist church in Capriana, despite Baptist appeals to both district and central authorities.

In Transnistria on May 13, the Jehovah's Witness community received an order from the Tiraspol city prosecutor to bring the group's charter into harmony with the law. The community responded with a petition that stated it was not able to change its charter because the Office for Religious Cults had not responded to its request for registration documents to apply for accreditation. The prosecutor rejected the petition, saying that the matter should be resolved in the courts. The case was pending at year's end.

Foreign missionaries may enter the country for 90 days on a tourist visa. Although the law prohibits “abusive proselytizing,” which is defined as “an attempt to influence someone’s religious faith through violence or abuse of authority,” the Government has not taken legal action against individuals or organizations for proselytizing.

The law provides for restitution of property confiscated during the Nazi and Soviet regimes to religious communities; however, claims of the Moldovan Orthodox Church have been favored over those of other religious groups, and the church has recovered nearly all of its property. In cases where property was destroyed, the Government offered alternative compensation. Property disputes between the Moldovan and Bessarabian branches of the Orthodox Church have not been resolved; representatives of the Bessarabian Orthodox Church claimed that their property rights were still being violated. There were no developments in a 2005 ECHR case the BOC brought by the Bessarabian church against the country.

According to Jewish community representatives, authorities have not returned Jewish community property.

*Societal Abuses and Discrimination.*—Members of Jehovah’s Witnesses complained that local town councils and Orthodox priests and their adherents continued to impede their ability to practice their religion freely. In April local authorities from Farladeni village, acting on the insistence of the local Orthodox community, terminated the contract that allowed Jehovah’s Witnesses to rent a public building for worship. The Jehovah’s Witnesses reported similar problems in obtaining and maintaining construction permits to build houses of worship. Baptists also reported that townspeople in several localities physically or verbally abused them at the instigation of local Orthodox priests.

In Transnistria non-Orthodox groups complained that they were generally not allowed to rent property and were often harassed during religious services.

The Jewish community had approximately 25,000 members, including 2,600 living in separatist-controlled Transnistria. In May 2005 six tombstones were destroyed in the Jewish cemetery in Chisinau. Three young men, two from Chisinau and one from Tiraspol, were arrested in connection with the vandalism; their motives were unclear, but Jewish community leaders stated that they did not consider the vandalism an act of anti-Semitism. In November 2005 unknown persons destroyed another 25 tombstones. Police failed to find the perpetrators, and the Jewish leaders also did not consider the vandalism an act of anti-Semitism.

According to the Stephen Roth Institute, most anti-Semitism in the country is expressed on the Internet, which is used to spread ultra-nationalist and revisionist ideas.

In Transnistria there was no progress in the investigation into several anti-Semitic acts that took place in 2004 when more than 70 tombstones were desecrated in the Jewish cemetery in Tiraspol and unknown persons attempted to set fire to the Tiraspol synagogue. Transnistrian authorities believed the attacks were carried out by the same individuals.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Transnistrian authorities sometimes restricted travel to and from the separatist region.

Transnistrian authorities applied a transit fee to Moldovan nationals crossing Transnistria and often stopped and searched incoming and outgoing vehicles. Transnistrian authorities allowed farmers from government-controlled villages in the Dubasari region of Transnistria to travel to areas outside Transnistria to sell their produce, and no longer blocked farmers’ access to their farmland.

The law prohibits forced exile, and the Government did not employ it.

Citizens generally were able to depart from and return to the country freely; however, there were some restrictions on emigration. Persons wishing to emigrate must meet all outstanding financial obligations to other persons or legal entities before emigrating. However, this legal requirement was not strictly enforced in practice. Close relatives who are dependent on a potential emigrant for material support must give their concurrence. Although the Government may deny permission to emigrate if the applicant had access to state secrets, no such cases have been reported for several years.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection

against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status and asylum.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN convention and its 1967 Protocol and provided it to seven persons. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. During the year the Government substantially revised procedures to expedite issuance of identification cards and travel permits to refugees. All Chechen refugees in the country were repatriated; none reported any mistreatment.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice in most of the country through periodic, generally free and fair elections held on the basis of universal suffrage, although authorities harassed and intimidated the political opposition. Authorities in Transnistria restricted the right of citizens to change their government.

The constitution provides for a parliamentary form of government. Parliament elects the President by a three-fifths majority vote. The President appoints the Prime Minister, who in turn names a cabinet. Parliament must approve both the Prime Minister and the cabinet.

*Elections and Political Participation.*—In March 2005 citizens voted in multiparty parliamentary elections, which according to OSCE/ODIHR election observers complied with most international standards for democratic elections. While the balloting was free and fair, the OSCE reported that campaign conditions and media coverage preceding the vote “were not satisfactorily equitable.” As a result, the elections fell short of meeting standards “central to a genuinely competitive election process.” Restrictive legal provisions and interference by authorities, in particular at the local level, hampered the campaigns of some candidates, particularly those representing the opposition. In addition, restrictive media provisions in the electoral code and state media bias prevented equal campaigning opportunities. Election observers noted other shortcomings, including inaccurate and incomplete voter lists and group voting. The law requires political parties to have a minimum of 5,000 members in order to register, a threshold that the Council of Europe considered to be a serious barrier to the maintenance of political parties.

The authorities generally allowed international observers to monitor the elections, registering a record number of international and local observers. Several persons from Russia and other countries in the Commonwealth of Independent States who claimed to be observers were refused registration and expelled from the country during the campaign for conducting “illegal activities.” Authorities accused them of campaigning for and illegally funding one of the candidates.

The Government selectively enforced regulations, including inspections and tax audits of individuals and businesses that belonged to or supported opposition parties. There were reports that police and officials from the Center for Combating Economic Crime and Corruption visited printing houses that published opposition party campaign materials and prevented transport companies from providing buses to political parties to bring individuals to voter assemblies.

Members of parliament were elected from nationwide party lists. Two parties and one block won seats in the 101-seat parliament: the Communist Party won 56 seats; the three-party Democratic Moldova Bloc (BMD) gained 34 seats, and the Christian Democratic People’s Party won 11 seats. In April 2005 the new Parliament reelected Communist Party leader Vladimir Voronin President to a second term.

There were 21 women and 26 members of ethnic minorities in parliament. There was one woman and three minority members in the 21-member cabinet. Russian, Ukrainian, Bulgarian, Azeri, and Gagauz minorities were represented in parliament.

The July 2005 mayoral elections in several towns, including Chisinau, were generally free and fair; there was greater media access and less government interference than in 2003. However, voters in Chisinau failed to elect a mayor four times because voter turnout did not reach the required minimum of one-third of registered voters. The next local elections across the country are scheduled for 2007.

The Gagauz Christian Turkic minority enjoyed local autonomy in Gagauzia in the southern part of the country. According to the OSCE and the Council of Europe, the two rounds of Gagauz Bashkan elections on December 3 and 17 were held in a generally calm and orderly manner and complied with most international standards. Opposition candidate Mikhail Formzal was elected governor for a four-year term.

In Transnistria authorities restricted the right of residents to change their government and interfered with the ability of residents to vote.

On September 17, Transnistrian authorities conducted a referendum on the separatist region's independence and future accession to Russia. While authorities claimed that an overwhelming majority of Transnistria's voters supported the proposal, the referendum was not monitored by independent observers. The authorities prevented free expression of alternative viewpoints and were suspected of falsifying the final results.

On December 10, elections for "President" of Transnistria returned the incumbent Igor Smirnov to power. The head of the separatist region's electoral commission said Smirnov won 82.4 percent of the vote. However, the election was marked by problems. Access to information was severely restricted and the authorities generally stifled alternative viewpoints of three competing candidates. As with previous elections, the December 10 balloting was not monitored by internationally recognized observers and results could not be independently verified.

In December 2005 authorities also interfered with the ability of residents to vote in elections for the region's Supreme Soviet. Voting was not monitored by internationally recognized election observers and it was considered to be neither free nor fair.

*Government Corruption and Transparency.*—Corruption was believed to be pervasive throughout government and society, as reflected in numerous public opinion polls and reports by NGOs. For example, Transparency International (TI) again reported that corruption remained a severe problem in the country. Although the Government has special law enforcement and judicial units to combat corruption and acknowledged the problem, some critics charged that authorities used these units to persecute political opponents.

During the year, the country received a score of 3.2 on TI's 10 point composite index of the degree to which corruption is perceived to exist among a country's politicians and public officials. The score marked an improvement on the 2005 score of 2.9 out of 10, where 10 indicates the lowest level of corruption.

During the year the Chisinau Central District Court found Valeriu Mostovoi, a former deputy minister of labor and social protection, guilty of corruption and banned him from occupying public office for five years. He was arrested in April 2005 by the Government's Center for Combating Economic Crime and Corruption (CCECC) on charges of extorting a bribe.

In March 2005 police arrested former defense minister Valeriu Pasat on charges of illegally selling fighter jets in 1997 to a foreign government. Many observers considered the arrest to be politically motivated, because of Pasat's association with previous government administrations and his vocal support of the opposition Democratic Moldova bloc during the March 2005 election campaign. On January 17, a court sentenced Pasat to 10 years in prison; it was reduced to five years on October 16 (see section 1.d.). On December 19, a court deferred Pasat's amnesty request to the Supreme Court; the case was pending at the year's end.

There were no developments in the CCECC's on-going investigation into allegations of graft and corruption against Our Moldova Alliance (AMN) opposition party leader Serafim Urechean and three other members of parliament two of them from Urechean's political faction. The AMN members had accused the authorities of politically motivated harassment. In October 2005 at the request of the Prosecutor General's Office, parliament voted to lift their immunity from prosecution to allow the authorities bring charges against Urechean and his two colleagues.

In October 2005 authorities released the former secretary of the Chisinau City Council, Vladimir Sarban, who was in detention since 2004 for alleged corruption. Sarban was released following an ECHR ruling that the Government's reasons for prolonging his detention were neither relevant nor sufficient. At year's end criminal investigations continued into the activities of other Chisinau officials who were arrested in 2004 as a result of joint efforts by the CCECC and the prosecutor general's Office.

The law provides for free public access to official information; however, the Government generally denied access to public information and ignored requests from independent media. For example, the investigative weekly newspaper Ziarul de Garda did not receive a detailed response to its June 2005 request for a copy of a contract the President's office signed with a private company. In 2004 the newspaper Timpul filed a complaint against parliament for refusing to provide transcripts of its sessions; the Supreme Court dismissed the suit. Parliament subsequently changed its regulations and now provides transcripts of debates on the parliament's Internet Web site and also allows transcripts of sessions to be published.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated in the country without government restriction, investigating and publishing their findings on human rights cases. In Transnistria authorities continued to impede activities of human rights groups in the separatist region.

However, international observers noted that authorities and other officials generally were not cooperative or responsive to the views of local independent NGOs, and that the vast majority lacked the institutional capacity to meaningfully influence civil society or the Government.

The local Helsinki Committee for Human Rights maintained contacts with international human rights organizations. Amnesty International also maintained an office in Chisinau and was active in the country.

In January, a new NGO, the Anticorruption Alliance, composed of civil society and private sector representatives was established to work with the Government to fight corruption. It made recommendations to improve the country's new national anticorruption strategy and commented on a wide range of draft laws.

In the run up to the March 2005 parliamentary elections, more than 200 local NGOs united to form the Civic Coalition for Free and Fair Elections to monitor the elections. It effectively pressured the Government to comply with international standards, and issued several reports on its long-term observation findings.

The Government cooperated with the OSCE mission in the country on efforts to resolve the long-standing Transnistrian conflict. The OSCE participated in the Joint Control Commission, which monitors compliance with the 1992 cease-fire agreement that the Government negotiated with Russian and Transnistrian officials. Transnistrian authorities frequently limited OSCE access throughout the break-away region, which includes the three-mile security zone dividing Transnistria from the rest of the country. On November 12, however, authorities allowed a one-day visit by a delegation of OSCE officials. The visit included an inspection of the Russian Colbasna ammunition depot, which is located in the northern section of the region. It was the first time since March 2004 that OSCE officials gained access to the Colbasna site.

The law provides for three parliamentary advocates (ombudsmen) and an independent center for human rights, the Moldovan Human Rights Center (MHRC). Parliament appoints the ombudsmen for five-year terms. They have equal rights and responsibilities and are empowered to examine claims of human rights violations, advise parliament on human rights problems, submit legislation to the constitutional court for review, and oversee MHRC operations. In practice, however, the ombudsmen dealt mostly with low-level cases. MHRC personnel provided training for lawyers and journalists, visited jails, made recommendations on legislation, and organized round tables.

On June 30, the MHRC in its annual report to parliament on activities in 2005 stated that it had received 1,422 petitions and granted 3,194 interviews, and that 136 cases dealing with violations of individual rights were successfully concluded. The report also stated that there were 1,141 calls in 2005 to MHRC's hotline, and 704 petitions from prisoners. During the first six months of the year, the MHRC stated that it received 968 petitions.

The report also described revisions to the law that the MHRC drafted and saw through passage by parliament, the difficulties faced by the 2,551 prisoners released in 2005, and failures by public authorities to provide rights to arrested minors.

In Transnistria authorities continued to control and intimidate NGOs in the region by "inviting" NGO representatives to meetings with security officials and by pressuring landlords not to renew rental leases for office space.

In March the "President" of Transnistria signed a decree "to ensure security" in the region that prohibited NGOs from receiving foreign funding, and empowered authorities to close any organization that violated the decree. Following international criticism, Igor Smirnov altered the decree to prohibit only funding of NGOs directly engaged in political activities. The international community stated the decree would severely impair the ability of NGOs to operate in the region. While still unduly restrictive, the modified version of the decree expanded the NGOs' range of operation.

The Chisinau-based NGO Promo-Lex reported that unidentified persons in Transnistria continued to follow their representatives and tap their telephones. In contrast to previous years, Promo-Lex did not report new office break-ins.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law provides that all persons are equal before the law regardless of race, sex, disability, or social origin; however, societal discrimination against women and some ethnic minorities, particularly Roma, persisted.

*Women.*—Domestic violence against women remained a widespread problem, and the law does not specifically address domestic assault.

In the first eight months of the year, the Ministry of Internal Affairs reported that it received 212 domestic violence complaints. Of that number eight resulted in serious bodily injury and seven in death. In 2005 the MIA said it received more than 3,000 domestic violence complaints. Women's groups, however, continued to assert credibly that incidents of spousal abuse and rapes were underreported.

The Government supported education efforts, usually undertaken with foreign assistance, to increase public awareness of domestic violence and to train public and law enforcement officials to address the problem. The city of Chisinau operated a women's shelter for victims of domestic violence. Private organizations operated services for abused spouses, including a hotline for battered women.

The law criminalizes rape but does not specifically address spousal rape. There were 154 cases of rape reported to the interior ministry in the first eight months of the year, but most observers believed that many rapes went unreported. There were no specific government activities to combat rape.

Prostitution is not a crime but a violation of civil law punishable by a fine or administrative detention of up to 30 days. Prostitution was widespread, and observers noted that sex tourism, which was particularly prevalent in upscale Chisinau hotels, continued to grow.

Trafficking in women for sexual exploitation was a serious problem (see section 5, Trafficking.)

The law does not prohibit sexual harassment, and it was a common problem.

The law provides that women and men enjoy equal rights. In practice women, who constituted approximately 50 percent of the workforce, received pay equal for equal work; however, women did not hold high-paying jobs in the same proportion as men.

*Children.*—There is extensive legislation designed to protect children, and the Government provided supplementary payments for families with many children.

The law mandates the Government to provide free, compulsory, and universal education for at least nine years. However, many inadequately funded schools, particularly in rural areas, charged parents for school supplies. While not illegal, such fees contradicted the Government's policies and resulted in some parents keeping their children at home. Government and local authorities provided annual assistance of approximately \$23 (300 lei) to children from vulnerable families for school supplies. The Government reported that net primary school enrollment was 91 percent. Secondary school enrollment was approximately 88.5 percent, with little difference in the rates for boys and girls.

Although the healthcare system devoted a large portion of its limited resources to care for children, childcare professionals considered the assistance inadequate. Nonetheless, during the year UN Children Fund (UNICEF) reported that between 96 and 98 percent of children were immunized against tuberculosis, DPT, polio, and measles.

While the law prohibits child neglect and specific forms of abuse, such as forced begging, child abuse was believed to be widespread. Although there were no comprehensive or official statistics on the problem, the National Center for Child Abuse Prevention NGO registered 116 cases of abuse during the year. Observers alleged that women begging on the streets of Chisinau continued to sedate their infants to spend long hours begging.

Trafficking of children for the purpose of sexual exploitation and begging remained a problem. (see section 5, Trafficking).

Child labor was a problem (see section 6.c. and 6.d.).

The situation of children in orphanages and other institutions was generally very poor. Low funding caused major problems such as inadequate food, "warehousing" of children, lack of heat in winter, and disease. In 2005, according to the Ministry of Education, there were approximately 11,500 institutionalized children. Not all institutionalized children were orphans; the number of children entrusted to the Government by needy parents or by parents leaving the country to look for work reportedly continued to grow. The Government estimated that the number of children entrusted to relatives or placed in boarding by parents working abroad was approximately 20,000.

During the year, the interior ministry reported that its records of troubled minors included 231 alcoholics, 146 drug addicts, 897 homeless minors, and 733 children who stopped attending school. However, according to NGOs, the numbers of troubled minors may well exceed the Government's official statistics.

*Trafficking in Persons.*—The law prohibits trafficking in persons and it carries criminal penalties. However, trafficking remained a serious problem and the country

is a major source for trafficked persons, particularly women and girls for sexual exploitation.

To a lesser extent the country is also a transit point for trafficking victims, and there were reports of some internal trafficking of girls from rural areas to the capital.

A significant amount of trafficking continued to occur in the breakaway region of Transnistria, which is outside of the Government's control. The separatist region remained a significant source and transit area for trafficking in persons.

Women and children were trafficked for sexual exploitation, and men and children were trafficked to Russia and neighboring countries for forced labor and begging. The country was also a transit point for victims trafficked from Ukraine. Victims were increasingly trafficked to Russia and countries of the Middle East, such as Turkey, Israel, and the United Arab Emirates (UAE). According to International Organization for Migration (IOM), 12 percent of the trafficking victims it assisted were minors under 18 years of age. The IOM also noted that the percentages of victims trafficked from rural and urban areas closely corresponded to residence statistics from the country's 2004 census. Most victims had suffered some form of sexual or physical abuse at home and were willing to face significant risk to escape abuse.

The Government's newly-formed Center to Combat Trafficking in Persons (CCTIP) stated that information indicated that men were trafficked for agricultural and construction work to the Baltic States and to the Commonwealth of Independent States (CIS). There also were reports that women were trafficked to Lebanon, Greece, Macedonia, Serbia (including Kosovo), and Montenegro, Bosnia and Herzegovina, Poland, Croatia, the Czech Republic, Belarus, France, the United Kingdom, and Austria.

Newspaper advertisements promising well-paying jobs abroad also lured many victims. The International Labor Organization's (ILO) program for the elimination of child labor reported that in many cases traffickers of children were Roma.

Trafficking of orphans reportedly decreased during the year, according to the Center for Prevention of Trafficking in Women. The center also reported that parents or husbands pressured some young women to work abroad.

Victims were transported by car, van, train, and on foot across borders. Sometimes false documents were used, but increasingly victims traveled by plane with genuine documents.

The law provides criminal penalties for trafficking ranging from seven years to life imprisonment depending on the circumstances and severity of the offense.

During the first 11 months of the year, authorities opened 333 trafficking-related investigations. According to CCTIP, during the year authorities convicted 62 persons for trafficking, 85 for pimping, 13 for organizing begging, seven for trafficking in children, four for organizing illegal migration, and two for forced labor. Of the 173 convictions, 67 persons were sent to prison, 36 received a suspended sentence, 59 were fined, and 11 were amnestied or acquitted.

During the first eight months of the year the interior ministry reported that it conducted 35 raids to inspect 143 travel and employment agencies; it withdrew the licenses of four for suspected trafficking.

In 2005 the Government merged the interior ministry's antitrafficking section into a new national entity, the CCTIP, which is composed of senior officials from all relevant government ministries and includes prosecutors, analysts, and investigators. There is also a multiagency task force under the leadership of the prosecutor general's office to monitor trafficking law enforcement activities, coordinate intelligence, provide witness protection, and provide advice on prosecuting complex cases.

During the year the Government improved cooperation with other member countries of the Southeast European Cooperative Initiative, Interpol, and with other trafficking destination countries such as Italy, the United Arab Emirates (UAE), and Turkey, resulting in a number of convictions.

On February 8, the Government ratified an agreement with Turkey to combat trafficking as part of a broad effort to fight illegal drug trafficking, international terrorism, and other organized crime.

There have been longstanding reports of involvement by some government officials in trafficking. On October 18, the Ministry of Interior dismissed several senior officials for trafficking, including a former CCTIP deputy director, Ion Bejan, who was under investigation on charges of protecting a major trafficker. According to the interior ministry, other government investigators and prosecutors were also involved in the protection scheme and are under investigation. The ministry also reported that, in the first 11 months of the year, it investigated and eradicated 39 trafficking networks. Turkey was the destination country in 14 of the cases; UAE in five; Russia in five; the Kosovo region of Serbia in three; and other countries in the remaining 12.

Elsewhere in the country, widespread corruption and lack of resources prevented adequate border control and monitoring of traffickers, particularly in areas near Transnistria. Observers alleged that corrupt low and high-level Moldovan government officials were either involved in or routinely ignored trafficking crimes. In September trafficking charges levied in November 2004 against a former policeman who was deported from the UAE back to the country were downgraded to pimping; he was amnestied. The prosecutor and the victims' lawyer appealed the court decision.

On June 20, police arrested Alexander Covali, an alleged leader of a trafficking ring. He was charged with trafficking after police found confined women on his properties. He was released on bail and arrested again on August 4 when an investigation revealed that he had received police protection. He remained in jail in year's end awaiting a court hearing.

On December 27, Ion Gusin was convicted of trafficking in persons and sentenced to 22 years in jail for his role as pimp and translator for a foreign sex tourist.

On October 20, the finance ministry created a special fund to pay for free social services for trafficking victims, including modest medical and psychiatric services, new identity documents and residence permits, legal counseling, vocational training, and professional counseling. The fund is part of a comprehensive trafficking in persons law passed by parliament in October 2005.

The Government had no other programs to assist victims. Several NGOs offered repatriation assistance, temporary housing, and medical care for victims, as well as job training. The NGO Save the Children worked with trafficking victims, particularly repatriated girls. The NGO La Strada Moldova provided informational and educational services as well as a national toll-free hotline.

During the first eight months of the year IOM assisted 193 returned trafficking victims, the majority of whom had been trafficked to Turkey, Russia, and the UAE.

The Government took some steps to prevent the trafficking of persons and to assist victims through its network of national antitrafficking committees. Local committees in each region of the country and officials from a variety of ministries and local governments were required to present reports on their antitrafficking efforts. In August 2005 the Government approved a new national action plan for combating trafficking in persons, which was developed in conjunction with international organizations.

Local NGOs operated public school programs to educate young women about the dangers of prostitution. During the year, the IOM continued its information program aimed at providing information to help citizens going abroad to avoid exploitation.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities; however the Government generally did not enforce these laws and there were reports of discrimination. The local NGO Gaudeamus reported continued widespread discrimination against students with disabilities.

There are no laws mandating access to buildings, and there were few government resources devoted to training persons with disabilities. The Social Assistance Division in the Ministry of Health and Social Protection and the National Labor Force Agency are responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Ukrainians and Russians are the two largest minorities. A Christian Turkic minority, the Gagauz, makes up a small percentage of the population living primarily in the Gagauz Autonomous Region in the south of the country. Official statistics put the number of Roma at 11,600, but Romani NGOs estimated the number to be much higher.

Roma suffered violence, harassment, and discrimination. However, in contrast to the previous year, local and international NGOs did not report arbitrary arrests or incommunicado detention of Roma (see section 1.d.).

The European Roma Rights Center continued to report that officials discriminated against Roma with regard to housing, education, and access to public services. The Roma were the poorest of the minority groups and continued to live in unsanitary conditions in segregated communities lacking basic infrastructure. These conditions often led to segregated education and schools with even fewer resources than that elsewhere in the country. Many Romani children did not attend school, very few received a secondary or higher education, and there was no Romani-language education.

Minority rights and language were closely related problems. Romanian is the only official language, but all official documents are also translated into Russian, which was used for interethnic communication. Russian speakers were not subject to discrimination in education or employment, and a citizen has a legal right to choose either language to interact with government officials or commercial entities. Officials are required to know both Romanian and Russian "to the degree necessary to



fulfill their professional obligations.” The law provides parents the right to choose the language of instruction for their children, and the Government observed this right in practice.

Authorities in the separatist Transnistrian region continued to discriminate against Romanian speakers, although to a lesser extent than in previous years. They continued to refuse to observe the country’s language law, which requires use of Latin script, and required schools in the region to teach Romanian using the Cyrillic alphabet. Many teachers, parents, and students objected to the requirement, asserting that it disadvantaged persons who wished to pursue higher education opportunities in the rest of the country or in Romania, where the Latin script is used. Under a temporary arrangement, Romanian-language schools were allowed to use the Latin script for instruction. However, they complained that the arrangement, which applies to all Romanian-language schools, could be rescinded at any time by the authorities.

In July 2005, under an OSCE-negotiated formula, Transnistrian authorities allowed Latin-script schools in the region, which were registered with the Moldovan Ministry of Education, to register locally and to begin the school year in September. In 2004 regional police closed Latin-script schools in Ribnitsa, Tiraspol, Dubasari, and Corjova, stating that the institutions violated the Transnistrian legal requirement for the schools to register locally and to use the Cyrillic alphabet for instruction. The schools have since reopened and are allowed to teach in Romanian.

*Other Societal Abuses and Discrimination.*—There were reports of governmental and societal discrimination based on sexual orientation.

According to the NGO GenderDoc-M, lack of community recognition, negative media portrayals, and condemnation by the Orthodox Church often led to public ostracism of gays, lesbians, and their families. On April 28, the Mayor of Chisinau denied the NGO’s request to organize an event in support of gay rights out of fear that religious groups would organize protest actions if the rally went ahead. Chisinau authorities had refused a similar request in May 2005 by GenderDoc-M for a demonstration to support antidiscrimination legislation for sexual minorities.

GenderDoc-M reported that there were on-going cases of gay children being asked to leave home by their parents, and incidents of villages shunning a family because of a gay child. The NGO also reported that police continued to threaten gays and lesbians with public exposure if they did not pay bribes.

In Transnistria, homosexuality was illegal, and gays and lesbians were subject to governmental and societal discrimination.

Several NGOs reported instances of discrimination against persons with HIV/AIDS, particularly in rural villages.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Neither the Penal Code nor the Code of Administrative Offences stipulates any specific sanctions for violating trade union rights. As a result, prosecutors may reject appeals by trade unions against any antiunion behavior by employers and governments; violations of the Trade Union Act remain unpunished.

The law provides workers the right to establish or join unions; however, there were reports that the Government continued to pressure individual unions to join a confederation that supported government policies. Approximately 50 percent of the workforce belonged to a union. The law also provides for the right to strike, except for workers in essential services, and workers exercised this right by conducting legal strikes.

There were two unions, the Trade Union Confederation of Moldova (TUCM) and the Confederation of Free Trade Unions Solidaritate (Solidarity). The latter advocated government positions and was widely believed to enjoy government support. During the year, the Government continued to pressure local unions to quit TUCM and join Solidaritate. On June 30, a representative of the state wine agency interfered during a meeting of the trade union of the National Institute of Wine and Viticulture to prevent the transfer of the trade union to Solidaritate.

*b. The Right To Organize and Bargain Collectively.*—The law provides for collective bargaining, the right to organize, and the right to conduct activities without government interference; however, the Government did not always respect these rights in practice (see section 6.a.).

On July 21, parliament passed a new law to create a national commission for collective consultations and bargaining that will include trade unions, employers, and government representatives.

The Government, company management, and unions negotiated national minimum wages in tripartite talks. Arbitration committees typically settled workplace

labor disputes. If an arbitration committee failed to settle a dispute, parties could take it to the court of appeals.

Public officials and workers in essential services such as emergency healthcare, water and energy supply, telecommunications, air traffic control, law enforcement, judges, and military employees do not have the right to strike; the law provides for arbitration of disputes in these sectors with court mediation as a final option to ensure due process.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred, particularly in the countryside during the harvest season when some children were compelled to work in fields.

*d. Prohibition of Child Labor Practices and Minimum Age for Employment.*—The law sets standards for child labor, including the minimum age for employment, hours of work, and working conditions, and prohibits the worst forms of child labor; however, the Government did not effectively enforce these protections.

Child labor was a problem. Because of poor economic conditions, parents often sent children to work in fields or to find other work, and those children living in rural areas often assisted in the agricultural sector. The law provides for 10 to 15 years' imprisonment for persons involving children in the worst forms of child labor; under aggravated circumstances, the sentence could be life imprisonment.

The minimum age for unrestricted employment was 18 years. Persons between the ages of 16 and 18 were permitted to work under special conditions, including shorter workdays, no night shifts, and longer vacations.

In September the Ministry of Education, Youth and Sports issued two child labor orders without consulting either the Labor Inspection Office (LIO) or the ILO. The orders for working in the annual harvest did not define hazardous work and did not set limits on weights children could carry or types of hazardous equipment. There also were no instructions for teachers who accompany children who work in fields.

In September 2005 the education ministry issued a similar decree that in effect ordered educational institutions to participate in the annual harvest. The decree, which was in contradiction to labor laws, allowed children between 11 and 14 to help with harvesting. The ministry decree also provided for forced labor of children "under the condition of a penalty," such as poor grades, for not participating in the harvest. The ministry later agreed that the decree was wrong.

Trafficking in children was a serious problem (see section 5.)

Efforts to enforce child labor laws did not deter violations. The LIO is responsible for investigating possible child labor violations. However, the office does not have the institutional capacity to fully monitor child labor laws. During the year the LIO sanctioned 10 enterprises for failing to create proper work conditions for minors. The ILO, in cooperation with the Government, implemented aspects of its international program to eliminate child labor by strengthening local antitrafficking committees, establishing community-based youth centers, training representatives of employers' organizations and trade unions, promoting employment for at-risk youth and parents, and improving care for child victims of trafficking.

*e. Acceptable Conditions of Work.*—The legal minimum monthly wage was approximately \$25 (320 lei) for public sector employees and approximately \$53 (700 lei) for private sector employees. Neither wage provided a decent standard of living for a worker and family. The Labor Inspection Office is responsible for enforcing the minimum wage and opened several administrative cases against employers who violated it. Severe budgetary constraints often prevented government and private sector employers from meeting employee payrolls.

The law sets the maximum workweek at 40 hours with extra compensation for overtime, and the law provides for at least one day off per week.

The Government is required to establish and monitor safety standards in the workplace, and the LIO is responsible for enforcing health and safety standards. In the first 10 months of the year, the LIO's 81 territorial inspectors conducted 7,086 workplace inspections in approximately 180,000 registered enterprises and noted over 50,000 health and safety violations. Of the number of workplaces inspected, 824 received administrative fines. Workers have the right to refuse to work if working conditions represent a serious health threat, but there were no reports that workers exercised this right in practice. Poor economic conditions led enterprises to economize on safety equipment and give inadequate attention to worker safety. In the same period, the LIO reported there were 295 workplace accidents in which 35 persons died.

## MONACO

The Principality of Monaco, with a population of some 32,000, is a constitutional monarchy in which the sovereign prince plays a leading role in governing the country. In April 2005 Albert II succeeded Rainier III as the sovereign. The prince appoints the four-member government, headed by a minister of state chosen from a list of candidates proposed by France. The other members are the counselor for the interior (who is usually French), the counselor for public works and social affairs, and the counselor for finance and the economy. Legislative power is shared between the prince and the popularly elected 24-member National Council. The most recent National Council election was conducted in 2003 and was considered free and fair. There also are three consultative bodies whose members are appointed by the prince: the seven-member Crown Council; the 12-member Council of State; and the 30-member Economic Council, which includes representatives of the Government, employers, and trade unions. The judiciary is independent. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of dealing with individual instances of abuse. However, citizens did not have the right to change their government or denounce the royal family, and naturalized women could not transmit citizenship to their children.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. Women were held separately from men, and juveniles were held separately from adults. The Government permitted visits by human rights monitors; however, there were no such visits during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—In addition to the national police force, the Carabiniers du Prince carry out security functions. The prince's chef de cabinet is responsible for administration of the police forces. Corruption and impunity were not problems. The police forces were generally considered effective.

*Arrest and Detention.*—Arrest warrants are required, except when a suspect is arrested while committing an offense. The police must bring detainees before a judge within 24 hours to be informed of the charges against them and of their rights under the law. Most detainees are released without bail, but the investigating magistrate may order detention on grounds that the suspect might flee or interfere with the investigation of the case. The magistrate may extend the initial two-month detention for additional two-month periods indefinitely. The magistrate may permit family members to see detainees, and it is customary for magistrates to do so.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice. Under the law, the prince delegates his judicial powers to the judiciary.

*Trial Procedures.*—The law provides for a fair, public trial. As under French law, a three-judge tribunal considers the evidence collected by the investigating magistrate and hears the arguments made by the prosecuting and defense attorneys. The defendant enjoys a presumption of innocence and the right of appeal. The defendant has the right to be present and the right to counsel, at public expense if necessary. Defendants have the right to question witnesses against them and to present their own witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases. After prisoners receive a definitive sentence, they are transferred to a French prison to serve out their terms.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The principality has an independent and impartial judiciary for civil matters. Administrative remedies are available for alleged wrongs, and are regularly used by plaintiffs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights and did not restrict academic freedom. The Penal Code, however, prohibits public denunciations of the ruling family, a provision that the media respected in practice.

The independent media were active and expressed a wide variety of views without restriction. Several periodicals were published. Although there were no domestically published daily newspapers, foreign newspapers and magazines circulated freely, including French journals that specifically covered news in the principality.

Radio and television stations broadcasting from the principality operated in accordance with French and Italian regulations. Foreign radio and television were received without restriction.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet use is widespread, supported by an advanced and robust telecommunications infrastructure.

There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

Outdoor meetings require police authorization, but there were no reports that police withheld authorization for political or arbitrary reasons. Formal associations must be registered and authorized by the Government, and there were no reports that the Government withheld registration for political or arbitrary reasons.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. Roman Catholicism is the state religion.

No missionaries operated in the principality and proselytizing was strongly discouraged; however, there is no law against proselytizing by religious organizations that are formally registered by the Ministry of State. There were no reports of religious organizations being denied registration during the year.

*Societal Abuses and Discrimination.*—There were no reports of societal violence, harassment, or discrimination against members of any religious group. The Jewish community was extremely small, and there were no reports of anti-Semitic acts.

For a more detailed discussion see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Residents moved freely within the country and across its open borders with France. Nationals enjoyed the rights of emigration and repatriation; however, they can be deprived of their nationality for specified acts, including naturalization in a foreign country. Only the prince can grant or restore nationality, but he is obliged by the constitution to consult the Crown Council on each case before doing so.

The Penal Code prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention relating to the Status of Refugees and its 1967 Protocol, and the Government has adopted the established French system for providing protection to refugees in light of its bilateral arrangements with France. There were no reported cases of the Government granting refugee status or granting political asylum. The Government provided some protection against refoulement, the return of persons to a country where they feared persecution, but there were no reports that it occurred.

The Government is committed to cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

Citizens may voice their opinion democratically, but the sole authority to change the Government and to initiate laws rests with the prince. The 1962 Constitution cannot be suspended, but it can be revised by common agreement between the prince and the elected National Council.

*Elections and Political Participation.*—As head of state, the prince plays an active role in government. He names the minister of state (in effect, the Prime Minister) from a list of names proposed by the French government. He also names the three counselors of government (of whom the one responsible for the interior is usually a French national). Together the four constitute the Government. The law prohibits public denunciations of the ruling family.

Only the prince may initiate legislation, but the 24-member National Council may propose legislation to the Government. All legislation and the adoption of the budget require the Council's assent. Elections for National Council members are held every five years and are based on universal adult suffrage and secret balloting. The 2003 National Council elections were considered free and fair.

There were five women in the 24-member National Council, two women in the seven-member Crown Council, and five women in the 30-member Economic Council. The mayor of Monaco was a woman.

There were no members of minorities in the Government.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year.

The law provides for public access to government information and provides access in practice for citizens and noncitizens, including the foreign media.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

While the Government imposed no restrictions on the establishment or operation of local groups devoted to monitoring human rights, no such groups were formed, nor did foreign groups seek to investigate human rights conditions in the country.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides that all nationals are equal before the law. It differentiates between rights that are accorded to nationals (including preference in employment, free education, and assistance to the ill or unemployed) and those accorded to all residents (including inviolability of the home). The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced it. However, some legal discrimination against women remained.

*Women.*—Reported instances of violence against women were rare. Marital violence is strictly prohibited by law, and victims may bring criminal charges against their spouses. Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted those accused of such crimes. There were no such prosecutions during the year.

Prostitution is illegal, and overt prostitution was uncommon, although it existed to an extent in a well-hidden form.

Sexual harassment is illegal, and the Government effectively enforced the law. There were no legal cases of sexual harassment during the year.

Although the country has legislated the equality of men and women in the civil code, there is no institution with a mandate to monitor gender inequalities. The law governing transmission of citizenship provides for equality of treatment between men and women who are nationals by birth; however, women who acquire citizenship by naturalization cannot transmit it to their children, whereas naturalized male citizens can.

Women were represented fairly well in the professions, but less well in business. Women received equal pay for equal work.

*Children.*—The Government was committed fully to the protection of children's rights and welfare and has well-funded public education and health care programs. The Government provided compulsory, free, and universal education for children up to the age of 16. Health care for both boys and girls is of high quality and readily available to all citizens.

There were isolated incidents, but no societal pattern of abuse of children.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There was no reported governmental or societal discrimination against persons with disabilities. The law requires that public buildings

provide access for persons with disabilities, and this goal has been largely accomplished. On March 24, the principality inaugurated both a delegate for handicapped persons and a bus line specifically for persons with reduced mobility, and in December the principality purchased additional commuter train cars for the lines servicing Monaco that were equipped for persons with reduced mobility. In December the principality purchased additional commuter train cars equipped for persons with reduced mobility.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law, workers are free to form unions, but fewer than five percent of workers were unionized. Relatively few workers, unionized or nonunionized, resided in the principality. Unions were independent of both the Government and political parties.

Antiunion discrimination is prohibited. Union representatives can be fired only with the agreement of a commission that includes two members from the employers' association and two from the labor movement. Allegations that an employee was fired for union activity may be brought before the labor court, which can order redress, such as the payment of damages with interest.

The Monegasque Confederation of Unions was not affiliated with any larger labor organization but was free to join international bodies.

*b. The Right To Organize and Bargain Collectively.*—The law provides for the free exercise of union activity, and workers exercised this right in practice. Agreements on working conditions were negotiated between organizations representing employers in a given sector of the economy and the respective union. Collective bargaining is protected by law; however, it is used rarely. There are no export processing zones.

The constitution and law provide for the right to strike; government workers, however, may not strike. There were no nation-wide strikes during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment is 16 years; those employing children under that age can be punished under criminal law. Special restrictions apply to the hiring, work times, and other conditions of workers 16 to 18 years old. The counselor of government for the interior is responsible for enforcing the child labor laws and regulations, and they were effectively enforced.

*e. Acceptable Conditions of Work.*—The legal minimum wage for full-time work is the French minimum wage, currently approximately \$10.71 per hour (8.27 Euros), plus 5 percent. The 5 percent adjustment was intended to compensate for the travel costs of the three-quarters of the workforce that commuted daily from France. The minimum wage provided a decent standard of living for a worker and family. Most workers received more than the minimum. The legal work week was 39 hours. The Government allows companies to reduce the work week to 35 hours if they so choose. Health and safety standards are fixed by law and government decree. These standards were enforced by health and safety committees in the workplace and by the Government labor inspector. Workers have the right to remove themselves from dangerous work situations.

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## MONTENEGRO

The Republic of Montenegro is a parliamentary republic with a population of approximately 630,000. Legislative authority is vested in the unicameral Assembly. On June 3, following a referendum, the Assembly declared the country independent of the State Union of Serbia and Montenegro. The republic retained its 2003 constitution and basic governmental structure after independence and has a mixed Presidential and multi-party parliamentary system of government with both President and Assembly elected by popular vote. The Organization for Security and Cooperation in Europe (OSCE) observed both the May referendum on independence and the September 10 Assembly elections and found them to be generally in accordance with international standards. Civilian authorities generally maintained effective control of the security services, but there were a few instances in which elements of the security forces acted independently of government authority.

The Government generally respected the human rights of its citizens; however, during the year, there were reports of arbitrary arrest, police mistreatment of suspects in detention, police impunity, lengthy pretrial detention and delayed trials,

substandard prison conditions, corruption in law enforcement agencies and the judiciary, trafficking in persons, and discrimination against women and ethnic minorities.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, police occasionally beat suspects during arrests or while suspects were detained for questioning.

According to some of those involved, police beat citizens and foreigners whom they detained in the course of a September 9 raid in Tuzi. An internal police investigation ended inconclusively. Authorities stated that the raid, which took place a day before Assembly elections, foiled a terrorist plot and reported they had found a large weapons stash and plans to attack government buildings. Some opponents of the Government asserted that the raid was politically motivated (those apprehended were associated with an Albanian nationalist organization).

The investigation by the minister of interior and supreme state prosecutor into police beatings of prisoners in the main penitentiary in September 2005 concluded that police did not exceed their authority. There was no public reaction to the report's conclusion, although after the raid several prisoners were sent to the hospital with severe injuries.

The trial of police inspector Dobrasin Vulic, indicted in 2004 for the 2003 beating of Nikola Popovic, ended in Vulic's acquittal.

*Prison and Detention Center Conditions.*—Prison conditions met some international standards; however, problems remained. Prison facilities were antiquated, overcrowded, poorly maintained, and had inadequate hygiene, although communicable disease was not prevalent. The main prison held about twice as many prisoners as it was designed for, with some cells at even higher levels of overcrowding. Authorities were constructing an extension to the main prison, including additional cell space to reduce overcrowding, and construction was nearly complete by year's end.

The law provides that authorities hold juvenile prisoners separately from adults and that pretrial detainees be held separately from convicted criminals; however, these provisions were not always observed in practice due to overcrowding.

The Government permitted prison visits by human rights observers, including the International Committee of the Red Cross (ICRC) and local nongovernmental organizations (NGOs). Both the ICRC and the Helsinki Committee of Montenegro made several visits during the year. Representatives of the human rights ombudsman's office routinely visited prisons, meeting with detainees and inmates without prior notice.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The interior ministry controls both the national and border police forces. These forces were generally effective in maintaining basic law and order. Impunity was a problem; the Government investigated police abuses, but criminal procedures and sentences against police were rare. During the year 19 police officers were dismissed for abuse of office and exceeding authority.

Police corruption was a problem; the small, close-knit society discouraged the reporting of corruption and facilitated criminals' access to law enforcement officers.

*Arrest and Detention.*—Arrests require a judicial warrant or "strong suspicion that the suspect committed an offense." Authorities may detain suspects for up to 48 hours before bringing them before a judge and charging them. At arraignment the judge makes an initial determination of the legality of the detention. In practice arraignment generally occurred within the prescribed period of time. The law provides for access to an attorney during this initial period, but this did not always occur. Detainees generally had prompt access to family members. There is a system of bail; however, it was not widely used because citizens could rarely raise money for bail.

Long trial delays, combined with difficulty in meeting conditions for bail, occasionally led to lengthy pretrial detention. Pretrial detainees made up approximately two-thirds of the prison population, and the average period of pretrial detention was five months.

*Amnesty.*—On July 27, the Assembly enacted a general amnesty for prisoners. The amnesty reduced sentences for most prisoners already incarcerated by 25 percent, with a lesser reduction of 10 percent for more serious criminal offenses. There was no amnesty for persons convicted of trafficking in persons, war crimes, or other crimes prosecuted under international law.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, a lack of cooperation between police and prosecutors, a backlog of cases, often primitive courtroom facilities, and judicial corruption remained problems. The Government at times influenced prosecutors for political reasons. There were reports that judges issued tainted decisions out of fear of reprisals, including the loss of their jobs if they ruled against particular parties.

The court system consists of municipal courts, higher (district) courts, an appeals court, an administrative court, and a Supreme Court.

*Trial Procedures.*—Criminal trials are public; juries are not used. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner. Defendants have a right to engage an attorney; however, an attorney is provided at public expense only when the charge carries a possible sentence greater than five years in prison. Defendants and their attorneys have the right to access government-held evidence relevant to their cases. They enjoy the presumption of innocence and the right of appeal. Although the Government at times influenced the judiciary, defendants' rights were generally respected. Some observers charged that continuing control by the executive branch over the finances of the courts provided influential members of that branch with a means of exerting inappropriate pressure.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent judiciary in civil matters. Parties have brought suit alleging human rights violations. Beginning in 2004 families of victims brought 36 cases against the Government for the 1992 deportation of Muslims and Bosniaks to the Republika Srpska in Bosnia and Herzegovina. Republika Srpska security forces subsequently killed most of the deportees. The first judgment, resulting in damages of \$59,125 (45,000 euros) against the Government, was handed down on June 29 in favor of the family of Sanin Krdzalja, who was deported and killed in the Foca concentration camp in Bosnia and Herzegovina in 1992. On September 15, the court dismissed a second case that involved the deportation and presumed death of Safet Buljubasic, ruling that the statute of limitations barred the case. The plaintiff's attorney contended that the court, in relying on a 2004 case from Serbia that had been strongly criticized by international human rights organizations, was acting solely to protect government interests. A third, related, case was decided on September 19; the court directed the Government to pay \$89,350 (68,000 euros) to the family of Suad Karacic, who was deported to the Foca camp in 1992. On November 10, the court directed the Government to pay \$164,250 (125,000 euros) to the wife and children of Izet Tufekcic. On November 13, the court directed the Government to pay \$118,250 (90,000 euros) to the wife, father, and children of Azem Begic. On November 14, the court directed the Government to pay \$26,275 (20,000 euros) to the wife of Sevko Kubat. On December 1, the court directed the Government to pay \$211,300 (160,800 euros) to the wife, daughter, and parents of Mirsad Borovac. The facts of the case in the last four instances were similar to those in the first three.

The Government appealed all cases in which damages were awarded and did not pay compensation before year's end. The other 29 cases remained in litigation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. The law requires the National Security Agency (NSA) to obtain court authorization for a wiretap. Some observers believed that police selectively used wiretapping and surveillance against opposition parties and other groups. Many individuals and organizations operated on the assumption that they were, or could be, under surveillance.

Eviction of Roma from illegal settlements, and sometimes from legal residences, was a problem (see section 5).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, there were some restrictions of freedom of the press in practice.



Individuals could criticize the Government publicly or privately without reprisal, and the Government did not monitor political meetings or otherwise attempt to impede criticism.

According to the constitution and law, courts are permitted to ban any media content calling for violent overthrow of the constitutional system or challenging the territorial integrity of the Republic; infringing citizens' freedoms and rights; or instigating national, racial or religious intolerance or hatred.

There were a small number of credible allegations of political and business pressure on the media. In January the director general of formerly state-owned Public Radio and Television of Montenegro (RTCG) appointed a new television director to replace the director who had been dismissed in 2005 in what some observers regarded as an attempt to bring the TVCG editorial board closer in line with government positions. International and domestic observers noted that despite a tendency for RTCG to devote more attention to the Government, it generally acted professionally in covering the highly contentious referendum on the country's independence and subsequent parliamentary elections.

The independent media was active and generally expressed a wide variety of political and social views without government restriction.

There were no documented instances of journalists practicing self-censorship on political grounds or through fear of government reprisals; however, observers noted that some journalists were susceptible to various political and business influences, due to the journalists' lack of expertise and political affiliations. Some NGOs warned that the practice of individual officials bringing criminal libel charges against journalists could deter them from reporting candidly on events. Libel charges which could carry fines of up to \$18,400 (14,000 euros).

The print media consisted of private news outlets and one national state-owned newspaper, which published a wide variety of articles on domestic and foreign topics. The expected privatization of the state-owned newspaper was still pending at year's end due to government inaction.

There were a wide variety of public and private broadcasting media, including public radio and television broadcaster RTCG and 16 private television and 39 private radio stations. Domestic radio and television stations regularly rebroadcast programs from a number of foreign services.

On December 27, the Higher Court in Podgorica acquitted Damir Mandic of charges of participating in the 2004 killing of Dusko Jovanovic, the director and editor-in-chief of the leading opposition daily, Dan. Although the motive of the killing remained unknown, Dan and other media outlets called the killing a major attack on freedom of the press and journalistic safety. Opposition politicians protested the acquittal. During the year the special prosecutor for organized crime brought charges against individuals accused in the August 2005 killing of the chief police official investigating the Jovanovic and other major unresolved killings. That trial had not begun by the year's end.

There were no publicized cases of direct government censorship of the media. Officials occasionally threatened to bring libel suits against media organizations that accused them of wrongdoing and government officials filed several new libel suits against media organizations. On February 3 and April 17, the basic court in Podgorica dismissed a lawsuit by the minister of education against Dan for libel and publication of false information. Despite these developments, observers noted a modest increase in the willingness of the media to criticize the Government during the year.

On September 15, based on charges brought by the state prosecutor, the Podgorica basic court fined a Dan columnist \$7,900 (6,000 euros) for having "mocked" the people who had voted for independence. In another case linked to the referendum, the Agency for Radio-Diffusion fined private television broadcaster Elmag, citing it for violating media laws and minimal program standards prescribed by the agency for airing viewers' text (SMS) messages ridiculing ethnic groups in programs related to the outcome of the referendum.

The law mandates regulatory structures to insulate former state-owned media from direct party or government control; these include a Radio and Television Council (RTVCG), which exercises oversight over the national public radio and television system. The RTVCG was established in 2003, with members selected by a variety of NGOs and professional groups; however, some observers noted that many RTVCG members had close ties to the Government. Twice during the year the ruling coalition in Parliament refused to verify the appointments of the NGO representatives on the council. Opposition parties, some NGOs, and the rejected candidates called it a violation of the Public Services Radio and TV Law, which only says parliament should verify, not vote on, the candidates for council membership. Some observers

saw such moves as the Government's intention to maintain control over national public broadcasters.

Radio and television stations receive broadcast licenses from an independent regulatory body. In 2005 the regulatory body allocated frequencies for 16 television and 39 radio stations in its first public tender. No frequency tenders were held during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice. There was no state religion, although the constitution mentions the Orthodox Church, the Islamic community, and the Roman Catholic Church as equal and separate from the state.

Although there was no formal registration requirement for religions, religious groups had to register as citizen groups with the republic's Ministry of the Interior and Department of Statistics to gain status as legal entities, which is necessary for them to conduct real estate and other administrative transactions. No problems with registration were reported.

No progress was reported during the year on the restitution of previously-seized church property. The Serbian Orthodox Church claimed that the Government applied the restitution law in a discriminatory manner. In 2005 the church filed a suit with the European Court of Human Rights (ECHR), alleging that delays in addressing its claims for property taken by the Government after World War II were politically motivated. The ECHR had suspended action on the case pending Montenegro's renewed membership in the ECHR's parent body, the Council of Europe.

*Societal Abuses and Discrimination.*—Religion and ethnicity were closely intertwined, and in many cases it was difficult to identify discriminatory acts as primarily religious or primarily ethnic in origin. Minority religious communities reported better cooperation with government organizations, leading to increased ability to operate normally; however, some elements in society continued to discriminate against such communities.

Tensions continued between the canonically unrecognized Montenegrin Orthodox Church and the Serbian Orthodox Church.

A small, scattered number of adherents of Judaism lived in the country. A 2004 survey by the Government statistics office concluded that there was no organized Jewish community; an international Jewish NGO reached a similar conclusion.

A 2005 report by the International Helsinki Federation of Human Rights stated that anti-Semitic content was published in the (now-defunct) *Istok* Review and anti-Semitic books were available in some bookshops (although independent observers disputed this.) There were no reports of anti-Semitic Internet postings or anti-Semitic speech among political parties or other groups.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—Although the country became independent of Serbia on June 3, 16,619 persons displaced from Kosovo were still listed by the Government as "internally displaced persons." The country lists another 6,926 persons originally from Croatia or Bosnia and Herzegovina as "displaced persons." These persons may in fact be refugees according to international law and the country's new law on asylum, but no formal determination of their status was made. Another 24 persons with origins other than Kosovo, Croatia, or Bosnia and Herzegovina were registered with the Government.

*Protection of Refugees.*—On July 6, the Assembly passed an asylum law that provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. The Government established a system for providing protection to refugees that was to take effect on January 25, 2007. In practice the Government provided some protec-

tion against refoulement, the return of persons to a country where they feared persecution. According to established procedures, during the year authorities referred refugee cases to the Office of the UN High Commissioner for Refugees (UNHCR) for adjudication; during the year five persons applied to UNHCR for refugee status; all were rejected.

The Government was also prepared to provide temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol; however, no persons requested such protection during the year.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. Conditions for refugees varied; those with relatives or property in the country were able to find housing and, in some cases, employment.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—A public referendum on independence took place on May 21. It was conducted according to rules agreed by the Assembly, following negotiations between the competing political blocs that were moderated by an envoy from the European Union. Turnout was 86.5 percent, with 55.5 percent of voters supporting independence and 44.5 percent against. The OSCE stated that the referendum was conducted in line with OSCE and other international standards related to democratic electoral processes. International and local observers noted scattered irregularities, the most significant of which were in rural areas where there were a number of reports that husbands directed their wives' voting.

Elections for seats in the Assembly took place on September 10. The OSCE stated that the conduct of the campaign and vote were generally in line with international standards. However, OSCE observers criticized changes to the electoral law passed after the call for elections, and reiterated their view that the law giving party leaders the right to select half of their party's actual Assembly representation from anywhere on the party's voter's list impaired transparency.

Filip Vujanovic was elected President in 2003 elections that an OSCE election observer mission found were conducted generally in accordance with international standards.

The ruling Democratic Party of Socialists (DPS) has held power without interruption, in various coalitions, ever since the reintroduction of multiparty democracy in 1991. The DPS is, however, on an equal legal footing with all other parties. All individuals and parties could freely declare their candidacy and stand for election.

There were seven women in the 81-seat Assembly and one woman in the cabinet.

There were 14 members of ethnic minorities in the 81-seat Assembly and two members of ethnic minorities in the cabinet. Five seats were set aside by law for ethnic Albanians. On July 17, the Constitutional Court struck down a law that would have added set-aside seats for Muslims, Bosniacs, and Croats. Ethnic Albanians, Muslims, Bosniacs, and Croats participated in the political process, and their parties, candidates, and voters participated in all elections. No Roma ran for or held seats in the Assembly and Roma were significantly underrepresented in the Government; only one Roma held elective office at any level in the country.

*Government Corruption and Transparency.*—There was a widespread perception of government corruption, particularly in the executive and judicial branches. On July 28, the Government adopted an action plan against corruption. There were widespread allegations of corruption affecting the privatization of industry. Observers noted that a lack of transparency prevented citizens from judging the validity of those allegations; an August 15 court order to make the contracts privatizing the largest state-owned industries publicly available was not fully implemented by the end of the year. Conflict of interest legislation requiring the disclosure of the salaries and property of state officials, including members of the Assembly, was not fully implemented, and many officials refused to comply. There was no legal penalty for noncompliance.

The constitution and law provide for public access to information. In practice access to public information was mixed. Some ministries were reluctant to implement the law fully and publicly criticized requests for information, but others were supportive. Authorities usually gave reasons for denials and denials could be appealed to the courts. While the courts usually supported access to the information, their orders to the ministries were often ambiguous and consequently ignored. Citizens could inspect secret files kept on them by the former State Security Service (SDB), the precursor of the NSA, from 1945 to 1989; since 2001, 327 requests were made

for inspection of SDB files, of which 90 were approved. In approximately half of the other cases, authorities responded that no file had been created. Nine requests were filed with the current NSA in 2006; two were approved and seven rejected (in three cases the stated reason for denial was that no such file existed; no reason was given in four cases).

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

A number of NGOs investigated human rights cases, including the Helsinki Committee of Montenegro and the Center for Democracy and Human Rights. Observers credited NGOs with helping to reduce police brutality and other abuses. The Government generally cooperated with international organizations.

The Government cooperated with the International Criminal Tribunal for the former Yugoslavia; the tribunal's chief prosecutor stated that she was very satisfied with the country's cooperation with the court.

The ombudsman for human rights does not have authority over the work of the courts, except in cases of excessively prolonged procedures, obvious abuses of procedure, and failure to execute court decisions. The office of the ombudsman operated without government or party interference and the Government provided the office with adequate resources. The ombudsman was generally considered to be effective. Upon finding a violation of human rights or freedoms, the ombudsman may initiate disciplinary procedures or dismissal of the violator. Failure to comply with the ombudsman's request for access to official data, documents, or premises, or with the ombudsman's request to testify at a hearing, is punishable by fines of 10 to 20 times the minimum monthly wage—\$660 to \$1,320 (500 to 1,000 euros). No fines were imposed during the year, since essentially all of the ombudsman's requests were respected. In March the ombudsman's office released its second annual report to the Assembly. The greatest number of complaints were about delays in the courts, protection of labor rights, and the work of local governments; only a few complaints involved police misconduct. In general the Government and the courts implemented the ombudsman's recommendations.

An Assembly committee on human rights continued to exist but was inactive during the year.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status; however, the Government did not effectively enforce these prohibitions in practice. Violence and discrimination against women, child abuse, trafficking in persons, and discrimination against ethnic minorities were problems.

*Women.*—Although violence against women, including spousal abuse, is illegal, it was widespread, particularly in rural areas. During the year official agencies, including the police, improved their response to domestic violence; however, efforts were still inadequate. Domestic violence is a crime punishable by a fine or prison sentence of up to 10 years, depending on the seriousness of the offense or, if death results, by a sentence of three to 12 years in prison. Victims of domestic violence rarely filed complaints with authorities. According to a 2004 survey conducted by the NGO "SOS," only 30 percent of victims reported domestic violence incidents to police; however, domestic violence-related offenses made up 30 percent of all police arrests. The Government prosecuted a small but growing number of domestic violence cases; however, NGOs reported that judges often refused to impose jail sentences, although prosecutors routinely asked that convicted abusers be imprisoned; most convictions resulted in probation.

Rape, including spousal rape, is illegal. The Government sought to enforce the law, but deeply ingrained societal attitudes continued to stigmatize rape victims, and judges frequently allowed negative aspersions on the victims' character to be entered into court proceedings. As a result victims were reluctant to report rape, including spousal rape. Punishment for rape, including spousal rape, is one to 10 years in prison; however, authorities can only prosecute the crime if the victim brings charges. A local NGO estimated that 80 percent of domestic violence against women involved spousal rape; however, there were no reports of indictments of alleged rapists during the year.

Prostitution is a crime, as are soliciting and procuring. The Government took active measures to suppress these offenses. Prostitution existed but was not wide-

spread. Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment was a problem. It was tolerated by society at large. Although victims were hesitant to report harassment, police were usually effective in intervening when requested to do so.

By law women have equal status with men in property law, family law, and the judicial system; however, in practice, women did not enjoy equal status with men. Traditional patriarchal ideas of gender, which maintained that women should be subservient to male members of their families, persisted and resulted in continued discrimination against women in the home. In rural areas women could not always exercise their right to control property, and husbands commonly directed wives' voting. Few women held senior management positions in government or commerce. There were some signs of improvement, however; an increasing numbers of women served as judges, and there were many women in professional fields such as law, science, and medicine.

Women were legally entitled to equal pay for equal work; however, they did not always receive it in practice. The Government's Office for Gender Equality was responsible for protecting the legal and economic rights of women. The Office issued publications on antidiscrimination and worked on the Bill for Gender Equality and the National Action Plan for Gender Equality.

*Children.*—The Government was committed to the health and educational needs of children; however, the Government did not allocate adequate resources to achieve this goal.

Education was free, compulsory, and universal through the eighth grade. There was no difference in the treatment and attendance of boys and girls at the primary and secondary levels. Although ethnic Albanian children had access to instruction in their native language, some Albanians criticized the Government for not developing a curriculum in which Albanians could learn about their ethnic culture and history. Most Roma children received little or no education beyond the primary school level, and the Government did not undertake adequate efforts to encourage continued school attendance of Roma. Roma children who attended school were often segregated from others; instruction was usually in Serbian or Albanian.

Child abuse was an underreported problem that the Government took little action to address. The law does not allow a juvenile to make an allegation of a crime without a parent or guardian present; consequently, there was almost no reporting of child abuse or incest to authorities.

Child marriage was a problem, particularly among Roma. In the Roma community, boys and girls generally married at an early age, with girls marrying somewhat earlier than boys. The problem was widely ignored by the Government.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

Child labor was problem (see section 6).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, through, and within the country, primarily for prostitution, but trafficking for labor purposes existed as well. Internal trafficking was not a major problem. The republic was primarily a transit point for trafficked persons, particularly women and children, and to a lesser extent it was a source and destination for trafficking victims. Independence from Serbia during the year transformed a significant portion of formerly internal trafficking into external, cross-border, trafficking. According to the International Organization for Migration (IOM) and police officials, most victims came from Ukraine and Serbia and often continued to West European countries.

Statistics on the actual number of trafficking victims, as opposed to those that came to official attention, were difficult to obtain, as traffickers increasingly avoided holding their victims in such public locales as bars and nightclubs. Victims were generally women and girls with less-than-average education and usually, but not always, poor. The IOM estimated that approximately 30 to 50 percent of females in prostitution in the country were victims of trafficking; of that number, one-half were children aged 16 to 18.

Traffickers were often citizens who worked at times with foreign partners and were affiliated with broader organized crime organizations. They usually used fraud (false advertisements for travel or employment) to entice their victims and resorted to force and coercion to keep victims from escaping. There were no reports of involvement in trafficking by officials during the year. The IOM stated that it regarded the lack of training for officials as a more serious problem than corruption in impeding their efforts to counter trafficking. Law enforcement personnel, includ-

ing those at the borders, often lacked training in how to recognize trafficking operations.

The maximum penalty for trafficking in persons is 10 years in prison. During the year authorities arrested and charged one citizen with trafficking, and at year's end they were investigating another person. There were eight convictions for trafficking during the year.

On April 20, a court sentenced three citizens found guilty of trafficking. They transported four Bangladeshi nationals and 15 other persons of unknown nationality from Kosovo through Montenegro to Bosnia and Herzegovina. The victims were destined for Western Europe. Rajko S. Djukovic was sentenced to three years in prison, Branislav M. Brasnjo to two years and eight months and Elvir S. Kalac to two years and six months. On December 25, a court sentenced four citizens and one individual from Kosovo, to three years in prison each after finding them guilty of human trafficking. They attempted to trade their infant relative for a used automobile. Convicted were Adnan Salihi, Cazim Adzovic, Nailja Salihi, Ljubica Adzovic, and Vjera Adzovic.

Several cases from previous years were still in the courts.

A coordinator appointed by the Government chaired an antitrafficking working group composed of the ministries of interior, health, justice and education, the IOM, and NGOs. The Government also coordinated its antitrafficking efforts with other countries in the region, particularly through the Southern European Cooperative Initiative Center in Bucharest.

The law provides some protection to trafficking victims, distinguishing them from prostitutes, who were subject to fines, and illegal migrants, who were subject to deportation. Authorities generally observed these distinctions. Authorities established procedures for referring trafficking victims to social service agencies and repatriating them with IOM assistance.

International organizations sponsored training on trafficking problems for police (including border police), prosecutors, and judges. Local NGOs operated one shelter, in Podgorica, with government funding. Public awareness campaigns, sponsored by the Government with international support, continued throughout the country.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, there was societal discrimination against persons with disabilities. The law mandates access to new official buildings for persons with disabilities, and the Government generally enforced this provision in practice; however, facilities for persons with disabilities, including at polling stations, were inadequate.

The Government provided mobile voting for handicapped or ill voters who could not come to polling stations.

The ministries of health, labor and social welfare, and education are responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Societal discrimination against ethnic minorities was a problem. Prejudice against Roma was widespread, and local authorities often ignored or tacitly condoned their intimidation or mistreatment. According to a local NGO, 70 percent of Roma were illiterate, 70 percent did not speak the local language, 95 percent were officially unemployed, 40 percent had no access to public utilities, and 90 percent lived below the poverty level.

Roma from Kosovo, still formally considered by the Government as IDPs, lived primarily in collective centers and scattered settlements throughout the country. They often lacked identity documents and access to basic human services (see section 2.d.). Eviction from illegal settlements and at times from legal residences was a serious problem.

*Other Societal Abuses and Discrimination.*—Society generally showed antipathy towards homosexuals, leading most homosexuals to conceal their identity. Violence against homosexuals was rare and not condoned by the Government.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law entitles workers, except for uniformed military and police personnel, to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 95 percent of the workforce in the formal economy was unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right of collective bargaining; however, collective bargaining remained at a rudimentary level. By law the registered workforce is covered by collective bargaining agreements. The law provides for the right

to strike, and workers generally exercised this right by conducting legal strikes; however, the law prohibits strikes by military and police personnel.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws and policies to protect children from exploitation in the workplace, including those prohibiting forced or compulsory labor, and those establishing acceptable working conditions, and the Government generally enforced these laws and regulations effectively.

The official minimum age for employment is 15 years, although in farming communities it was common to find younger children assisting their families. Roma children also worked in a variety of unofficial retail jobs, typically washing car windows or selling small items such as newspapers. However, there were no reports that such practices occurred systematically.

Children were trafficked for child prostitution (see section 5).

Inspectors from the state labor inspectorate were responsible for enforcing the child labor laws.

*e. Acceptable Conditions of Work.*—The national minimum wage of approximately \$68 (52 euros) per month did not provide a decent standard of living for a worker and family. The Ministry of Labor enforced the minimum wage; there were no reports during the year of employers failing to pay it.

The law requires a 30-minute rest period daily, limits hours worked to 40 per week except in specified unusual circumstances, and requires an unspecified premium for work in excess of 40 hours per week. There is no specific prohibition on excessive compulsory overtime. The Ministry of Labor effectively enforced the regulations on hours of work.

The Government did not give high priority to the enforcement of occupational safety and health regulations. Workers did not have the right to remove themselves from situations that endanger health and safety without jeopardy to their employment.

## THE NETHERLANDS

The Netherlands, with a population of approximately 16.3 million, is a constitutional monarchy with a bicameral parliamentary legislative system consisting of a First Chamber, whose members are indirectly elected by the country's 12 provincial councils, and a Second Chamber, whose members are directly elected by popular vote. Elections held in November were free and fair. A prime minister and a cabinet representing the governing political parties (traditionally a coalition of at least two major parties) exercise executive authority. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. The following human rights problems were reported: societal discrimination and violence against some religious and ethnic minorities, violence against women and children, and trafficking in women and girls for sexual exploitation. The Government took steps to deal with all these problems.

Aruba and the Netherlands Antilles are two semi-autonomous countries of the Kingdom of the Netherlands; they also feature parliamentary systems and full constitutional protection of human rights. In practice respect for human rights in these islands generally was the same as in the European Netherlands; however, conditions in the islands' prisons remained substandard in some areas.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government offi-

cials employed them. There were incidents of right-wing and racist violence against religious and ethnic minorities (see sections 2.c. and 5).

*Prison and Detention Center Conditions.*—Prison conditions in the country generally met international standards, and the Government permitted visits by independent human rights observers.

The Safety Investigative Council investigated the causes of a fire at the Schiphol detention center in October 2005 in which 11 detainees died. In September it published a report stating that the Ministry of Justice and the Government Building Service failed to ensure compliance with fire safety standards. The ministers of justice and housing subsequently resigned, taking responsibility for the failures of the institutions under their supervision. The council made a number of recommendations. Measures were taken during the year to improve fire safety at this and other detention centers.

During the year the Governments of the Netherlands Antilles and Aruba continued to improve prison staffing and capacity to address concerns by the Council of Europe's Committee for the Prevention of Torture. Both governments took steps to alleviate overcrowding. They introduced a pilot project on house arrest for selected prison inmates. New women's and juvenile sections opened at the correctional institute in Aruba, while the detention center in Bonaire was renovated and placed under the supervision of the Netherlands Antilles Prison Service.

Despite the improvement, problems remained. On Curacao several stabbings and shootings took place among rival gang members in the Bon Futuro prison, and several inmates escaped. In St. Maarten illegal immigrants held a hunger strike, because authorities did not repatriate them in a reasonable amount of time.

The Governments of the Netherlands, the Netherlands Antilles, and Aruba permitted access by independent human rights observers to prisons; however, no such visits occurred during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice.

*Role of the Police and Security Apparatus.*—Regional police forces have primary responsibility for maintaining internal security. The royal constabulary and investigative organizations also have responsibilities for specified internal and external security matters. Police were generally effective, conducting their investigations in a professional manner. There were no indications of systematic police corruption. Impunity was not a problem; the National Criminal Investigation Service, the Rijksrecherche, investigates allegations of police abuse. Individuals may also file complaints to police complaint boards and the ombudsman.

*Arrest and Detention.*—Police officers, acting under the authority of the public prosecutor, conduct criminal investigations. A prosecutor or senior police officer must order arrests. Police officers may question suspects for a maximum of 12 hours and may detain a suspect for up to six days by order of the public prosecutor. Authorities must promptly inform detainees of the charges against them and must bring them before an examining magistrate within four days. The magistrate is obliged to review the validity of continued detention every 30 days depending on progress in the preliminary investigation. The authorities respected these rights in practice. If the prosecutor believes an investigation is necessary, he must request a preliminary judicial inquiry from the investigative judge, who then assumes responsibility over the investigation. Defendants have the right to have their attorneys present during any questioning. There is no provision for bail.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The judicial system is based on the Napoleonic Code. A pyramidal system of cantonal, district, and appellate courts handles both criminal and civil cases. The Supreme Court acts as the highest appellate court and ensures the uniform interpretation of the law.

*Trial Procedures.*—Trials are public. The judicial system does not provide for jury trials. The law requires that defendants be fully informed about the proceedings at every stage. In criminal trials the law provides for prompt access to counsel (inexpensively for persons with low incomes), the presumption of innocence, and the right to appeal. The Government respected these rights in practice.

Defendants and their attorneys generally had access to government-held evidence. In terrorism cases newly enacted legislation permits prosecutors to introduce classified information that defense attorneys cannot fully inspect. Courts may permit such information to be used in trials if it is corroborated by public evidence.

These procedures and rights were the same or similar in Aruba and the Netherlands Antilles, where they were generally respected in practice.



*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Lawsuits for damages related to a possible human rights violation may be brought before the regular court system or specific appeal boards. There were no problems enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected this prohibition in practice. Legislation designed to improve law enforcement came into force in January 2005. The legislation requires every person over the age of 14 to carry valid identification and allows police to demand identification at any time on the basis of strict criteria; random searches are not permitted. Some nongovernmental organizations (NGOs) criticized the implementation of the legislation, saying immigrant youth were disproportionately affected, but they did not allege that the disproportionate outcomes resulted from profiling or deliberate targeting of immigrant youth.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The law forbids the broadcasting of programs that incite hate. In 2004 the parliament raised questions about several foreign television and radio stations allegedly broadcasting anti-Semitic and other hate speech into the country. The Ministry of Justice investigated a number of cases and worked with other European governments to ensure compliance with national and European Union (EU) rules forbidding such broadcasts. For example, in January authorities cited licensing deficiencies in order to terminate broadcasts by Lebanon-based, Hezbollah-affiliated al-Manar radio. Most such programs remain available via internet.

Debate about radical Islam increased and intensified. Prominent figures, such as parliamentarians Ayaan Hirsi Ali and Geert Wilders, immigration minister Rita Verdonk, Amsterdam Mayor Job Cohen, and others, were put under constant police protection, some after making controversial statements. According to the International Helsinki Committee, threats from radical Islamists and others also contributed to a climate of fear in which many public figures censored themselves. Government leaders spoke out strongly against all such threats.

In October the NGO Reporters Without Borders described the country as one in which there had been no recorded censorship, threats, intimidation, or physical reprisals targeting journalists.

*Internet Freedom.*—There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice. In November parliament enacted legislation banning organizations designated as terrorist by the UN and EU; the ban was scheduled to become effective February 1, 2007. The law also provides for action against foreign organizations that do not appear on the UN or EU lists but are conducting activities in the country deemed contrary to public order.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. There were no reports that the Government attempted to limit the freedom or exercise of religion during the year.

The authorities continued to wrestle with the integration of the country's growing Muslim population. The Equal Opportunities Commission (CGB), a body established by law, but whose rulings are independent of government policy, and the courts, repeatedly addressed the wearing of headscarves in schools and places of employment. Both the CGB, whose opinions are not legally binding, and the courts have held that restrictions should be limited and based on security considerations or other narrow grounds. In practice headscarves are permitted almost everywhere, including in schools.

Some limited restrictions on religious dress appeared to be permissible. In 2003 the CGB held that a ban on burqas (a loose robe worn by some Muslim women that covers the body from head to toe) by an Amsterdam school was not discriminatory. The CGB stated that open teacher-to-student and student-to-student interaction was

more important than the right to wear a burqa. While burqas were not officially banned in schools, they were discouraged.

In November the Government proposed a policy that would ban the wearing of face (as opposed to head) coverings, including head-to-toe burqas, in public. However, authorities took no action during the year. Some observers considered the move, which came days before national elections, as a political ploy with little chance of becoming law.

The CGB and unofficial bodies reviewing complaints of religious and other discrimination publicly rebuked employers for failing to allow non-Christians to take leave from work on their religious holidays, for objecting to Sikhs wearing turbans and Muslim women wearing headscarves, and for objecting to observance of religious dietary requirements. For example, in 2004 the CGB ruled against a company that had denied employment to a Turkish applicant because he intended to attend Friday services at a mosque. The CGB said that employers are generally obliged to take account of their employees' reasonable religious demands and held that the company had violated the complainant's right to freedom of religion. Legislation enacted in 2003 permits employees to refuse to work on Sunday for religious reasons, with certain exceptions.

*Societal Abuses and Discrimination.*—The number of Muslims in the country has increased significantly in the past two decades. At the beginning of the year, the population included approximately 950,000 Muslims, 5.8 percent of the total. They lived primarily in the larger cities. The murder of filmmaker Theo van Gogh in 2004 by an Islamic extremist, and subsequent reactions to it, brought tensions between the Muslim and non-Muslim communities to the surface. These tensions continued to color intercommunal relations during the year. Minor incidents, including intimidation, brawls, vandalism, and graffiti with abusive texts, were frequent. Many in the Muslim community expressed an increased sense of alienation from Dutch society.

In a February poll, a majority of "native Dutch" found Islam an intolerant (52 percent), violent (40 percent), women-unfriendly (70 percent), and humorless (54 percent) religion, and 54 percent said Islam and democracy were incompatible.

Half of those interviewed in a June poll conducted by the Motivation Research Institute held very negative views of Islam, and 63 percent regarded Islam as incompatible with Western society. Dutch Muslims often felt compelled to defend themselves against criticism of their poor integration into society, the high level of criminal activity among Muslim youth, and the views of conservative Muslims on women's rights, homosexuality, and corporal punishment.

Anecdotal evidence suggested that Muslims experienced discrimination in the job market both in the private and public sectors, were more likely to be refused housing, and were more frequently banned from entering nightclubs and similar establishments, than non-Muslims.

The Government pursued a comprehensive outreach campaign to counter anti-Muslim sentiments, stressing that the majority of Muslims fit comfortably into Dutch society. At the same time, the Government took firm action against groups espousing violence in support of an Islamic extremist agenda. These efforts raised public awareness and triggered debate, but concerns remained about the effectiveness of the Government's policies. The Government pursued a hiring policy of affirmative action towards minorities and women.

Anti-Semitism continued to be a problem. According to the Government, the country had a population of approximately 45,000 Jews. Certain groups opposed to Israeli policies frequently used implicitly anti-Semitic language and images to express political views. Explicitly anti-Semitic sentiments also prevailed among certain segments of the Muslim community and among fringe nationalist and neo-Nazi groups. In June 2005 the Anti-Defamation League reported that one in five citizens held negative and prejudicial stereotypes about Jews.

Observers generally agreed that the level of anti-Semitic incidents among the country's North African population depended to a considerable extent on events in the Middle East. While the Center for Information and Documentation on Israel (CIDI) registered 159 anti-Semitic incidents in 2005, a decline compared to 327 in 2004, the number of incidents increased in the first four months of the year, following the electoral victory of Hamas. There was also a sharp increase in incidents during the July-August conflict involving Israel and the terrorist organization Hizballah in Lebanon, during which period CIDI registered 105 incidents, including threatening phone calls, e-mails, spraying of slogans such as "Juden Raus" (Jews Out) and vandalizing a synagogue in Zutphen and the national Auschwitz monument. In many cases the conflict between Israel and its neighbors appeared to be an excuse for anti-Semites to offend Jews.

The National Expertise Center on Discrimination (LECD) also reports statistics, based on the number of allegations of discrimination received and processed by the public prosecutor's office. In 2005, 65 of 280 registered discrimination cases concerned anti-Semitism, compared to 58 of 214 cases in 2004 and 50 of 204 cases in 2003. There were 14 convictions related to anti-Semitism in 2005.

Two distinct groups were responsible for most anti-Semitic incidents: North Africans, who acted out of sympathy with Palestinians, and supporters of right-wing extremist ideologies. While the percentage of incidents attributable to North Africans declined, the absolute number of incidents attributable to that group rose.

Anti-Semitism among right-wing extremists appeared to increase. The independent Registration Center for Discrimination on the Internet has described several hundred right-wing Web sites as extremist, including those of Stormfront.org, Polinico, National Alliance, and Holland Hardcore. These sites target not just Jews but also Muslims, blacks, and homosexuals. Extreme right-wing anti-Semites express themselves primarily by vandalizing Jewish buildings and monuments. CIDI expressed concern about the sharply increased vandalism of monuments and desecration of cemeteries, in particular by right-wing extremists. For example, in late October 15 of 20 gravestones were vandalized in a Jewish cemetery in Beek. Dozens of such incidents were reported during the year.

CIDI, which has frequently criticized what it regarded as inadequate prosecution of anti-Semitic events by the public prosecutor's office, reported considerable improvement during the year; however, CIDI called for more government action against anti-Semitic Internet sites; it described the Internet as one of the main sources for dissemination of anti-Semitic and racist ideologies. On March 1, the Government opened the new cybercrime Web site through which citizens can report radical statements and hate e-mail. The National Cybercrime Reporting Center is located with the National Police Force Services (KLPD).

The criminal law forbids the broadcasting of programs that incite hate. Parliament in 2004 raised questions about several foreign television and radio stations allegedly broadcasting anti-Semitic and other hate speech into the country. The Ministry of Justice investigated a number of cases and worked with other European governments to ensure compliance with national and EU rules forbidding such broadcasts. In January authorities cited licensing deficiencies to end broadcasts by Lebanon-based, Hizballah-affiliated al-Manar radio. Most such programs remained available via Internet.

Government and NGOs cooperated to combat discrimination and promote dialogue and mutual understanding. Educational efforts and projects to promote dialogue in Amsterdam and other large cities may have played a role in reducing the number of anti-Semitic incidents perpetrated by individuals of North African descent.

It is a crime to engage in public speech that incites religious, racial, or ethnic hatred, and the Government prosecuted several cases during the year. For example, on May 3, a district court convicted and sentenced to 200 hours of community services a man who placed remarks insulting Jews, disabled persons, homosexuals, Muslims, and other minorities on a right-wing Web site. On May 24, the producers of the Housewitz film clip, a spoof on Auschwitz, which the court called "sickening," were convicted of incitement to hatred. On January 25, a man was convicted of incitement to hatred for producing material, placed on the Internet, that insulted homosexuals and Jews.

The Government repeatedly condemned anti-Semitism and had a comprehensive action plan to combat discrimination. The Ministry of Education reminded schools about longstanding guidelines prescribing the teaching of different religions and ideologies in conjunction with combating discrimination and intolerance. The Ministry of Welfare subsidized a special program to teach children about the Second World War and the persecution of Jews. The Government sought to promote dialogue and supported initiatives that aimed to create a better understanding between Jews and Muslims. Nonetheless, CIDI suggested that the Government should spend more time and money creating a safe environment at schools and teaching respect for the different cultural and social backgrounds of students.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for pro-

viding protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with representatives of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

Authorities denied asylum to persons who came from a so-called safe country of origin or who stay for some time in a safe country of transit. EU guidelines were used to define such countries. The authorities provided economic assistance to those whom it denied asylum and who chose to return home voluntarily.

However, NGOs and the UNHCR alleged that the Government returned asylum seekers to countries where the security situation was insufficiently stable to guarantee their safety, such as Iraq, Iran, Somalia, and Afghanistan. These challenges drew intense political scrutiny and gave rise to parliamentary hearings whose consequences included the delay or reversal of government proposals to return asylum seekers from central and southern Iraq, as well as homosexuals and Christian converts from Iran.

NGOs, refugee organizations, and opposition parties criticized the Government for failing to expeditiously adjudicate asylum requests involving over 32,000 persons. In some cases the applications were 10 years old, and the total included approximately 6,000 children born while the applicants were in the country. Critics pressed for a general amnesty for these 32,000. In September the Government announced that it had completed its review of all these cases and had granted residence permits to about half of the applicants. The others, whose applications were denied, were ordered to leave the country. Several thousand individuals chose to return to their countries of origin and accepted government financial assistance for resettlement. Another few thousand were repatriated involuntarily. This led to an intense political debate, and in December the parliament agreed on a moratorium on repatriation of anyone else in this group in anticipation of a policy revision by the new government.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. These constitutional rights also apply to the Netherlands Antilles and Aruba, where they were also exercised in practice.

*Elections and Political Participation.*—Parliamentary elections, held on November 22, were free and fair. At year's end a coalition government had not yet been formed, and a caretaker government remained in power.

Following the November elections, 55 women held seats in the 150-seat Second Chamber of parliament; five women remained in the 16-member caretaker cabinet. Women also held positions in the parliaments and cabinets of the Netherlands Antilles and Aruba.

A court order prohibited the Government from subsidizing the orthodox Protestant Political Reformed Party (SGP), which does not grant equal rights to women on theological grounds. The SGP responded by permitting women to become party members. However, the SGP continued to deny women the right to run for office, a policy it defended as Biblically based.

There were approximately 15 members of ethnic minorities—Turkish, Moroccan, Surinamese—in the 150-seat Second Chamber of parliament, although there were no ethnic minority political parties or movements specifically represented in parliament. There were no members of ethnic minorities in the 16-member cabinet.

*Government Corruption and Transparency.*—There were isolated reports of corruption within the Government. During the year there were press reports of low-level law enforcement corruption at Schiphol airport, but the problem was not believed to be widespread or systematic. However, in July courts sentenced eight Schiphol employees, including two former military police officers, of setting up a drug trafficking ring. They received sentences of between 12 and 44 months. In August 2005 the Ministry of Justice's Scientific Investigation and Documentation Center (WODC) reported that every year there were approximately 130 internal investigations of corruption within the public administration. Authorities transferred approximately 50 of these investigations to police or the public prosecutor's office, leading to approximately five convictions a year.

The law provides for public access to government information, and authorities generally respected that right for both citizens and noncitizens. Disputes occasionally arose in court over the scope of the Government's right to decline to make information public based on the public interest. For example, there were disputes as to whether certain classified internal memos should be released.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Government has a long tradition of hosting international legal tribunals, including the International Court of Justice, the International Criminal Tribunal for the Former Yugoslavia, and the headquarters of the International Criminal Tribunal for Rwanda.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, gender, disability, language, political preference, sexual orientation, and social status, and the Government generally enforced these prohibitions. However, violence against women and children, trafficking in persons, and discrimination against ethnic minorities were problems.

*Women.*—Domestic violence was the most prevalent form of violence in society. According to a fact sheet issued in June by the Ministry of Justice, more than 40 percent of the population has experienced domestic violence at some point in their lives. Of these, 10 percent reportedly experienced some form of physical, sexual, or mental abuse on at least a weekly basis. According to police records, some 80 percent of victims were women. Police estimated that approximately 12 percent of these cases were reported to police.

Spousal abuse carries a penalty one-third greater than ordinary battery. Police records show that in 2005 approximately 3 percent of the cases reported to police resulted in arrests.

The TransAct organization, supported by the Government, is the national office for providing support to victims of domestic violence and those investigating and prosecuting such crimes. TransAct organized meetings of the national network on domestic violence, set up databases, and gathered examples of best practices. The Government subsidized shelters for battered women.

Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted those accused of such crimes. Approximately 15,000 rapes and sexual assaults were committed each year. The penalty for rape is imprisonment not exceeding 15 years or a fine. The maximum sentence for marital rape is eight years' imprisonment. Rape victims may be given protection in government-subsidized shelters for battered women. Police officially registered 1,774 rape cases in 2004, the latest year for which figures were available.

According to a September report by the Ministry of Integration, there were 279 cases of honor-related violence in The Hague and surroundings. Police in The Hague region established a special computer registration system to track and identify honor-related violence. In May Minister of Immigration Rita Verdonk, in response to parliamentary inquiries about honor-related violence, announced a five-year, \$17 million (13 million Euro) program to combat honor-related violence.

The law prohibits female genital mutilation (FGM). The Government's National Public Health Council estimates that at least 50 girls a year undergo FGM, but the government-affiliated FGM Committee, established by the health ministry, claims that the number is much higher. The maximum penalty for FGM is six to nine years' imprisonment. Beginning in February parents having their daughters genitally mutilated in foreign countries may also be punished under domestic law.

Prostitution is legal for persons who are at least 18 years of age and engage in the work voluntarily; however, the law penalizes organized prostitution that involves force, violence, misuse of power, and deception. The Government reported that strict controls and licensing requirements were employed as a means of combating trafficking. The controls included regulations prohibiting the employment of minors and illegal immigrants. The regulations also set strict standards for workplace conditions and require the provision of health care for prostitutes. There were approximately 25,000 prostitutes; roughly two-thirds were from non-EU countries.

The trafficking of women for sexual exploitation was a problem that the Government took steps to address (see section 5, Trafficking).

The law requires employers to take measures to protect workers from sexual harassment; however, a 2003 study showed that 5.3 percent of female workers were sexually intimidated in the workplace. The Government funded an ongoing public awareness campaign and has taken measures to counter harassment among civil servants.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system.

Although roughly 59 percent of women worked, nearly two-thirds did so part time. Traditional cultural factors and an inadequate number of daycare facilities discour-

aged many women from working full time. The Government was taking measures to make daycare more accessible. Female and male unemployment rates were 6.5 and 4.4 percent respectively. The Ministry of Social Affairs and Employment reported that women experienced a higher rate of unemployment, had less chance of promotion, and held lower level positions than men, primarily because they more often worked part time. According to the ministry, women working in the private sector on average earned 23 percent less than men, although, when adjusted for level of experience and expertise required for the jobs, this differential fell to 7 percent.

The Government provided affirmative action programs for women, and collective labor agreements usually included provisions to strengthen the position of women. An official Equal Treatment Commission investigated complaints of discrimination against women.

*Children.*—The Government worked to ensure the welfare of children through numerous well-funded health, education, and public information programs.

Education was free and compulsory for children between the ages of four and 16, although schools could ask for a voluntary contribution from parents. Vocational education was also free, except for the cost of books and materials. According to an April education ministry fact sheet, in October 2004 approximately 3 percent of students, 64 percent of them immigrant children, left secondary school before attaining a certificate. Government-licensed Islamic schools were obliged to follow the same curriculum requirements as other schools. The Government subsidizes health care, and boys and girls have equal access.

Child abuse was a problem. In a February 2005 report, the special child abuse commissioner for youth policy concluded that as many as 100,000 children were victims of abuse. Experts estimate that approximately 50 to 80 children died each year from some form of abuse. More than 38,000 formal reports of child abuse were registered with the authorities in 2005, 12 percent more than in 2004. This high volume of reports led in turn to long waiting lists for assistance, but the Government reduced these waiting lists by increasing funding to the Council for the Protection of Children.

In some cases girls were subjected to FGM (see section 5, Women).

The law provides for the prosecution of sexual abusers of children between the ages of 12 and 16 and does not require that affected parties file a complaint. Under the law national courts may try citizens and noncitizen permanent residents who abuse minor children abroad, even if the offense is not a crime in the country where it occurred. In July Schiphol airport police increased controls designed to crack down on travelers guilty of sex tourism or possession of child pornography. In June they arrested three persons suspected of sexual abuse of minors abroad. In May the Dutch Association of Tour Operators suspended a Dutch travel agency for having organized sex trips to Thailand.

The maximum penalty for the distribution of child pornography is six years' imprisonment, and the Government continued its campaign against child pornography on the Internet. The government-subsidized Child Pornography Reporting Center received 8,185 reports of cases of Internet child porn in 2005, up from 6,322 reports in 2004. In 2005 more than 88 child pornography cases were prosecuted, compared to 60 in 2004.

Trafficking of girls for sexual exploitation was a problem (see section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons was a problem.

The country was a destination and transit point for trafficked persons. NGOs and the police estimated that the number of women and girls trafficked for the purpose of sexual exploitation ranged from 1,000 to 3,600. The Foundation Against Trafficking in Women (STV), an independent NGO that helped victims of trafficking, registered 424 victims in 2005, up from 405 in 2004. The top five countries of origin were the Netherlands (98), Bulgaria (52), Nigeria (28), Romania (23), and the Czech Republic (18). Of the 424 victims registered in 2005, two were male and 24 were under the age of 18. In the first four months of the year, the STV registered 122 victims, of whom 15 were male. A significant percentage of the 25,000 individuals engaged in prostitution in the country were reportedly trafficking victims.

Trafficking within the country was also a problem. Almost all of the 98 domestic victims registered in 2005 were victims of so-called "lover boys," primarily young Moroccan or Turkish men and boys who seduce young, mostly immigrant, girls into prostitution. In January 2005 the Government set up the National Expertise Center for Youth Prostitution to collect statistics, background information, and develop best practices in fighting youth prostitution and "lover boys." Various organizations and

local governments initiated specific assistance and prevention programs for potential victims of “lover boys.”

Most traffickers used threats of violence to the victim, or to the victim’s family, to control their victims. Underage girls and young women of Moroccan and Turkish descent (mostly “lover-boy” victims), underage asylum seekers, women with a dependent residence status (pseudomarrriage), and women recruited in Africa, were most vulnerable to becoming victims of trafficking.

The Government and NGOs believed that trafficking for labor occurred but had not compiled statistics on this phenomenon by year’s end. During the year the National Expertise Center on People Trafficking/Smuggling (EMM) investigated a test case to prosecute trafficking for labor exploitation—authorities arrested 18 persons in May, nine of whom were suspected traffickers and nine illegal aliens. At year’s end the investigation continued.

The maximum sentence for trafficking in persons is normally six years. Sentences may be increased in certain cases. For example, the maximum term is 10 years when the victim is under age 16, 12 years when the person being trafficked is seriously injured, and 15 years when trafficking results in the victim’s death. The legal definition of trafficking in persons includes labor trafficking.

In 2004 the public prosecutor’s office prosecuted 253 traffickers, up from 174 in 2003, and the courts convicted 136 traffickers compared to 108 in 2003. A national outreach campaign against sexual exploitation, which the Government launched in January, proved successful. In the six months following the launch of the campaign, an anonymous crime-reporting hot line received 78 credible reports of forced prostitution compared to 42 such tips during all of 2005. Authorities were following up 25 of the tips. In September a prosecutor demanded six years’ imprisonment for a “lover boy” suspected of having lured four young women into prostitution.

During the year, in Alkmaar, a court convicted the owner of an escort service arrested in July 2004 of exploiting minors. The district court in The Hague sentenced six persons arrested in July 2004 for sex trafficking to imprisonment for terms ranging from one to six years.

The Government, in particular the ministries of justice, internal affairs, foreign affairs, welfare and health, and social affairs, actively combated trafficking in persons. Local police forces established special units to deal with trafficking, and the EMM brought together experts from the national police criminal investigation service, military border police, regional police forces, the Immigration and Naturalization Service, and the Social Information and Investigation Service. The national prosecutor for trafficking in persons supervises investigations conducted by the EMM, which also provides specialized training to police in the identification and protection of trafficking victims. The National Rapporteur on Trafficking in Persons, an independent, publicly funded agency, reports annually to the Government on the nature, extent, and mechanisms of trafficking as well as on the effects of national policies. Authorities participated in international investigations and cooperated closely with other governments on trafficking. The Justice Ministry launched a study of the prostitution sector, which included an analysis of the extent of trafficking.

Under the law illegal residents who may have been victims of trafficking may not be deported before investigations are completed. Victims may take three months to consider pressing charges, and authorities allowed victims who did so to stay in the country and to work until the judicial process was completed. Between 2003 and 2005, the Government received 430 requests from alleged trafficking victims for this so-called B-9 temporary residence status. It granted 334 requests, rejected 74, and 22 were pending. In August the Government announced new rules making it easier for trafficking victims to obtain legal permanent residency on humanitarian grounds.

The Government subsidized NGOs working with trafficking victims. For example, the STV offered social support, legal advice, medical aid, shelters, and counseling to victims.

The Justice Ministry cofinanced the La Strada program, aimed at preventing trafficking in women in Central and East European countries. Other prevention initiatives included distribution by the travel agents of warnings about trafficking and sex with minors while abroad and public awareness campaigns aimed at tourists and travel agencies meant to deter sexual exploitation of children.

*Persons With Disabilities.*—Discrimination against persons with disabilities was unlawful, but there were some reports that it occurred. The penal code provided penalties for discrimination in employment, education, access to health care, and the provision of state services. The government-affiliated CGB received several dozen complaints, mostly labor related, of such discrimination. The law requires access to

public buildings for persons with disabilities, but public buildings and public transport often were not easily accessible in practice.

*National/Racial/Ethnic Minorities.*—Approximately 3 million persons (20 percent of the population) were of foreign origin, including 1.7 million who belonged to ethnic minority groups, principally Turkish, Moroccan, Surinamese, and Antillean.

Incidents of physical assault against minorities were rare, but members of minority groups experienced verbal abuse and intimidation and were at times denied access to such public venues as discotheques. The Muslim community, including 365,000 persons of Turkish descent and 315,000 of Moroccan descent, faced increased discrimination (see section 2.c.).

Members of immigrant groups also faced discrimination in housing and employment. The minority unemployment rate remained roughly three times that of the ethnic Dutch workforce.

With the proliferation of Internet Web sites, the dissemination of racial and discriminatory material remained widespread. The NGO Discrimination on the Internet Registration Center registered approximately 1,300 incidents in 2005. The increase in expressions of hostility toward Muslims was particularly notable. Groups subject to hostility on a national basis included Moroccans, blacks, Jews, and homosexuals.

The Government pursued an active campaign to increase public awareness of racism and discrimination. Depending on the circumstances, persons could file complaints of racism or discrimination with the civil and criminal courts, the CGB, the national ombudsman, the Commercial Code Council, as well as the Council for Journalism, the European Court of Justice, and the European Court of Human Rights.

The majority of cases filed in criminal courts concerned racial defamation. Civil lawsuits often alleged discrimination against persons who were not ethnically Dutch in the supply of such services as mobile phones or access to clubs. The CGB primarily addressed incidents of discrimination in the labor market, including discrimination in the workplace, unequal pay, termination of labor contracts, and preferential treatment of ethnically Dutch employees.

The prosecutor's office has established a National Expertise Center on Discrimination, which maintained a database of discrimination complaints, and provided training for prosecutors handling cases of discrimination. In 2003, the most recent year for which data was available, the government-sponsored National Association of Antidiscrimination Bureaus registered approximately 3,600 complaints of discrimination, two-thirds of them citing race as the basis.

*Other Societal Abuses and Discrimination.*—Homosexuals faced increasing harassment in larger cities, primarily from some groups of Muslim youth. Harassment consisted largely of verbal epithets and abuse.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers are entitled to form or join unions of their own choosing without prior government authorization, and workers exercised this right in practice. Approximately 25 percent of the work force engaged in legal employment was unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to organize, and specific laws provide for the right to collective bargaining; workers exercised these rights in practice. Approximately 86 percent of workers were covered by collective bargaining agreements. The law provides for the right to strike, and workers exercised this right by conducting legal strikes; some civil servants did not have the right to strike, but they had other institutionalized means of protection and redress. None of these protections extended to the significant number of workers who were employed in the underground economy.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government enforced laws and policies to protect children from exploitation in the workplace; however, violations occurred.

The minimum age for employment is 16 years. Those in school at the age of 16 may not work more than eight hours per week. The law prohibits persons under the age of 18 from working overtime, at night, or in activities dangerous to their physical or mental well-being. A tripartite labor commission composed of representa-



tives of government, enterprises, and unions monitored hiring practices and conducted inspections. The commission enforced the laws effectively.

Holiday work and after-school employment are subject to very strict rules set by law. The Ministry of Labor's inspection office, which is charged with enforcement, found during the year that 75 percent of companies employing holiday workers and children under 18 complied with the regulations.

Trafficking of children occurred (see section 5).

*e. Acceptable Conditions of Work.*—The minimum wage for adults of approximately \$1,682 (1,284.60 euros) per month provided a decent standard of living for a worker and family. Except in the underground economy, the Labor Inspectorate effectively enforced the minimum wage.

The law sets a 40-hour workweek. The average workweek was 30.6 hours (38.7 hours for full-time and 20 hours for part-time workers). Anyone working more than 4.5 hours per day was entitled to a 30-minute rest period. Overtime is regulated. There are no exceptions for legal foreign workers. The Labor Inspectorate effectively enforced the labor laws. The tripartite labor commission actively monitored and effectively enforced working conditions, including comprehensive occupational safety and health standards set by law. The Ministry of Labor and Social Affairs also monitored standards. Workers could remove themselves from dangerous working conditions without jeopardizing their continued employment, and workers exercised this right in practice.

## NORWAY

Norway is a parliamentary democracy and constitutional monarchy; King Harald V is head of state. With a population of approximately 4.6 million, the country is governed by a prime minister, a cabinet, and the 169-seat Storting (parliament) that is elected every four years and cannot be dissolved. Free and fair elections to the multiparty parliament were held in September 2005. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the rights of its citizens, and the law and the independent judiciary provided effective means of addressing isolated instances of abuse. During the year there were incidents of anti-Semitism and the Government made efforts to combat violence against women and trafficking of women.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers; however, no such visits took place during the year.

Juveniles aged 15 to 18 were held separately from the general prison population. Social welfare authorities generally cared for those under the age of 15.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police have primary responsibility for internal security; however, the police may call on the armed forces for assistance in times of crisis, such as internal disorder or natural catastrophe. In such circumstances, the armed forces are under police authority. The Ministry of Justice and Police oversees the police forces.

The police force was generally effective, and corruption was not generally a problem. Adequate measures were in place to investigate police abuses. An independent police complaint commission investigates reports of corruption within the police force.

*Arrest and Detention.*—The law requires warrants for arrests, and police generally arrested a person based on a warrant authorized by a prosecutor. Police must file charges against detained persons within four hours, and detainees generally were promptly informed of the charges against them. An arrested suspect must be ar-

raigned within 24 hours, at which time the arraigning judge determines whether the accused should be held in custody or released pending trial. This legal provision was respected in practice. Arrested persons were allowed prompt access to a lawyer of their choosing or, if they could not afford one, to an attorney appointed by the Government. Arrested persons were generally allowed access to family members.

There is no bail system or similar mechanism. Defendants accused of minor crimes were routinely released pending trial. Defendants accused of serious or violent crimes remain in custody until trial.

New prison facilities were under construction; however, current space was scarce, and the authorities maintained a waiting list for those convicted of minor offenses to serve their sentences.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice.

The court system consists of the Supreme Court, the appeals selection committee of the Supreme Court, six appellate courts, and a number of district courts, which hear both civil and criminal cases. District court rulings may be appealed by either party, but the appeals selection committee refers only cases of great importance to the Supreme Court. There are also specialized courts, including the labor court and the land ownership severance courts.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trials are public, but juries are only used in criminal cases heard by the court of appeals. Charges are stated clearly and formally, and defendants enjoy a presumption of innocence. Defendants have the right to be present, to have counsel (at public expense if needed), to confront and question witnesses, to present evidence and witnesses, and to appeal. Defendants and their attorneys have access to government-held evidence relevant to their cases. The law extends the above rights to all citizens. There are no military courts. Military crimes are tried in a civilian court, with the addition of a military judge to assist the civilian judges in trying the case.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Seventy percent of citizens had Internet access, and of these, 80 percent had broadband connections. Slightly more than 70 percent of citizens accessed the Internet at home and over 45 percent accessed the Internet at their workplace.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

The state church is the Evangelical Lutheran Church of Norway, which was supported financially by the Government. The constitution requires that the King and at least one-half of the cabinet belong to this church. Other denominations operated freely.

A religious community is required to register with the Government only if it desires financial support, which is provided by the Government to all registered denominations on a proportional basis in accordance with membership.

The law provides that “religious knowledge and education in ethics” be taught as a subject in public schools. The course covers world religions and philosophy and

promotes tolerance and respect for all religious beliefs; however, the course devotes the most time to Christianity. The course is mandatory, and there are no exceptions for children of other faiths; students may be exempted from participating in or performing specific religious acts such as church services or prayer, but they may not forgo instruction in the subject as a whole. The Government lost a case on this issue before the UN Human Rights Committee in 2004, which led to a number of changes in 2005. Despite curriculum changes intended to meet the concerns of non-Christians, parents and the Humanist Association (an atheist organization) continued to contest the legality of the law mandating the course. The same petitioners who filed the case with the UN had earlier filed a similar case with the European Court of Human Rights in 2002. That case was still before the court at year's end, but since it was based on the circumstances as they were in 2002, analysts were uncertain whether the court would comment on the legality of the current system.

The law permits private or religious schools and day care centers to ask persons seeking employment whether they will respect and teach the denomination's beliefs and principles. Employers may reject applicants on the basis of their responses; no statistics were available on how frequently this occurred.

*Societal Abuses and Discrimination.*—The Jewish population is relatively small, with about 1,000 members. There was an increase in the number of reports of anti-Semitic incidents during the year. There were several incidents of vandalism of Jewish cultural property (synagogues and cemeteries). On July 15, in Oslo three men physically attacked and verbally abused a Jewish citizen. Around the same time, the Jewish community reported threatening phone calls and e-mails. On July 19, a man defecated on the stairs of a synagogue, and then threw stones at it, causing minor damage, including two broken windows. At year's end there were no arrests in either the assault case or the act of vandalism (despite video evidence).

On September 17, the synagogue in Oslo was hit by automatic weapon fire, causing minor damage and igniting a nationwide debate on the rising level of anti-Semitism. The police charged four men in the synagogue attack; they were in custody, and their case was pending at year's end.

Articles, reports, and political cartoons appeared in the media that vilified and demeaned the Jewish people and community and minimized the Holocaust, particularly during the July-August conflict involving Israel and the terrorist organization Hizballah in Lebanon. One caricature appearing in a major Oslo newspaper showed Israeli Prime Minister Ehud Olmert as a Nazi concentration camp commander. Jostein Gaarder, a prominent Norwegian author, published an article entitled "God's Chosen People" that many within and outside the country considered anti-Semitic for its tone and biblical interpretations.

The Government supported organizations that worked on combating discrimination. Among them were the Organization against Public Discrimination and Norwegian People's Aid. The Government also supported the foundation called "The White Buses," which took students from Norway to Auschwitz to educate them about the Holocaust. Part of the mission of the Ministry for Children and Equality was to combat discrimination.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*c. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum, and accepted refugees for resettlement.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol, and provided it to 3,908 people.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Government contracted with nongovernmental organizations (NGOs) to provide information to asylum seekers in their native languages and to educate them about the asylum application process. Several NGOs offered additional legal counsel to persons whose initial applications were denied. To better communicate

with a diverse group of asylum seekers, reception centers employed speakers of a wide range of languages.

In accordance with the Dublin Convention, the Government required asylum seekers to make their claims in safe countries through which they traveled or had residence. The Government used a “fast track” system to process asylum claims from nationals or permit holders from “safe countries” within 48 hours of application.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Free and fair parliamentary elections held in September 2005 resulted in the formation of a coalition government of the labor, socialist left, and center parties. Labor Party leader Jens Stoltenberg was named prime minister following multiparty negotiations.

There were 61 women in the 169-seat parliament and six women among the 19 Supreme Court justices. Women headed nine of the 19 government ministries. There was one member of a minority in parliament. There were no minority ministers or Supreme Court justices.

*Government Corruption and Transparency.*—There were no reports of government corruption at the federal level during the year. The law provides for public access to government information, and the Government provided this access in practice.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced this prohibition in practice, although violence against women and trafficking in persons were problems.

*Women.*—Violence against women, including spousal abuse, was a problem.

The law provides for higher penalties for violence in cases of severe domestic abuse, and the Government enforced the law in practice. In 2005 police registered 4,150 cases of domestic violence. The penalty for domestic violence is generally one to six years in prison, with an increased prison term in more severe cases.

The law criminalizes rape, including spousal rape, and the Government enforced the law. The penalty for rape is generally one to 10 years in prison depending on the severity of the assault, the age of the victim, and the circumstances under which the crime occurred. Although the number of rapes reported to the police has risen in recent years, with 689 reported rapes in 2004, the country has experienced a decrease in the number of rape convictions, with only 25 convictions in 2004. In that year the chief prosecutor's office convened a task force to examine this trend; the task force had not yet reported at year's end.

The Government and the police have instituted special programs to prevent rape and domestic violence and to counsel victims. There is a domestic violence coordinator in each of the country's 27 police districts to provide victims with responsive and knowledgeable assistance. Coordinators aided domestic violence victims in identifying the various services and institutions available to assist them. Public and private organizations ran 50 government-funded shelters and managed five 24-hour crisis telephone lines. The shelters provided support and counseling for victims, and helped them gain access to social services, doctors, lawyers, and housing authorities. Each of the country's 19 counties had several shelters. In 2005 the country's shelters registered 52,004 overnight stays by 2,287 women.

Prostitution is legal, but organized prostitution and pimping are illegal. NGOs and the Government estimated that 2,500 to 3,000 persons sold sexual services. A few of these were men, and NGOs reported that a few persons selling sexual services appeared to be under the age of 18, although they generally claimed to be older. An estimated 70 percent of the country's prostitutes were foreign women.

Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

The law provides that “employees shall not be subjected to harassment or other unseemly behavior,” and the Government effectively enforced this provision in prac-

tice. Employers who violate this law are subject to fines or prison sentences of up to two years, depending on the seriousness of the offense.

Women have the same legal status as men and enjoy identical rights under family and property laws and in the judicial system. The office of the gender equality ombudsman was generally effective in processing and investigating complaints of sexual discrimination. In 2005 the office received 430 complaints.

The law protects the rights of women and provides that women and men engaged in the same activity shall have equal wages for work of equal value. According to the office of the gender equality ombudsman, which monitors enforcement of the law, women generally received 10 to 15 percent less in pay and benefits than men for equal work.

In 2003 the parliament passed a resolution mandating that 40 percent of publicly listed companies' directorships be held by women by mid-2005. However, as of June, only 21 percent of all directorships were held by women. New legislation on gender quotas was implemented that gave companies established before January 1 two additional years to meet the 40 percent requirement. Corporations established after January 1 must meet the requirement before they can be registered as a company.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of education and medical care.

The Government provides free education for children through the postsecondary level. Education is compulsory for 10 years, or through the 10th grade; most children stayed in school at least until the age of 18. The school attendance rate was virtually 100 percent; parents lose a direct stipend of approximately \$300 (970 kroner) per month per child if their children fail to attend school.

The Government provides extensive, free medical care for children.

In 2005 child care services investigated 21,000 cases and intervened in 22 percent of them—those that authorities considered to constitute child abuse or failure to care for a child. An independent children's ombudsman office within the Ministry of Children and Families is responsible for the protection of children under the law. The directorate for children, youth, and family affairs provides assistance and support services. With five regional offices and 26 professional teams, the directorate is the Government's principal agency for the welfare and protection of children and families. The directorate's activities include providing family counseling, managing foster homes and child welfare institutions, and administering funds to NGOs focusing on children.

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were reports that persons were trafficked to and through the country. The maximum sentence for trafficking in persons is five years, with a maximum sentence of 10 years for aggravated cases; those are determined by several factors, including the victim's age, the use of violence or coercion, and any proceeds derived from exploitation. Traffickers can also be charged with violating pimping, immigration, and slavery prohibitions. Victims may sue their traffickers for compensation without impediment.

The Ministry of Justice and Police coordinates and implements antitrafficking measures. At year's end seven police districts were investigating 35 trafficking cases.

The Government cooperated with foreign governments, Interpol, and Europol in the investigation and prosecution of trafficking cases. The country's collaboration with other Scandinavian countries was particularly strong.

Police identified a number of possible victims trafficked by organized criminals for the purpose of sexual exploitation. Most of these suspected victims were women from Nigeria, Russia, Albania, Eastern Europe, and the Baltic countries. Suspected victims were often reluctant to press charges, making it difficult for police to identify and assist them and to prosecute traffickers.

Government officials believed that organized crime groups were responsible for most trafficking. Traffickers used threats, violence, rape, and confinement to enforce victims' compliance. Government authorities suspected they may also confiscate travel documents and subject victims to debt bondage.

Although trafficking victims may be prosecuted for violating immigration laws, no such prosecutions occurred during the year. Deportation decisions concerning victims of trafficking may be suspended for a 90-day reflection period (the period was extended from 45 days during the year) to provide time for practical assistance and counseling to the individuals concerned.

Government officials sought to improve public awareness of trafficking by raising the issue in speeches and other forums. NGOs conducted outreach programs to provide trafficking victims with information on their legal rights and available health and other services. Foreign victims of trafficking have the same legal rights as other

foreigners to apply for residency, asylum, welfare, social aid, and emergency health care.

The Government operated an assistance program for trafficking victims that featured support centers, shelters, and a 24-hour hot line. The Government also ran a national network of crisis centers where trafficking victims could seek assistance finding shelter, work, and education.

Police working on trafficking issues are required to attend a two-day training seminar.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to public buildings for persons with disabilities, and the Government generally enforced this provision in practice.

The section for disabled persons in the Ministry of Labor and Social Inclusion was responsible for protecting the rights of persons with disabilities; that office coordinated relevant national policy and managed the social benefits system for disabled persons. The section's budget sharply increased in 2005 and 2006, and it was therefore able to increase grants for persons with disabilities by \$14 million (90.6 million kroner) and to provide additional support to individual agencies for more enterprises, better transportation, better building access, and increased access to parks.

*Indigenous People.*—The rights of the indigenous Sami were protected by the Government, which provided Sami language instruction at schools in their areas, radio and television programs broadcast or subtitled in Sami, and subsidies for Sami-oriented newspapers and books. A deputy minister in the Ministry of Labor and Social Inclusion deals specifically with Sami issues.

In addition to participating freely in the national political process, the Sami elect their own constituent assembly, the Sameting. The law establishing the Sameting stipulates that this 39-seat consultative group is to meet regularly to deal with "all matters, which in [its] opinion are of special importance to the Sami people." In practice the Sameting has been most interested in protecting the group's language and culture and in influencing decisions on resources and lands where Sami are a majority. The law requires that a report on the activity of the Sameting be submitted annually to parliament, and a report on the main principles of Sami policy every four years. The 2005 report stated that the situation had improved in the last year, with the Sameting having an increased role in government decisions, and that they successfully completed their fifth election cycle since the Sameting was created in 1989.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and they exercised these rights in practice. Approximately 56 percent of the workforce was unionized.

*b. The Right To Organize and Bargain Collectively.*—All workers, including government employees and military personnel, have the right to organize and bargain collectively, and they exercised this right in practice.

The law provides for the right to strike, and workers exercised this right in practice; however, the Government may, with the approval of parliament, compel compulsory arbitration under certain circumstances. During the year the Government invoked compulsory arbitration once in response to a strike planned by bank and finance sector employees. When the employer organizations threatened to impose a lock-out, the Government regarded it as a threat to the country's security, and intervened.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred in connection with trafficking in persons (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government implemented laws and policies to protect children from exploitation in the workplace. Children 13 to 18 years of age may be employed part-time in light work that will not adversely affect their health, development, or schooling. Minimum age rules were observed in practice and enforced by the directorate of labor inspections. There were no reports of illegal child labor during the year.

*e. Acceptable Conditions of Work.*—There is no legislated or specified minimum wage, but wages normally fall within a national scale negotiated by labor, employers, and the local government. Negotiations between these parties led to wage increases of approximately 3.3 percent in the first half of the year. The average daily

wage provided a decent standard of living for a worker and family. Approximately 200,000 people lived below the country's poverty line.

The law limits the normal workweek to 37.5 hours and provides for 25 working days of paid leave per year (31 days for those over age 60). The law mandates a 28-hour rest period on weekends and holidays. The law provides for premium pay for overtime and prohibits excessive compulsory overtime.

The law provides for safe and physically acceptable working conditions for all employed persons. Specific standards are set by the Directorate of Labor Inspections (DLI) in consultation with nongovernmental experts. Under the law, environment committees composed of management, workers, and health personnel must be established in all enterprises with 50 or more workers, and safety delegates must be elected in all organizations. Workers have the right to remove themselves from situations that endanger their health, but no statistics were available on whether they exercised this right in practice. The DLI effectively monitored compliance with labor legislation and standards.

Although foreign workers were provided the same legal protections, the media reported complaints from children of immigrants that they were excluded from mainstream society and that they had fewer and inferior job opportunities than did ethnic majority citizens.

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## POLAND

The Republic of Poland is a multiparty democracy with a population of 38.5 million and a bicameral National Assembly consisting of an upper house, the Senate (Senat), and a lower house (Sejm). Executive power is shared among the Prime Minister, the Council of Ministers, the President, and the Sejm. In October 2005 Lech Kaczynski was elected President in a free and fair election. Legislative elections in October 2005 were also free and fair. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Prison conditions remained poor with serious overcrowding; lengthy pretrial detention was occasionally a problem; and the judicial system continued to function poorly. Holdover Communist-era laws and regulations restricted freedom of speech and the press. Occasional anti-Semitic violence and harassment also were problems. There was discrimination against women in the labor market, sexual exploitation of children, trafficking in women and children, and societal discrimination and violence against ethnic minorities and homosexuals. Violations of workers' rights and antiunion discrimination also were problems.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

On September 26 and 29, district court hearings took place in Katowice in connection with the 1981 Wujek Mine case; Czeslaw Kiszczak again pleaded not guilty to charges of ordering militia (ZOMO) to open fire on striking miners. The trial was set to continue in 2007. In September 2005 an appeals court ruled that the district court could hear the communist-era offense against Kiszczak. In 2004 Kiszczak received a two-year suspended sentence, but a Warsaw appeals court overturned the sentence and ruled that the district court must hear the case again. A separate trial of ZOMO officers who fired at striking miners in 1981 also continued. On November 30, the last of three hearings during the year took place at which a former ZOMO officer testified to hearing other militia officers boast of shooting at miners.

In the ongoing case from May 2004 in which police officers accidentally used live ammunition on a student crowd in Lodz, the family of a second shooting victim received an undisclosed amount of compensation. The family of the first victim received a payment in earlier years. There was no development in the investigation into the two police officers who allegedly distributed live ammunition.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these provisions in practice.

In June a psychiatrist held in pretrial detention on corruption charges was reportedly denied medical treatment and pain relief for a jaw that was broken in an acci-

dent prior to his arrest. Authorities permitted the detainee to undergo an operation on his jaw approximately four weeks after his arrest.

In April the Helsinki Foundation for Human Rights (HFHR) published its first report on torture in the country, which stated that statistics on the number of cases of physical or psychological abuse were not available because the criminal code does not specifically include torture and cruel or degrading treatment as a crime. The HFHR received several hundred complaints during the year about abusive treatment by police officers and conditions in prisons and mental institutions.

In 2005, 4,924 cases of police misconduct were reported. Of that number, 1,310 police officers were punished, and 78 others were expelled from the police force. Statistics of police misconduct during the year were not available at year's end. The law on police conduct outlines disciplinary actions against police misconduct, including warnings, demotion in rank, and expulsion.

*Prison and Detention Center Conditions.*—Conditions in prison and detention centers remained generally poor. Overcrowding and inadequate medical treatment were among the main problems.

According to the Government, 89,546 persons (including 2,670 women) were held in prisons and detention facilities as of November 30. The Government estimated prison and detention center capacity at 71,994, whereas the International Helsinki Foundation estimated total capacity at 68,729 as of November 2005.

Regulations provide for a minimum cell size of 16.5 square feet (1.5 square meters), while article 110 of the 1997 Executive Criminal Code provides for a minimum living area equivalent to 32.28 feet (three square meters). European Union standards designate minimum cell size at 64 square feet (six square meters). Due to the chronic overcrowding it was common for prisons to convert sports and recreation centers as well as chapels into cells.

On April 20, Janusz Kochanowski, the new human rights ombudsman, withdrew a December 2005 motion filed with the Constitutional Tribunal by his predecessor challenging a Ministry of Justice decree that allowed overcrowding in prisons and detention facilities (see section 4). Kochanowski argued that the concerns had been addressed adequately by the Justice Ministry; the Constitutional Tribunal subsequently dismissed the case. On December 5, a prisoner filed a new complaint with the Constitutional Tribunal citing the same Justice Ministry decree. At year's end, no ruling had been issued.

During the year the human rights ombudsman received 3,999 complaints regarding prison conditions. These cited poor medical care, abuse by prison authorities, poor conditions, and violations of correspondence and visitation rights.

Female prisoners were held in 28 facilities, eight of which were exclusively for women. Inmates were segregated by gender in the other 20 facilities.

Juveniles were generally separated from adults; however, under the law juveniles and adults could be housed together on occasion. Convicted minors (15- to 17-year-olds) were segregated from the adult prisoners. Juveniles (17- to 21-year-olds) accused of serious crimes were usually sent to pretrial detention. According to the central prison administration, there were two cases of an adult prisoner raping a minor and one additional case of a juvenile prisoner raping another juvenile. Criminal proceedings were initiated in all three cases.

Facilities that housed prisoners often held pretrial detainees in separate areas. Conditions for pretrial detainees were similar, but occasionally worse than those for convicted prisoners because of greater overcrowding and poorer facilities.

During the year the Government permitted prison visits by independent human rights organizations, such as the International Helsinki Foundation. In accordance with standard procedures, the visits were private and regularly repeated.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The police force is a national law enforcement body with regional and municipal units overseen by the minister of interior and administration. Low-level corruption within the police force was considered widespread, and there was a public perception that police were unduly influenced by political pressures. Instances of corruption and serious criminal misconduct were investigated by the national police's office of internal affairs. The personnel division handled minor disciplinary offenses.

In August media reports exposed a major corruption case in the national police headquarters involving officers who were accused of malfeasance in a number of public tenders, including procurement of Romanian-made vehicles. By year's end the case had not reached court, but prosecutors had brought charges against 13 individuals: eight former police officers and five employees of the company that won the contract.



In November, following several anti-Semitic and anti-gay incidents in Warsaw and Wrocław, a local non-governmental organization (NGO), Open Republic of Poland—Association against Anti-Semitism and Xenophobia, appealed to the Ministry of Interior to provide clearer guidelines to police on how to respond to these types of complaints. The NGO accused police of being inattentive and helpless in reacting to societal abuse and harassment.

*Arrest and Detention.*—By law, authorities must obtain a court warrant based on sufficient evidence prior to making an arrest, and authorities generally complied with the law in practice.

The law allows a 48-hour detention period before authorities must file charges, and an additional 24 hours for the court to decide whether to issue a pretrial detention order. Detainees must be informed of the charges promptly and have the right to counsel; the Government provides free counsel to the indigent. Defendants and detainees have the right to consult an attorney at any time. There was a functioning bail system, and most detainees were released on bail.

Detainees may be held in pretrial detention for up to three months and may appeal the legality of their arrest. A court may extend pretrial detention every six to 12 months, but the total time in detention may not exceed two years. In certain complex cases, the court may petition the Supreme Court for an extension beyond two years. Court inefficiency occasionally delayed pretrial detention hearings.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary remained inefficient and lacked resources and public confidence.

There is a four-tiered court structure composed of regional, provincial, and appellate divisions and a Supreme Court. These tiers are subdivided into five domains of jurisdiction: military, civil, criminal, labor, and family. Regional courts try original cases. Provincial courts have a dual responsibility, handling appeals from regional courts and acting as the court of original jurisdiction for the most serious offenses. Appellate courts only hear appeals tried at the provincial level. The Supreme Court handles appeals of lower court decisions and ensures that the law is applied consistently throughout the country. There also is a Constitutional Tribunal that handles constitutional matters.

Supreme Court judges are nominated by the National Judicial Council and appointed for life terms by the President. They have immunity from prosecution but are subject to dismissal by a court decision. There are 90 Supreme Court judges in four chambers: civil, criminal, military, and labor-social security-public affairs. Judges are nominated by the National Council of the Judiciary and appointed by the President. The first President of the Supreme Court is appointed by the President of country for a six-year term from among candidates proposed by the General Assembly of the Judges of the Supreme Court.

The Constitutional Tribunal reviews the constitutionality of new laws, adjudicates disputes between government entities, and monitors the constitutionality of political parties' actions. There are 15 judges on the Constitutional Tribunal, nominated and approved by the Sejm.

The court system remained cumbersome, poorly administered, inadequately staffed, and underfunded. The courts had numerous inefficiencies, most notably that there were more criminal judges than prosecutors in many districts. Court decisions frequently were not implemented. A continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

*Trial Procedures.*—Cases are tried in regional and provincial courts by a panel composed of a judge and two lay assessors. Defendants are allowed to consult an attorney; the Government provides free counsel for indigent defendants as necessary. Defendants must be present during trial, may confront and question witnesses, have access to government-held evidence, and may present evidence and witnesses. Prosecutors can grant witnesses anonymity if they express fear of retribution from defendants. Trials are usually public; however, the courts reserve the right to close a trial in some circumstances, including divorce proceedings, cases involving state secrets, or cases with content that may offend public morality (see section 1.f.). However, the courts rarely invoked these rights.

After a court renders a verdict, a defendant has seven days to request a written statement of the judgment; courts must respond within seven days. A defendant has the right to appeal a verdict within 14 days of the response. A two-level appeal process is available in most civil and criminal matters.

The law provides for juries, usually composed of two or three individuals appointed by local officials.

Several individuals lodged complaints or filed cases against the Government in the European Court of Human Rights (ECHR) because of trial delays and a per-

ceived lack of due process. In 2005 the ECHR received 400 complaints about trial delays and 140 about failures of due process.

Military courts, which are supervised by the minister of justice and the prosecutor general, have jurisdiction over crimes committed by members of the military while on duty. Defendants enjoy the same rights as civilians. Civilian employees of the Ministry of Defense are not tried by the military courts.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The judiciary system is generally independent and impartial in civil cases. The constitution and law guarantee the sovereignty of and public access to the judiciary. Additional guarantees are provided by the country's EU membership in the Council of Europe (European Court of Human Rights). However, according to officials at the respected local NGO Batory Foundation, several main problems exist. Implementation of court orders, particularly payment of damages, is slow, cumbersome, and ineffective. Court decisions are poorly enforced, recent changes to civil procedure place speed and efficiency over individual rights, and, in practice the right to legal counsel is limited.

*Property Restitution.*—The law provides for restitution of communal property seized during the communist and Nazi eras (see section 2.c.). A proposed law on private property claims introduced in the Sejm remained pending at year's end. The treasury estimated that there could be over 55,000 property claims valued together at \$20 billion (60 billion zloty). Despite the absence of a comprehensive law on private property claims, some illegally nationalized private property was restored, and approximately \$183 million (550 million zloty) was paid out in compensation for 500 property claims provided over the previous 10 years.

Pursuant to a July 2005 law concerning properties that were lost because of border changes after World War II, the Government is obligated to pay compensation in the amount of 20 percent of the property value. At year's end the state treasury had paid compensation to 75 claimants. According to the Government, the law could affect approximately 80,000 claimants for property now located in Lithuania, Belarus, and Ukraine. The law requires the treasury to create registers of all claimants who have the right to compensation. The deadline for submitting applications for claims is December 31, 2008.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Government did not always respect these prohibitions in practice.

The law allows electronic surveillance for crime prevention and investigations. There was no independent judicial review of surveillance activities, nor was there any control over the use of information obtained by monitoring private communications. A number of government agencies had access to wiretap information.

Under the 1997 "lustration" law designed to expose officials who collaborated with the communist-era secret police, persons who lie about their past may be prohibited from holding public office for 10 years. In July the President signed a new lustration law that requires all politicians, civil servants and others in positions of public trust, including school principals and journalists, to obtain a clearance from the Institute for National Remembrance (IPN). The files of people reviewed by the IPN will be made available on the Internet. The new lustration process also will disclose the names of people who met with the secret police on an "institutional" or "operational" basis, but were not necessarily informants or collaborators. As the law stands now, 500,000 to 1.5 million people could come under scrutiny. However, many in government and human rights NGOs were concerned that the new law could be misused for political reasons.

Many lustration cases remained closed to the public because they involved classified documents. Critics continued to voice concern that procedures for vetting persons for government positions were unfair because secret police records were subject to loss or tampering.

In June Minister of Finance and Deputy Prime Minister Zita Gilowska lost her job when allegations were made that she collaborated with the communist-era security services. On September 22, Gilowska cleared her name through a lustration process and was restored to her position.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, holdover communist-era laws and regulations restricted these freedoms in practice. For example, libel and some forms of insults are criminal offenses; a person who insults or humiliates a constitutional institution is subject to a fine or imprisonment of up to two years; insulting a public official is subject to

a fine or imprisonment of up to one year; and offending the object or spirit of a place of worship in public is punishable by a fine or a two-year prison term.

On November 15 a 31 year-old homeless man pled guilty in court to charges of having insulted President Lech Kaczynski during a drunken outburst while under police questioning in January 2005. If convicted, the man could be sentenced to a maximum of three years in prison. At year's end the court had not issued a sentence.

Independent media expressed a wide variety of views and opinions without restriction. Private television, satellite, and cable subscription services were available across most of the country. Private television broadcasters operated on frequencies selected by the ministry of communications and auctioned by KRRiTV, the national radio and television broadcasting council. The four channels of public Polish Television (TVP) were the most widely viewed, earning between 40 and 45 percent combined market share. The public channels faced strong competition from the private TVN and Polsat networks, which combined for around 35 percent of the market. Cable television and various satellite services carried the main national channels, as well as local, regional, and foreign channels.

The five-member KRRiTV, which is responsible for protecting freedom of speech, has broad power to monitor and regulate programming, allocate broadcasting frequencies and licenses, and apportion subscription revenues to public media. While council members are required to suspend their membership in political parties or public associations, critics asserted that during the year the council became more politicized and less professional with the nomination of new members closely affiliated with the Government's ruling coalition.

On March 23, the Constitutional Tribunal temporarily suspended the KRRiTV's operations by ruling that four articles of a new media law that increased the council's authority were unconstitutional. The tribunal found that the council could not oversee ethical questions and had no right of censorship and that the country's President could not appoint the KRRiTV chairman. The tribunal struck down another provision of the media law that granted special privileges to Catholic Church broadcast media.

The Catholic nationalist radio station Radio Maryja is designated a "public broadcaster" and exempted from paying regular licensing fees up to \$457,000 (1,370,040 zloty). The station, which features conservative Catholic call-in shows, has historically included some anti-Semitic statements. It is privately owned by the Catholic Church, and the Warsaw-based Congregation of the Most Holy Redeemer holds the broadcast license (see section 2.c.).

The law prohibits the media from promoting activities that are illegal or against government policy, morality, or the common good and requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values." The Government enforced this provision in practice, levying fines during the year on programs deemed offensive.

On March 22, KRRiTV fined POLSAT, the country's second largest private television channel, \$165,000 (500,000 zloty) for broadcasting a satirical show that mimicked the voice of a disabled person who leads prayers on Catholic Radio Maryja. The KRRiTV chairman stated that the council levied the fine because the program failed to respect the religious beliefs of the public and particularly the "Christian system of values."

On May 26, the regional court in Warsaw ruled in a closed session that Tomasz Sakiewicz, editor-in-chief of *Niezalezna Gazeta Polska*, could not print information about Boguslaw Koczur, who allegedly received money taken illegally by former President Alexander Kwasniewski from the Committee on Young Adults. The Press Freedom Monitoring Center called the ruling a form of censorship.

In July journalist Jerzy Urban filed a case with the ECHR arguing that a \$6,700 (20,000 zloty) fine levied by a Warsaw appeals court for alleged slander was a violation of his right to free speech. The case stemmed from an article Urban published in 2002 in the news weekly *Nie* that criticized the pope.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

According to media reports, 45 percent of households in country owned a personal computer, and 36 percent had access to the Internet.

*Academic Freedom and Cultural Events.*—There were few government restrictions on academic freedom or cultural events.

In February the head of the public University of Marie Curie-Skłodowska (UMCS) in Lublin banned the sale of T-shirts with slogans designed to encourage discussion

about the state of freedom of expression in the country. The slogans included statements such as "I am Jewish," "I'm Arab," "I had an abortion," and "I did not cry when the pope died." The ban prompted the local chapter of the International Helsinki Federation for Human Rights to cancel a series of human rights films at the university that were connected to the T-shirt sales.

The appeal of an artist convicted of offending religious beliefs in 2004 by a Gdansk court remained pending at year's end. Dorota Nieznalska was sentenced to six months "restricted freedom" and unpaid community service for placing a photograph of male genitals on a Christian cross. The appeals court met 17 times during the year but reached no decision during the year.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. Permits were not necessary for public meetings but were required for public demonstrations. Authorities generally issued permits for public gatherings.

In contrast with the previous year, Warsaw authorities granted a permit to a consortium of gay rights advocates to organize an Equality Parade on June 10 as well as to a right-wing, antigay group to protest the event. Police provided adequate protection for the approximately 5,000–6,000 local and international activists who took part in the parade, although some counterprotestors threw eggs and rocks at the marchers (see section 5).

*Freedom of Association.*—The law provides for freedom of association; however, there were restrictions on this right in practice. Private associations are required to register with the local district court to obtain government approval to organize, and organizations must sign a declaration saying that they will abide by the law. In practice the procedure was complicated and subject to the arbitrary discretion of a judge. There were no reports that private associations were routinely denied registration, or that any registration was denied for political reasons.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

The Government at all levels sought to protect this right in full and did not tolerate its abuse, either by governmental or private actors. The Criminal Code stipulates that offending religious sentiment through public speech is punishable by a fine or a prison term of up to three-years. The Roman Catholic Church was the dominant religious group in the country, and approximately 96 percent of the population was Roman Catholic.

There are 15 religious groups whose relationship with the state is governed by laws that outline the internal structure of the groups, their activities, and procedures for property restitution. There are 146 other registered religious groups that do not have a statutorily defined relationship with the state. All registered religious groups, including the original 15, enjoy equal protection under the law.

Religious education classes are taught in public schools at public expense. Parents could request instruction in any registered religion, including Protestant and Orthodox Christianity, Judaism, and Islam. Children may choose between instruction in religion and ethics, and may be exempted from religious instruction. Catholic Church representatives are included on a commission that determined whether books were acceptable for school use.

The Government continued to work with local and international religious groups to address property claims and other sensitive issues stemming from Nazi- and communist-era confiscations and persecutions. There are five different commissions supervised by the Ministry of Interior that oversee religious property claims; one each for the Catholic Church, Jewish Community, Lutheran Church, Orthodox Church, and other denominations. Of approximately 10,000 communal property claims filed for restitution of religious property, more than 5,000 have been resolved and more than 1,200 properties had been returned by year's end.

By year's end, approximately 2,801 of the 3,063 claims filed by the Catholic Church had been concluded, with 1,144 claims settled by agreement between the church and the party in possession of the property (usually the national or a local government); 932 properties returned through decision of the commission on property restitution; and 632 claims rejected by the Ministry of Interior commission.

There were 5,544 outstanding property claims by the local Jewish community. At year's end the commission had concluded 1,143 cases, of which 316 were settled amicably, and 336 properties were restored. The time period for filing claims under a 1997 law ended in 2002.

The Lutheran Church had filed claims for 1,200 properties. Of that number, 842 cases were concluded by year's end; 228 were resolved amicably. The deadline for

filing these claims was 1996. The Orthodox Church had filed 486 claims with the commission, of which 215 were closed in full or in part.

*Societal Abuses and Discrimination.*—During the year there were reports of several serious anti-Semitic incidents and occasional desecrations of Jewish cemeteries by skinheads and other groups. The Jewish community was estimated at 20,000 to 30,000, including 2,500 registered members listed in the country's statistical yearbook. The Government publicly criticized anti-Semitic acts.

The country has made considerable progress in relations with its Jewish communities; however, its politics remained vulnerable to charges of extremism, intolerance, and anti-Semitism. During the year some Jewish leaders expressed concern over reduction of government funding for Holocaust education and the inclusion of two small political parties in the governing coalition, some of whose members have made anti-Semitic statements.

In April and May there were two separate attacks on prominent rabbis in Warsaw. In the first incident, an unidentified assailant accosted Rabbi Shalom Stambler, head of the country's Chabad-Lubavitch community, in the foyer of his office building. The person shoved the rabbi and shouted anti-Semitic slurs in view of security guards, who did not intervene.

On May 16, an antifascist activist was stabbed by skinheads in Warsaw after being targeted by a neo-Nazi website. On May 27, the country's chief rabbi, Michael Schudrich, was attacked on a downtown Warsaw street. The assailant, who was apprehended in August, pushed the rabbi to the ground, sprayed him with pepper spray, and shouted an anti-Semitic slogan. A court sentenced the assailant to two years in prison and a fine of \$1,300 (4,000 zloty). However, the court suspended the sentence.

Following these two incidents police created a special unit to combat neofascist activities. In July police arrested the alleged content provider of Red Watch, the website that listed the name and whereabouts of the man who was stabbed in Warsaw, and which also promoted hatred of Jews and homosexuals (see section 5).

On March 27, commentator Stanislaw Michalkiewicz, speaking on Catholic Radio Maryja, made anti-Semitic remarks when he claimed "Jews are trying to force a ransom from our government which they covertly call restitution." Michalkiewicz also said the country was being "humiliated" by Jews "at the site of the former death camp Auschwitz." He was charged with insulting the Jewish community and for denying Nazi war crimes. On August 28, however, prosecutors dropped the charges. Michalkiewicz left Radio Maryja, which has a history of broadcasting anti-Semitic statements, to work for a public radio network, Polskie Radio.

On December 7, a court in Bialystok ordered Leszek Bubel, a self-proclaimed anti-Semite and leader of the Polish National Party, to undergo a psychiatric evaluation. The case stemmed from charges brought by the local prosecutor in August 2005 for an article Bubel published, "The Polish-Jewish War Over Crosses," for which the court sentenced Bubel to six months in prison and a fine of \$825 (2,500 zloty) for inciting hostility and slandering Jews.

On November 30, Maciej Giertych, who represents the extreme-right League of Polish Families in the European parliament, dismissed his assistant Leokadia Wiacek after a newspaper revealed a video in which the assistant participated in a 2004 neo-Nazi event, burned a swastika, chanted "Sieg Heil," and gave the Nazi salute.

In the first case of its kind, on November 16 Open Republic, an association of well-known Polish intellectuals, filed a civil suit against the aforementioned chairman of the Polish National Party Leszek Bubel, claiming that his anti-Semitic comments and publications offended their dignity both as Poles and as human beings. A letter of support signed by 700 other individuals accompanied the legal charges; the suit was pending at year's end.

On September 21, a temporary installation opened in Warsaw to mark the beginning of construction of a museum of the history of the country's Jews. The opening followed the conclusion in January 2005 of lengthy negotiations between the ministry of culture, Warsaw city officials, and the Jewish Historical Institute (ZIH) to build the museum.

During the year the Government provided grants to a number of organizations involved in tolerance education, including ZIH, which maintained an archive of Jewish-related documents, books, journals, and artifacts. The Government also provided grants to ZIH to produce educational materials on Jewish culture, the Holocaust, and religious tolerance. One NGO involved in Holocaust education claimed that their funding through the Ministry of Education was cut abruptly because it was no longer deemed a priority. Government officials denied any connection and claimed that there was no effort to restrict Holocaust education funding.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to 2,049 persons during the year. The Government granted refugee status to 423 persons during the year.

The majority of refugees and asylum seekers arrived from Russia's Chechnya region; other major sources of asylum seekers were Ukraine, Belarus, Pakistan, Georgia and India.

Persons granted asylum or refugee status have the right to work, to receive social assistance and education, and to have access to a state integration program for 12 months. The program provides participants with contacts in the local community, assistance with accommodations, and help with job searches. Refugees receive monetary assistance for living expenses and language training and are registered in the national health care system. Despite this program, many new immigrants had difficulty finding work commensurate with their skills due to the overall high rate of unemployment. Persons with temporary status also have the right to work and to social assistance but cannot participate in the Government's integration program.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government allowed UNHCR and NGOs to monitor refugee detention centers.

Unlike in the previous year, there were few reports of problems in refugee detention centers. The Government operated 17 refugee reception centers in the Warsaw, Bialystok, and Lublin areas with a capacity of 3,600 persons. The main difficulties in the centers involved providing access to education for children, legal assistance, and medical treatment. Press reports in April stated that half of school-aged children in refugee camps were not attending school.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Legislative and Presidential elections that took place in September and October 2005, respectively, were regarded as free and fair. Multiple candidates from various political parties freely declared their candidacy to stand for election and had full access to the media. There were 92 women in the 460-seat Sejm and 12 women in the 100-seat upper house. There were three women in the 22-member Council of Ministers.

There were two members of minorities in the Sejm (both representing the German minority in Silesia) and no minorities in the upper house. There were no minorities in the cabinet. The law exempts ethnic minority parties from the requirement that they win 5 percent of the vote nationwide to qualify for seats in individual districts.

*Government Corruption and Transparency.*—There was a widespread public perception of corruption throughout the Government. Citizens continued to believe that political parties and members of the legislative branch, the health care system, and the judiciary were the most corrupt. During the year the country received a score of 3.7 on Transparency International's 10-point composite index of the degree to which corruption was perceived to exist among a country's politicians and public officials, indicating a perception that the country had a serious corruption problem. In March a poll conducted by the Center for Public Opinion research found that 95 percent of citizens believed corruption occurred often or very often.

On May 16, the National Police Central Bureau of Investigations arrested three senior officials from the Ministry of Finance for corruption and accepting bribes. According to the prosecutor, the officials canceled fiscal liabilities and issued tax exemptions over a period of 10 years in exchange for bribes from organized criminals.

and businessmen. The investigation was ongoing at year's end and had not yet come to court.

On December 14 police arrested four former deputy mayors of Krakow for their involvement in a questionable land deal seven years ago. The four served from 1998–2002 under mayor Andrzej Golas. The case remained pending at year's end.

On June 24, the Sejm created the Central Anticorruption Bureau (CBA), which has broad powers to audit the financial holdings of public officials and to fight corruption in public procurement. CBA head Mariusz Kaminski estimated the total value of corruption in the country at more than \$6 billion (18 billion zloty) annually. The CBA is authorized to conduct searches and secret videotaping, wiretap telephone conversations, and make arrests.

On December 2, the CBA made its first arrests, detaining two men for allegedly embezzling millions of dollars in connection with the Kama Foods company, which went bankrupt in 2002. The CBA stated that one of the men, identified as "Wieslaw B.," was a former senior official with Kama Foods; the second, "Robert M.," had close connections with lawmakers.

There were no developments during the year in the 2004 "Orlengate" scandal that involving allegations that one of the country's wealthiest businessmen illegally attempted to negotiate the sale of the state-owned Rafineria Gdanska, the country's second-largest oil refinery. A legislative investigation into the scandal concluded in a September 2005 report that senior officials of the former government should be impeached before a state tribunal. The officials included President Kwasniewski, Prime Minister Leszek Miller, Treasury Ministers Wieslaw Kaczmarek and Emil Wasacz, Justice Ministers Barbara Pivnik and Andrzej Kalwas, and Sejm Speaker Wlodzimierz Cimoszewicz.

At year's end businessman Marek Dochnal remained in detention. In September 2004 Dochnal was arrested for allegedly bribing public officials for information concerning the privatization of a state-owned steel mill and the sale of shares of the country's largest oil company. His detention was extended several times and he was still in custody at year's end, although no official charges had been filed or trial date set.

The law provides for public access to government information; in practice the Government provided access to citizens and noncitizens, including foreign media. Government refusals of requests for information must be based on exceptions provided in the law related to government secrets, personal privacy restrictions, and propriety business data. Refusals may be appealed.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

As provided for in the constitution, the country's human rights ombudsman presents an annual activity report to the Sejm on the state of human rights and civic freedom in the country. In July the ombudsman reported that in 2005, 51,543 cases were filed with the office, a decrease of 7,607 from 2004. A new ombudsman, Janusz Kochanowski, was appointed and confirmed February 15 by the Sejm for a five-year term.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language or social status, and the Government effectively enforced these provisions in practice; however, violence and societal discrimination against women and ethnic minorities persisted.

*Women.*—Domestic violence against women continued to be a serious problem. According to authorities, 36,534 people reported domestic violence during the year, an increase from 2005. Authorities prosecuted 20,809 cases of domestic violence, resulting in 8,938 convictions on domestic violence charges. The verdicts can be appealed and are not final. There are 4,066 persons incarcerated for crimes of domestic violence. Under the law a person convicted of domestic violence may be sentenced to a maximum of five years in prison; however, most convictions resulted in suspended sentences. The law provides for restraining orders on spouses to protect women from abuse.

Women's organizations believed the number of women affected by domestic abuse was underreported. Violence against women remained hidden, particularly in small towns and villages. The NGO Women's Rights Center reported that police were oc-

asionally reluctant to intervene in cases of domestic violence, particularly if the perpetrator was a member of the police or if victims were unwilling to cooperate.

The increase in reports of domestic violence was attributed to heightened police awareness, particularly in urban areas, as a result of media campaigns and NGO efforts. According to NGOs, courts often treated domestic violence as a minor crime, pronounced lenient verdicts, or dismissed cases.

NGOs operated centers to assist victims, provide preventive treatment and counseling to perpetrators, and train personnel working with domestic violence victims. The Government provided victims and families with legal and psychological assistance. It also operated 11 shelters for pregnant women and mothers with small children, and 184 crisis centers. However, neither the shelters nor the crisis centers were devoted exclusively to battered women and victims of domestic violence.

Following the adoption of the July 2005 Law on Counteracting Domestic Violence, local governments established 32 specialized support centers for victims of domestic violence, and 960 perpetrators participated in "corrective-educational programs." During the Government assigned nearly \$3.2 million (9.4 million zloty) from the state budget for the implementation of the July 2005 law to cover the costs of the creation of the centers and for the programs for the perpetrators. The centers provided social, medical, psychological, and legal assistance to victims of domestic violence.

Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. During the first 11 months of the year, 2,036 cases of rape were reported; of these, police determined that 1,739 were serious enough to open a formal investigation. However, women often were unwilling to report rape because of the associated social stigma. NGOs estimated that the actual number of rapes was 10 times higher than reported. Of the 1,739 rape cases that police investigated, 1,294 cases were forwarded to prosecutors for indictment.

Prostitution is legal, but pimping is not. Experts estimated that 30,000 to 35,000 women worked as prostitutes, many of them employed in massage parlors and escort services that functioned as brothels. Trafficking in women for the purposes of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment under gender discrimination provisions of the Labor Code and the Criminal Code. Under the criminal code persons convicted of sexual harassment involving sex may be sentenced to up to three years in prison. The Labor Code defines sexual harassment as a form of discrimination in the workplace as behavior that violates the dignity of an employee. The behavior includes physical, verbal, and non-verbal acts. Under the Labor Code, employees who have been discriminated against have the right to demand financial compensation from employers.

On December 4, the public prosecutor opened an investigation into charges that a member of the Sejm, Stanislaw Lyzwinski, provided jobs to women in exchange for sexual favors. The prosecutor's investigation was ongoing at year's end.

The NGO Center for Women's Rights believed that sexual harassment was a serious and underreported problem. Many victims either did not report abuse out of shame or fear of losing their job or withdrew their claims in the course of police investigations. Social awareness of the problem continued to increase, however, as more cases of sexual harassment were reported by the media. Through November police conducted 60 investigations into sexual harassment charges. This compared with 54 investigations in the previous year and 16 convictions.

The constitution provides for equal rights for men and women in family law, property law, and in the judicial system; however, in practice there were few laws to implement this provision. Women mainly held lower-level positions and frequently were paid less than men for equivalent work, were fired more readily, and were less likely to be promoted.

The Ministry of Labor and Social Policy is responsible for combating gender discrimination, incorporating gender equality into governmental policy, and monitoring implementation of government programs to promote gender equality. During the year the ministry implemented a number of projects to combat gender discrimination in the workplace, including an EU project that involves local NGOs to combat discrimination on the grounds of sex, race, religion, disability, age, and sexual orientation.

*Children.*—The Government was committed to children's rights and welfare, and has a separate ombudsman for children's rights. Between April and December the ombudsman issued 37 statements and appeals to penalize promotion of pedophilia on the Internet, to improve access to public schools for disabled children, and to improve medical care for children with chronic diseases. Between January and November the ombudsman received 7,000 complaints. Of that number, 39 percent referred to contacts between parents and children, and 19 percent to protection against



abuse, exploitation, and demoralization. Overall there was an increase of cases related to the physical, sexual and mental violence against children. On December 1, the ombudsman's office opened a 24-hour hot line for abused children.

Education is universal and mandatory until age 18, and public schools are free. According to the UN Children's Fund, 98 percent of school-age children attended school. Boys and girls had equal access to state medical care. Most students continued their studies to the postsecondary level.

Incidents of child abuse were rarely reported, and convictions also were rare. The law prohibits violence against children and provides for prison sentences ranging from three months to five years. Through November police reported 1,507 cases of the sexual exploitation of children, 516 cases of child pornography, and 81 cases of child abandonment.

Trafficking in children, primarily for the purpose of sexual exploitation, was a problem.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was a source, transit point, and destination for trafficked persons, primarily women and girls but also, to a lesser extent, boys. Internal trafficking for the purpose of sexual exploitation also occurred.

Persons were trafficked to and through the country, primarily from Ukraine, Bulgaria, Romania, Belarus, and Moldova. A relatively high number were members of the Turkish minority in southern Bulgaria and from the Romani population in Romania. Destination countries included Germany, Italy, Belgium, France, the Netherlands, Austria, Denmark, Sweden, and Australia. Some internal trafficking occurred; however, the extent of the problem was unclear because some victims may have chosen to engage in prostitution or other aspects of the sex trade. NGOs have noted a recent trend toward a higher percentage of victims being trafficked for labor in agriculture and other economic sectors.

Traffickers targeted young, unemployed, and poorly paid women, particularly those with weak family ties and support networks. Traffickers attracted victims through methods including fake employment offers, arranged marriages, fraud, and coercion. Some victims believed that they were accepting employment abroad as waitresses, maids, or nannies. Traffickers threatened victims with violence, and those who resisted or tried to flee were raped, beaten, or intentionally injured.

Authorities believed that large organized crime groups and individuals controlled the trafficking business, and that victims were frequently trafficked by nationals of their own country who collected a fee to allow passage into or through the country. According to arrest statistics, approximately 25 percent of traffickers were non-citizens. Bulgarian traffickers continued to account for a significant number of cases. Authorities also believed that employment and talent agencies were sometimes used as fronts for trafficking operations. As many as 90 percent of those trafficked in the country had false travel documents.

Several provisions of the criminal code specifically address trafficking and provide for prison sentences ranging from three to 15 years for sexual and nonsexual exploitation of persons. Pimping, recruiting, or luring persons into prostitution are also prohibited, with penalties of up to 10 years in prison. Individuals convicted of trafficking in children and luring women into prostitution abroad received the most severe sentences. Traffickers could also be prosecuted under laws criminalizing statutory rape, forced prostitution, and other acts.

According to the Justice Ministry, during the first six months of the year, 10 persons were convicted and sentenced for trafficking. In 2005, there were 37 convictions for trafficking in courts of first instance; all but nine of were overturned on appeal.

On May 11, local media reported that police broke up a major trafficking ring involving illegal prostitution in an undercover investigation coordinated with Austrian police. According to reports, organized criminal groups set up a recruiting scheme with three police officers and other individuals that trafficked up to 350 women to Austria. One retired officer and two police officers from Wroclaw were arrested, together with five other persons. The two officers used their office space and computers to recruit women through the Internet for prostitution and transported them across the Czech border. A second source of trafficked women in the operation involved a modeling agency in Wroclaw.

On July 18, in cooperation with Italian authorities, police broke up another trafficking ring that lured over 300 workers to southern Italy for agricultural work under conditions that amounted to forced labor. More than 100 citizens were freed in a joint operation with Italian police, and 25 persons arrested. The workers reportedly were forced to work up to 15 hours a day for \$1.31 (one euro) per hour, slept on the ground, and were watched over by armed guards. Those arrested in the case were charged with trafficking, enslavement, and membership in a criminal group. At year's end prosecutors were preparing to bring the case to trial in mid-2007.

On October 30, police announced the arrest of a six-person gang for trafficking laborers to work in orange groves in the Valencia region in Spain. Approximately 30 persons were forced to work for no pay, lived in barracks, and given little to eat. Police learned of the work camp after several workers managed to escape and send an electronic text message to police. The investigation was ongoing at year's end.

The interior and justice ministries have primary responsibility for antitrafficking efforts; the Ministry of Foreign Affairs coordinated trafficking programs with foreign governments and international organizations. Following establishment of a five-person Central Antitrafficking Unit in July, National Police created 17 regional teams to combat human trafficking and child pornography.

National police participated in several task forces with foreign authorities to share information, track the movement of traffickers and victims across borders, and help coordinate international operations to break up trafficking rings. The Government increased training for police, prosecutors, and other front-line personnel involved in combating trafficking. It also increased cooperation with neighboring countries to combat traffickers and adopted a law that allows trafficking victims to remain legally in the country to assist in investigations and prosecutions.

There continued to be unconfirmed reports that low-ranking local police took bribes to ignore known trafficking activity.

Trafficking victims often did not turn to officials for help out of fear that border guards and police would deport them for immigration law violations. In many cases unidentified trafficking victims were quickly deported by border guards, preventing the Government from providing assistance. NGOs attributed the deportations to the absence of national guidelines for police and border guards on how to approach and identify suspected victims. Victims were often prosecuted for carrying false travel documents, working illegally, and violating the terms of their visas. At times, deported victims were met at the border by their traffickers, who provided them with new travel documents and returned them to the country.

During the year the interagency team for combating trafficking in persons adopted national guidelines for police, border guard, and other law enforcement agencies, which provided instructions on identifying possible victims and how to approach and assist them. The Ministry of Interior funded NGOs to conduct regional training in all provinces; several hundred law enforcement officials were trained in trafficking issues by La Strada, Nobody's Children Foundation, and the Ministry of Interior.

During the year money was allocated for the first time from the state budget for victim assistance and educational and promotion materials. A total of \$83,000 (250,000 zloty) was provided. The Government also worked extensively with antitrafficking NGOs, such as La Strada. While the Government provided space and funds to La Strada and another NGO to operate shelters for trafficking victims, the number of shelters remained inadequate, and NGOs frequently resorted to temporary arrangements to provide medical, psychological, and legal assistance to victims.

With government financial assistance, NGOs also conducted trafficking training courses at police and border guard academies; provided counseling for victims and their families; developed training and prevention materials; and conducted public awareness campaigns on the dangers of trafficking. Newly hired border guards and police officers began receiving some training on trafficking.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, or the provision of other state services, including health care. The Government effectively enforced these provisions; however, there were reports of some societal discrimination against persons with disabilities. According to the Organization for Economic Co-operation and Development (OECD), less than one in five disabled persons were employed, and those who were employed tended to have part-time or temporary jobs in sheltered work enterprises. There are approximately 5.5 million persons with disabilities in the country.

The law states that buildings should be accessible for persons with disabilities, and at least three laws require retrofitting of existing buildings to make them accessible. Public buildings and transportation generally were accessible.

The Ministry of Labor and Social Policy is responsible for disability-related matters. There is a state fund for rehabilitation of persons with disabilities and a national consultation council for persons with disabilities that advised the ministry.

On September 18, the UN awarded President Kaczynski the Franklin D. Roosevelt Award for the country's efforts to integrate persons with disabilities into public life.

*National/Racial/Ethnic Minorities.*—There were reports of increasing intolerance that often erupted into violence against racial and ethnic minorities. National and local officials and law enforcement agencies discouraged intolerance and discrimina-

tion; however, some minority groups and NGOs noted that the judiciary was lenient in sentencing perpetrators, which contributed to an atmosphere that accepted intolerance.

There were incidents of racially motivated violence and verbal and physical abuse directed at Roma and persons of African, Asian, or Arab descent. The small Ukrainian and Belarusian minorities also continued to experience petty harassment and discrimination.

During the year soccer stadiums were scenes of fascist, anti-Semitic, and xenophobic demonstrations and actions by groups such as Blood and Honor, the National Rebirth of Poland, and the All Poland Youth, which is affiliated with a major Catholic political party. For example, in March managers of the Ruch Chorzow team decided not to employ a dark-skinned player from Morocco after receiving several anonymous threats. However, Stal Mielec managers refused to drop two Cameroonians from the team's roster despite receiving complaints from the Association for Polish Football, a football fan club. In the eastern city of Bialystok, fans threw bananas at a dark-skinned player and later beat him up after the match. Additionally, during the March derby in Krakow, fans of the Cracovia Krakow team yelled "monkey" at Wisla Krakow player Jean Paulista, a dark-skinned Brazilian.

On May 16, skinheads attacked a journalist in Warsaw with knives after he was identified "as an enemy of white people" on a Web site maintained by the Polish Blood and Honor group. On July 5, authorities arrested the Web site's administrator, Bartosz Barcicki, and charged him with disseminating Nazi ideas, xenophobia, and participating in an illegal group. The Web site was shut down but later reestablished.

On November 20, prosecutors in Olsztyn indicted two men charged with assaulting Moroccan long-time resident Abdel Mandili with a dangerous weapon. The men faced up to eight years' imprisonment for their July 23 attack on Mandili. The alleged attackers beat Mandili unconscious at a theater festival in Olsztyn after his group performed a play about the difficulties of immigrants. Eleven other suspects were arrested in connection with the attack but only two have been indicted.

Societal discrimination against Roma continued. In some cases local officials discriminated against Roma by not providing adequate social services. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education. During the year the IOM began a project as part of an EU-wide undertaking called EQUAL to combat unemployment and improve the situation of "disfavored" groups on the labor market. Under the program the IOM established four small Roma-run enterprises which have special legal status and tax privileges.

The Roma Association claimed that more than 50 percent of Romani children did not attend public school out of fear that teachers would try to assimilate them and uproot them from their Roma traditions. The association also noted that the gaps in education made it impossible for Roma to end their poverty; approximately 90 percent of Roma were unemployed.

On October 20, the Silesian community filed an appeal to the Supreme Court to annul the entire judicial process of their application for official minority status, thus ending the matter.

*Other Societal Abuses and Discrimination.*—International NGOs, including Human Rights Watch (HRW) and Amnesty International (AI), and the European Parliament urged the Government to end homophobia and to halt attacks on gays and lesbians. In June, HRW and AI separately issued statements expressing concern about possible violence in connection with an "equality parade" organized by a consortium of gay rights advocates (see section 2.b.); the parade was held June 10 without major incidents.

Prior to the equality parade, a Sejm member and prominent member of the Catholic League of Polish Families, Wojciech Wierzejski, criticized the event in remarks before the Sejm, describing gays as "deviants" and stating that, when the parade begins, marchers "should be beaten with batons."

On June 15, the European Parliament voted to condemn the rising environment of intolerance and homophobia in the country, with some parliamentarians singling out Wierzejski for inciting violence against gays and lesbians.

There was discrimination against HIV-positive persons. The national AIDS center reported no cases of discrimination against HIV-positive persons in the units supervised and funded by the center.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including civilian employees of the armed forces, police, and frontier guard, have the right to establish and join trade unions. While many workers exercised this right in practice, many

small and medium-sized firms discriminated against those who attempted to organize labor. As a rule, newly established small and medium-sized firms were non-union, while privatized formerly state-owned enterprises frequently continued union activity.

Under the law, 10 persons are required to form a local union and 30 persons for a national union. Unions must be registered with the courts. A court decision refusing registration may be appealed. The law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union.

The law prohibits antiunion discrimination; however, labor leaders reported that employers frequently discriminated against workers who attempted to organize or join unions, particularly in the private sector. In state-owned enterprises, such as the health, water, and forestry sectors, there were cases in which workers had their employment contracts terminated and replaced by individual contracts to prevent them from joining a union. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing the workplace. The law also did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to set up unions. Managers also asked workers in the presence of a notary public to declare whether they were union members.

On March 7, the Impel-Tom company in Kostrzyn fired Jacek Rosolowski without cause after he and 11 other workers signed a letter of intent to form a workers' initiative. Rosolowski successfully sued his former employer. On November 8, the regional labor court awarded him \$2,400 (7,000 zloty) in damages. Three others who signed the letter of intent had also lost their jobs at Impel-Tom at year's end.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference; however, in practice the Government failed to protect this right at small and medium-sized companies. The law provides for and protects enterprise-level collective bargaining over wages and working conditions. As of June there were 166 collective bargaining agreements between employers and trade unions, with 198 amendments addressing salary, work conditions, or the needs of individual companies. The tripartite commission (unions, employers, and the Government) was the main forum that determined national wage and benefit increases in areas such as the social services sector.

Key public sector employers (largely in heavy industry and the social services sector) could not negotiate with labor without the extensive involvement of the ministries to which they were subordinate. The law provides for parties to take group disputes to labor courts, then to the prosecutor general, and, as a last resort, to the Administrative Court. Through the first half of the year, groups filed 492 such disputes.

All workers have the right to strike except those in essential services such as security forces, the Supreme Chamber of Audit, police, border guards, and fire brigades. These workers had the right to protest and seek resolution of their grievances through mediation and the court system. A majority of strikes were technically illegal because one or both sides did not follow each step exactly. Labor courts acted slowly in deciding the legality of strikes, while sanctions against unions for calling illegal strikes and against employers for provoking them were minimal. Unions alleged that laws prohibiting retribution against strikers were not enforced consistently and that the small fines imposed as punishment were ineffective deterrents. Organizers are liable for damages and may face civil charges and fines.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, including forced or compulsory labor, and the Government effectively enforced the law in practice. The law prohibits the employment of persons under age 15. Persons between the ages of 15 and 18 may be employed only if they have completed primary school, the proposed employment constitutes vocational training, and the work is not harmful to their health.

The State Labor Inspectorate (PIP) reported that increasing numbers of minors worked, and that many employers underpaid them or paid them late. During the year the inspectorate conducted 292 investigations involving 1,929 underage employees. Fines were levied in 100 cases, amounting to approximately \$21,000 (63,550 zloty).

*e. Acceptable Conditions of Work.*—The new national monthly minimum wage of \$300 (899 zloty) that took effect on January 1 did not provide a decent standard of living for a worker and family. The large size of the informal economy and the low number of government labor inspectors made enforcement of the minimum wage difficult. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage.

The law provides for a standard workweek of 40 hours, with an upper limit of 48 hours per week including overtime. The law requires premium pay for overtime hours, but there were reports that this regulation was often ignored. The law provided for workers to receive at least 11 hours of uninterrupted rest per day and 35 hours of uninterrupted rest per week.

The law defines strict and extensive minimum conditions to protect worker health and safety. It empowers PIP to supervise and monitor implementation of worker health and safety laws and to close workplaces with unsafe conditions. However, PIP was unable to monitor workplace safety sufficiently. According to government statistics, 41,174 persons were injured, 201 persons killed, and 440 persons seriously injured on the job during the first six months of the year. Employers routinely exceeded standards for exposure to chemicals, dust, and noise.

The law permits workers to remove themselves from dangerous working conditions without losing their jobs; however, they were unable to do so in practice without jeopardizing their employment.

## PORTUGAL

Portugal, with a population of approximately 10.6 million, is a constitutional democracy with a President, a prime minister, and a parliament elected in multiparty elections. National parliamentary elections in February 2005 were free and fair. The civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police and prison guards occasionally beat and abused detainees and prison conditions remained poor. Lengthy pretrial and preventive detention remained a problem as did trafficking in foreign laborers and women.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings; however, security forces shot and killed six persons during the year. The six shootings were under investigation at year's end by the Government's Inspectorate General of Internal Administration (IGAI).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were credible reports of disproportionate use of force by police and of mistreatment and other forms of abuse by prison guards against detainees.

During the year the IGAI investigated new reports of mistreatment and abuse by police and prison guards (see section 1.d.).

An internal prison inquiry into the beating of Albino Libinio in 2003 found that he had sustained multiple injuries from an assault that may have amounted to torture. A criminal investigation into the matter was pending, and disciplinary proceedings against several prison officers were ongoing.

In December 2005 a trial began of three police officers who were accused of assault in 1995.

*Prison and Detention Center Conditions.*—Prison conditions remained poor, and guards continued to mistreat prisoners occasionally. Other problems included overcrowding, inadequate facilities, poor health conditions, and violence among inmates.

Most of the guidelines and legislative proposals the Government adopted in 2004 to reform the prison system had not been put in practice. However, some improvements were made during the year, including a decrease in prison overcrowding and an increase in personnel training.

According to the Director General for Prisons, approximately 35 percent of the prison population was infected with HIV/AIDS and/or hepatitis B or C. The highest percentage (at least 20 percent) is infected with hepatitis C while at least 10 percent are infected with HIV/AIDS. According to the Ministry of Justice, 93 persons died

in prisons during 2005, 25 of them from HIV/AIDS and 35 from unspecified illnesses. Nine were reported as suicides. The Government's AIDS prevention and treatment program continued in two major prisons on a three-year trial basis.

Although there was a youth prison in Leiria, at times juveniles were held with adults elsewhere in the prison system. Pretrial detainees were held with convicted criminals.

The Government permitted visits by independent human rights observers during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—There were approximately 50,000 law enforcement officials, including police and prison guards. The ministries of Justice and Internal Administration are primarily responsible for internal security. The Republican National Guard (GNR) has jurisdiction outside cities, and the Public Security Police (PSP) has jurisdiction in cities. The Aliens and Borders Service has jurisdiction on immigration and border issues.

Some members of the security forces committed human rights abuses. In 2004 the IGAI received 276 complaints of human rights abuses. The majority of the complaints were against the PSP and the GNR, 166 and 94 respectively. The complaints included injuries or threats with firearms, excessive use of force, illegal detention, and abuse of power.

The major problems within the police forces were understaffing, insufficient training with firearms, and inconsistent or weak law enforcement. According to the chairman of the Portuguese Police Association, police killings could be linked to the lack of adequate firearm training. There were no indications that police corruption was widespread. During the year police officers received professional training, and the Government regulated their actions through mechanisms established by law.

An independent ombudsman is chosen by the parliament and the IGAI to investigate complaints of abuse or mistreatment by police; however, nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and Ministry of Interior.

*Arrest and Detention.*—The constitution and law provide detailed guidelines covering all aspects of arrest and custody, and the authorities generally followed the laws in practice. Persons can only be arrested based on a court ordered warrant. However, warrantless arrests by law enforcement officials and citizens can be made in cases where there is probable cause to believe a crime has been or is being committed and in cases where the person to be arrested is an escaped convict or detention prisoner.

Under the law an investigating judge determines whether an arrested person should be detained, released on bail, or released outright. A person may not be held for more than 48 hours without appearing before an investigating judge. Investigative detention is limited to a maximum of six months for each suspected crime. If a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes such as murder or armed robbery, or of those involving more than one suspect, investigative detention may last for up to two years and may be extended by a judge to three years in extraordinary circumstances. A suspect in investigative detention must be brought to trial within 18 months of being charged formally. If a suspect is not in detention, there is no specified period for going to trial. Detainees have access to lawyers from time of arrest, and the Government assumes any necessary costs.

In 2004 the IGAI received 17 complaints linked to arbitrary arrests, which were duly investigated.

Lengthy pretrial detention was a problem.

As of December 13, 3,039 individuals (24 percent of the prison population) were in preventive detention, an increase of six percent from the previous year. The average detention time was eight months (down from 26 months), while approximately 20 percent of preventive detainees spent more than one year in prison.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice.

The court system consists of a Constitutional Court, a Supreme Court of Justice, and judicial courts of first and second instance. There is also a Supreme Court of Administration, which handles administrative and tax disputes and is supported by lower administrative courts. There is an audit court in the Ministry of Finance.

There were more than 500 courts in the country, and approximately 3,000 magistrates and judges; however, staff shortages, budget restrictions, court delays, and

the lack of computerization continued to be serious problems that contributed to inefficiency and a backlog of cases.

Critics, including the media, business corporations, and legal observers, estimated the backlog of pending trials was at least a year.

*Trial Procedures.*—Jury trials can be requested for criminal cases but are rare. Civil cases do not have jury trials. Defendants are presumed innocent and have the right of appeal and the right to consult with an attorney in a timely manner, at government expense if needed. They can confront and question witnesses against them, present evidence on their behalf, and have access to government-held evidence. These rights were generally followed in practice.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Citizens have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. There are administrative as well as judicial remedies for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press and judiciary and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including electronic mail. According to a December survey by the National Statistics Institute, Internet use was approximately 36 percent; however, the rate increased to 80 and 87 percent for high school and university graduates, respectively. By January, Internet access was available in all public elementary and high schools. All federal government offices and 97 percent of hospitals have Internet access.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right in practice.

The 2001 Religious Freedom Act created a legislative framework for religions established in the country for at least 30 years, or recognized internationally for at least 60 years. The act provides all other qualifying religions with benefits previously reserved for the Catholic Church: full tax-exempt status, legal recognition for marriage and other rites, chaplain visits to prisons and hospitals, and respect for traditional holidays.

The Catholic Church maintains a separate agreement with the Government under the terms of the 2004 amended concordat which recognizes the juridical personality of the Portuguese Episcopal Conference and allows the Catholic Church to receive 0.5 percent of the income tax that citizens can allocate to various institutions in their annual tax returns.

*Societal Abuses and Discrimination.*—The Jewish population was approximately 700. There were no reports of anti-Semitic acts. Government efforts to promote religious tolerance included the President's participation in a ceremony in 2005 to commemorate the anniversary of the founding of Lisbon's 19th century synagogue, which was restored for religious services and cultural events. On April 19, in a ceremony in a public square in downtown Lisbon, citizens marked the 500th anniversary of the killing of thousands of Jews who had been forced by the state to convert to Christianity. City officials unveiled a small memorial at the site, and the event received significant media coverage.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*c. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The country's system for granting refugee status was active and accessible.

During the year the Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and 1967 Protocol, although the exact number was not available.

The Government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Parties.*—Free and fair national parliamentary elections were held in February 2005. The Socialist Party won a ruling majority, ending a governing coalition between the Social Democrat Party (PSD) and the Christian Democrat/People's Party.

There were 61 women in the 230-member parliament and two women in the cabinet. There were no members of minorities in parliament or the cabinet.

*Government Corruption and Transparency.*—There were no reports of corruption in the executive or legislative branches of government during the year; however, there were media reports of corruption involving local government officials. The most high-profile corruption cases involved mayors Fatima Felgueiras, Valentim Loureiro, and Isaltino Morais. Felgueiras (Socialist Party), self-exiled to Brazil from 2003–05 to escape arrest, was accused of embezzlement and abuse of power. Loureiro, PSD mayor and President of the Portuguese Professional Soccer League, was accused of corruption and influencing of referees in Portuguese soccer. Morais (PSD) was accused of tax evasion, corruption, and money laundering. All three were awaiting trial at year's end.

The constitution and law provide for public access to government information, and the Government provided access in practice for citizens and non-citizens, including foreign media.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views; however, most of the groups continued to complain about the slow pace of investigations and remedial actions.

The country has an independent human rights ombudsman who is responsible for defending human rights, freedom, privileges, and the legitimate rights of all citizens. The ombudsman had adequate resources and published mandatory annual reports and special reports on such issues as women's rights, prisons, and the rights of children and senior citizens.

Within parliament there is an independent First Committee for Constitutional Issues, Rights, and Liberties and Privileges, which has oversight over human rights issues. It drafts and submits bills and petitions for parliamentary approval. During the year these included bills on establishing the Legal Assistance Institute (to provide legal representation for indigent clients), combating corruption in sports, approving a referendum on the decriminalization of abortion, and improving immigrants' rights.

### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, and social status; however, discrimination against women and ethnic minorities persisted.

*Women.*—Violence against women, including domestic violence, continued to be a problem. While there was no clear evidence that violence against women increased, more cases of violence were reported. In 2005 the Government established the Portuguese Structure against Domestic Violence (EMCVD), which launched a nation-



wide awareness campaign against domestic violence, trained health professionals, proposed legislation to improve legal assistance to victims, increased the number of safe houses for victims of domestic violence, and signed protocols with local authorities to assist victims. In July President Cavaco Silva toured several northern districts to raise awareness of domestic violence.

Of the nearly 7,070 cases of violence reported during the first six months of the year to the Association for Victim Support (APAV), more than 86 percent involved domestic violence. The APAV is a nonprofit, charitable organization that provides confidential and free services nationwide to victims of any type of crime. (Most reported domestic violence cases are registered by the PSP and GNR, who redirect victims to APAV for assistance.)

According to a women's rights NGO, the Union of Women Alternative and Response, 39 women were killed by their husbands or partners in the 12 month period that ended in November.

The law provides for criminal penalties in cases of violence by a spouse, and the judicial system prosecuted persons accused of abusing women; however, traditional societal attitudes still discouraged many battered women from using the judicial system.

According to the head of the government-sponsored Mission Against Domestic Violence, only 10 percent of cases were brought to trial. The vast majority were resolved outside of the court system by lawyers who mediated between the parties. In 2005 according to the Ministry of Justice, there were 870 court cases related to domestic violence and only 460 prosecutions.

The Government's Commission for Equality and Women's Rights ran 14 safe houses for victims of domestic violence and also maintained a 24-hour-a-day, 7-day-a-week phone service. The safe house services included food, shelter, and health and legal assistance.

The law specifically makes rape, including spousal rape, illegal, and the Government generally enforced these laws. However, statistics were not available for the number of abusers who were prosecuted, convicted, or punished.

Prostitution was legal and common, and there were reports of violence against prostitutes. Only pimping, running brothels, and the procurement of prostitutes are illegal and legally punishable. Trafficking in women for the purpose of sexual exploitation continued to be a problem (see section 5, Trafficking).

Sexual harassment is a crime if perpetrated by a superior in the workplace. The penalty is two to three years in prison.

The Commission on Equality in the Workplace and in Employment (CITE), which is composed of representatives of the Government, employers' organizations, and labor unions, is empowered to examine, but not adjudicate, complaints of sexual harassment. Reporting of sexual harassment was on the rise. According to a study conducted by the Higher Institute for Labor and Entrepreneurial Sciences and published by CITE, one out of three women has been a victim of sexual harassment, which ranged from offensive gazes to sexual propositions, insults, and threats of coerced or unwelcome touching.

The civil code provides women with full legal equality with men; however, in practice women experienced economic and other forms of discrimination. Of the 367,312 students enrolled in higher education in the 2005-06 school year, 55 percent were women. Although women made up 46 percent of the working population and increasingly were represented in business, science, academia, and the professions, their average salaries were about 30 percent less than men's.

Discrimination by employers against pregnant workers and new mothers was a common problem.

*Children.*—The Government was strongly committed to children's rights and welfare. Nine years of compulsory, free, and universal education were provided for children through the age of 15. The majority of children attended school; however, 45 percent dropped out before completing high school. The Government also provided preschool education for children age four and older.

The Government provided free or low cost health care for all children until the age of 15; girls and boys had equal access.

Child abuse was a problem. The nonprofit APAV reported 97 cases of crimes against children under 18 years old during the first six months of the year. Approximately 85 percent of the cases involved domestic violence.

The high-profile trial of a pedophilia operation at the Casa Pia children's home in Lisbon that began in November 2004 continued at year's end. The eight defendants faced charges ranging from procurement and rape to homosexual acts with adolescents and sexual abuse of minors for abusing 46 children.

Trafficking of children for sexual exploitation and forced labor remained a problem (see section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country. The law also criminalizes the trafficking of children under 16 years of age for the purpose of sexual exploitation.

The country is primarily a destination and transit point for women, men, and children trafficked from Brazil, Eastern Europe, and, to a lesser extent, Africa. Some victims were trafficked to the country for forced labor. The majority of victims from Brazil were trafficked for the purpose of sexual exploitation. Approximately 5,000 women, mostly Brazilians, were trafficked to the country annually.

Trafficked persons generally lived in hiding in poor conditions, with little or no sanitation facilities and in cramped spaces. Some trafficked workers were not paid, and some were “housed” within the factory or construction site. Moldovan, Russian, and Ukrainian organized crime groups reportedly conducted most of the trafficking of Eastern Europeans. The traffickers frequently demanded additional payments and a share of earnings following their victims’ arrival in the country, usually under threat of physical harm. They often withheld the identification documents of the trafficked persons and threatened to harm family members who remained in the country of origin.

The Government increased its anti-trafficking efforts during the year and reported that it actively dismantled trafficking networks in 2005, reducing their overall presence in the country. The Government continued to cooperate with other European law enforcement agencies in trafficking investigations. In November 2005 it signed an agreement with Spanish police to strengthen border control, which included a joint police team to address trafficking and smuggling.

Each law that can be applied to traffickers, such as facilitating the illegal entry of persons, employing an illegal immigrant, false documentation, extortion, fraud, and sexual exploitation, carries a penalty of between one and eight years’ imprisonment. By citing the violation of multiple provisions, judges have handed down longer sentences. While the Government prosecuted 45 traffickers during 2004, the latest period for which data was available, only two of 27 traffickers convicted served prison time; the remaining 25 received suspended sentences.

The Government provided subsidies for victims to receive shelter, employment, education, access to medical services, and assistance in family reunification. The Government also provided legal residency to many trafficking victims, although most victims were repatriated. Some NGOs assisted the Government in tracking and reintegrating trafficking victims. Victims who initially were detained were later transferred to NGOs for protection and assistance. The Government operated 20 National Immigrant Support Centers throughout the country to provide immigrants, including trafficking victims, with multi-lingual information and assistance. In 2005 the Government renewed funding for NGOs to provide shelter and assistance to trafficking victims and victims of other crimes.

The Government sponsored antitrafficking information campaigns and public service announcements throughout the year. It broadcasted various programs on state-run channels to educate and inform the general public, including potential trafficking victims and consumers. In 2005 the Government developed and disseminated a national antitrafficking action plan to address trafficking more systematically. The plan provided for the establishment of a statistics-gathering unit within the Ministry of Interior to monitor more effectively and adjust the Government’s approach to combating trafficking.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services, and the Government effectively enforced the law. The law also mandates access to public buildings for such persons, and the Government enforced these provisions in practice; however, no such legislation covers private businesses or other facilities.

The Ministry of Labor and Social Solidarity oversees the National Bureau for the Rehabilitation and Integration of Persons with Disabilities, which is responsible for the protection, professional training, rehabilitation, and integration of persons with disabilities, and enforcement of related legislation.

*National/Racial/Ethnic Minorities.*—The Government effectively protected the civil and political rights of minority groups. The principal minority groups were immigrants, legal and illegal, from the country’s former African colonies, Brazil, and Eastern Europe. Approximately 500,000 legal immigrants lived in the country, representing an estimated 5 percent of the population. The country also had a resident Romani population of approximately 50,000.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form or join unions of their choice without previous authorization or excessive requirements, and they exercised this right in practice. Approximately 35 percent of the total workforce was unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The right to organize and bargain collectively was recognized and exercised freely in practice.

The law provides for the right to strike, and workers exercised this right in practice. During the year there were strikes in the education, health, transportation, and agriculture sectors. If a long strike occurs in an essential sector such as justice, health, energy, or transportation, the Government may order the strikers back to work for a specific period. The Government rarely has invoked this power.

Police officers and members of the armed forces may not strike legally, but they have unions and recourse within the legal system.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively implemented laws and policies to protect children from exploitation in the workplace.

The minimum working age is 16 years. There were instances of child labor, but the overall incidence was small and was concentrated geographically and by sector. The greatest problems were reported in Braga, Porto, and Faro and tended to occur in the clothing, footwear, construction, and hotel industries.

According to the Government's last major study on child labor in 2001, approximately 48,900 children between ages six and 15 engaged in some form of economic activity. Of that number, 85.3 percent were unpaid family workers, 14.7 percent worked for third parties, and 98.6 percent attended school. Of these children, 48.4 percent were employed in the agricultural sector, 12.4 percent in manufacturing, and 8.9 percent in construction. Of the children that worked, the vast majority worked 15 hours or less per week; however, about 11 percent worked more than 35 hours per week.

The Government's principal body to address, monitor, and respond to reports of child labor is the Plan for the Elimination of Exploitation of Child Labor. The Ministry of Labor and Social Solidarity is responsible for enforcing child labor laws, and it did so effectively.

There were reports that Romanian minors often were used for street begging (see section 5).

*e. Acceptable Conditions of Work.*—The monthly minimum wage, which covers full-time workers, rural workers, and domestic employees ages 18 and older, was approximately \$484 (385.90 euros) and did not provide a decent standard of living for a worker and family. However, widespread rent controls and basic food and utility subsidies increased the standard of living. Most workers received higher wages, with the General Confederation of Portuguese Workers estimating an average monthly salary of approximately \$916 (763.20 euros), excluding public servants.

The maximum legal workday is 10 hours, and the maximum workweek is 40 hours. There is a maximum of two hours of paid overtime per day and 200 hours of overtime per year, with a minimum of 12 hours between workdays. The Ministry of Labor and Social Solidarity effectively monitored compliance through its regional inspectors.

Employers legally are responsible for accidents at work and are required by law to carry accident insurance. The General Directorate of Hygiene and Labor Security develops safety standards in line with European Union standards, and the general labor inspectorate is responsible for their enforcement. According to the Inspectorate General for Labor, there were 151 deaths from work-related accidents this year, the lowest death rate in the past five years. Workers injured on the job rarely initiated lawsuits. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and the authorities effectively enforced this right.

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## ROMANIA

Romania, a country of approximately 21.7 million persons, is a constitutional democracy with a multiparty, bicameral parliamentary system. The December 2004 election of Traian Basescu had a few irregularities, but generally was judged free and fair. Civilian authorities generally maintained effective control of the security forces.

The Government made increasing attempts to address human rights issues during the year; however, human rights abuses continued to occur. There were continued reports of police and gendarme harassment of detainees and Roma. Although slightly improved over previous years, prison conditions remained poor. The judiciary exercised its independence, but lacked the public's trust in its ability to impartially apply the law. Restrictions on freedom of religion became a greater concern, in particular after the adoption of a restrictive, discriminatory religion law. While the Government made some progress with property restitution, it failed to return property to the Greek Catholic Church and other religious denominations. Widespread corruption remained a problem. There were continued reports of violence and discrimination against women, along with significant lapses in the protection of children's rights. Persons, mainly women and children, were trafficked for sexual exploitation, but also for labor and forced begging. The neglect of and inadequate assistance for persons with disabilities was a problem. Societal violence and discrimination against the Roma was pervasive. Homosexuals continued to suffer societal discrimination. Discrimination against persons, particularly children, living with HIV/AIDS was a serious problem.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, there were reports of at least one possibly arbitrary or unlawful killing. On September 19, a police officer shot and killed a 22-year old Romani man, Adrian Cobzaru, who, together with a second person, was stealing goods from a truck in Bucharest and tried to run from the scene disregarding the police orders to stop. A commission of the Bucharest police began an investigation regarding the circumstances under which the officer used his weapon, and that investigation continued at year's end. The family of the victim filed a separate complaint with the prosecutor's office. The Roma Center for Social Intervention and Studies (Romani CRISS), a nongovernmental organization (NGO) that monitors the observance of Roma rights, contacted a lawyer to help in the lawsuit.

There were no new developments in the 2005 death of Dumitru Ciobu in police custody. Police did not investigate to determine whether his treatment in police custody played a role in his death.

Police did not open an investigation in the death of 34-year-old Gheorghe Cazanciuc, who was shot dead in August 2005 by railway transportation police while he was allegedly stealing copper wire. The police reported that Cazanciuc attempted to flee the scene. Human rights NGOs asserted that the use of a firearm by police was excessive, given the nature of the crime.

On January 30, the High Court of Cassation and Justice rejected an appeal, filed in 2005 by two former militia colonels, Tudor Stanica and Creanga Mihail, to reconsider the 10-year prison sentences; the two were convicted in 2003 of the 1985 beating death of former dissident Gheorghe Ursu. The appeal was based on a new forensic report attributing Ursu's death to a lack of medical care and not to the beating itself, thereby contradicting the original 1993 forensic report. The court's decision was final. On August 9, the High Court for Cassation and Justice rejected an appeal filed by Ursu's family against the authorities' decision to release Stanica from prison on medical grounds in April 2005. The other convict remained in prison.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were numerous credible reports of police torture and mistreatment of detainees and Roma, primarily through excessive force and beatings by police. There were also reports of mistreatment of physically disabled abandoned children in state institutions and of prolonged incarceration for misbehavior within state orphanages.

On July 27, police in Bucharest responded to a dispute between an elderly couple, Maria and Lucian Tamaris, and one of their neighbors over an alleged property trespass. When police arrived on the scene, they allegedly handcuffed the couple, told them to lie on the ground, and kicked them. One of the officers claimed that Maria

Tamaris attacked and injured him. The couple subsequently filed a criminal complaint against the police for abusive behavior. In early August, one of the officers involved was fired for damaging the image of the police by violating police procedures. Five other police officers involved in the incident were admonished for failing to observe appropriate police procedures.

Media reported that on the morning of August 14, two community policemen beat Bucharest student Alexandru Ungureanu while he was walking in the park with a group of friends. Ungureanu claimed that the police took his identification documents and wallet. Following the student's complaint, the police initiated an internal investigation.

No further updates were available on the investigations into the following alleged police beatings in 2005: the beating of a Romani man in a bar in Moreni in April; the beating of two men in Buzau in August; and the beating of Bucharest student Razvan Vasile Muraru in Tulcea county in October.

In December 2005 police officers Viorel Buzenschi and Ioan Tibuleac in Tibana, Iasi county, allegedly beat four persons, two of them minors, with clubs and forced them to admit to committing an alleged theft. The minors were hospitalized for their injuries, and the officers were dismissed. In May Tibuleac initiated a lawsuit against the police chiefs, arguing that he did not use unlawful force against the four, and asking to be reinstated. The suit remained pending at year's end.

Romani CRISS and other NGOs continued to claim that police used excessive force against Roma and subjected them to brutal treatment and harassment.

According to Romani CRISS, on the morning of May 9, police forces, the special intervention squad, and representatives of the electric power company entered a Roma community in the village of Gepiu, Bihor county, allegedly to stop electric power theft. Police allegedly forced their way into Romani homes without showing warrants and physically abused five Romani individuals during the search and at the police headquarters. In response to complaints of abuse filed by Romani CRISS and the alleged victims, police stated that an internal investigation revealed no abuse by police. The alleged victims filed a criminal complaint with the prosecutor's office, and the case remained under investigation.

On August 3, police and gendarmes entered a Roma community in the village of Bontida, Cluj county, and detained five Romani men and boys who were then taken to the police precinct. According to Romani CRISS, three individuals were physically abused in the gendarmes' van, and the other two were abused in the police precinct. Two of the five detainees were minors; their parents were initially denied access to the police precinct. The chief of the police precinct stated that the gendarmes' official report denied that the five men were subjected to abuse. The alleged victims filed complaints against the gendarmes for abusive behavior.

In August, according to Romani CRISS, police searched Romani neighborhoods in Cluj during an eviction operation and physically assaulted several Roma. This raid followed two similar raids on the same neighborhood in November 2005, after which residents also accused police of abusive behavior toward Romani residents (see section 1.f.).

According to NGOs, a police officer fined for the 2004 physical assault of a 12-year-old boy in Fetesti continued to refuse to pay the fine but remained employed as a police officer at year's end.

On September 7, a police squad entered a Romani community in Apalina, Mures county, reportedly to deliver subpoenas to two Romani persons who were under criminal investigation. The Roma accused police of using extreme violence when they came to the community; however, the officers involved in the incident claimed that they were physically assaulted by the Roma and used force only in reaction to the attack. Romani CRISS and the Pro-Europa League, a human rights NGO based in Targu Mures, identified 37 victims of the incident, 36 of whom were Roma. In reply to two letters sent by Romani CRISS, the general police inspectorate initiated an investigation and concluded that the incident was "inappropriately managed" by the police officers in charge, which led to measures violating legal provisions and internal police regulations. On October 12, the inspectorate began a preliminary investigation of senior police officer Valer Ujica and police officers Alexandru Moldovan and Petru Gora. Forty-nine Roma filed criminal complaints and the case was under investigation by the prosecutor's office in Targu Mures at year's end.

On June 28, after a lengthy trial, a Constanta court issued four- and six-month suspended prison sentences to two members of the Service for Protection and Guard, Daniel Bogdan Mihalcea and Teodor Chirica, who in August 2004 physically assaulted Serban Pretor, a state secretary on the National Audiovisual Council. In October, the Constanta court ruled on the appeals, filed by both Pretor and the two defendants in July, acquitting the two and reducing the moral compensation to be

paid by the defendants to the victim from \$1,560 to \$780 (4,000 to 2,000 new lei). Chirica also received a penal fine of \$195 (500 new lei).

On January 24, the European Roma Rights Center (ERRC) filed an application with the European Court of Human Rights (ECHR) against the Government, alleging the excessive and unjustified use of force by the police against a Romani family in 2003. The application further alleged that authorities failed to conduct an effective investigation of the incident. In August 2003 four members of the Pandeles family publicly protested a municipal decision to deny renewal of their lease of space for a fruit and vegetable stand in the Targu Frumos food market. Police allegedly responded to the protest by beating the family members with bats, truncheons, and boots. The family was taken to the police station, where further abuse and threats allegedly took place. The Pandeles were fined for disturbing the peace and released, but alleged that they were subjected to continued harassment from the municipal government since the incident.

On July 14, the prosecutor's office in Craiova decided to cease criminal prosecution of a police officer accused of having tortured an 18-year-old Romani man, Nelu Balasoiu, who died in Jilava prison after his 2002 transfer from a penitentiary in Targu Jiu. The victim's family appealed the decision.

Lesbian and gay rights NGOs complained that police singled out members of the lesbian, gay, bisexual, and transgender community for violence and harassment (see section 5).

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and generally did not meet international standards.

Overcrowding remained a serious problem, although there was a slight improvement over 2005 in respecting prisoners' rights, such as the provision of religious assistance and the investigation of incidents in prisons. At the end of November, 34,542 persons, including 767 minors, were in prison or juvenile detention facilities in a system with a capacity of 37,925. Overcrowding resulted from a high concentration of inmates in a few facilities; for example, on November 28, the prison in Bacau held 985 prisoners while its capacity was only 453. The prison in Galati held 1,081 prisoners while its capacity was only 821. In the penitentiaries in Margineni and Slobozia, the number of prisoners in some cells was higher than the number of beds.

In October a new law on the execution of prison terms came into effect, which, according to some NGOs, was a necessary step toward improving prison conditions and enhancing protection of prisoners' rights. However, its enforcement was delayed due to the Government's failure to adopt implementing regulations for the law. The law stipulates four categories of detention status for prisoners serving terms: maximum security, closed, semi-open, and open. The law expressly allows the transfer of prisoners from one category to another based on their conduct.

Media and human rights organizations reported that the abuse of prisoners by authorities and other prisoners continued to be a problem. Prisoners from the penitentiaries in Craiova, Turnu Severin, Jilava, Bistrita, Slobozia, Tulcea, Braila, Deva, Colibasi, and Arad complained to human rights NGOs that prison staff beat and punished them with up to seven days of solitary confinement for minor infractions. For example, the Association for the Defense of Human Rights in Romania-the Helsinki Committee (APADOR-CH) reported on the case of a prisoner in Slobozia penitentiary, who was physically abused by four prison guards, Emil Dinca, Laurentiu Marian Diamandopol, Valentin Dumitru Musat, and Adrian Tomescu, for refusing to wear a prison uniform when he was taken to court, on the grounds that the uniform was dirty. The prisoner was hospitalized for six days and subsequently punished with 10 days of solitary confinement and placed in the category of "highly dangerous" prisoners. The prosecutor's office decided not to indict the four, and an appeal of the decision filed by APADOR-CH was rejected on November 6.

According to APADOR-CH, the practice of labeling prisoners as "dangerous" remained a problem, due to a lack of clear standards for classifying prisoners. "Dangerous" inmates were often held in smaller rooms with additional bars on windows and handcuffed when taken out of their cells, including during exercise or medical treatment. Because the prisons administration considered this labeling an administrative matter rather than a disciplinary sanction, prisoners labeled "dangerous" had no right to challenge that determination. NGOs further criticized the practice of subjecting prisoners to multiple punishments for a single act of indiscipline. There were continued reports during the year that at the prison in Jilava, prisoners with few or no visitors were often the victims of physical and sexual abuse by other prisoners, due to the inability of the victims to obtain outside support.

Sanitation and hygiene in prisons did not meet international standards. Medical facilities were not sufficient to care for all prisoners and detainees. Heating and hot water were not available in several facilities. At the prison at Jilava, prisoners complained of mold on cell walls, rust in the tap water, poor heating, and cold showers.

Because the facility was built on swampland, sludge periodically flooded the cells, bringing rats and mice. Many prisoners had lice and scabies, and reported the insufficient provision of many medications.

NGOs reported that prison meals did not provide the minimum necessary calories and that prisoner access to health care was inhibited by the lack of doctors. APADOR-CH criticized the common practice of prison doctors serving as the family doctors for prison staff, their family members, and retired staff, which further reduced the time available for inmate care. NGOs also stated that insufficient daily activities and limited educational programs for prisoners continued to be major problems; the rate of inmate participation in such activities remained at 10 to 20 percent.

Many prisons and police detention facilities did not provide for the confidentiality of discussions between prisoners or detainees and their lawyers.

On December 7, the prisoners in the Codlea penitentiary began protesting parliament's rejection of a bill on the collective pardoning of some categories of prisoners and against prison conditions. Over the next few days, the protests expanded to 26 penitentiaries, with 6,353 prisoners going on hunger strike. The protests slowly died out, and the strikes had all ended by mid-December. According to APADOR-CH, the prisoners' actions were a justified response to chronic overcrowding and the presence of large numbers of prisoners serving terms for minor crimes.

The Government continued limited efforts, including partnerships with NGOs, to alleviate harsh conditions and to deter the spread of HIV and tuberculosis.

Due to overcrowding in some prisons, pretrial detainees were sometimes held in the same facilities and treated in the same manner as convicted prisoners. Juveniles were sometimes kept in cells with adults. An NGO criticized that minors incarcerated in several penitentiaries after the beginning of the school year were not admitted to educational courses organized in prison.

In February the Government adopted new regulations for religious assistance in prisons, which allow unrestricted access of all religious groups to prisons (see section 2.c.).

In November the national administration of penitentiaries, in cooperation with foreign governments, launched a program to improve the national prison system through implementation of a new management structure, to increase safety and psycho-social activities for high-risk prisoners, and to provide training for staff who work with high-risk prisoners.

The Government permitted prison visits by human rights observers, foreign government officials, and media representatives. In Arad, the local probation office sponsored two visits for foreign officials during the year to a newly constructed prison facility. The observers noted that the facility appeared new, and living conditions appeared clean. Inmates were allowed to receive televisions from their families and to keep those in their cells. There was an outdoor exercise area with a soccer field. The prison had a library, classrooms, chapel, and meeting areas. The kitchen was large and clean. The prison staff welcomed questions and seemed open in their responses. The staff freely admitted that not all of the prisons operated on the standards of this newly constructed facility.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The Ministry of Administration and Interior is responsible for the national police and the gendarmerie, as well as the border police; alien authority; national office for refugees; the general directorate of information and internal protection (DGIPI), which oversees the collection of intelligence on organized crime and corruption; the general anticorruption directorate; the special protection and intervention group; and the special aviation unit. The national police agency is the inspectorate general of police, which is divided into specialized directorates and has 42 regional directorates for counties and the city of Bucharest. The internal intelligence service (SRI) also collects intelligence on major organized crime, major economic crimes, and corruption. Both SRI and DGIPI turn over the intelligence they gather on criminal activity to the prosecutor's office for criminal investigation. However, the SRI lacks the legal authority to conduct criminal investigations or to collect intelligence on organized crime.

While police generally followed the law and internal procedures, corruption was a continuing problem which remained a main cause of citizens' lack of respect for the police and contributed to a corresponding lack of police authority. Extremely low salaries, which were sometimes not paid on time, contributed to the susceptibility of individual law enforcement officials to bribes. According to human rights NGOs, forensic reports were frequently unreliable, often erring in favor of police and other officials. The ministry's general anticorruption directorate publicized its

anticorruption telephone hotline to generate prosecutorial leads for corruption within the police. Instances of high-level corruption were referred to the national anticorruption directorate.

Police impunity was a problem. Complaints of police misconduct were handled by the internal disciplinary council of the units where the reported officers worked. During the year, the Human Rights and Humanitarian Law Department in the General Police Inspectorate investigated nine cases of alleged violations of human rights by 18 officers. Of those 18 officers, three officers' cases were dropped because there was no evidence that an officer was involved, four officers were found innocent, seven officers received some form of administrative punishment and four officers were fired. Separately, 61 corruption cases (15 police officers and 46 security agents) were identified during the year. Of these cases, five were in custody awaiting trial and one was convicted. The General Anti-corruption Directorate of the Ministry of the Administration and Interior also investigated 996 cases of corruption among its employees, a category separate from human rights violations.

Police reform continued during the year. The Government, with support from law enforcement agencies from other countries, offered police training workshops on topics such as human rights and the proper treatment of criminal suspects. The police increased hiring of women and minorities. In February the first ever Romani woman was hired as a police officer. According to the police, 8.4 percent of police employees were women. During the first nine months of the year, the police hired 43 members of national minorities: 25 Hungarians, 15 Roma, two Germans, and one Slovak. There were 176 Romani police officers specializing in the management of conflicts in Roma communities and the prevention of discrimination.

*Arrest and Detention.*—The law provides that only judges may issue detention and search warrants, and the Government generally respected this provision in practice. The law requires authorities to inform detainees at the time of arrest of the charges against them and their legal rights. Police must notify detainees of their rights in a language they understand before obtaining a statement. Detainees must be brought before a court within 24 hours of arrest. The law provides for pretrial release at the discretion of the court. A bail system also exists; however, it was seldom used in practice. The law requires that the Government provide an attorney to all detained individuals. Detainees have a right to access to counsel and generally had prompt access to counsel and their families. Indigent detainees were provided with legal counsel at public expense.

The law allows police to take any person who endangers the public, other persons, or the social order to a police station. There were allegations that police often used this provision to detain persons up to 24 hours of their detention. The law provides criteria for pretrial release at the discretion of the court. Human rights NGOs complained that authorities were frequently able to listen to discussions between detainees and their lawyers. Such listening occurred most frequently in prisons, but also was reported at other police facilities.

A judge may order pretrial detention for periods of up to 30 days, depending upon the status of the case. The court may extend these time periods; however, pretrial detention may not exceed 180 days. Courts and prosecutors may be held liable for unjustifiable, illegal, or abusive measures.

*Amnesty.*—On April 20, June 20, July 10, and November 6, President Basescu issued a total of 12 pardons on humanitarian grounds to five women and seven men, most of whom were convicted for minor offenses. Five of these persons were pardoned because of old age and/or precarious health conditions; three of the women received pardons because they had four or five minor children; and one prisoner was pardoned for good behavior after serving 10 months of a three-year sentence for theft.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary and judges exercised this independence. The judiciary, however, lacked the public's trust that its judges were accountable and did not serve political interests.

There was a widespread perception of corruption within the judiciary. Some observers noted improvements due to the Government's random assignment of cases to judges, but they also pointed out that there remained many ways of influencing judges. The Superior Council of Magistracy (CSM), the judiciary's independent oversight body which is responsible for the promotion and discipline of judges and prosecutors, publicly opposed the Government's anticorruption programs, including its public awareness campaign depicting justice as a pillar of society shaken by acts of corruption. The Government emphasized the importance of the judiciary's independence, but also urged the CSM to more effectively discipline its members to enhance the management of cases, raise ethical standards, and effectively address misconduct. Some NGOs criticized the unexpectedly secret elections for the manage-



ment of the CSM as lacking transparency. The ability of CSM members to retain local positions, such as Presidents of courts of appeal, also presented apparent conflicts of interests and limited full-time activity to just six of the 19 members.

The law establishes a four-tier legal system, beginning with the lower court (*judicatorie*), followed by the intermediate court (*tribunal*), the appellate court, and the High Court of Cassation and Justice. A separate Constitutional Court validates electoral results and makes decisions regarding the constitutionality of laws, treaties, ordinances, and internal rules of the parliament. A prosecutor's office is associated with each court. The court having original jurisdiction over a case is determined by the nature of the offense and by the position a defendant may hold in public service.

*Trial Procedures.*—Trials are open to the public. The law does not provide for trial by jury. The law provides for a right to counsel and a presumption of innocence until a final judgment by a court. The law requires that the Government provide an attorney to juveniles in criminal cases; in practice local bar associations provided attorneys to the indigent and were compensated by the Ministry of Justice. Defendants have the right to be present at trial, to consult with an attorney in a timely manner, to confront or question witnesses against them, and to present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Both plaintiffs and defendants have a right of appeal.

The law provides for the investigation by civilian prosecutors of crimes by the national police. Military prosecutors continued to try cases that involved “state security” in military cases. Other cases involving “state security” but not military issues were tried by civilian prosecutors. Crimes by the gendarmerie continued to fall under military jurisdiction. Local and international human rights groups criticized the handling of cases by military courts, claiming that military prosecutors’ investigations were unnecessarily lengthy, biased, and often inconclusive. Some lawyers claimed such lengthy investigations only served to discredit the reputations of their clients rather than hold them accountable for any actual wrongdoing.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

Following the end of Communism, no law was ever passed to annul the sentences of political prisoners who had served prison terms during the Communist era; individuals had to go through a lengthy appeals process to have their Communist-era criminal records expunged.

*Civil Judicial Procedures and Remedies.*—Civil courts functioned in every jurisdiction of the country. Civil courts do not use a jury and function in a similar fashion as the criminal courts. Crime victims can assert civil remedies in either civil courts or criminal courts if they choose. This can result in a combined civil/criminal trial to resolve all issues arising from the criminal case. Civil courts are administered by the Ministry of Justice and the magistrates themselves are overseen by the CSM. Civil courts operated with the same degree of judicial independence as the criminal courts.

Problems with the civil court system stemmed primarily from their lack of efficiency. Litigants sometimes also encountered difficulties enforcing civil verdicts, because the procedures for enforcement of judgment orders were impractical and caused delays.

Administrative and judicial remedies were available for violations of civil rights by government agencies.

*Property Restitution.*—In July 2005 the Government passed legislation to improve the process of property restitution, which has moved slowly since the end of communism. The legislation clarifies the procedures for restitution and establish new application deadlines and fines for officials who hindered the process; and creates a property fund worth approximately \$5 billion (14 billion new lei) for the compensation in stock of owners with properties that cannot be returned in kind. However, the fund has not yet been listed on the stock exchange. Although the large majority of restitution cases remained unresolved, the pace of restitution increased slightly during the year.

Former owners’ organizations, however, continued to assert that inertia hindered property restitution at the local level. In some cases, local government officials continued to delay or refuse to provide necessary documents to former owners filing claims. They also refused to turn over restituted properties in which county or municipal governments had an interest. Former owners stated that the central government, represented at the local level by prefects, did not uniformly apply fines or other sanctions against local governments that failed to provide requested documents or to turn over restituted properties. During the year new legislation was

adopted to give increased powers to the National Agency for Property Restitution (ANRP). Although the ANRP fined local authorities in 23 of the 42 counties for failing to abide by laws on restitution, former owners claimed that the actual number of mayors who disobeyed the law was much higher. About 7 percent of the mayors were fined for not implementing the restitution law. The fines levied during the year amounted to approximately \$974,000 (2,500,000 new lei).

The number of restitution claims submitted increased greatly as a result of the 2005 law. ANRP announced that the Government received an additional 600,000 applications by the close of a November 2005 deadline for claims. Of the 210,000 claims filed before the legislation, ANRP reported that some 88,000 claims were resolved by year's end, approximately 35,000 of which were rejected.

During the year the Government did not encourage the Romanian Orthodox Church to return Greek Catholic churches and church properties confiscated by the communist state, and given to the Romanian Orthodox Church (see section 2.c.).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

The law permits the use of electronic interception both in criminal cases and for national security purposes. In exceptional circumstances (when there is a clear and present danger to national security), government institutions may begin interception without a judicial warrant. Following this, however, a request for authorization must be submitted within 48 hours. Although the penal procedure code provides that warrants may be issued only by judges, under the law on national security, a prosecutor may authorize the issuance of a warrant for an initial period of six months, which can be extended indefinitely in three-month increments without judicial approval. There were reports of electronic interception used outside of these legal parameters.

According to Romani CRISS, evictions of members of the Roma community continued to occur both in Bucharest and in other localities during the year.

On January 24, the community police of Bucharest Sector 1, accompanied by a special intervention team, allegedly acting without prior written notification, demolished seven houses belonging to Roma in Chitila, a suburb of Bucharest. Three Roma were physically abused in the process, two of whom required medical treatment at the hospital. Approximately 50 of the evicted Roma were not allowed to take their belongings. The demolition took place at a temperature of five degrees Fahrenheit, leaving many adults and children outside in freezing cold. According to the mayor's office, the operation's goal was to demolish structures that had been illegally erected on public land by Romani families. Romani CRISS assisted the victims in filing criminal complaints, which remained pending at year's end.

On August 2, police executed a raid in a Romani community located on the outskirts of Cluj-Napoca, in which 10 Roma dwellings were set on fire. The community was reportedly also subject to two prior raids in November 2005. During one of these raids, police were alleged to have physically assaulted three women. Under the pretext of a search for stolen goods and criminal suspects, police reportedly confiscated private property, physically assaulted several Roma, evicted residents by force, detained men at the police precinct for six hours, and eventually burned all the Roma dwellings. In December 2005 Romani CRISS filed a complaint against the police officers for abuse and property destruction stemming from the November 2005 incidents at the prosecutor's office in Cluj. The case remained under criminal investigation by the prosecutor's office. Romani CRISS complained that neither the victims nor the witnesses had yet been called for their testimony.

According to Romani CRISS, on August 7, the mayor's office in Piatra Neamt, working in conjunction with the police, gendarmes, and local community police, evicted 35 Romani families totaling approximately 250 individuals from a bloc of apartments. According to police the evictions were necessary in order to repair the building. During the eviction, a member of the community police reportedly physically assaulted an elderly woman. The authorities did not offer alternative housing for the evicted families.

Most of the 40 Romani families evicted in Tulcea in May 2005 continued to live either in the open, with relatives, or in a decaying building on the site while an appeal of the eviction decision was pending in a local court. Another lawsuit challenging the eviction was in progress. Approximately 250 Roma evicted in Zalau in February and March 2005 were moved to areas with poor conditions, including lack of access to water supply, heating, electric power, or a sewer system. In March, following talks with representatives of a Roma NGO, local authorities announced a plan to move the evicted Roma either to a former poultry farm outside of town or to a disused power station. Due to pressure by Romani CRISS, the plan was not implemented.

In 2005, to implement a city plan to renovate Bucharest's historic Lipschani district, authorities evicted Roma living in the area, providing minimal financial aid and compensation. Although authorities in some cases offered alternative housing to those evicted, the offers were considered inadequate because of their proximity to industrial areas; poor living conditions; or the likelihood of de facto segregation from mainstream society.

In August 2005 the National Council for Combating Discrimination (CNCD) fined the mayor's office in Miercurea Ciuc, Harghita county, approximately \$1,560 (4,000 new lei) for the 2004 forced eviction of approximately 140 Roma and their relocation to a hazardous area near a wastewater treatment facility. The Roma lacked alternative housing and continued to reside in that area. A lawsuit filed by Romani CRISS against the vice mayor of Miercurea Ciuc for restriction of rights was in progress. Following a further complaint by Romani CRISS to county officials, the Harghita county health directorate determined that living in that area represented a health hazard for the Roma.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Journalists and private citizens could generally criticize government authorities, including those at senior levels. Violence and threats against journalists dropped substantially, although investigations of incidents from previous years moved slowly.

There were isolated cases of authorities intimidating, censoring, or attacking journalists, although this occurred less frequently than in previous years.

Laws restricting freedom of speech continued to cause concern among the media and NGOs. The offense of insulting authorities was punishable with a fine but amendments to the criminal code, which became effective August 11, decriminalized libel, insult, and defamation of the country.

The Government collaborated with media and NGO representatives to make the allocation of government-funded advertising more transparent, resulting in legal changes and the creation of a Web site dedicated to public advertising. These negotiations followed a 2004 ruling by the Bucharest appellate court that the Government must provide information regarding advertising contracts to the NGO Center for Independent Journalism.

The independent media were more active than in previous years, and expressed a wide variety of views without restriction.

Parliamentarians and their political allies owned numerous media outlets in the provinces, and the news and editorial tone of these outlets frequently reflected the views of the owners.

In previous years the media reported several cases of journalists who, while videotaping or covering various official events, were assaulted by those being filmed. Such incidents occurred in public places, and the media reported that gendarmes and police frequently did not intervene. According to a Media Monitoring Agency report issued in January, the number of direct and brutal attacks against journalists in the country diminished compared to previous years. However, public authorities and politicians were still responsible for many cases of harassment, although there were fewer reports of threats than in previous years.

In February unknown persons set fire to the front door of the home of Ileana Firtulescu, editor in chief of *Informatia* weekly in Petrosani. Firtulescu and her family also reported receiving death threats. The NGO Media Monitoring Agency asked the police to investigate the case, but police were unable to identify any suspects. Firtulescu was investigating organized crime, as well as a corrupt former policeman, when the threats were received.

In March police in Targu Mures confiscated the Hungarian language publication *Europai Ido* for its articles in support of regional autonomy. Police claimed that the publication harmed national security, but media activists charged it was an act of censorship.

In July media NGOs protested phone threats issued by Vasile Paun, a deputy director of the Army Intelligence Service against Doru Dragomir, a reporter for the daily *Ziua*. Paun, who was taped by the journalist, threatened to destroy the journalist and said the journalist would pay for his reports.

In August a crew from television network Antena 1 was filming an investigation of so-called "local barons" in the southern town of Giurgiu. While filming on public property outside a ranch allegedly belonging to Giurgiu mayor Lucian Iliescu, the mayor's wife, Smaranda Iliescu, assaulted the journalists and attempted to grab the tape from their camera. Mayor Lucian Iliescu, a member of the Democratic Party in the coalition government, told the press that the whole event was meant to ruin his image.

There were cases in which media representatives were arrested or interviewed by authorities for using leaked classified information.

On February 17, Marian Garleanu, the local correspondent of Romania Libera in Vrancea was arrested with regard to leaked information from the defense ministry. He was released in two days after the appellate court admitted a motion by his lawyer, but charges against him remained pending at year's end. Other journalists also were investigated in the case.

On February 22, local prosecutors in Focsani indicted journalist Sebastian Oancea of the newspaper Ziua for his alleged possession of the same classified military documents possessed by Marian Garleanu, which Oancea also did not publish. Charges against Oancea remained pending at year's end.

On March 28, journalists and media activists protested the legal investigation into the leaked information case and the fines levied by authorities against four of the journalists involved. Two appealed the fine and won their case, while the other two had to pay the fine of approximately \$500 each (1,500 new lei).

During the year there were no relevant developments in cases from previous years of violence against journalists. However, police in Hunedoara said that they had discovered the assailants of two journalists in Petrosani who had reported on corruption in the mining sector; the police investigation lasted three years. The case was in the courts at year's end.

In August, journalist Brindusa Armanca won a lawsuit against her former employer, public television station TVR, following a two-year legal battle. Armanca was fired from the station after she publicly stated that the station's regulations for its employees violated the constitution and European Convention on Human Rights. TVR management claimed that Armanca violated internal policy by making critical statements about her employer. However, Armanca argued that the TVR rules violated her right to free expression. Following the incident, media watchdog groups protested and called upon state-owned television to reconsider its policies which "restrict the right to free expression of their employees," and interfere with the public character of the institution. The appeals court in Timisoara ordered TVR to re-hire Armanca and to pay her damages of over \$38,000 (100,000 new lei). Armanca asked for the money to be paid not from the TVR budget, but by the station management who fired her. This was the fifth court case that arose out of Armanca's firing.

In February an appeals court acquitted a contributor to one of the Legionnaire magazines, the Timisoara-based Gazeta de Vest (Western Gazette) after a lengthy trial. In 2003 he had been sentenced to 30 months imprisonment for the dissemination of nationalist-chauvinistic propaganda and fascist symbols. The appeals court based its acquittal on freedom of speech and freedom of association, reasoning that it is not forbidden to voice opinions or beliefs about the legionnaire doctrine or movement. At the trial, the leader of the Legionnaire Movement came dressed in legionnaire attire to testify on behalf of the defendant.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. The Internet was widely available in the country, and individuals had access to both dial-up and broadband connections. Some smaller communities and rural areas lacked the requisite infrastructure to support Internet access, but this was relatively rare. The primary hurdle to Internet access for many was the cost of in-home Internet connections, although costs were decreasing through competition. Internet cafes were widely available in towns and cities throughout the country.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. The law provides that unarmed citizens can assemble peacefully, but states that meetings must not interfere with other economic or social activities and may not be held near locations such as hospitals, airports, or military installations. Organizers of public assemblies must request permits in writing, three days in advance, from the mayor's office of the locality where the assembly will take place.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice. The law prohibits fascist, Communist, racist, or xenophobic ideologies, organization, and symbols (such as statues of war criminals on public land). Political parties are required to have at least 25,000 members to have legal status, a number some NGOs criticized as being excessively high.

In February, parliament passed a law stipulating that mayors and local officials who change their political party affiliations after being elected will lose their elected

position. The law entered into effect in August. The Pro Democracy Association and several other prominent NGOs strongly opposed the law, asserting that it violates both freedom of association and citizens' fundamental right to choose their leaders.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some restrictions, and several minority religious groups continued to claim credibly that government officials and Romanian Orthodox clergy impeded their proselytizing and interfered with other religious activities.

The Government requires religious groups to register; however, there was no clear registration procedure, which made it almost impossible for groups to receive legal status.

The Government gives official religious status to 18 religions. Only these recognized religions are eligible to receive state financial support. Recognized religions have the right to establish schools, receive state funds to build churches, pay clergy salaries, subsidize clergy housing, broadcast religious programs on radio and television, apply for broadcasting licenses for denominational frequencies, offer religion classes in public schools, and enjoy tax-exempt status. The Government also registered religious groups either as religious and charitable foundations or nonprofit cultural associations.

On December 14, parliament adopted a new law on religions, despite strong domestic and international criticism of the proposed legislation. The law discriminates against smaller religious minorities and creates impediments for many such groups to obtain official recognition as religions. The new law requires a high numerical threshold of 0.1 percent of the population—approximately 22,000 people—to qualify for “religion” status. In addition, minority religions must undergo a 12-year waiting period to qualify for official status. Civil society organizations recommended the elimination of both requirements. The parliament concurrently adopted an amendment that forbids acts of “religious defamation” and “public offense to religious symbols.” NGOs and the National Anti-Discrimination Council expressed concern that this provision might infringe on freedom of speech and conscience. Despite all criticisms, the President signed the law at the end of December.

Tensions between the Greek Catholic Church and the municipality of Pesceana, Valcea county, continued during the year. In January 2005 the village council prohibited the registration of a Greek Catholic parish and the activity of the Greek Catholic Church in the locality. Following a complaint by a group of NGOs, the CNCD decided that the council's decisions were discriminatory and reprimanded it at the end of August 2005. Subsequently, the Greek Catholic priest and the church's members were repeatedly denied access to the local cemetery. On January 19, a court ruled that the Greek Catholic priest should be allowed access to the cemetery. The Romanian Orthodox Church subsequently appealed this decision, and that appeal was pending at year's end. In April and May, the mayor's office of Pesceana refused to issue a construction permit for a Greek Catholic church, asking the Greek Catholic parish to meet the legal requirements from the communist era, which technically remained in force, but in practice were nullified by the constitution and other subsequent laws. The Greek Catholic Church also complained about the hostile attitude of the Valcea county prefect toward the Greek Catholic congregation in Pesceana and the illegal transfer by the local council of two communal cemeteries to the Romanian Orthodox Church.

The law does not prohibit or punish assembly for peaceful religious activities; however, several minority religious groups continued to complain that, on various occasions, local authorities and Orthodox priests prevented religious activities from taking place, even when their organizers had been issued permits. The Seventh-day Adventist Church and the Baptist Church reported difficulties obtaining approval to use public halls for religious activities following pressure by Orthodox priests. In some cases, Orthodox priests incited the local population against activities by the Seventh-day Adventist Church, the Baptist Church, the Greek Catholic Church, and Jehovah's Witnesses. The press and minority religious groups continued to report instances of Romanian Orthodox clergy harassing members of other faiths, such as pressuring non-Orthodox school children to attend Orthodox religion classes or not allowing members of religious groups to proselytize near Orthodox churches.

Although most minority religious groups reported that they had received permits to build places of worship without difficulty, Jehovah's Witnesses, the Baptist Church, the Seventh-day Adventist Church, and the Greek Catholic Church reported that permits were delayed by local authorities.

Several religious groups made credible complaints that, in some instances, local police and administrative authorities tacitly supported sometimes violent societal campaigns against proselytizing. In January and March 2005, members of Jehovah's Witnesses were reportedly physically assaulted by residents of Dofteana, and the po-

lice failed to protect them. On February 4, two members of the Jehovah's Witnesses were assaulted by an Orthodox priest in the same town. When they filed a complaint with the local police, police officers allegedly warned them to not return to Dofteana.

During the year the Greek Catholic Church was prevented from building a church on its own land in Certeze, Satu Mare county, due to obstruction and harassment by the Romanian Orthodox Church and local authorities. Following the intervention of a Romanian Orthodox priest, the local council refused the Greek Catholic request for a construction permit for a new church. The refusal came after the Greek Catholic Church renounced, to defuse local tensions, a restitution claim for a local church that had been its property before the communist period.

In some localities, the activities of religious groups, such as charitable programs in children's homes and shelters, were perceived as being directed at adherents of the Romanian Orthodox Church, and conflicts occurred. Members of the Greek Catholic Church, Jehovah's Witnesses, the Baptist Church, the Church of Jesus Christ of Latter-day Saints, and the Seventh-day Adventist Church continued to report such cases.

On July 11, the ECHR took note of an agreement concluded between the Government and the Jehovah's Witnesses organization and 14 members of Jehovah's Witnesses who had submitted complaints to the ECHR against the Government. Under the agreement, the Government would pay approximately \$15,000 (39,000 new lei) to the Jehovah's Witnesses organization. The group had alleged that although the Supreme Court of Justice recognized the Jehovah's Witnesses' status as a religion in 2000, the Government refused to abide by the court's judgment until 2003. The 14 claimants alleged that the Government refused to exempt them from military service as conscientious objectors. As part of the settlement, the Government agreed to withdraw all appeals of decisions in national courts that had been favorable to the claimants.

Members of the Roman Catholic Csango community, who speak a Hungarian dialect, repeatedly complained that they were unable to hold community religious services in Hungarian because of the opposition of the Roman Catholic Bishopric of Iasi. In August 2005 the Csango community filed a complaint with the CNCD, which decided in October 2005 that the act of denying religious services in Hungarian is a restriction on religious freedom. Although the Bishopric abandoned its initial intention to challenge the CNCD decision in court, the Csango community still lacked religious services in Hungarian.

Romanian Orthodox priests reportedly denied permission to the Greek Catholic Church, the Seventh-day Adventist Church, and the Church of Jesus Christ of Latter-day Saints, to bury their members in either religious or secular cemeteries. Such denials were reported during the year in numerous communities around the country.

Prior to February only recognized religions were entitled to give religious assistance to prisoners; regulations on religious assistance in penitentiaries also prohibited proselytizing. The prison priest, who was always a member of the Romanian Orthodox Church, was responsible for coordinating religious assistance in prisons. Some NGOs reported that prisoners were pressured against changing their religions, and that in many cases Orthodox priests attended meetings between representatives of other religions and prisoners. Recognized minority religious groups, including Jehovah's Witnesses and the Seventh-day Adventist Church, asserted that Orthodox priests denied them access to some penitentiaries. For example, the Orthodox prison priests in Gherla, Cluj county, and in Aiud, Alba county denied the Seventh-day Adventist Church access to their penitentiaries.

In August 2005 the CNCD determined that some provisions of the military clergy law, which entitles recognized religions to have military clergy trained to render religious assistance to conscripts, and of the agreement between the Ministry of Justice and the Romanian Orthodox Church regarding religious assistance in penitentiaries discriminated against minority religions, and the CNCD recommended their elimination. On February 17, the Ministry of Justice changed the regulations for religious assistance in detention places. The new regulations provide for unrestricted access of recognized religions and religious associations to any place of detention, even if their assistance is not specifically requested. The regulations also provide that prison representatives in charge of religious assistance should not be priests or representatives of any faith.

Both public and private organizations often permitted only Orthodox priests to provide religious guidance in the hospitals, children's homes, and shelters for the elderly that they operated.

Only officially recognized religious groups have the right to teach religion in public schools. However, a number of recognized minority religious groups, including

the Seventh-day Adventist Church, the Greek Catholic Church, the Baptist Church, and Jehovah's Witnesses complained that they were unable to have classes on their faith offered in public schools. Attendance in religion classes is optional; however, the Baptist and the Greek Catholic Churches reported cases of children who were pressured to attend Orthodox religion classes.

In November the CNCD, in answer to a complaint filed by a Buzau-based NGO, asked the Ministry of Education to remove religious symbols from schools, with the exception of classrooms where religious classes were taught. On December 12, the Ministry of Education decided that parents, local communities, and school management should have decision-making power on the presence or absence of icons in the classroom.

The restitution law passed in July 2005 permits religious denominations to reclaim previously nationalized properties that housed schools, hospitals, or cultural institutions. Although the implementation of this law remained a problem during the year, some progress was made, particularly with regard to the restitution of religious property. During the year, the ANRP restituted over 500 properties to religious denominations, as compared with approximately 1,000 restituted between March 2003 and December 2005. The ANRP handled over 1,200 claims of religious denominations during the year.

Property restitution was particularly important for the Greek Catholic Church, whose properties, including churches, were confiscated during the Communist regime. Most Greek Catholic Churches were given to the Romanian Orthodox Church after their forced merger in 1948, and many other Greek Catholic Church properties were taken over by the Government. During the year the Government made slow progress in restoring state-controlled church properties. Since 2003 the Government returned 151 out of 6,723 total properties claimed by the Greek Catholic Church.

The Romanian Orthodox Church continued to resist the return of properties it had acquired when the Greek Catholic Church was forcibly merged into the Romanian Orthodox Church in 1948. While the restitution legislation only addressed restitution of properties under state control, a June 2005 law permits the Greek Catholic Church to take court action whenever bilateral dialogue between the Greek Catholic Church and Romanian Orthodox Church over church restitution fails. Although this law was invoked and some cases were resolved in favor of the Greek Catholic Church, such lawsuits routinely dragged on in courts for lengthy periods.

In November 2005 the Romanian Orthodox Church returned a cathedral in Oradea to the Greek Catholic Church after direct pressure was exerted by top government officials. On February 17, in Satu Mare, following 16 years of lawsuits and delays, authorities enforced a ruling returning a cathedral to the Greek Catholic Church. In December the Orthodox Church restituted a major Greek Catholic Church in Bucharest, after a 16-year long lawsuit that ended with a final court ruling in favor of the Greek Catholic Church. In general, however, the Greek Catholic Church made very limited progress in recovering properties from the Romanian Orthodox Church. To date, the Romanian Orthodox Church returned less than 200 of the approximately 2,600 Greek Catholic churches and monasteries it had obtained through the 1948 forced merger. With the exception of the hierarchs of the Orthodox Metropolitanate of Banat, all the other Romanian Orthodox Church representatives opposed the restitution of Greek Catholic churches, and refused to return properties, even when ordered to do so by a court. In Bogdan Voda, Maramures county, the Orthodox priest instigated the local population to physically oppose the restitution of a church that the Greek Catholic Church won in court in 2000. In February the Greek Catholic Church filed a complaint with the Ministry of Justice due to its inability to get the court ruling enforced because of the Orthodox priest's opposition. The Ministry of Justice rejected the complaint as outside its competence and asked the Orthodox Patriarchate to investigate its own alleged illegal conduct and provide an answer to the Greek Catholic Church.

A Greek Catholic-Romanian Orthodox commission, which had long been ineffective in resolving the problem of the restitution of Greek Catholic churches, remained dormant since 2004. In July the Greek Catholic hierarchs refused a government initiative to organize a Greek Catholic-Romanian Orthodox meeting, pointing to the absence of concrete results of bilateral dialogue over many years. On July 5, the Holy Synod of the Orthodox Metropolitanate of Cluj, Alba, Crisana, and Maramures issued a communique that criticized alleged intensified anti-Orthodox proselytizing actions by the Greek Catholic Church and called for a law to resolve the Romanian Orthodox-Greek Catholic dispute over churches and church property. The Romanian Orthodox Church reportedly collected signatures in support of such a draft law that would take into consideration the number of each denomination's believers in determining what properties should be returned to the Greek Catholic Church.

On July 19, the Greek Catholic Church reiterated that the Government was obliged to adopt a law to restore formerly Greek Catholic churches and properties to the Greek Catholic Church. In October, the Holy Synod of the Greek Catholic Church addressed a letter to President Basescu, repeating its request for the restitution of a number of cathedrals and the former Greek Catholic churches in localities where the Romanian Orthodox Church is operating two churches, and provision for alternative religious service in localities with only one church. They also requested the restitution of all Greek Catholic Church properties presently controlled by the state. President Basescu had not responded to the letter by year's end.

The Romanian Orthodox Church continued to demolish Greek Catholic church buildings under various pretexts and also attempted other methods to shield churches from return. On May 9, a work crew acting on the instructions of the Romanian Orthodox Church demolished a Greek Catholic parish church in Taga, Cluj county, despite a government injunction forbidding its demolition or the construction of a new church. The Orthodox Church had originally attempted to build a new church around the old Greek Catholic church to avoid restitution of the property to the Greek Catholic church. A similar such occurrence was reported in Ungheni.

The historical Hungarian churches, including the Hungarian Roman Catholic and the Hungarian Protestant Reformed, Evangelical, and Unitarian churches, have reclaimed several significant properties. Since 2003 Hungarian churches received 534 of the approximately 2,700 properties they claimed under the law on return of religious property.

In Oradea, the Hungarian Reformed Church, the municipal office, and the Romanian Orthodox Church continued their dispute over possession of land used for a playground adjoining the Reformed Church high school. The municipality granted the land to a neighboring Orthodox Church without taking the school into consideration, a move that ethnic Hungarians claimed deliberately discriminated against the church. Ethnic Hungarians also claimed the local Orthodox parish intensified the conflict by locking up the playground during the summer of 2005 and restricting all access.

The 2005 law amending the law on the restitution of religious and communal property provided for a broader scope of claimable properties and compensation for demolished buildings. This law was potentially beneficial to the Jewish community, which claimed over 3,700 properties.

*Societal Abuses and Discrimination.*—According to the 2002 census, the Jewish population numbered 5,785 persons. Acts of anti-Semitism, including vandalism against Jewish sites, continued. In many such cases, the Federation of Jewish Communities notified the authorities, but the perpetrators were often not identified. The Center for Monitoring Anti-Semitism, an NGO, noted that authorities tended to downplay such incidents, often attributing the acts of vandalism without proof to children, drunkards, or persons with mental disorders.

On January 20, police arrested a 20-year-old for throwing stones at the window of the Jewish Theatre in Bucharest. According to police reports, the man was apparently mentally ill and was hospitalized in a specialized clinic.

On March 24, unidentified individuals vandalized 20 tombs in the Jewish cemetery in Resita, causing approximately \$45,000 (115,000 new lei) in damage. The Federation of Jewish Communities notified authorities, but the perpetrators were not identified.

During the night of May 5, two minors drew two swastikas on the walls of the Lutheran church in Cluj. The police fined the two minors, and the Lutheran Church also filed a criminal complaint, claiming that the perpetrators offended a religious denomination. Lutheran Church officials speculated that the act was linked to the Government of Israel's recognition in 2005 of one of the parish's pastors who hid Jews in the church during Nazi occupation. The case remained pending.

In May swastikas and anti-Semitic graffiti appeared on the walls of a house in Bucharest. Perpetrators were not identified.

On June 17 and 18, newly painted swastikas were found on several buildings in downtown Cluj, mostly on ethnic Hungarian-related buildings, including a church and the Hungarian-language Bathory Istvan High School.

In November 2005 swastikas and anti-Semitic slogans were found on tombstones in two cemeteries, the walls of a vocational school and a neighboring bloc of apartments in Suceava. The police carried out an investigation, and began their prosecution of four alleged perpetrators in December for having vandalized the cemeteries; two of whom were also charged with dissemination of fascist, racist, and xenophobic symbols.

The extremist press continued to publish anti-Semitic articles. The Legionnaires (Iron Guard), an extreme nationalist, anti-Semitic, pro-Nazi group, continued to republish inflammatory books from the interwar period. In February, an appeals court



acquitted a contributor to a legionnaire magazine of charges for disseminating propaganda and fascist symbols (see section 2.a.).

During the year anti-Semitic views and attitudes were expressed during the talk shows of private television stations such as Antena 1, National TV, DTV, and Pro-TV.

Extremists continued to publicly deny that the Holocaust occurred in the country or that the country's leader during World War II participated in Holocaust atrocities in Romanian-administered territory. Religious services for dead Legionnaire leaders continued to be held in individual Orthodox churches. The annual march commemorating the founder of the Legionnaire movement, Corneliu Zelea Codreanu, took place in Tancabesti on November 25.

On June 1, three nationalist organizations and parties, Vatra Romaneasca (Romanian Hearth Union), the Marshal Antonescu League, and the Party of the United Left sponsored a public religious service to commemorate the 60th anniversary of Ion Antonescu's death. Antonescu was the Romanian dictator during World War II and was responsible for widespread atrocities against Romanian Jews during the war. The Federation of Jewish Communities filed a complaint against the three sponsors of the event, based on the law which forbids racist, xenophobic, and pro-Nazi propaganda and which bans organizations that disseminate such ideas. The police sent the complaint to the prosecutor's office of the High Court of Cassation and Justice, and no further action was reported by year's end.

In September 2005 unidentified individuals removed the covering hiding a bust of Antonescu located in an Orthodox church courtyard in Bucharest. The covering was eventually put back in place following complaints from the local Jewish community. In July the church priest removed the bust, reportedly in response to pressure from government officials.

The Government continued to make progress in its effort to expand education on the true history of the Holocaust in the country. However, it failed to implement any plans to make the course on the Holocaust mandatory for all public high schools. The elective course was offered for the first time at 200 high schools in the 2004-05 school year, but without any standardized textbooks.

In March the Ministry of Education made available on its Web site a teaching guide to assist the 327 teachers nationwide who instruct courses on the Holocaust. The Ministry of Education continued to sponsor international seminars on the Holocaust and the teaching of its history. The Government also earmarked \$95,000 (245,000 new lei) to sponsor a June conference in Iasi organized by the National Institute for the Study of the Holocaust to commemorate the 1941 Iasi pogrom.

On various occasions during the year, the President and other high-level officials continued to make public statements against extremism, anti-Semitism, and xenophobia, and criticized the denial of the Holocaust. During a January 23 conference to commemorate the 1941 Bucharest pogrom, President Basescu highlighted the necessity "to present the realities of that time to the young generation."

On January 23, the Government launched a design contest for a Holocaust memorial in Bucharest, and the winning project was selected on August 23. The cornerstone of the memorial was laid on October 9, the National Holocaust Day.

In April the Government enacted a law to combat anti-Semitism and prohibit fascist, racist, and xenophobic organizations. The law includes the persecution of Roma in addition to Jews in its definition of the Holocaust, since approximately 14,000 Roma were killed in the country during that period. However, authorities failed to enforce the law against participants in an anti-gay parade on June 3, who used symbols and slogans of the Iron Guard (see section 5).

In April the Simon Wiesenthal Center, in its annual report on the investigation and prosecution of Nazi War Criminals, categorized the Government as a "total failure" for refusing in principle to prosecute suspected Nazi war criminals, despite clear evidence that such individuals were residents within the country's borders.

The country also commemorated the third National Holocaust Day on October 9 with events in several cities that were attended by key dignitaries including the President, prime minister, and foreign minister. The President laid the cornerstone for a Holocaust memorial to be built in Bucharest. In his address, the President stated that Romanians still largely lacked remorse for their country's role in exterminating up to 380,000 Jews during the Second World War. Roma also staged a march on October 9 to insist that their wartime plight also be included in new teaching materials on the Holocaust.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

In July 2005 the Government temporarily implemented a policy of passport confiscation for citizens discovered upon reentering the country to have exceeded their permitted length of stay in an EU Schengen country. Human rights NGOs and the media protested that the rule effectively curbed a citizen's right to travel freely outside the country. The Government stopped implementing the policy four days later, and the restriction was abandoned entirely when a new law on passports entered into effect in January.

*Internally Displaced Persons (IDPs).*—The Danube river floods in April produced extensive damage and displaced 16,366 persons, mostly from Dolj and Calarasi counties. The Government allocated approximately \$76 million (196 million new lei) for home reconstruction. In November the Government also allocated an additional \$30 million (76 million new lei) for flood protection works in high-risk localities. However, at the end of the year, an estimated 596 people continued to be displaced and were living in container-houses.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In August a new law on asylum entered into force that prohibits the expulsion, extradition, or forced return of any asylum seeker at the country's border or from within the country's territory. However, the law denies protection to people who participated in terrorist acts, crimes against humanity, or other serious offenses.

In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution; however, the Office of the UN High Commissioner for Refugees (UNHCR) considered the time limits provided by the law for submitting appeal applications and court procedures to be too short.

The Government did not provide temporary protection to individuals who did not qualify as refugees under the 1951 Convention and the 1967 Protocol. During the year the Government received 464 applications for refugee status and granted humanitarian protection to nine persons.

In July 2005 the Government agreed to allow on a temporary basis 439 Uzbek refugees from Kyrgyzstan to enter the country without a visa for humanitarian reasons. The Government signed an agreement with the UNHCR and the International Organization for Migration (IOM) to permit the refugees to stay at a suitable facility in Timisoara for up to six months; the agreement was subsequently extended for an additional six months. In July all remaining Uzbek refugees were successfully transferred to third countries for permanent resettlement.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR stated that government-sponsored programs for integrating refugees continued to improve following the 2004 refugee integration law. An agency within the national refugee office, which is subordinated to the Ministry of Administration and Interior, was established to help refugees integrate and seek employment in their communities. The Ministry of Administration and Interior and the Ministry of Labor, Social Solidarity, and Family also funded programs to assist asylees and refugees.

Refugees who received "tolerated" status under the old law on asylum complained that this status does not give them permission to work and restricts their movement. Under the new law, this status no longer exists and foreigners may receive refugee status, subsidiary protection (for people who are exposed to risks if returned to the country of origin), or temporary humanitarian protection (for people who come from armed conflict areas).

### *Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The country held national elections for parliament in November 2004 and for the presidency in December 2004. The parliamentary and first round of Presidential elections were characterized by widespread irregularities, precipitated primarily by the previous government's decision to abandon the use of electoral identification cards and to allow citizens outside their home districts to vote at any polling location in the country. There were widespread reports of individuals voting in multiple locations, which political parties occasionally facilitated. Observers also reported the abuse of "mobile ballot boxes" that were transported to elderly or infirm voters; the prolonged presence of elected offi-

cials in polling places in contravention of the law; and the illegal placement of campaign posters near polling centers. Civil society organizations and opposition parties also claimed that the central electoral bureau allowed fraud at a national level during the electronic tabulation of votes, although subsequent inquiries into these allegations were inconclusive.

In the second round of Presidential elections in December 2004, the Government limited the locations where voters outside of their home districts could vote, thereby reducing the possibility for multiple voting. However, both the lack of sufficient alternate locations and the closure of existing locations while many voters were waiting in line resulted in the disenfranchisement of hundreds and perhaps thousands of citizens, particularly in major cities. Members of the center-right Liberal-Democratic Alliance accused the then governing Social Democratic Party (PSD) of intentionally restricting the vote in this manner. In some precincts local officials or partisan election monitors instructed citizens how to vote, and campaign posters were placed too close to polls.

The law requires political parties to register with the Bucharest tribunal and to submit their statutes, program, and a roster of at least 25,000 signatures. These 25,000 "founding members" must be from at least 18 counties, including Bucharest, with a minimum of 700 people from each county. The party statutes and program must not include ideas that incite war; discrimination; hatred of a national, racist, or religious nature; or territorial separatism.

Organizations of ethnic minorities can also field candidates in elections if they meet requirements similar to those for political parties. Organizations must submit to the central electoral bureau a list of members numbering at least 15 percent of the total number of persons belonging to that ethnic group, according to the most recent census. If 15 percent represents more than 25,000 persons, then at least 25,000 names from at least 15 counties, but not fewer than 300 persons from each county, must be submitted. Human rights NGOs criticized these requirements as discriminatory and overly burdensome, and maintained that they eliminated any competition against the mainstream organizations representing Hungarians and Roma, namely the Democratic Alliance of Hungarians in Romania and the Social Democratic Roma Party in Romania. The Bucharest tribunal barred an ethnic Hungarian group from participating in the 2004 elections when irregularities were found in many of the 25,000 signatures on its members list.

While the law does not restrict women's participation in government or politics, societal attitudes presented a significant barrier. In parliament 38 of 331 deputies and 14 of 137 senators were women. There were three female ministers in the 24-member cabinet. Three of the prefects (governors) of the 42 counties were women.

The law grants each recognized ethnic minority one representative in the chamber of deputies if the minority's political organization cannot obtain the 5 percent of the votes needed to elect a deputy outright. Organizations representing 18 minority groups received deputies under this provision. There were 50 members of minorities in the 468-seat parliament. There were four members of minorities in the 24-member cabinet; all were ethnic Hungarians. There were no members of minorities on the high court.

Ethnic minority groups reported encountering difficulties in meeting the criteria to be allowed to field candidates, although there were no specific laws or policies prohibiting such groups from registering. The laws on national and local elections potentially discriminate against some minority organizations by defining "national minorities" as only the ethnic groups represented in the council of national minorities and by requiring that these organizations meet requirements to participate in government that are more stringent than those of minority groups already represented in parliament.

The Romani population was heavily underrepresented in parliament. Internal politics within the Romani community was fragmented, as several different Romani organizations vied for public support, and the individual efforts of these groups prevented the consolidation of votes for any single candidate, organization, or party. As a result, there was only one Romani organization represented in parliament, the Roma Party-Pro Europe. Low Romani voter turnout due to lack of awareness, means, or identity cards further exacerbated the situation.

Ethnic Hungarians, represented by the Democratic Alliance of Hungarians in Romania party, were the only ethnic minority to have attained parliamentary representation through the electoral process, having obtained over 5 percent of the total votes. Other ethnic Hungarian associations have alleged that their attempts to register as opposing ethnic Hungarian parties were unfairly blocked by the more influential existing party.

*Government Corruption and Transparency.*—Reports of corruption and the Government response to corruption remained a focus of public discussion, political de-

bate, and media scrutiny. The Government continued to implement its March 2005 Anticorruption Strategy, which included steps to increase transparency in public procurement, ensure oversight of government spending, and enforce new laws and procedures to combat money laundering and tax evasion. The National Anticorruption Directorate (DNA) prosecuted two officials for offenses alleged to have been committed while they occupied some of the highest positions in government. Prosecutors also investigated other high-level officials, including a state secretary, two mayors, a county council President and vice President, two judges, a chief prosecutor, and various officials from customs, police, and other government ministries.

NGOs and the media continued to note that no major case of high-level corruption had yet resulted in judgments involving prison sentences. On the contrary, one businessman held in pretrial custody on high-profile corruption and terrorism charges was released on medical grounds and escaped from the country due to the lack of a sufficient monitoring system. There were, however, some convictions of lower level officials for corruption.

The institution responsible for investigating and prosecuting high-level corruption cases remained the DNA. In January the Government upheld the DNA's exclusive and unrestricted competence to fight high-level corruption, including in cases involving members of parliament and government officials. The parliament approved the Government's emergency order reorganizing the DNA under the nominal authority of the prosecutor general's office, while retaining its distinct budget and requiring its prosecutors to continue to operate under the exclusive authority of the DNA Chief Prosecutor.

Although the DNA produced few indictments against former or current officials at the most senior levels of government, the office did successfully prosecute cases against mayors, judges, police, customs officers, and other officials at the local level and in the middle ranks of the bureaucracy.

The DNA was authorized to prosecute corruption without regard to the political affiliation of the accused. Opposition politicians, however, continued to allege that investigations of high-level officials tended to focus on members of former administrations, contributing to questions about the office's impartiality. Various members of parliament noted that the only political party in the coalition government whose members had not been subjected to prosecutorial investigations were those from President Basescu's Democratic Party.

The DNA enhanced its coordination with anti-fraud units set up within various ministries, accepting leads from their investigators and requesting further details from them. The Ministry of Interior established an Anticorruption General Directorate (DGA) to investigate allegations of corruption within the ministry. The DGA set up and publicized its anticorruption telephone hotline and began receiving confidential tips regarding corrupt officers from the general public. The Antifraud Department attached to the Prime Minister's Office continued to investigate cases involving the misuse of EU funds. The Ministry of Defense also created its own anti-fraud section and forwarded the results of its first investigation of a top-ranking military official to the DNA for further action.

During the year there were continuous political disagreements both within the ruling coalition and within the opposition regarding transferring authority to appoint the head of the DNA from the Ministry of Justice to the CSM.

In January the Ministry of Justice disbanded its General Directorate for Protection and Anticorruption, which had been in operation since 2001. According to the justice minister, the organization was being dissolved because it had been engaged in the wiretapping of judges and gathering of information for unknown purposes.

Part of the Government's strategy to combat corruption included strengthening asset disclosure requirements for public officials. Asset declaration forms requested extensive information from officials, but no monitoring authority existed to ensure forms were filed or to check their accuracy. The creation of such an authority was a major part of the Anticorruption Strategy, but the Government did not create a proposed National Integrity Agency that could monitor conflicts of interests and unjustifiable wealth of public officials while in office.

The law provides for access to government information related to official decision-making; however, human rights NGOs and the media reported that the law was poorly and unevenly applied. Procedures for releasing information were arduous and varied greatly by public institution. On numerous occasions NGOs and journalists took cases to court to obtain information.

The Government ordered the intelligence services to release the files of the Communist-era Securitate intelligence service, but many observers claimed the review of individual files of officials by the National College for the Study of Securitate Archives (CNSAS) served primarily political purposes. There were also complaints that

the CNSAS would not release to individuals, including former political prisoners of the Communist regime, the files the Securitate had kept on them. There was much debate as to why access to the Securitate's files remained limited and the contents only reached the public sporadically, and there was broad speculation that the continued presence of former Securitate members in the intelligence services hindered release of these files. In the second half of the year, after the intelligence services began handing the former Securitate archives over to the CNSAS, the CNSAS increased the pace of exposing former Securitate officers and informants who had been involved in political police activities. However, a lack of cooperation from the intelligence services prevented CNSAS from issuing similar findings on other officers and collaborators whose files indicated involvement in political police activities. There was significant debate over whether efforts to reveal persons involved with political police activities would uncover the many former Securitate agents and collaborators who remained active in politics and business.

There also were continued reports that local authorities occasionally made it difficult for journalists, NGOs and the general public to access public information. In at least one instance, a polling institution was reportedly coerced by government officials to limit the public release of information that reflected negatively on certain political groups or goals.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views; however, there were a few reports of government officials harassing and intimidating members of the NGO community.

At times police intimidated and harassed NGO workers. Romani CRISS continued to complain that police and local authorities attempted to harass and intimidate its local human rights monitors.

An ombudsman's office existed to protect citizens' constitutional rights, but it had limited power and independence from the Government. Numerous media reports characterized the office as ineffective. During the first nine months of the year, the office handled 4,718 complaints. The office did not have authority in cases requiring judicial action.

The CNCD is an independent governmental agency that reported directly to the Prime Minister's office until July. During the year the CNCD received 432 public complaints of discrimination, most of which were resolved. Approximately 80 of the cases involved alleged discrimination on the basis of nationality and ethnicity; eight complaints reported discrimination on religious grounds. This body continued to be understaffed and had an insufficient budget.

In 2005 the CNCD played a leading role, along with four NGOs, in drafting language for a new antidiscrimination law, which was adopted by parliament in June and signed into law by the President on July 14. The new law defines the CNCD as an independent body and places it under parliamentary control instead of the Prime Minister's office and stipulates increased fines for discriminatory attitudes: \$156 to \$1,560 (400 to 4,000 new lei) for discrimination against individual and approximately \$230 to \$3,120 (600 to 8,000 new lei) for discrimination against groups of persons or communities. However, the CNCD budget for the year was still insufficient.

Both chambers of parliament have a human rights committee that focuses on legislation regarding human rights, religious issues, and minorities. However, since these committees were made up of party representatives, their recommendations often simply reflected the parties' views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law forbids discrimination based on race, gender, disability, ethnicity, language, or social status, among other categories. However, in practice, the Government did not enforce these provisions effectively in some circumstances, and women, Roma, and other minorities were often subject to discrimination and violence.

*Women.*—Violence against women, including spousal abuse, continued to be a serious problem, and the Government did not effectively address it.

The law prohibits domestic violence and allows police intervention in such cases; however, there is no specific law that addresses spousal abuse. NGOs reported that domestic violence was common. According to a 2002 UN survey, 45 percent of women have been verbally abused, 30 percent physically abused, and 7 percent sexually abused. The law does not provide sentencing guidelines for domestic violence convictions.

Although there was no evidence of police or judicial reluctance to act on domestic abuse cases, very few cases were prosecuted in the courts. Many cases were resolved before or during trial when victims dropped their charges or reconciled with the accused abuser. In cases with strong evidence of physical abuse, the court can prohibit the abusive spouse from returning home. The law also permits police to fine the abusive spouse for disturbing public order. During the year there were approximately 400 convictions for domestic violence.

During the year the National Domestic Violence Coalition, composed of more than 30 NGOs, organized a number of campaigns to raise awareness of domestic violence. The Government funded 26 public institutions that provided counseling and support to domestic abuse victims. In addition, 52 NGOs from all regions of the country worked on domestic violence. There were several shelters dedicated to domestic abuse victims, but many of them were forced to close due to insufficient funding. The Government distributed funds to NGOs operating shelters for domestic violence victims in Cluj, Timisoara, and Baia Mare.

According to NGOs, rates of domestic violence against women in Romani households were significantly higher than the domestic abuse rates in the general population.

Rape, including spousal rape, is illegal. The prosecution of rape cases was difficult because it required both a medical certificate and a witness, and a rapist could avoid punishment by marrying the victim. The successful prosecution of spousal rape cases was even more difficult because the law requires the victim to personally file a criminal complaint against the abusive spouse and does not allow others to file the complaint on the victim's behalf. The law provides for three to 10 years' imprisonment for rape; the sentence increases to five to 18 years if there are aggravated circumstances. There were 254 rape convictions during the first half of the year. NGOs provided counseling and shelters for rape victims.

Prostitution is illegal, but was prevalent. Police implicitly tolerated most cases by limiting their intervention to fining prostitutes for loitering or disturbing the peace. NGOs and the media reported that sex tourism existed in Bucharest and other major cities. No laws exist to punish clients of prostitution, unless the prostitute was a minor and the client admitted knowing that fact before the act.

There were reports of trafficking in women and children (see section 5, Trafficking).

The law prohibits any act of gender discrimination, including sexual harassment. Although there were no reported cases of sexual harassment during the year, human rights NGOs attributed this to low public awareness of the problem. The Government enforced existing prohibitions, but there were no effective programs in place to educate the public about sexual harassment.

The law grants women and men equal rights, including under family law, property law, and in the judicial system. In practice, the Government did not enforce these provisions, nor did authorities focus attention or resources on women's issues. Women had a higher rate of unemployment than men and occupied few influential positions in the private sector. An EU report published in August 2005 indicated that a man's average salary was 18 percent higher than that of a woman.

Romani culture strongly discouraged women from working outside the home, especially in the formal economy. Romani women often lacked training, marketable skills, or relevant work experience. According to an Open Society Institute (OSI) report released during the year, only 26 percent of Romani women interviewed were part of the workforce as employees, day laborers, or freelancers. A 2005 survey by the United Nations Development Program (UNDP) found that the unemployment rate of Romani women between ages 25 and 54 was four times higher than that of non-Romani women in the country. Romani women also were three times as likely to be unemployed compared to Romani men. The average monthly income of women surveyed by OSI was \$41 (106 new lei).

The national agency for family protection, within the Ministry of Labor, Social Solidarity, and Family, is responsible for advancing women's concerns and family policies, including organizing programs for women, proposing new laws, monitoring legislation for sexual bias, targeting resources to train women for skilled professions, and addressing the problems of single mothers.

The law on equal opportunities for men and women was amended in July to extend protections to public employees as well as private sector employees. The amended law gives a female employee returning from maternity leave the right to return to her previous or similar position and to benefit from any improvements in working conditions that occurred during her absence.

*Children.*—The Government was committed to children's rights and welfare, but competing priorities, bureaucratic inefficiency, and poorly allocated resources prevented this commitment from being fulfilled in practice.

Public education was free and compulsory through the 10th grade or age 16. After the 10th grade, schools charged fees for books, which discouraged lower-income children, particularly Roma, from attending. The UN Children's Fund (UNICEF) reported that approximately 90 percent of primary school-age children attended school.

The highest level of education achieved by most children was secondary school, although Romani students had lower rates of attendance at all education levels (see section 5, Minorities).

A general health insurance plan covers all children until age 18 or graduation from secondary school. All schools have medical units which supply first aid and carry out vaccination campaigns. Boys and girls had equal access to medical care in schools. All medical costs for children are waived, and most drugs are provided at little or no cost. Of the 11,352 persons with HIV/AIDS, approximately 75 percent are children between the ages of 15 to 19 who were infected in the late 1980s and early 1990s through contaminated blood transfusions and other medical procedures.

Child abuse and neglect continued to be serious problems, and public awareness of the issue remained poor. Media reported several severe cases both in families and in child welfare institutions. Abuse observed within state institutions included children tied to cribs with bed sheets and prolonged incarceration for misbehavior. While the law protects children from abuse and neglect, the Government has not established a mechanism to identify and treat abused and neglected children and their families. In 2004 police reported that 1,221 cases of abused and neglected children were registered, including 832 cases of rape, 284 cases of sexual intercourse with a minor, 114 cases of sexual perversion, and 101 cases of sexual corruption. Officials believed the number of unreported cases was much higher. At year's end there were 39 hotlines to receive and assess reports of child abuse and neglect and 22 specialized counseling services for centers for abused, neglected, and trafficked children. During the year hotline operators received approximately 5,400 calls reporting child abuse and neglect. During the year the Government funded the creation of services for child victims of abuse and neglect as a national interest program; however, implementation was delayed due to the fact that no NGOs bid to provide services under this program.

The abandonment of children in maternity hospitals remained a problem with over 2,580 children left in hospitals by their parents during 2005. Between January and August 1,654 children were abandoned in hospitals.

The National Authority for the Protection of Children's Rights (ANPDC) in coordination with the Ministry of Health made some progress in discouraging child abandonment through prenatal counseling and training of hospital personnel. However, children's rights NGOs and local child welfare officials reported that these efforts were insufficient to resolve the continued high number of abandonment cases, resulting in many essentially healthy children being kept in hospitals because family reintegration or foster placement was unavailable. According to the Children's High Level Group study on the prevention of child abandonment, 60 percent of children abandoned by their parents were left in hospitals, while the remaining 40 percent were abandoned in other places, including on the street.

The 2005 child welfare law and its implementation continued to create confusion among entities responsible for child welfare and to prolong the time that a child spent in the child welfare system before being reunited with biological parents or being adopted. NGOs and child protection authorities continued to report that judges, police, and social workers generally lacked clear instructions from the central government, training, and the resources necessary to implement the legislation. As a result, thousands of children remained institutionalized or in foster care rather than reunited with biological families or legally approved for adoption when family reunification was not possible. There were credible reports of attempts to force family reunification for abandoned children in cases where biological family members explicitly stated they did not want the children or in which there was a high risk of child abuse or child labor.

There were many reports of abandoned children being forced to wait for several years in institutions or foster care while authorities searched for their biological parents to formalize their abandonment in court. The adoptions office announced that 1,136 children were adopted during 2005 and 1,067 were adopted through November. The Government claimed there were only 883 children available for adoption in the country in December, and over 1,680 families that wanted to adopt children. However, the number of children available for adoption represented only a fraction of the estimated 9,000 children abandoned each year. These low figures were due to the state's non-recognition of the physical abandonment of children. There was no time limit on parents' absence from children for the children to be legally recognized as abandoned. Instead, government policy aimed to reintegrate

children into biological families even years after physical abandonment. Many citizens wishing to adopt the children whom they already cared for as foster parents were forced to wait for the abandoning parents' statement of abandonment in court before the children could be declared legally adoptable. Many expressed fears that the foster children who had spent years in their care could be taken back by the biological parent or relatives and forced into begging on the street.

The public child welfare system tracked approximately 95,000 children. More than half of these lived with extended families or in foster care, and approximately 32,000 lived in public and private institutions. The Government continued to build smaller, family-type residential units for children in need of protection, including children with disabilities. The number of children in institutions continued to drop, from 31,000 in 2005 to 27,000 during the year, while the foster care system expanded to care for 19,300 children during the year compared with 16,800 children in 2005. Abandoned children under two years of age were only allowed to be placed in foster care, not released for adoption, if reunification with biological parents failed. Roma children, who were disproportionately represented among abandoned children, continued to suffer racial discrimination and were rarely adopted by Romanian families. Child welfare authorities did not have a system for providing labor market information, skills training, or job placement services for older children in residential care, and there was a high probability that they would gravitate to the streets, where they would be vulnerable to sexual exploitation and crime.

The legal age of marriage is 18, but girls as young as 15 may marry in certain circumstances. Illegal child marriage was common within certain social groups, particularly the Roma. While there were limited statistics available on the extent of the problem, a recent UNDP survey found that 35 percent of Romani girls were married before reaching the age of 16. There were no government programs to address the problem of child marriages.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking). There also were isolated cases of children involved in prostitution for survival without third-party involvement, and some instances of boys as victims of trafficking.

The country has a mechanism for the repatriation of unaccompanied Romanian children and for ensuring special measures for their protection. In 2005 approximately 3,250 children and their families benefited from protection and assistance in 12 transit centers in the country.

The national agency for employment is legally required to provide up to 75 percent of the median national salary to employers for hiring persons between 16 and 25 years who are at risk of social exclusion, a group that includes youth reintegrating into society after spending time in state-care facilities or prison; young parents; and other categories of at-risk youth. The law provides that youth leaving the state institutional system may receive state assistance for an additional two years, during which they receive skills training for independent living. However, fewer than 1,000 youth benefited directly from this program during the year.

During the year the NGO Mental Disability Rights International (MDRI) reported that doctors in some hospitals were still encouraging parents to give up children born with disabilities. The abandonment of children with disabilities decreased steadily in recent years, as specialized rehabilitation services for such children became slightly more available. There were approximately 75,000 children with disabilities, of which 12,000 were in state care. The MDRI report detailed the physical and mental disabling of abandoned children due to the conditions they were subjected to in state institutions. Several reports detailed the inhumane conditions children with physical and mental disabilities were subjected to in state institutions, including being bound, malnourished, and abused. In one instance, authorities sought to cover up repetitive sexual abuse within a state institution by denying those who revealed the problem further access to the institution. No attempt was made to separate the abuser from the abused until well after the issue appeared in the press.

Child labor was a problem (see sections 5, Trafficking, and 6.d.).

An official complete list of hazardous child labor activities still did not exist by year's end. A draft list was submitted by the National Steering Committee to the Ministry of Labor, Social Solidarity and Family, in February. At year's end, the Directorate for EU Integration was analyzing the document.

A National Statistics Institute survey released in 2003 on children's activities—the only nationwide survey to document the extent of child labor—found that between 40,000 and 80,000 children were involved in activities identified as the worst forms of child labor, including begging, drug dealing, stealing, prostitution, or were victims of child trafficking. Over 90 percent of these children were from rural areas.



Street children, children in urban areas, and Romani children were the most vulnerable to labor and sexual exploitation.

While the Government did not maintain official estimates on the number of homeless children living on the streets, police, social workers, and NGOs estimated that between 3,000 and 5,000 children lived on the streets, depending on the season.

During the year the Government continued to administer six national programs for the protection of children's rights. The programs focused on closing large state-run institutions for children; developing services for children with disabilities; creating services for children victims of child abuse, neglect, and exploitation; implementing the national professional standards of child welfare services and monitoring children's rights; improving the foster care network; and creating and developing community social services to support family cohesion. NGOs implemented these programs with governmental funding from the national budget.

*Trafficking in Persons.*—The law prohibits trafficking; however, trafficking in persons continued to be a serious problem. The law defines trafficking as the use of coercion to recruit, transport, harbor, or receive persons for exploitation. Coercion includes fraud or misrepresentation. Exploitation includes slavery, forced labor, prostitution, being a subject in pornography, organ theft, or other conditions that violate human rights. For minors under the age of 18, it is not necessary to prove coercion.

The country was a point of both origin and transit for trafficking in persons. While the majority of trafficking cases involved international trafficking between the country and Western Europe, cases of domestic trafficking were also reported. Victims—primarily women and children—were trafficked for purposes of sexual exploitation, labor exploitation, and forced begging. In 2005 the Government identified 2,250 victims of trafficking. Recent trends indicated that traffickers rented private apartments, rather than using public bars and brothels, to conduct their illicit activities. The use of clandestine locations complicated the already difficult task of locating victims and allowed traffickers to operate with less concern of discovery by local authorities.

According to the Government, many of the child victims originated in the eastern and northern areas of the country. Boys were targeted for forced labor, petty theft activities, and solicitation. Girls were targeted for sexual exploitation and solicitation. Adult victims generally originated in the southern part of the country, and were recruited by traffickers with the promise of jobs abroad.

During the year authorities noticed an increase in cases of forced labor involving victims between the ages of 30 and 40. Women between the ages of 18 and 25 were more likely to become victims of trafficking for sexual purposes than any other age group or gender. Children were more likely to become victims of trafficking if they came from orphanages, single parent homes and/or lived in a dysfunctional family environment (e.g. families with financial difficulties, abuse, or alcoholism).

Trafficking victims endured poor, cramped living conditions. Traffickers ensured the victims' compliance through threats, violence, and the confiscation of travel documents.

Government officials reported that small groups of Romanian citizens were the most common operators of trafficking rings; several domestic prostitution rings were also known to be active in trafficking victims into, through, and from the country. In recent years the number of women and minors involved in trafficking has increased; most of these individuals acted as recruiters.

Most victims were trafficked through or out of the country under seemingly legal means. Traffickers used employment agencies and travel companies as fronts for their activities. It was not difficult for traffickers to obtain legal work papers for the victims they intended to traffic. It was relatively easy for young women to legally secure visas for work as waitresses or domestics in destination countries; however, once out of the country and removed from any support structure, such women were extremely vulnerable to becoming trafficking victims. Most women trafficked for sexual exploitation were recruited by persons they knew or by newspaper advertisements. A friend or relative frequently made the initial offer, often telling the victim that she would obtain a job as a baby sitter or waitress. The crimes commonly associated with human trafficking, such as rape and false imprisonment, rarely occurred within the country's borders; rather, such abuses began when the victim who had been deceived about the nature of the work, arrived in the destination country.

The law provides for five to 15 years' imprisonment for trafficking in minors or for multiple victims; if a victim suffers serious bodily harm or health problems; or if the trafficking is done by a public servant during his or her official duties. A sentence of five to 25 years is mandated for trafficking that leads to the death or suicide of the victim. These penalties are increased by two to three years if the traf-

ficker belongs to an organized crime group and by five years if coercion is applied against minors.

Under 2005 revisions to the law, victims of trafficking who are arrested for prostitution or begging cannot be prosecuted for these offenses. In practice, however, victims were frequently not recognized as victims of trafficking upon arrest and were therefore treated as criminals. Only after a period of investigation were they typically declared "victims."

Corruption in the police, particularly the local forces, contributed to trafficking. There were frequent allegations that border police and customs agency officials accepted bribes to ignore cases of trafficking.

The National Antitrafficking Agency (ANITP), created in December 2005, is responsible for collecting all information related to trafficking in persons and coordinating the efforts of the Government to combat trafficking and treat trafficking victims. During the year ANITP focused on hiring staff and worked to become operational. The Government approved a new national strategy against trafficking in November, and plans for implementation of that strategy continued at year's end.

During the first six months of 2005 ANITP provided assistance to 109 trafficking victims, four of whom were under the age of 13, 22 were between ages 14 and 17, 61 were between 18 and 25, and 22 were over age 25. According to statistics provided by ANITP, 146 traffickers were convicted in 2005. During the year the IOM assisted 129 victims, of whom 121 were female, and 19 were minors. In January the Government extradited one trafficker wanted by the Greek authorities to Greece.

The law requires the Government to protect trafficking victims, but implementation of the law remained weak and uneven. Reports of law enforcement officials losing contact with identified victims were common. Some identified victims reportedly chose not to press charges to avoid bureaucratic judicial procedures. Although the Government trained border police to encourage victims to identify themselves, few victims were willing to do so. There were reports that repatriated victims faced social discrimination in their home countries.

The Government made attempts to assist repatriated victims. According to government reports, the Government opened twelve shelters for trafficking victims required by law. The shelters were underutilized, in part because the law did not mandate a standardized system for referring victims. Although the law obligates law enforcement officials to inform victims of the services available at government-operated shelters, many victims chose to decline them.

In 2005 ANPDC established a technical secretariat charged with implementing a national action plan to fight child trafficking and exploitation. The secretariat carried out activities related to repatriation, protection, and social reintegration of unaccompanied Romanian children in difficulty in other countries, regardless of whether such children were victims or offenders. As a result, between January and March 59 children were repatriated from European countries including Italy, Spain, France, the United Kingdom, Germany, and Ireland.

During the year the Government worked with domestic and international NGOs to build public awareness of trafficking risks and to improve and expand the services offered to victims. Public officials, including the President, made public statements during the year about the trafficking problem.

The ANDPC, the antidrug national agency, and territorial general directorates for social assistance and children's protection created a program to monitor child labor that was operational in several cities. The project set up a system of services for the protection, rehabilitation, and social reintegration of child victims of domestic and international trafficking. In 2005 60 children vulnerable to human trafficking and 140 children involved in the worst forms of child labor were referred to social services and monitored.

*Persons With Disabilities.*—In addition to the antidiscrimination law, which prohibits discrimination against all persons in employment, education, access to health care, or the provision of other services, a new law regarding the rights of persons with disabilities became effective in December. However, the Government did not fully implement the law, and discrimination against persons with disabilities remained a problem during the year.

The law mandates accessibility for persons with disabilities to buildings and public transportation. In practice, the country had few facilities specifically designed for persons with disabilities. During the first half of the year, the national agency for persons with disabilities inspected 325 important local state institutions, such as prefecture buildings, county council buildings, and museums, and found that 73 percent of these structures lacked adequate facilities for persons with disabilities. During the year, however, an increasing number of public and private facilities voluntarily installed accessible features.

As of March 31, the Government reported that approximately 405,000 adults and 55,000 children were registered as persons with disabilities. Of this number, almost 18,000 adults and 354 children were receiving special care in residential institutions. The country had 149 residential institutions for adults with disabilities. NGOs estimated that there were some 300,000 persons with intellectual disabilities in the country, and close to three million persons with disabilities overall.

An Amnesty International (AI) report released in May criticized the conditions in psychiatric hospitals, which continued to fall below international standards. The country had 38 psychiatric hospitals, four of which were considered secure facilities for convicted criminals, and 66 outpatient mental health facilities, most of which were not in operation.

According to reports by human rights NGOs, the placement, living conditions, and treatment of patients in many psychiatric wards and hospitals did not meet international human rights standards and were below professional norms. Most psychiatric hospitals had poor hygiene, insufficient heating, and insufficient food rations. Some hospitals lacked running water, were heavily overcrowded, lacked a sufficient number of beds, and had no mechanism for complaints in cases of abuse. Patients were in many cases secluded in rooms with metal bars on the windows based on arbitrary decisions of the staff. Conditions in psychiatric wards did not improve during the year.

On August 1, the Ministry of Health established a national center for mental health which was tasked with drafting a national strategy for the psychiatric sector. During the year the center began conducting an inventory of mental health institutions nationwide.

The Ministry of Health adopted a mental health action plan in 2005 that included provisions for persons with mental disabilities. However, NGOs asserted that the plan failed to improve conditions in psychiatric institutions; most aspects of this plan remained unimplemented by year's end. The provision of community-based mental health care services remained inadequate.

In January 162 psychiatric patients who were convicted criminals were transferred from a Poiana Mare hospital, where 18 patients died from malnutrition and hypothermia in 2004, to a psychiatric hospital in Sapoca. Upon their admission to the hospital in Sapoca, most of those transferred were diagnosed with tuberculosis and syphilis. Although the Ministry of Health ordered the closure of the Poiana Mare hospital in November 2005 it continued to function as an institution for chronic psychiatric patients, although convicted criminal patients were no longer held there. According to media reports, the Government did not close the hospital because of protests by hospital employees who feared the loss of their jobs.

In May MDRI released a report that harshly criticized the Government for its treatment of children with mental disabilities and alleged that the country was in serious violation of its obligations under both the UN Convention on the Rights of the Child and the European Convention on Human Rights. MDRI found that children were being detained in adult facilities, some children were kept in permanent restraints, and abuse and neglect were commonplace throughout the country's mental institutions and healthcare facilities.

The Center for Legal Resources, a local NGO, reported that minors with mental disabilities were routinely mistreated in state care institutions. These children were subjected to both verbal and physical abuse, including being tied to their beds, beaten, and threatened that they would be sent to psychiatric hospitals. Some minors were sent to psychiatric hospitals without the consent of the minors' legal guardians. According to human rights NGOs, there was no system to ensure that the rights of children with mental disabilities were observed in state care institutions. There were also reports that children without any mental disability were placed in centers for children with mental disabilities because they were HIV/AIDS-positive.

According to a report released by the Open Society Institute in September 2005, only 28 percent of the approximately 52,000 children with mental disabilities received any form of education because most remedial schools did not accept children with serious mental disabilities. The report also cited a lack of job opportunities for persons with disabilities.

An August Human Rights Watch report noted widespread discrimination faced by children with HIV/AIDS and authorities' failure to protect children from discrimination, abuse, and neglect. According to the report, less than 60 percent of the approximately 7,200 children and youths with HIV/AIDS attended any form of schooling. Doctors often refused to treat children and youths with HIV/AIDS, who obtained medication only with difficulty and delays. Medical personnel, school officials, and government employees did not keep the confidentiality of information about the children, which caused the children and families to be denied services such as schooling.

In addition, in some situations the children and their parents were threatened by parents of other children to keep them out of school.

*National/Racial/Ethnic Minorities.*—According to a government survey, national minorities in approximately 13 percent of the country's localities do not have any rights regarding the use of their language. The survey also indicated that laws on the use of minority languages with regard to education, culture, and administration were enforced in 80 percent of localities with national minority communities. In 20 percent of localities surveyed, bilingual signs were not installed as required by law.

In November the Government released a survey on interethnic relations, which revealed that Romanians continued to harbor preconceived ideas and stereotypes about ethnic minorities including Hungarians, Roma, and Jews. According to the survey, although 45 percent of respondents viewed Roma as one of the most underprivileged social and ethnic groups, over 60 percent agreed with the statement, "If I were an employer, I would not hire Roma because most of them are lazy and steal." Forty-eight percent of respondents believed that only ethnic Romanians should be hired in positions of responsibility in the state or society, such as judges or police.

Discrimination against Roma remained a serious problem. NGOs reported that throughout the country, Roma were denied access to, or refused service in, shops, restaurants, discotheques, and other places of public accommodation.

An AI report published in May highlighted as a major problem the racially motivated violence perpetrated by both individuals and law enforcement authorities against the Romani population. Romani groups complained that police brutality, including beatings and harassment, was routine (see section 1.c.). In January and August police forcibly beat and evicted Roma from their homes (see sections 1.c. and 1.f.).

The results of a December 2005 nationwide survey regarding discrimination and tolerance, conducted by the Center for Urban and Regional Sociology at the request of the CNCD, indicated that 81 percent of respondents thought that most Roma broke the law; 61 percent shared the opinion that Roma were a disgrace for Romania; and 52 percent favored the idea that Roma should not be allowed to travel abroad.

Persistent poverty among the Roma remained one of the country's most prominent social problems. Roma faced the greatest hardship of any minority, with poor access to government services, few employment opportunities, high rates of school attrition, inadequate health care, and pervasive discrimination. Human rights NGOs characterized the persistent cyclical poverty confronting the country's Roma as an issue that had barely been addressed since the fall of communism. Although some government initiatives have shown positive results, an emerging group of Roma activists viewed many programs implemented to date as replacing Roma culture with a deepening culture of dependence.

A 2004 European Commission report estimated that the Roma population numbered between 1.8 and 2.5 million persons, although the most recent official census of 2002 reported the significantly lower number of 535,000. NGOs pointed out that government figures were low because many Roma did not reveal their ethnicity to authorities, and many Roma lacked identity cards or other forms of identification.

According to an analysis of the 2002 census by the Romani NGO Impreuna (Together), approximately 35 percent of the Romani population had not graduated from primary school. Illiteracy among Roma was 25.6 percent.

There were reports of pervasive discrimination by teachers and other students against Romani students. NGOs and the media reported that such discrimination served as an additional disincentive for Romani children to complete their studies. During the year there were reports of Romani children being placed in the back of classrooms due to their ethnicity, of teachers ignoring Romani students, and of unimpeded bullying of Romani students by other schoolchildren. In some communities, authorities placed Romani students in separate classrooms from other students and even in separate schools. At the end of the 2005–06 school year, Romani NGOs identified cases of Romani children segregated from other students in schools in Moreni, Neamt county; Munteni, Neamt county; Roman, Neamt county; Baluseni, Noi, Botosani county; Targu Frumos, Iasi county; Pecica, Arad county; Santana, Arad county; Curtici, Arad county; Jibou, Salaj county; Polovragi, Gorj county; Constanta; Turda, Cluj county; Ineu de Cris, Bihor county; and Bogei, Bihor county. In 2004, following complaints by several NGOs, the Ministry of Education nominally prohibited segregation in schools in a nonbinding notification; Romani NGOs continued to press unsuccessfully for a binding order.

According to OSI, ethnic Roma were five times as likely as members of the majority population to live below the poverty line. OSI also estimated that approximately 60 percent of Roma lived segregated from the majority population in communities

with substandard housing and without basic governmental services such as schools, adequate healthcare, running water, electricity, and waste disposal.

Roma were also disproportionately unemployed and underemployed. According to Impreuna, 67 percent of Romani households surveyed had no employed member, and the overall Roma unemployment rate was approximately 60 percent.

Although the CNCD fined the Steaua soccer team for fans' use of anti-Roma hate language during a match in April 2005 and a stadium announcer for making racist comments during the same game, similar incidents involving the Steaua and other teams occurred repeatedly during the year. The Union of European Football Associations and the Federation Internationale de Football Association also imposed fines on several Romanian soccer teams.

On April 4, the Civic Alliance of Roma, an NGO supporting Roma rights, the CNCD, and the Romanian Soccer Federation organized a soccer game to protest racism in stadiums. In addition, at the end of October, the CNCD and the Romanian Soccer Federation organized a three-day campaign against racism.

In September the CNCD fined the New Right (Noua Dreapta), an organization with extremist and xenophobic views, and three of its leaders for authoring and posting discriminatory articles against the Roma on the organization's Web site.

In November the Roma Party-Pro Europe and the Police signed a protocol of partnership aimed at initiating activities to prevent marginalization of Roma communities.

On April 26, after repeatedly postponing its ruling, a court in Ludus decided not to enforce the seizure of perpetrators' property to compensate Romani victims of mob violence in the village of Hadareni in 1993 that resulted in the deaths of four persons and the burning of 13 Romani houses. In May Romani victims and their families appealed the ruling, and their suit remained pending at year's end.

In answer to a complaint filed by the ERRC, the CNCD decided on January 17 that an anti-Romani speech made by Corneliu Vadim Tudor, the leader of the extreme right Greater Romania Party, was in breach of the antidiscrimination law. However, the CNCD could not sanction Tudor because of his parliamentary immunity. In his speech, referring to the Hadareni case, Tudor had used derogatory terms regarding Roma.

In September-October 2005 the National Agency for Roma (ANR), and nongovernmental experts drafted a community development plan to improve the prospects of the Roma in Hadareni. In January human rights NGOs criticized the Government for failing to take concrete steps toward implementing the plan. On April 19, the Government approved an updated two-year community development plan for Hadareni for the improvement of the situation of Roma. However, implementation of the updated program for Hadareni was further delayed by the Government's failure to publish implementing regulations before August. NGOs complained that, although the strategy included positive steps, implementation would be very difficult at the local level. During the final months of the year, several ANR-funded programs began in Hadareni. Between September 21 and December 15, several Romani and human rights NGOs partnered with local authorities on a project to build confidence and respect among the Romani and ethnic Romanian citizens of Hadareni. In November Hadareni authorities launched a campaign aimed at improving Roma access to public health care.

Based on a 2003 CNCD ruling that the owner of a public bar committed a discriminatory act by posting a note denying access to Roma and ordering the bartender not to sell drinks to three young Roma, the victims filed a complaint, and a court in Botosani ruled that the defendant should provide access to Roma to the bar and pay moral damages amounting to \$230 (600 new lei) to the plaintiffs.

Romani CRISS continued to monitor cases of alleged human rights violations, increasing the number of counties it monitored from 10 to 15, plus Bucharest. By mid-October human rights monitors identified 59 cases of violence or abuse against Roma in 12 counties.

Romani CRISS continued its partnership with the Ministry of Administration and Interior to help Roma obtain official identification documents. The lack of identification documents significantly hindered Roma from gaining access to employment, education, and health care, and made voting and buying property prohibitively difficult.

Ethnic Hungarians were considered by the Government to be the largest ethnic minority, comprising 1.4 million persons according to the 2002 census. There are also approximately 60,000 ethnic Ukrainians, 60,000 ethnic Germans, and other minorities in smaller numbers. In the Moldova region where the Roman Catholic Csango minority resided, the community continued to operate government-funded Hungarian-language school groups; 982 students in 16 localities were instructed in Hungarian during the academic year that commenced in September. An additional

360 students participated in extracurricular courses in Hungarian, but 7,900 students lacked access to Hungarian language classes.

The Bolyai Initiative Group, a group of young professors from the Cluj-based Babes-Bolyai University (UBB) who supported the reopening of the Hungarian-language state-owned Bolyai University, and the Hungarian Civic Union (UCM) complained of discrimination against ethnic minorities in the teaching of the Romanian language in schools. They argued that national minorities were required to learn Romanian based on the same curricula and textbooks as ethnic Romanians who speak it as their mother tongue. In March and June the UCM filed a complaint on this issue with the CNCD. The Bolyai Initiative Group further complained that there were no bilingual signs in the UBB and that ethnic Hungarian students were not allowed to use the Hungarian language when interacting with university management. On November 22, two UBB faculty members who were also members of the Bolyai Initiative Group installed Hungarian-language “no-smoking” signs around the UBB campus. UBB security guards removed the signs on the same day. The UBB’s governing body subsequently dismissed the two faculty members involved in the incident. The Ministry of Education conducted an investigation into UBB’s decision and concluded that the two were dismissed because they violated the code of conduct and not because of their attempt to install the Hungarian-language signs and that their dismissal had nothing to do with their ethnic Hungarian origin.

*Other Societal Abuses and Discrimination.*—NGOs reported that police abuse and societal discrimination against homosexuals was common (see section 1.c.) and that open hostility prevented the reporting of some harassment and discrimination. Members of the gay and lesbian community also continued to voice concerns about discrimination in public education and health care systems, and about the possibility that young lesbian, gay, bisexual, and transgender persons were being involuntarily referred to psychiatric institutions based on their parents’ decisions.

The second “march of diversity” gay pride parade was held in Bucharest on June 3 and included hundreds of participants. The parade was marred by violent physical and verbal attacks by onlookers against the marchers. Roving groups of men shouted abuse and hurled bottles, food, and buckets of water at the parade participants. The attackers were encouraged in their behavior by some onlookers, including Romanian Orthodox priests and seminarians. The Romanian Orthodox Church and 20 other organizations had called for a ban on the gay parade. The police were reportedly alerted in advance to the planned attacks and dispatched a highly organized force to protect the marchers. The force included hundreds of uniformed officers, units of horse-mounted police, and armored personnel transport carriers.

After the “march of diversity,” six participants (four Romanians and two foreigners) were assaulted on the subway by a group of youths making homophobic statements. Although the police were cooperative and called the victims to look at video recordings and pictures, no perpetrators had been identified by year’s end.

Earlier in the day on June 3, the New Right sponsored a march against homosexuality. The participants displayed symbols and chanted slogans and songs of the Iron Guard and wore t-shirts with the portrait of Legionnaire leader Codreanu.

ACCEPT, an NGO promoting lesbian, gay, bisexual, and transgender rights, reported that it received complaints from people who were harassed and subjected to degrading treatment in prisons because of their sexual orientation. Few victims pursued charges due to fear of harassment from the local community and police or the belief that authorities would not carry out unbiased investigations. The NGO mentioned the case of a man who, beginning in April, was subjected to harassment at his workplace due to his alleged sexual orientation. After ACCEPT filed a petition on his behalf with the CNCD, the man was transferred to another location and demoted.

A survey released by the Government in November revealed that 53 percent of respondents did not want homosexual neighbors, 50 percent did not want to work with homosexuals, 60 percent did not want homosexual friends, and 67.8 percent would not want homosexual in-laws.

The law prohibits discrimination against persons with HIV/AIDS. For the period between January and March 2005, the National Union of the Organizations of Persons Affected by HIV/AIDS (UNOPA) reported that 438 out of approximately 1,000 individuals interviewed had encountered human rights violations; this figure included 156 cases of denied access to medical care on the pretext of medicine shortages at the hospital level, 269 cases of delays in the provision of subsidized food and social welfare allowances, and eight cases of breach of confidentiality. For the period between April and September 2005, UNOPA reported that 795 out of 2,407 individuals interviewed had encountered discrimination.

In June Human Rights Watch issued a report on the country’s “failure to protect and support children and youth living with HIV.” The report was based on field re-

search conducted in Bacau, Constanta, Giurgiu, and Ilfov counties and in Bucharest. The report found that, although the country was the first in Eastern Europe to provide universal access to antiretroviral therapy, stigma and discrimination against persons with HIV/AIDS frequently impeded their access to education, medical care, government services, and employment. The Government lacked a strategy to manage the transition of HIV-positive children living in institutions or foster care after they turned 18. Less than 60 percent of HIV-positive children and adolescents attended some form of schooling. Moreover, those who did attend school sometimes faced ostracism, abuse, and possible expulsion if their HIV status became known.

Discrimination against persons with HIV/AIDS impeded access to routine medical and dental care. Breaches of confidentiality involving individuals' HIV status were common and rarely punished; medical staff, teachers, social workers, and municipal staff were common sources of leaked information.

Children had no legal right to learn of their HIV status without parental consent, and adolescents often lacked the ability to make informed decisions on medical treatment, education, and employment. Over half of HIV-infected adolescents were sexually active; they frequently experienced reduced access to facilities for reproductive healthcare and the prevention of HIV and sexually transmitted infections.

The authorities rarely enforced laws prohibiting discrimination against persons with HIV. The law set penalties for knowingly transmitting HIV.

During the year the Government cooperated with international organizations to implement a national AIDS strategy by conducting conferences and disseminating brochures to raise public awareness of the disease.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers, except certain public employees, have the constitutional right to associate freely and to form and join labor unions without previous authorization, and they freely exercised this right. However, Ministry of Defense, Ministry of Administration and Interior, and intelligence personnel were not allowed to unionize. The majority of workers belonged to one of approximately 18 national trade union confederations and smaller independent trade unions. Approximately 55 to 60 percent of the workforce was unionized, according to union officials.

The right to form unions generally was respected in practice, and many employers created enterprise-friendly unions. Many unions claimed that the Government interfered in labor negotiations, trade union activities, collective bargaining, and strikes, and complained that the union registration requirements stipulated by law were excessive.

The law has specific provisions against union discrimination, which were generally respected.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides workers the right to bargain collectively, but government control of many industrial enterprises and the absence of independent management representatives at these entities hindered collective bargaining. Approximately 80 percent of the total workforce was covered by collective labor contracts at the branch and unit levels. A national collective labor contract for 2005–06 was concluded in March among the main employers' associations, trade unions, and the Government. Contracts resulting from collective bargaining were not consistently enforced. The wages of public employees were guided by a minimum wage stipulated by law and a pay scale specific to each ministry that was based on that ministry's annual budget.

While the law permits strikes by all workers except judges, prosecutors, related Ministry of Justice staff, and employees of the ministries of defense, internal affairs, and the intelligence service, lengthy and cumbersome requirements made it difficult to hold strikes legally. Unions may strike only if all arbitration efforts have failed and if employers have been given 48 hours' notice. Unions complained that they must submit their grievances to government-sponsored conciliation before initiating a strike, and that the courts had a propensity to declare strikes illegal. Companies may claim damages from strike organizers if a court deems a strike illegal.

There are no exemptions from regular labor laws in the country's six free trade zones and 31 disadvantaged zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor remained a problem. Although a law to protect children from exploitation went into

effect January 2005, the Government did not consistently enforce the measure in practice.

The minimum employment age is 16 years, but children may work with the consent of parents or guardians at age 15, although only "according to their physical development, aptitude, and knowledge." Minors are prohibited from working in hazardous conditions. Working children under the age of 16 have the right to continue their education, and the law obliges employers to assist in this regard. In practice, however, many children were reported to occasionally forego attending school while working on family farms, especially in rural areas and in Romani communities. Children age 15 to 18 may work no more than six hours per day and no more than 30 hours per week, provided that their school attendance is not affected. An employer may hire minors only between 2:00pm and 6:00pm. Parents violating child labor law may be punished with either monetary fines of up to \$200 (500 new lei) or imprisonment of two months to seven years. However, the Government did not consistently apply these provisions, claiming that the punishment would further harm children in certain cases. During the year the Government imposed fines on 52 sets of parents and sentenced none to prison. Factories were implicated in most cases of child labor exploitation and also were fined.

The labor inspectorate within the Ministry of Labor provided the following information: in 2005, the labor inspectorates carried out inspections on 74,109 employers. Of 4,405 working youths encountered during the inspections, 135 of those aged 15 to 18 had no legal employment documents; 17 children under age 15 were found working with no legal employment documents. During the first quarter of the year inspections were carried out on 21,805 employers and identified 461 working young people aged 15 to 18, of whom 21 had no legal employment documents. Fourteen employers were given fines exceeding \$12,900 (33,100 new lei).

In January 2005 the protection and promotion of the rights of the child law went into force. The law requires schools to immediately notify social services of children missing classes to work. Social services are authorized to work with schools to reintegrate such children into the educational system. The Government also conducted information campaigns to raise awareness among children, potential employers, and the general public.

In January 2005 the Government established the national authority for protection of children's rights under the Ministry of Labor, Social Solidarity, and Family. The national authority can impose fines and close factories for child labor exploitation, but enforcement tended to be lax except in extreme cases, most notably those that attracted media attention. Despite the prevalence of child labor, there were no reports of anyone being charged or convicted during the year under any of the child labor laws.

Children were trafficked for the purpose of sexual exploitation (see section 5).

An international report released in 2004 estimated that 3.9 million of the 5.6 million children in the country were "economically active." Over 300,000 (approximately 7 percent) were "child laborers," working without any contractual arrangements in agriculture or low-skilled jobs, while 900,000 (19 percent) worked in their own households, especially in rural areas. Approximately 300,000 (6 percent) were engaged in physically demanding work, while 70,000 (approximately 1 percent) were victims of the "worst forms of child labor," including hazardous work, sexual exploitation, forced labor, trafficking, or criminal activity. This last category included more than 3,000 "street children," the majority of whom lived in Bucharest. Child labor, including begging, selling trinkets on the street, or washing windshields, remained widespread in Romani communities; children engaged in such activities could be as young as five years old. There was official recognition of the problem, and the country continued to show progress in eliminating the worst forms of child labor.

During the year the Government allocated \$490,000 (1.27 million new lei) to NGOs to implement two national interest programs to combat trafficking in children and child labor.

*e. Acceptable Conditions of Work.*—The latest collective labor contract published in May stipulated a gross minimum monthly wage of \$144.00 (370 new lei) for a full time schedule of 170 hours per month, which translated into approximately \$0.85 (2.18 new lei) per hour. The minimum monthly wage of approximately \$144 (370 new lei) did not provide a decent standard of living for a worker and family. Minimum wage rates generally were observed and enforced by the Ministry of Labor, Social Solidarity, and Family.

The law provides for a standard workweek of 40 hours or five days, with overtime paid for weekend or holiday work, or work in excess of 40 hours, which may not exceed 48 hours per week averaged over one month. The law requires a 24-hour rest period in the workweek, although most workers received two days off per week. The



Ministry of Labor, Social Solidarity, and Family effectively enforced these standards.

On August 30, the Government approved amendments to the labor code regarding collective layoffs and part-time contracts that bring the law into line with EU directives. Rules governing contracts for part-time or temporary workers were made more flexible and allow contracts for any period of time. The amendments also modify rules for collective layoffs, including mandatory union consultation.

The law provides penalties for work performed without a labor contract in both the formal and informal sectors of the economy. Employers who use illegal labor may be jailed or fined up to \$38,000 (100,000 new lei).

The Ministry of Labor, Social Solidarity, and Family has authority to establish and enforce safety standards for most industries, but lacked of trained personnel to enforce them. Employers often ignored the ministry's recommendations, which were usually only applied after an accident occurred. Workers have the right to refuse dangerous work assignments but seldom invoked it in practice.

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## RUSSIA

The Russian Federation has a weak multiparty political system with a strong presidency, a government headed by a prime minister, and a bicameral legislature (Federal Assembly) consisting of a lower house (State Duma) and an upper house (Federation Council). The proPresidential United Russia party controlled more than two-thirds of the State Duma. The country had an estimated population of 142.9 million. Vladimir Putin was re-elected in 2004 in an election process the Organization for Security and Cooperation in Europe (OSCE) determined did not adequately reflect principles necessary for a healthy democratic election, particularly in equal access to the media by all candidates and secrecy of the ballot. However, the voting itself was relatively free of manipulation, and the outcome was generally understood to have represented the will of the people. The Government's human rights record in the continuing internal conflict in and around Chechnya remained poor. Both federal and Chechen Republic security forces generally acted with legal impunity in Chechnya where civilian authorities generally maintained effective control of the security forces. Chechen security forces at times appeared to act independently of the Russian command structure, and there were no indications that federal authorities made any effort to rein in those forces' extensive human rights abuses.

The most notable human rights developments during the year were the contract-style killings of proreform Central Bank Deputy Chairman Andrei Kozlov and journalist Anna Politkovskaya, known for uncovering human rights abuses in Chechnya. Continuing centralization of power in the executive branch, a compliant State Duma, political pressure on the judiciary, intolerance of ethnic minorities, corruption and selectivity in enforcement of the law, continuing media restrictions and self-censorship, and harassment of some nongovernmental organizations (NGOs) resulted in an erosion of the accountability of government leaders to the population. Security forces were involved in additional significant human rights problems, including alleged government involvement in politically motivated abductions, disappearances, and unlawful killings in Chechnya and elsewhere in the North Caucasus; hazing in the armed forces that resulted in severe injuries and deaths; torture, violence, and other brutal or humiliating treatment by security forces; harsh and frequently life-threatening prison conditions; corruption in law enforcement; and arbitrary arrest and detention. The executive branch allegedly exerted influence over judicial decisions in certain high-profile cases. Government pressure continued to weaken freedom of expression and media independence, particularly of major national networks. Media freedom declined due to restrictions as well as harassment, intimidation, and killing of journalists. Local authorities continued to limit freedom of assembly and restrict religious groups in some regions. There were also reports of societal discrimination, harassment, and violence against members of some religious minorities and incidents of anti-Semitism. Authorities restricted freedom of movement and exhibited negative attitudes toward, and sometimes harassed, NGOs involved in human rights monitoring. Also notable was the passage and entry into force of a new law on NGOs, which has already had some adverse effects on their operations. There was widespread governmental and societal discrimination as well as racially motivated attacks against ethnic minorities and dark-skinned immigrants, including the outbreak of violence against Chechens in the northwest and the initiation of a government campaign to selectively harass and deport ethnic Georgians. Xenophobic, racial and ethnic attacks, and hate crimes were on the rise.

Violence against women and children, trafficking in persons, and instances of forced labor were also reported.

In the internal conflict in Chechnya, antigovernment forces continued killing and intimidating local officials. There were also reports of Chechen rebel involvement in both terrorist bombings and politically motivated disappearances in Chechnya and Ingushetiya during the year. Some rebels were allegedly involved in kidnapping to raise funds, and there were reports that explosives improvised by rebels led to civilian casualties.

There were also some positive developments with regard to human rights. Reforms initiated in previous years continued to produce improvements in the criminal justice system. Authorities sought to combat instances of racial and ethnic mistreatment through prosecutions of groups and individuals accused of engaging in this behavior.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports that the Government or its agent committed politically-motivated killings, but there continued to be credible reports that federal armed forces engaged in unlawful killings in Chechnya. The use of indiscriminate force in areas of Chechnya with significant civilian populations resulted in numerous deaths (see section 1.g.).

While security forces generally conducted their activities with impunity, courts did address a few incidents. In June the Supreme Court overturned the acquittals of four servicemen charged with killing Chechen civilians and ordered new trials (see section 1.g.).

As of October, according to Prosecutor General Yuriy Chayka, hazing incidents in the military led to 20 deaths. On August 11, a commander kicked soldier Dmitry Panteleyev to death. On October 12, the Ryazan Garrison Military Court convicted Captain Vyacheslav Nikiforov, a former company commander in a Railway Troops unit, of kicking Panteleyev to death, Russian media reported. Nikiforov was sentenced to 12 years in a maximum security prison on charges that could have brought him a sentence of up to 25 years. This case notwithstanding, observers complained that there was little accountability for such offenses.

In Chechnya rebels killed a number of federal soldiers whom they had taken prisoner; many other individuals were kidnapped and then killed in Chechnya by both sides, as well as by criminal elements; and there were deaths from land mines and unexploded ordnance (see section 1.g.).

There were a number of high-profile killings by unknown persons. On the night of March 30, Viktor Dorkin, the mayor of Dzerzhinsky in Moscow Oblast, was shot 16 times and killed in the courtyard of his apartment building as he was returning from a local television studio. Investigators believe that at least three persons were involved in the killing. On May 5, police detained Sergei Bulavin, a local resident with a prior criminal conviction, for the assassination, ITAR-TASS reported. Police were still searching for the other two suspects.

On September 13, unknown persons shot Central Bank Deputy Chairman Andrei Kozlov; he died of his injuries on September 14. In October authorities arrested three Ukrainian nationals in the suspected contract killing. At year's end police had not determined who ordered the killing. A supporter of banking reform, Kozlov had revoked the licenses of dozens of banks in the past few years. It was widely believed that Kozlov's killing was connected to his professional activities.

On October 11, the branch director of VneshtorgBank Alexander Plokhin was shot and killed in the stairwell near his apartment. The prosecutor general's office said it was considering all motives for Plokhin's killing "including links to his professional activities." At year's end, no progress has been made in the investigation.

On October 19, unknown persons killed mayoral candidate Dmitry Fotyanov in the town of Dalnegorsk, Primorskiy Krai. Because he was killed days before a runoff election, many believe the killing was politically motivated; the prosecutor general's office was reportedly continuing to investigate whether the killing was connected with the elections (see section 3).

On November 22, Konstantin Meshcheryakov, co-owner of Spetssetstroibank, was killed outside his apartment in central Moscow. As the third prominent banker to be killed within three months, prosecutors quickly admitted that his professional activities may have led to the attack; the case remains open and no further information appeared in the media.

On November 23, former Russian intelligence officer Aleksandr Litvinenko died in London as a result of radioactive poisoning by polonium-210 (a highly restricted

substance) by unknown actors. At year's end, investigations into the death continued in both Russia and the United Kingdom.

Some killings of government officials appeared connected with the ongoing strife in the North Caucasus. As of November, the prosecutor's office of Chechnya reported that, between 2000 and 2006, 71 criminal cases were opened based on actual or attempted assassinations of municipal administration leaders or their staff. Of these cases, nine went to trial.

On June 9, Ingushetiya Ministry of Internal Affairs Lieutenant Colonel Musa Nalgiyev, three of his children, a driver, and bodyguard were killed as he took the children to a childcare center. Also on June 9, a short distance away, deputy district administrator Galina Gubina was shot and killed (see section 1.g.). On August 8, Daghestani prosecutor Bitar Bitarov died in a car bomb attack in the town of Buinaksk, Dagestan Republic. When Dagestani Interior Minister Adilgeriyev Magomedtagirov was traveling to the scene, his car was targeted by a car bomb, but he survived due to his car's armor. On October 24, the administrative head of the village of Chechen-Aul, Umar Khatsiyev, was shot and killed in his home.

In May a jury acquitted four men accused of carrying out the 2005 assassination of Zagir Arukhov, minister of nationality policy, information, and external ties of Dagestan, and of bombing a prosecutor's office in Makhachkala. The prosecutor's case was largely based on confessions made by the four defendants, and defense attorneys claimed the confessions were obtained through torturing the defendants. The prosecution appealed the case to the Supreme Court, which overturned the lower court's acquittal and ordered the case to be further investigated.

At year's end hearings were still ongoing for two additional defendants allegedly involved in the 1998 killing of Galina Starovoytova, a prominent State Duma deputy. In June 2005 two of the initial six defendants tried in connection with the killing were convicted of terrorist acts and the four others released. The individual who ordered the killing had not been identified. In September two others were found guilty in connection with Starovoytova's killing. One of the defendants was sentenced to 11 years. The other, although found guilty, was released under statutes of limitations. The court ruled there were no political motives for the murder. Three identified suspects as well as one unidentified individual, who ordered the killing, remain at large.

During the year several journalists were killed for reasons that appeared to be related to their work, including Anna Politkovskaya, known for her reporting on human rights abuses and the Chechnya conflict (see section 2.a.).

Skinheads and members of neo-Nazi groups attacked and killed members of ethnic minorities and foreigners during the year (see section 5).

*b. Disappearance.*—There were reports of government involvement in politically motivated disappearances in Chechnya and Ingushetiya, although the number of disappearances declined compared to 2005. In 2005 Memorial documented 316 "abduction" cases; 127 of these "disappeared" without a trace and 23 were found dead. During the year Memorial documented 184 abductions. Of these, Memorial reported that 91 persons were released, 63 "disappeared," 11 found dead, and 19 were under investigation by authorities. Unlike previous years, there were no reports of disappearances of individuals who had appealed court cases to the European Court of Human Rights (see section 1.g.).

In April Bulat Chilaev, an employee of the NGO Civic Assistance, and Aslan Israilov disappeared after being detained by armed men thought to be members of the Chechen Republic security forces near Sernovodsk, Chechnya. According to Civic Assistance, investigators found identification at the site of the kidnapping belonging to a member of the West (Zapad) battalion, a Chechen unit attached to the Ministry of Defense, controlled by military intelligence. Chilaev and Israilov were later reported killed on the day they went missing.

Criminal groups in the Northern Caucasus, possibly having links to rebel forces, frequently resorted to kidnapping. The main motivation behind such cases apparently was ransom, although some cases had political or religious overtones. The hostage-takers held many of their victims in Chechnya or Dagestan.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were credible reports that law enforcement personnel frequently engaged in torture, violence, and other brutal or humiliating treatment or punishment to coerce confessions from suspects and that the Government did not consistently hold officials accountable for such actions. Although prohibited in the constitution, torture is defined neither in the law nor the criminal code. As a result the only accusation prosecutors could bring against police suspected of such behavior was that they exceeded their authority or committed a simple assault.

Cases of physical abuse by police officers usually occurred within the first few hours or days of arrest. Some of the methods reportedly used were: beatings with fists, batons, or other objects; asphyxiation using gas masks or bags (at times filled with mace); electric shocks; or suspension by body parts (for example, suspending a victim from the wrists, which were tied together behind the back). Allegations of abuse were difficult to substantiate because of limited access to medical professionals. According to the annual report of the country's human rights ombudsman, published in June, the majority of police brutality cases in 2005 were reported in Khanty-Mansiysk, Bashkortostan, Tatarstan, Bryansk, Moscow, and Tver regions. A report in November by Amnesty International documented 114 cases of torture by police to obtain a confession.

In January, in the case of Aleksey Mikhayev, the European Court of Human Rights (ECHR) found that the Government had violated Article 3 (torture) of the European Convention on Human Rights. Specifically, the ECHR found that Mikhayev had been falsely accused of murder. In order to force him into confessing, investigators severely beat him and tortured him with an electric shock. After the torture, he jumped out of a window and broke his spine. The two investigators were prosecuted in the country and sentenced to four years imprisonment each.

In Chechnya, there were credible reports that both government forces and Chechen rebels tortured detainees (see section 1.g.). Human Rights Watch reported that it had documented 115 torture cases in Chechnya between July 2004 and September 2006. The report concluded that most of the incidents were carried out at one of at least 10 unlawful detention centers.

Reports by refugees, NGOs, and the press suggested a pattern of police beatings, arrests, and extortion directed at persons with dark skin or who appeared to be from the Caucasus, Central Asia, or Africa, and at Roma. For example, in March, two militia officers were detained for extorting money from a foreign woman who lived in the Voronezh region without registration. In June 2004 the press reported that in Novosibirsk four policemen were arrested on suspicion of extorting over \$1 million (28 million rubles) from a Romani family by kidnapping and torturing family members until their demands were met. The case reached court in April 2005 and the press reported it. Policemen were reportedly later tried and convicted.

Police reportedly harassed defense lawyers by calling them in for questioning regarding their conversations with their clients and continued to intimidate witnesses (see section 1.e.).

Trial proceedings continued at a slow pace for the eight police officers charged for abuse of office in August 2005 by the Bashkortostan prosecutor's office in the beatings of at least 32 persons during the 2004 "crime prevention" crackdown in Blagoveshchensk. The accused were mostly junior officers of the town police and the Bashkortostan OMON (a special police detachment). The highest ranking defendant was Lieutenant-Colonel Ildar Ramazanov, head of the Blagoveshchensk town police. Defendants included the chief of Blagoveshchensk police and the OMON unit commander. In March the district court returned the case to the prosecutor's office for clarification and to separate it into two cases, one for rank-and-file policemen and the other their commanders. Bashkortostan's Supreme Court supported the decision in a July ruling, but the Bashkortostan's prosecutor's office disagreed with separating the cases and in August announced that it would appeal the decision to the Supreme Court. Most of the defendants continued working in their positions.

In February three Blagoveshchensk residents were convicted of attacking a police patrol, triggering the 2004 crackdown. Two received suspended sentences, but the third, Victor Geroyev, was sentenced to 2 1/2 years in prison. In April Bashkortostan's Supreme Court annulled the sentences and sent the case to the Blagoveshchensk district court for retrial.

There are a limited number of cases where psychiatry has been used against those dissatisfied with the authorities, according to the Russian Research Center on Human Rights. There is some indication that psychiatry was being used as a tool in the resolution of inheritance, business, and property disputes. The Government's and courts' interpretation of the 2001 law on "Legal Expertise Activities in the Russian Federation" led to a monopoly by government consultants in the provision of expert testimony in court cases. The exclusion of testimony by nongovernmental expert psychiatric witnesses leaves plaintiffs desiring a second opinion with no recourse and such a monopoly has led to allegations of corruption and bribe-taking. The human rights ombudsman's office was working to create a "Service for the Defense of Patients," as required by law and sent letters backing the appeals of several court cases whose verdicts did not seem to be supported by the evidence.

Various abuses against military servicemen continued, including but not limited to the violent hazing of junior recruits in the armed services, Ministry of Internal Affairs, and border guards. Press reports cited serving and former armed forces per-

sonnel, the main military prosecutor's office, and NGOs monitoring conditions in the armed forces as indicating that such mistreatment often included beatings or threats of increased hazing to extort money or material goods. As of August 31, according to Prosecutor General Yuriy Chayka, hazing incidents led to more than 100 soldiers suffered injuries. The number of hazing cases and use of physical force by commanders grew by 3 percent, and there were more than 3,500 cases of hazing reported. According to the chief military prosecutor, the number of registered crimes and service-related accidents in the Armed Forces decreased by 2 percent from the previous year, to 21,252 cases this year. The number of grave crimes in the armed Forces decreased by 7 percent, while the number of murders dropped by 18.8 percent. There was some variation in reported statistics; other sources reported increases.

According to the Ministry of Defense, there were 1,318 casualties recorded during the year (not including casualties in the Internal Troops, special units, Border Guards, or Emergency Situation Ministry, which are recorded individually). The ministry earlier reported that 554 servicemen died in the Armed Forces during the year. Among those, 210 servicemen committed suicide and 27 died in hazing attacks. The ministry maintained that 43 percent of the suicides were due to personal relationship problems and 23 percent were due to the hardships of military service. Approximately 19 percent of the casualties (250) were killed by other military personnel.

By year's end, the Moscow Committee of Soldiers' Mothers registered over 1000 complaints from conscripts and parents, mostly related to beatings. Servicemen also complained about sexual abuse, torture, and enslavement. Soldiers often did not report hazing to either unit officers or military prosecutors due to fear of reprisals, since in some cases officers reportedly tolerated or even encouraged such hazing as a means of controlling their units. Officers reportedly also used beatings to discipline soldiers.

Hazing reportedly was a particularly serious problem in units that had previously served in areas of military conflict.

One high profile case involved the hazing of private Andrey Sychoy, 19, a first-year conscript at the Chelyabinsk Armor Academy. In December 2005 servicemen brutally beat and tortured Sychoy at the Chelyabinsk Tank Academy, and Sychoy had to have his legs and genitals amputated. The Sychoy case prompted the State Duma to hold hearings on discipline in the army in February. Minister of Defense Ivanov testified and attributed hazing incidents to a "morally pathological society" and violence in the media. On January 30, President Putin ordered the Ministry of Defense to draft "legal and organizational measures" to boost "the work of education and upbringing" in the military. Also in February President Putin ordered the Ministry of Defense to create a military police force tasked with ending hazing, fighting criminal activity, and restoring discipline. In March the Council of Europe issued a report on the situation in the Russian Army and the practice of hazing. The report stated that the situation is extremely worrying and noted that in the view of both NGOs and conscripts themselves, young recruits lived through real torment. According to the report, deaths occur every year among young conscripts who have been ill-treated, subjected to initiation rites, suffered accidents, committed suicide or suffered untreated illnesses. Between 50 and 80 percent of all conscripts and young servicemen are reported to be subjected to physical violence, initiation rites, beatings, rape or humiliation on the orders of superiors or their peers. Dedovshchina (hazing) very widely practiced, and the authorities seem unable to gauge the extent of the problem.

After a three-month trial, a Chelyabinsk military court on September 26 convicted Junior Sergeant Aleksandr Sivyakov, who had consistently maintained his innocence, on five charges in the Sychoy case, including "exceeding authority, resulting in grave consequences," and sentenced him to four years, less time already served, in a medium-security penal colony. Sivyakov was also stripped of his rank, banned from holding a command position for three years, and ordered to pay \$825 (22,000 rubles) to cover the cost of transporting witnesses and experts to the court. The prosecution and defense both intended to appeal the conviction: the prosecution for a stiffer sentence and the defense for a new trial. Two codefendants in the trial, Private Pavel Kuzmenko and Private Gennadiy Bilimovich, were convicted of hazing a soldier of equal rank and given suspended sentences of 1 1/2 years, followed by a year of probation. Sivyakov could be eligible for parole after two years; since he had served nine months of his sentence, he could be free in 15 months.

In February local media reported that three recruits from Tyumen Oblast serving at Yekaterinburg's military base No. 32 were hospitalized as a result of hazing. One of them, Anton Afanasyev reportedly was first hospitalized and operated on following a brutal beating by fellow servicemen in September 2005. After two months

in hospital, he returned to his unit, only to be beaten again in January, according to statements by his mother to the press. The second, Yuriy Afanasenko, was said to have been beaten by older soldiers on New Year's Eve (2005–06) in the same way as Andrey Sychoy. Despite his swollen legs, Afanasenko reportedly received no help from military medics for several days. The third soldier, identified as Aleksandr Laptev, reportedly tried to commit suicide in late January because of beatings. A spokesperson for the Volga-Urals military district said that reports of violent hazing at Yekaterinburg's military base No. 32 were "greatly exaggerated," and that "not every bruise a soldier has is a result of *dedovshchina*." The officer added that facts were being distorted because of the "hysteria" over Sychoy's case.

Hazing reportedly was also a serious problem in the Russian Pacific Fleet units. On March 9, in Vladivostok, it was reported that a local sailor was so severely beaten that he could not stand. At first his attackers hid him in their quarters, but when found, he was sent to various hospitals, misdiagnosed, and accused of trying to avoid his duties. Whenever his mother called his unit, officers told her he was "on duty" and did not mention his injuries. After arriving in Vladivostok, she had to go to the military prosecutor's office in order to convince officials to open an investigation. According to a press report, only after the mother met with a reporter, did military officials apparently become more responsive.

Local and national news reports highlighted measures taken by the Russian Pacific Fleet to stem military hazing in its ranks. Select groups of officers attended courses on psychological causes of military hazing. Navy officials expressed optimism that the training will help reduce the number of criminal hazing incidents in the navy.

Both the Union of Soldiers' Mothers Committee (USMC) and the main military prosecutor's office received numerous reports about "nonstatutory relations," in which officers or sergeants physically assaulted or humiliated their subordinates. Despite the acknowledged seriousness of these problems, the leadership of the Armed Forces made only superficial efforts to implement substantive reforms in training, education, and administration programs within units to combat abuse.

During the year federal and local Chechen government forces, as well as Chechen rebel forces, violated the human rights of civilians, inflicting widespread civilian casualties, abductions, and other abuses (see section 1.g.).

*Prison and Detention Center Conditions.*—Prison conditions remained extremely harsh and frequently life-threatening. The Ministry of Justice's Federal Service for the Execution of Sentences administered most of the penitentiary system centrally from Moscow. On April 15, the State Duma passed a law prohibiting the FSB (Federal Security Service) from operating prisons. Pursuant to the law, all FSB prisons were transferred to the Ministry of Justice. There were five basic forms of custody in the criminal justice system: police temporary detention centers; pretrial detention facilities, known as investigation isolation facilities (SIZOs); correctional labor colonies (ITKs); prisons designated for those who violate ITK rules; and educational labor colonies (VTKs) for juveniles. As of July 2005, approximately 797,500 persons were in the custody of the criminal justice system, including 48,600 women and 14,500 juveniles. In December 2005 the ministry reported that the number of the persons held in custody in 2005 exceeded 800,000. As of December 31, approximately 872,000 persons were in the custody of the criminal justice system, including approximately 60,000 women and 13,000 juveniles. The number of people held in custody in 2005 was 823,451. In most cases juveniles were held separately from adults.

In 2004 according to official statistics approximately 2,000 persons died in SIZOs. According to the Ministry of Justice, in 2005, the mortality rate among inmates rose 12 percent and remained at 12 percent during the year. Most died as a result of poor sanitary conditions or lack of medical care (the leading cause of death was heart disease). The press reported that individuals were mistreated, injured, or killed in various SIZOs. Some of the reported cases suggested habitual abuse by officers.

Abuse of prisoners by other prisoners continued to be a problem. Violence among inmates, including beatings and rape, was common. There were elaborate inmate-enforced caste systems in which informers, homosexuals, rapists, prison rape victims, child molesters, and others were considered to be "untouchable" and were treated very harshly, with little or no protection provided by the prison authorities.

Penal institutions frequently remained overcrowded, but there were reports of some improvements. For example, while many penal facilities remained in urgent need of renovation and upgrading, some reports indicated that these facilities were closer to meeting government standards, which include the provision of four square meters per inmate. According to the Federal Service for the Execution of Sentences, in 20 regions of the country the actual living space was less than four meters per

SIZO inmate during the year, while in 18 regions living space was less than three meters per inmate. By December 31, approximately 48 percent of the SIZOs met the Governmental space minimums for prisoners.

Inmates in the prison system often suffered from inadequate medical care. According to the Ministry of Justice, as of March 17, there were over 58,000 tuberculosis-infected persons and 35,000 HIV-infected persons in SIZOs and correction colonies, compared to approximately 49,000 tuberculosis-infected persons and 31,000 HIV-infected persons in September 2005. Tuberculosis infection rates were far higher in detention facilities than in the population at large. The Moscow Center for Prison Reform reported that conditions in penal facilities varied among the regions.

Conditions in SIZO pretrial facilities, where suspects were held until the completion of a criminal investigation, trial, sentencing, or appeal, remained extremely harsh and posed a serious threat to health and life. However, conditions within different SIZOs varied considerably. Health, nutrition, and sanitation standards remained low due to a lack of funding. Poor ventilation was thought to contribute to cardiac problems and lowered resistance to disease. According to the Federal Prison Service, the total number of detainees in the system increased by 31,000. As of December 31, as a result, facilities originally designed to house 130,000 held approximately 161,000 suspects in 216 detention centers, seven prisons, and 160 facilities performing similar functions.

ITKs held the bulk of the country's convicts. As of December 31, there were 696,900 inmates in 765 ITKs, which provided greater freedom of movement; however, at times, guards humiliated, beat, and starved prisoners. The country's "prisons"—distinct from the ITKs—were penitentiary institutions for those who repeatedly violated the rules in effect in the ITKs.

The 62 VTKs held juvenile prisoners from 14 to 20 years of age. Conditions in the VTKs were significantly better than in the ITKs, but juveniles in the VTKs and juvenile SIZO cells reportedly also suffered from beatings and rape. The Moscow Center for Prison Reform reported that such facilities had a poor psychological atmosphere and lacked educational and vocational training opportunities. Many of the juveniles were from orphanages, had no outside support, and were unaware of their rights. While juveniles were generally held separately from adults, there were two prisons in Moscow where children and adults were not separated and boys were held with adults in small, crowded, and smoky cells. Schooling in the prisons for children was sporadic at best.

In August 2005 the NGO For Human Rights reported that it had been able to monitor prisons in 40 of the country's 88 regions; however, according to the group's executive director, it had become increasingly difficult for domestic observers to monitor prison conditions in the last six years. Human rights activists were allowed into those prisons where the situation was good enough, specifically in female and juvenile prisons. Krasnodar Krai was one of the few regions where the situation in prisons is good and activists from the NGO For Human Rights are allowed in to monitor. For Human Rights counted 40 prisons where human rights activists and even defense attorneys were not allowed into prisons where prisoners' rights were being seriously violated (mass beatings, mass tortures, mass punishment, and humiliation). The For Human Rights chairman estimated the situation with human rights violation in prison as critical and said that the situation worsened. Others, such as the Committee for Civil Rights, report that the situation improved in a few regions.

Since 2004 authorities have refused to grant the International Committee of the Red Cross (ICRC) access, under ICRC's standard criteria, to those detained as part of the conflict in Chechnya, and the ICRC subsequently suspended its detention visits. As of December 31, it had not regained access to detainees.

Human rights groups also documented cases of illegal places of detention in Chechnya and in other locations in the North Caucasus where abuses occurred. Chechen Republic security forces reportedly maintained such secret prisons in Tsentoroy, Gudermes, and other locations. Human Rights Watch reported it had detailed descriptions of at least 10 unlawful detention facilities. Human rights groups also reported that officers of the federal Ministry of Internal Affairs' Second Operational Investigative Bureau illegally detained and tortured people in its Groznyy offices. The UN Committee Against Torture noted its concern about these unofficial places of detention.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, they remained problems.

*Role of the Police and Security Apparatus.*—The Ministry of Internal Affairs, the FSB, and the Office of the Prosecutor are responsible for law enforcement at all levels of government. The FSB's core responsibilities are security, counterintelligence,

and counterterrorism, but it also has broader law enforcement functions, including fighting crime and corruption. The FSB operated with limited oversight by the office of the prosecutor general and the courts.

The national police force, which falls under the Ministry of Internal Affairs, is organized on the federal, regional, and local levels. Although regulations and national laws prohibit corrupt activities, corruption was widespread and there were few crackdowns on illegal police activity. The Government reportedly addressed only a fraction of the crimes that federal forces committed against civilians in Chechnya (see section 1.g.). Although government agencies, such as the ministry, have continued to educate officers about safeguarding human rights during law enforcement activities through training provided by foreign governments, the security forces remained largely unreformed.

*Arrest and Detention.*—Under the law an individual may be taken into custody for 48-hours without court approval if arrested at the scene of a crime, provided there is evidence of the committed crime on the individual's person or in his house or when the crime victims or witnesses identify the person as a perpetrator. Otherwise a court-approved arrest warrant is required. According to statistics provided by the Supreme Court's judicial department in 2005, the number of motions for pretrial arrests filed by law enforcement authorities to courts increased by 19.8 percent in comparison to 2004, including an increase in the number of motions filed for juveniles (8.3 percent more) and women (29.5 percent more). Statistics for the first six months of the year indicated that courts approved approximately 92 percent of all arrest requests from law enforcement authorities, approximately the same as in 2004 and 2005.

After arrest detainees were typically taken to the nearest police station where they should be informed of their rights. The police are obliged to write an official protocol, signed by the detainee and the police officer within three hours of detention, which states the grounds for the detention. Police must interrogate the detainee within the first 24-hours, but prior to the interrogation the detainee has the right to meet with an attorney for two hours. No later than 12-hours after a detention, police must notify the prosecutor and the detainee's relatives about the detention unless a prosecutor's warrant to keep the fact of detention secret is obtained. The detainee must be released after 48 hours, either subject to bail conditions or on their own recognizance, unless a court decides to keep the person in custody in response to a motion filed by police no later than eight hours before the expiration of the 48 hour detention period. The defendant and his/her attorney must be present at the court hearing.

The law specifies that, within two months of a suspect's arrest, police should complete their investigation and transfer the file to the prosecutor for arraignment, although a court may extend the criminal investigation for up to six months in "complex" cases. With the personal approval of the prosecutor general, a judge may extend that period up to 18 months.

Legal limitations on detention were generally respected; however, there were reports of occasional violations of the 48-hour time limit following an arrest. Most frequently, authorities failed to write the official protocol of detention within three hours after the actual detention and held suspects in excess of detention limits. In addition there were reports that police obtained defense counsels friendly to the prosecution. These "pocket" defense counsels allowed interrogation of their clients. The general ignorance of legal rights by both citizens and their defense counsels contributed to the persistence of these violations.

Judges suppressed confessions of suspects whose confessions were taken without a lawyer present. They also freed suspects who were held in excess of detention limits, although they usually granted prosecutors' motions to extend the detention period for good cause. The Supreme Court overturned a number of cases in which lower court judges granted permission to detain individuals on what the Supreme Court deemed inadequate grounds.

Unlike in previous years, there were no new reports or allegations that authorities detained and engaged in selective prosecution of political adversaries. In recent years observers considered the 2003 arrest on fraud charges of prominent and politically active businessman Mikhail Khodorkovskiy and the 2004 arrest on fraud charges of Yukos Oil Company lawyer Svetlana Bakhmina to constitute possible cases of selective arrest and prosecution with political motives, regardless of their guilt or innocence on the specific charges against them (see section 1.e.).

There were a limited number of cases where psychiatry was used against those dissatisfied with the authorities.

*Amnesty.*—In July, following the death of terrorist warlord Shamil Basayev, the Government issued a partial amnesty, which gave militants two weeks to surrender.



The original amnesty was extended through September 30. On September 23, the State Duma passed legislation to grant amnesty to militants in Chechnya and the North Caucasus through January 15, 2007. The amnesty requires militants to disarm and surrender themselves to authorities. According to the federal and Chechen Republic authorities, as of December 25, 375 militants had surrendered to authorities. The amnesty does not apply to militants suspected of crimes such as rape, murder, or terrorism. The amnesty also applies to servicemen but not to those accused of selling or stealing weapons (see section 1.a.).

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and there were a number of indications of judicial independence; however, the judiciary did not consistently act as an effective counterweight to other branches of the Government. For example, in April the Kemerovo Oblast governor's office issued a press release describing a meeting between the governor and the chief judge of the region, during the course of which the chief judge attempted to counter perceptions that the region's judges might be too lenient in their sentences. Human Rights Ombudsman Vladimir Lukin criticized both the governor and the judge for not maintaining attitudes appropriate to a true separation of judicial and executive powers.

The law provides for strengthening the role of the judiciary in relation to the prosecutor general by requiring judicial approval of arrest warrants, searches, seizures, and detentions (see section 1.d.). Judges allegedly remained subject to influence from the executive, military, and security forces, particularly in high profile or politically sensitive cases.

President Putin decreed a 32 percent pay raise for judges effective July 1 and, as of year's end, there was an additional 7.2 percent raise. According to President Putin's official Web site, the pay raise was to provide material guarantees to judges that will permit them "fully and independently to render justice." While judges' salaries have increased significantly, the judiciary remained susceptible to corruption. Judges accepted bribes from officials and others. For the first six months of the year, the Supreme Qualifying Collegium of Judges reported that 39 judges were removed from the bench and 151 were given warnings. One NGO specializing in issues of corruption estimated that in 2005 judges received \$209 million (5.9 billion rubles) in bribes annually for favorable rulings. Authorities did not provide adequate protection from intimidation or threats from powerful criminal defendants. Judges' salaries were increased in order to reduce incentives for corruption and to attract more qualified candidates. In several cities, new modern courtrooms opened. Many of these courtrooms have recording equipment which allows for the recording of judicial proceedings and the production of accurate transcripts, which is essential to fair appellate review.

The judiciary is divided into three branches. The courts of general jurisdiction, including military courts, are subordinated to the Supreme Court. These courts hear civil and criminal cases and include district courts, which serve every urban and rural district, regional courts, and the Supreme Court. Decisions of the lower trial courts can be appealed only to the immediately superior court unless a constitutional issue is involved. An arbitration (commercial) court system under the High Court of Arbitration constitutes a second branch of the judicial system. Arbitration courts hear cases involving business disputes between legal entities and between legal entities and the State. The federal constitutional court (as well as constitutional courts in a number of administrative entities) constitutes the third branch.

The President approves judges after they have been nominated by the qualifying collegia, which are assemblies of judges (including some public members). After a three-year trial period, the President must reconfirm the judges. Judicial watchers have alleged that the executive's role in approving and reconfirming judges has ensured an increasingly progovernment judiciary. The collegia also have the authority to remove judges for misbehavior and to approve prosecutors' requests to prosecute judges.

Justices of the peace deal with criminal cases involving maximum sentences of less than three years and with some civil cases. In 2005 justices of the peace assumed 71.6 percent of federal judges' civil cases and 36.7 percent of their criminal matters. Justices of the peace work in all regions except Chechnya. In contrast to previous years, justices of the peace worked in Nenitskiy Autonomous Okrug.

*Trial Procedures.*—Trials typically are conducted before a judge without a jury. The defendant is presumed innocent. The defense is not required to present evidence and is given an opportunity to cross-examine witnesses and call defense witnesses. Defendants who are in custody during the trial are confined to a caged area and must quietly consult with their attorneys through the bars. Defendants have the right of appeal. According to Supreme Court statistics, in 2005 the number of convictions decreased by 1.3 percent and made up 71 percent of all criminal cases

heard by courts; the acquittal rate stayed at 0.7 percent; courts dismissed 27.3 percent of criminal cases during trial for various legal reasons. According to Supreme Court statistics, during the first six months of the year, the percentage of convictions in criminal cases increased by approximately 4.7 percent in comparison to the same period in 2005. The percentage of cases dismissed also increased by approximately 2 percent.

The law provides for the nationwide use of jury trials for a limited category of "especially grave" crimes, such as murder, in higher-level regional courts. In 2005, out of 1,263,000 persons tried by criminal courts, 1,389 persons were tried by jury. By January 1, all regions except Chechnya implemented jury trials, as a result of a law passed by the State Duma during the year. In contrast to trials conducted by a judge, 0.7 percent of which ended in acquittal in 2005, approximately 15 percent of cases tried by juries ended in acquittals, although one-third of those acquittals were later reversed on appeal by the Supreme Court. The professional competence of jury trial participants, including both parties and, to some extent, judges, remained an issue of serious concern to domestic and international observers. In a speech in November, President Putin stated that the problem with jury trials was not the jurors, but poorly trained prosecutors and investigators.

Jury trials play an important role in overcoming general public distrust of the judicial system. As an opinion poll conducted by the All-Russia Center for Public Opinion during the year demonstrated, almost 80 percent of citizen respondents, who participated as jurors in jury trials in 2004-2005 in Moscow city and Moscow and Yaroslavl regions, reported that their opinion about the judiciary system improved after they served as jurors in criminal trials.

Prior to trial defendants are provided a copy of their indictment, which describes the charges in extensive detail. They are also given an opportunity to review the criminal file following the completion of the criminal investigation. Defense attorneys are allowed to visit their clients in detention, although conditions reportedly made it difficult for attorneys to conduct meaningful and confidential consultations with their clients.

The law provides for the appointment of a lawyer free of charge if a suspect cannot afford one; however, this provision often was not effective in practice. The high cost of competent legal services meant that lower-income defendants often lacked competent representation. There were no defense attorneys in remote areas of the country. Public centers, staffed on a part time basis by lawyers, continued to offer free advice on legal rights and recourse under the law; however, they were not able to handle individual cases. In August 2005 the Government issued regulations to govern a program creating state legal aid offices in 10 regions on an experimental basis beginning in January. The program was extended for another year. However, official results of the program had not been published. Although a system of paying qualified attorneys for representation of indigent defendants has nominally been in place for several years, defense attorneys indicated that it only began to work efficiently during the year. As a result defense attorneys were now more likely to receive compensation for representation of indigent defendants, which has resulted in an improvement in the quality of legal assistance rendered.

According to the NGO Independent Council of Legal Expertise, defense lawyers were the targets of police harassment. Professional associations at both the local and federal levels reported police efforts to intimidate attorneys and cover up their own criminal activities.

Authorities abrogated due process in continuing to pursue several espionage cases involving foreigners who allegedly obtained information considered sensitive by security services. In some instances prosecutors pursued such cases after earlier courts had rejected them. The proceedings in some of these cases took place behind closed doors, and the defendants and their attorneys encountered difficulties in learning the details of the charges. Observers believed that the FSB was seeking to discourage citizens and foreigners from investigating problems that the security services considered sensitive.

In February 2005 the FSB detained Oskar Kaibyshev, the former director of the Institute for Metals Superplasticity Problems, on charges linked to exporting sensitive technological information to South Korea while working as a research scientist. Several scientific panels stated that the information Kaibyshev gave the South Koreans was not subject to export controls. The espionage charges initially brought against Kaibyshev were later dropped, but he faced other criminal charges related to the case. Kaibyshev was later charged with unsanctioned export of technologies and theft. In October 2005 court hearings opened at the Supreme Court of Bashkortostan Republic for passing dual-use technology to South Korea. The trial was held behind closed doors, as the FSB stated that top secret information could emerge in the case. On August 8, Kaibyshev was given a suspended prison sentence

of six years after being convicted of unsanctioned export of dual use technologies, abuse of authority, and embezzlement. He was also banned from holding any positions of authority in state organizations for three years and had to pay \$130,000 (3.5 million rubles). The scientist's lawyer said he would appeal the verdict, as did the state prosecutor, who said the sentence was too lenient. An appeal had not occurred by year's end.

*Political Prisoners and Detainees.*—Human rights organizations and activists have identified various individuals as political prisoners: Zara Murtazaliyeva, Mikhail Trepashkin, Valentin Danilov, Igor Sutyagin, Mikhail Khodorkovskiy, Platon Lebedev, and Svetlana Bakhmina. All remained imprisoned at the end of the year.

Zara Murtazaliyeva, a 22-year-old Chechen citizen, was arrested in March 2004 in Moscow. In January 2005, Moscow City court found her found guilty of charges of preparing to carry out a terrorist attack in Moscow; involving other people in the commitment of a terrorist act; and illegal acquisition and storage of explosive substances, and sentenced her to nine years in a general regime prison. Murtazaliyeva's defense lawyers as well as human rights defenders who monitored the trial believed that the charges against her were fabricated. During the trial before the Moscow City Court, the prosecution was unable to give any evidence that would have substantiated any of the charges brought against her. Murtazaliyeva's defense appealed to the Supreme Court and in March 2005 the Supreme Court reduced the sentence by half a year, but left the charges in force. The defense lawyers appealed the verdict to the Presidium of the Supreme Court and also filed an appeal to the European Court of Human Rights (ECHR) in September 2005. Human rights advocates in the country continue to assert that the charges were fabricated, while her lawyers argue that she was framed by authorities eager to catch a "black widow" female terrorist.

The 2004 conviction of Mikhail Trepashkin, a former consultant to a parliamentary commission investigating possible FSB involvement in a series of 1999 apartment bombings, gave further cause for concern about the undue influence of the FSB and arbitrary use of the judicial system. The bombings were officially blamed on Chechens and served as partial justification for the Government's resumption of the armed conflict against Chechen fighters. Trepashkin, an attorney and former FSB official, was arrested in 2003 and charged with disclosing state secrets and illegal possession of a handgun and ammunition. Trepashkin's arrest came a month after his charges of FSB responsibility for the bombings were cited in a book and a week before he was scheduled to represent the relatives of a victim of one of those bombings. In 2004 the Moscow Circuit Military Court sentenced Trepashkin to four years of forced labor. In April 2005 a Moscow court found Trepashkin guilty of illegal possession of a handgun and added one year to his four-year term, although this additional ruling was later reversed on appeal. In July 2005 Trepashkin began serving his prison term in Nizhniy Tagil, Sverdlov Region. In August 2005 a Nizhniy Tagil court granted Trepashkin's appeal for an early release from prison. However, in September 2005 a Sverdlovsk regional court overturned the August ruling. In late September 2005, according to reports, Trepashkin was again taken into custody and sent back to the Nizhniy Tagil prison camp. A new hearing on his early release was held in November 2005, and the Nizhniy Tagil court turned down his application for release on parole. In a November 2005 letter to State Duma deputy Yevgeniy Roizman, Trepashkin said he feared for his life since he was kept together with convicts who had committed capital crimes. The following March, the press reported the Sverdlovsk Regional Court upheld a district court ruling that denied parole to Trepashkin, after which he went on a hunger strike. His defense lawyer, Lyubov Kosik, said she would appeal the denial to the Supreme Court. Trepashkin said that he was receiving no treatment for his severe asthma and that he was concerned about his health. In December 2006 he had an apparent asthma attack in court. Trepashkin's defense appealed the decision of the Federal Service of Penalty Execution to move Trepashkin to Nizhniy Tagil. In September 2006 the Zamoskvoretskiy District Court in Moscow found Trepashkin's transfer to colony-settlement in Nizhniy Tagil legitimate. In December 2006 the Nizhniy Tagil court started hearings of Trepashkin's four appeals against several discipline penalties leveled on him by the prison's authorities and the prison authorities' cross-appeal to move him to a general regime prison-settlement.

In 2004 the Supreme Court overturned the 2003 jury acquittal of Valentin Danilov, who had been charged with spying for China while working on a commercial contract. Allegedly, Danilov's activities in China involved the transfer of classified technological knowledge that would assist China's military goals, and divulge secrets concerning an electron accelerator at Krasnoyarsk University. Colleagues and supporters asserted that the information in question was declassified over a decade ago, leading some human rights organizations to consider Danilov's case to be politically motivated. In 2004 Danilov was convicted by a judge and sentenced

to 14 years. In June 2005 the Supreme Court reduced his sentence to 13 years. In January 2006 Danilov's defense appealed the verdict to the Presidium of the Supreme Court. Danilov also had an appeal before the European Court of Human Rights. Neither had responded to the appeals by the end of this year. In December 2006 Danilov's defense lawyers said he was planning to appeal to the Pardon Commission of Krasnoyarsk Krai because his health is getting worse.

In August 2005 the Supreme Court rejected an appeal by Igor Sutyagin, a disarmament researcher with the U.S. and Canada Institute, of his conviction on espionage-related charges. Prosecutors accused Sutyagin of passing classified information about the country's nuclear weapons to a London-based firm. In 2001 the Kaluga Regional Court ruled that the evidence did not support the charges against Sutyagin and returned the case to the prosecutor for further investigation. In 2002 the ECHR registered Sutyagin's appeal and in March 2004 the decision was made to view Sutyagin's case in priority order. In April 2004 a Moscow city court found Sutyagin guilty and sentenced him to 15 years in a maximum security facility (the sentence included time served since his arrest in 1999). Also in April 2004, Amnesty International recognized Sutyagin as a political prisoner. Sutyagin claimed the Moscow city court's decision was unjust and insisted that he had no access to confidential information. Some observers agreed that he had no access to classified information and described the severe sentence as an effort to discourage citizens from sharing sensitive information with professional colleagues from other countries. Government officials asserted that Sutyagin had wittingly or unwittingly entered into a paid arrangement with a foreign intelligence service. Because of the conduct of the trial and lengthy sentence, a number of domestic and international human rights NGOs, in addition to Amnesty International, raised concerns that the charges were politically motivated. In 2005 Sutyagin was transferred to a colony in Arkhangelsk Oblast, which is even further from his family than his previous detention place in Udmurtiya, and his attorneys were reportedly appealing the move. In June 2006 Sutyagin's defense appealed the verdict to the Presidium of the Supreme Court but there was no information on the decision of the Presidium available at year's end. In May 2006 ECHR sent 20 questions to the Russian government regarding Sutyagin's case.

On June 9, 2006, the Public Chamber Commission on Control over Law Enforcement Bodies, Power Structures, and Legal System Reform made a decision to send President Putin an appeal for pardon of Danilov and Sutyagin. However, Anatoliy Kucherena, head of the Commission, told a Moscow radio station that the Public Chamber eventually decided against addressing President Putin with the request to pardon Danilov and Sutyagin. The decision was based on the rule that the President cannot be asked to pardon someone before that person has appealed for pardon himself.

In May 2005 Mikhail Khodorkovskiy and codefendant Platon Lebedev were convicted on six charges of fraud, tax evasion, and embezzlement and sentenced to nine years in prison after an 11-month trial. Khodorkovskiy's conviction was upheld on appeal in September 2005, with the sentence reduced to eight years. Both Khodorkovskiy and Lebedev continued to appeal their convictions in Russian courts as well as the ECHR. As of April 19, 2006, the ECHR began preliminarily viewing Khodorkovskiy's appeal. The arrest and conviction of Khodorkovskiy raised concerns about the rule of law, including the independence of courts, the right to due process, the sanctity of contracts and property rights, and the lack of a predictable tax regime. Many observers believed that Khodorkovskiy's conviction was one of a number of politically motivated moves against wealthy "oligarchs" who represented centers of actual or potential political and media opposition to President Putin. Some observers believed that, despite the possibility that the charges against Khodorkovskiy may have had some merit, he was selectively targeted for prosecution because of his politically oriented activities and as a warning to other oligarchs against involvement in political affairs or providing financial support to independent civil society. In October 2005 authorities transferred Khodorkovskiy to a prison in Chita Oblast and Lebedev to a prison in Yamalo-Nenetskiy Autonomous Okrug. In December 2005 Lebedev's defense team filed an appeal stating that sending him to a prison not in the area where Lebedev lived or was sentenced violated Russian law. The Moscow City Court has rejected all appeals to review the case against Khodorkovskiy. Some human rights activists have objected to sentencing both men to prisons that were not in the area where they lived or were sentenced. On November 29, 2006, the Supreme Court refused to proceed with Khodorkovskiy's appeal. According to Khodorkovskiy's defense attorney Genrikh Padva, the defense was considering appealing this decision to the chairman of the Supreme Court. Meanwhile, the prosecutor general's office was forming a new case against Khodorkovskiy and

Lebedev. Both were transferred to the detention center in Chita in December 2006 due to new investigation activities being conducted.

Some human rights groups considered Svetlana Bakhmina, a lawyer who worked for Yukos Oil Company (Yukos), to be a political prisoner. She was arrested in December 2004 on fraud charges and held without bail. Several organizations expressed concern about reports regarding Bakhmina's lack of access to her family and medical treatment while in custody. Some observers stated that she was being held in an attempt to pressure Dmitriy Gololobov, her former boss at Yukos, to return from London. In September 2005 a Moscow city court ruled that she could be held in detention until October 2005. In October 2005 her trial began in Moscow, and she was convicted and sentenced in April 2006 to seven years' imprisonment for tax evasion and embezzlement. In August the Moscow City Court overturned Bakhmina's tax evasion conviction but upheld the embezzlement charge and only reduced her sentence by six months, to 6 1/2 years. Bakhmina had appealed her April convictions and requested that all charges against her be dropped. In September Bakhmina's lawyers requested the court postpone the imposition of her sentence until her youngest child turns 14-years-old. A lawyer for Bakhmina explained that Bakhmina's youngest child is presently five years old, and that the law allows for applications to delay sentencing in such cases. On October 2, the Simonovsky Court in Moscow rejected the request and sent Bakhmina to a women's penal colony in the central part of the country. On December 27, 2006, a Moscow city court refused to postpone Bakhmina's imprisonment. Many observers saw the treatment of Bakhmina as politically-motivated and linked to the Khodorkovskiy case.

*Civil Judicial Procedures and Remedies.*—The criminal procedure code provides that an individual or business may seek civil compensation for a criminal violation. The law clearly provides for bringing a criminal or civil case on human rights violations, but implementation is inconsistent.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law states that officials may enter a private residence only in cases prescribed by federal law or on the basis of a judicial decision; however, authorities did not always observe these provisions. The law permits the Government to monitor correspondence, telephone conversations, and other means of communication only with judicial permission and prohibits the collection, storage, utilization, and dissemination of information about a person's private life without his consent. While these provisions were generally followed, problems remained. There were accounts of electronic surveillance by government officials and others without judicial permission, and of entry into residences and other premises by Moscow law enforcement without warrants. There were no reports of government action against officials who violated these safeguards.

In September 2005 the press reported that the Government, citing concerns about terrorism, approved new regulations, which came into effect on January 1 for interactions between communication companies and certain government agencies. The new regulations give law enforcement agencies greater access to telephone and cellular phone company clients' personal information and require providers to grant the Ministry of Internal Affairs and FSB 24-hour remote access to their client databases. Some experts believed these new rules contradict the constitution, but most mobile phone operators took it in stride. Given that the authorities have had legal access to these records for 10 years, mobile operator MegaFon's press secretary suggested that the new rules change nothing, and simply make the process "more transparent."

The Government continued to require Internet service providers to provide dedicated lines to the security establishment so that police could track private e-mail communications and monitor Internet activity (see section 2.a.).

Human rights observers continued to allege that officers in the special services used their services' power to gather compromising materials on public figures. There were credible charges that regional branches of the FSB continued to exert pressure on citizens employed by foreign firms and organizations, often to coerce them into becoming informants.

Federal forces and progovernment Chechen forces reportedly abducted relatives of rebel commanders and fighters (see section 1.g.).

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—During the year unrest continued in and around the Chechen Republic and in the neighboring republics of Ingushetiya and Dagestan. Federal forces and Chechen Republic forces engaged in human rights abuses, including torture, summary executions, disappearances, and arbitrary detentions. Chechen rebels also committed human rights abuses, including major acts of terrorism and summary executions.

The year saw a continued shift of government tactics away from operations involving Russian military formations and toward greater reliance on paramilitary and police units of the Chechen Republic or other Chechen units subordinated to the Ministry of Defense or the federal Ministry of Internal Affairs. There were fewer mopping-up operations, known as "zachistki," than in previous years, although more targeted operations, such as night raids, continued. Memorial noted that these mop-up operations were often conducted with no serious human rights abuses but that in some cases such operations were accompanied by abductions, looting, and beatings. Chechen security forces were nominally under the control of Chechen Republic civilian authorities but also often conducted operations jointly with federal forces. In reality, Chechen security forces were under the command of Chechen Prime Minister Ramzan Kadyrov and often appeared to act with relative independence. The limited measures taken by the federal and Chechen leaders to rein them in have been largely ineffective.

Federal authorities both military and civilian have limited journalists' and human rights observers' access to war zones since the beginning of the second war in Chechnya in 1999, in part due to security concerns. In addition coverage has been restricted in government-controlled media, and the Government has sought to pressure independent journalists into engaging in self-censorship (see sections 2.a. and 4). These restrictions made independent observation of conditions and verification of reports difficult and limited the available sources of information about the conflict. In addition, victims of human rights abuses and their relatives were reluctant to speak to human rights monitors or to file complaints with the authorities because they feared retaliation.

The indiscriminate use of force by government troops, which during the course of the conflict has resulted in widespread civilian casualties, the displacement of hundreds of thousands of persons, and massive destruction of property and infrastructure, appeared to decrease further during the year. Memorial reported that in comparison to 2001–02, government forces used less indiscriminate force in 2004 against civilian areas and this trend appeared to continue during the year. Memorial and others also noted that the reconstruction of destroyed housing and infrastructure in Chechnya was accelerating, but also noted that many of these changes were largely cosmetic.

Nonetheless, there continued to be instances of indiscriminate use of force by government troops. According to the Prague Watchdog Web site, the southern districts of the Chechen Republic were repeatedly subjected to long-range shelling and aerial attacks. The Shalinsky district was subjected to regular shelling and aerial bombardment. In October the mountain village of Zumsoi was subjected to an aerial bombardment and two missile strikes. Memorial reported that on December 19, two civilians were killed and one wounded when they came under fire from a military helicopter near the village of Chozhi-Chu.

Zumsoi was subjected to repeated artillery shelling and aerial bombardment as well as sweeps by security forces during 2005, according to Memorial. In January 2005, the village was bombed for several days. Airborne forces then arrived in the village and took three men and a teenaged boy into custody. Their whereabouts remained unknown. Federal servicemen also allegedly robbed villagers, desecrated the village mosque, and killed cattle. In July 2005 unknown perpetrators, who were believed to be Chechen rebels, killed the head of the village administration. Also in July 2005, all but one of Zumsoi's residents left the village citing the continuing insecurity there.

In June 2005 members of the Vostok (East) Battalion conducted a security sweep in the village of Borozdinovskaya. During that operation, 11 men from the village were detained. Some homes in the village were burned and two villagers were killed. Subsequently villagers left en masse and crossed into the neighboring Republic of Dagestan. According to press reports, most of the villagers have returned to their village but approximately 160 others remain in a tent camp in Dagestan. Although prosecutors announced an investigation, and federal and Chechen officials publicly called for those responsible to be held accountable, the whereabouts of the men detained remained unknown. Military prosecutors initiated criminal proceedings against one Vostok commander Mukhadi Aziyev. A military court in Chechnya convicted him in October 2005 of abuse of power, and he received a three-year suspended sentence.

In most cases security forces acted against civilians with impunity, and even limited efforts of authorities to impose accountability were frequently timid. However, there was at least one case where the courts addressed an abuse. In June the Supreme Court overturned the acquittals of Captain Eduard Ullman and three other servicemen charged with killing Chechen civilians and ordered new trials. Lower courts had already acquitted the defendants twice, most recently in May 2005. A

retrial began in December 2005. Following a Constitutional Court ruling in April that cases involving serious crimes in Chechnya could be tried without a jury, the Supreme Court ruled in June that Ullman and his codefendants could be tried in a non-jury trial. On November 2, the military district court started hearing the case in a non-jury trial. The trial continued at year's end. At least one other serviceman was convicted on similar charges.

Government forces and Chechen rebels continued to use landmines extensively in Chechnya and Dagestan. According to estimates by the UN Children's Fund (UNICEF), 3,065 persons were killed or wounded by landmines or unexploded ordnance in Chechnya since 1995.

Amnesty International reported that it was aware of only one conviction by a Russian court in cases involving disappearances in Chechnya. In March 2005 a Grozny court convicted Lieutenant Sergey Lapin, a member of an OMON riot police unit, of inflicting serious harm to health and other charges related to the torture and disappearance of Chechen citizen Zemlikhan Murdalov in 2001. Amnesty International noted, however, that none of the charges against Lapin related to Murdalov's actual disappearance, nor were any others charged in the case.

In March federal serviceman Aleksey Krivosheonok was convicted for the November 2005 killings of three persons detained by federal forces at a checkpoint near the village of Staraya Sundzha in Chechnya. According to investigators, Krivosheonok and others in his unit detained six people at the checkpoint, beat three of them severely, forced them to lie face down, and then shot them in the head. Krivosheonok was sentenced to 18 years in prison and ordered to pay \$7,692 (200,000 rubles) to the family of each victim. Separately, on May 15, the Grozny garrison military court convicted serviceman Pavel Zinchuk of causing grave bodily harm in the same incident and sentenced him to seven years in prison.

In two separate cases in November, the ECHR found the Government responsible for the disappearances and deaths of three Chechens. In the first case the ECHR found the Government responsible for the disappearance and killing of Nura Luluyeva. Luluyeva was detained by military forces at a market in June 2000. Her body was found in February 2001 along with fifty other bodies in a mass grave in Chechnya.

The ECHR also held the Government responsible for the disappearance and presumed death of Said-Magomed and Said-Khusein Imakaev, a father and son. Said-Khusein Imakaev, the son, was detained at a check point in 2000. A year later, his father filed a complaint with ECHR and four months later he was detained and never seen again. In the verdict, the court noted the authorities' failure to cooperate; specifically their failure to provide requested documents.

In October the ECHR ruled that Russian forces were responsible for executing a Chechen family during a security operation in Grozny and ordered Moscow to pay the victims' relatives more than \$285,000 (7,500,000 rubles) in damages. At least 55 other Chechen civilians were killed in the February 2000 operation. The Government has not held anyone responsible for the killings.

During the year there were 102 judgments, 64 of which were based on the right to a fair trial. Ninety-six of the judgments found at least one violation, 5 found no violations, and one judgment was found "other" (i.e., just satisfaction, revision judgments, preliminary objections and lack of jurisdiction). During the year, the ECHR received the highest number of applications to investigate human rights violations from the country, totaling 10,569. As of December 31, the country had 19,300 cases pending in the ECHR, 21.5 percent of the total cases pending. In previous years, the court typically received around 4,000 complaints from Russia. The court has expanded its staff by 10 percent in part to handle this increase in complaints.

Despite the opening of a criminal case, a human rights organization reported that no charges were filed after a federal warplane bombed Maidat Tsintsayeva's house in 2004, killing her and her five children. According to a human rights NGO, there were no indications of progress in investigating the launching of several missiles at the village of Tevzen-Kale in 2004. One of the missiles hit the house of the Suleymanov family, killing one family member and wounding two others. The Chechen interior ministry told the press that the federal military refused to acknowledge that it had bombed the village and was impeding all investigation efforts.

There were no reliable estimates of civilian casualties as a result of military operations. Then Chechen State Council Chairman Taus Dzhabrailov reportedly told the press in June 2005 that more than 160,000 persons had been killed in Chechnya since 1994. Memorial has estimated that 75,000 civilians and up to 14,000 servicemen have died during the two Chechen conflicts.

There were varied estimates of the number of those detained, abducted, or made to disappear (see section 1.b.) While Chechen rebels and criminals seeking ransom carried out many abductions and disappearances, federal and progovernment

Chechen forces were also involved. In May Memorial representatives discovered an illegal detention center in Grozny where detainees were reportedly held, tortured, “disappeared,” and killed by federal police units that had temporarily been assigned to Chechnya. Then-Chechen Republic Ombudsman Lema Khasuev stated in December 2005 that there were 2,096 cases of “enforced” disappearances by unidentified security forces in Chechnya. His successor, Nurdi Nukhazhiyev, stated that more than 7,000 persons have gone missing or been abducted in Chechnya since the beginning of the first Chechen conflict, and 2,780 of them have gone missing since the second conflict started in 1999. Chechen President Alu Alkhanov has stated that 54 people were abducted during the year, compared to 77 persons in 2005, and 213 in 2004.

Memorial reported that since 2002, 1,948 persons have been abducted, of whom 685 were freed, 189 were found dead, 1,040 were missing, and 34 were on trial. Memorial noted that its monitors had access to only about 25 to 30 percent of Chechnya. According to Chechen President Alu Alkhanov, 54 abductions were officially registered in Chechnya during the year.

During the year, according to Memorial, 184 persons were abducted, of whom 91 were freed or ransomed, 11 were found killed, 19 were thought to be in detention, and 63 disappeared. Memorial attributed at least part of this decline to a climate of fear in which individuals were afraid to report abductions. In 2005, according to Memorial, 316 persons were abducted, of whom 151 were freed or ransomed, 23 were found dead, 15 were thought to be in detention, and 127 disappeared. Memorial reported that 448 persons were abducted in 2004 and has estimated that 3,000 to 5,000 have gone missing in Chechnya since 1999. Memorial reported that it has information on 1,988 cases where persons disappeared after being detained by federal security forces since fall 1999. The federal prosecutor’s office reported in December 2004 that 2,437 persons had been abducted in Chechnya in that period.

Abductions and disappearances continued to occur following operations conducted by federal forces, Chechen Republic security forces, and joint operations involving Chechen and Russian units, according to various sources. In April, Chechen Prime Minister Ramzan Kadyrov publicly accused officers of the federal Ministry of Internal Affairs’ Operative Investigative Bureau of illegal detentions, torture, and other cruel treatment and requested the unit be withdrawn from Chechnya, although human rights activists said Chechen Republic security forces, many of them under Kadyrov’s control, were also engaged in abductions and disappearances. Kadyrov also claimed that many of those allegedly abducted had joined the rebels or fled to Western Europe, but acknowledged there were cases where persons were abducted and disappeared. Aslanbek Aslakhanov of the federal Presidential Administration was cited in the press in 2005 as saying that he could not rule out the involvement of forces under command of then-Chechen first deputy prime minister Ramzan Kadyrov or federal forces in such activities. Colonel General Arkadiy Yedelev, head of the Russian forces general staff in the Northern Caucasus, acknowledged in February 2005 that federal forces and Chechen Republic security forces had taken part in disappearances of civilians.

According to NGOs federal forces and progovernment Chechen militias commonly detained Chechen men at checkpoints along the borders between Chechnya and Ingushetiya in targeted operations known as “night raids,” or during “mopping-up” operations following military hostilities. Detainees were often beaten or tortured. Human rights groups also reported that security forces increasingly detained women.

In April unknown security forces detained Bilat Chilayev, a driver for the NGO Civic Assistance, and Aslan Israilov at a checkpoint near the village of Sernovodsk. Israilov had earlier been detained by security forces conducting a sweep operation in the village but he had been released. Their whereabouts were unknown. Both men were later reported to have been killed on the day they were detained (see section 1.b).

In April 2005 security forces detained Murad Muradov, the director of the Chechen NGO “Let’s Save the Generation” during a firefight between federal and rebel forces in Grozny. According to human rights groups, Muradov was detained because he lived near the apartment where rebels were hiding. His whereabouts were unknown. In March 2005 Muradov’s parents were informed his body had been identified and they could claim it at a morgue in Rostov-on-Don. According to press reports, Muradov’s parents were given official documents that he was not suspected of any illegal activities.

There were continued reports during the year that government forces took relatives of Chechen rebels as hostages to force them to surrender. According to Memorial, on January 16, officers of the Republic of Chechnya’s Anti-Terrorism Center abducted five relatives of Khozh-Akhmed Dushayev in the village of Kurchaloy.



Dushayev was wanted on suspicion of being a Chechen rebel. All five were later released. On April 15, officers from the Anti-Terrorism Center detained relatives of Bislan Ilmiyev, an ATC officer under suspicion of aiding anti-government fighters. Ilmiyev's wife, mother, one-year-old child, his brothers, their wives, and their children were all detained. Ilmiyev's brother Ruslan was later released and ordered to find his brother, according to Memorial.

Chechen security forces seized relatives of Chechen commander Doku Umarov in May 2005, including his 70-year-old father, wife, and six-month-old son. They later released the wife and child, but the father's location remained unknown. In August 2005 security forces also detained Doku Umarov's sister, Natasha Khumadova. A source in the Urus-Martan district administration told Interfax that armed persons broke into Khumadova's house and threatening her with weapons, led her away. In August Chechen officials erroneously announced that Umarov, who later became the separatist "President," had voluntarily surrendered. Subsequent reports noted that it was Umarov's older brother, Akhmad, who surrendered. Appearing at a press conference with Chechen officials, Akhmad Umarov said that he had been arrested in March 2005 and had been held by authorities since. Human rights activists suggested that Akhmad Umarov had never participated in fighting alongside rebels and his detention was an effort to pressure Doku Umarov to surrender. At year's end there was no further information on the whereabouts of Umarov's relatives.

Following the numerous arrests made after the October 2005 attack on Nalchik, Human Rights Watch reported that there were at least eight cases where detainees were mistreated and that lawyers for five detainees were barred from representing their clients on spurious grounds. A year after the arrests, authorities released some of the detainees but continued to hold others. Additionally, Ruslan Nakhushhev, the head of the Islamic Research Institute in Nalchik who sought to promote dialogue between authorities and the Muslim community, disappeared in November 2005 after being questioned by the FSB. Authorities had opened a criminal case against him in October 2005 for allegedly organizing the attack on Nalchik. Nakhushhev's lawyers tried to obtain copies of the documents on which the charges were based but they were denied. The Supreme Court of Kabardino-Balkaria ruled in March that the prosecutor's office must provide Nakhushhev's lawyers with copies of these documents. In December the Ministry of Internal Affairs of Kabardino-Balkaria again included Nakhushhev on its list of most wanted criminals.

There were no indications that the authorities intended to take action as a result of a 2004 sweep of the town of Argun, which resulted in the abduction and torture of many residents and the killing of two. Only after mass protests in Argun in January 2004 were most of the detainees released; all showed signs of physical abuse and required medical attention.

Although incidents continued, the statistics of both the authorities and Memorial appeared to indicate a continued decline in abductions and disappearances compared to previous years. However, human rights groups and authorities interpreted the data differently. Government spokesmen attributed the apparent decline in abductions to efforts begun by the Chechen government in 2004 to reinforce existing requirements that military forces have license plates on their vehicles when entering a village, be accompanied by a representative of the prosecutor's office and local officials, identify themselves when entering a house, prepare lists of all persons arrested during the operation, and share those lists with local authorities. Chechen officials subsequently prohibited law enforcement officers from wearing masks.

Human rights groups attributed at least part of the statistical decline to the reluctance of detainees' relatives to complain to the authorities or human rights groups out of fear of reprisals. Citing numerous incidents in which unidentified armed men wearing camouflage broke into houses and abducted civilians, they expressed skepticism about government assertions that regulations governing the behavior of security forces were being more closely observed.

Although federal forces were believed to have engaged in fewer abductions, this was to some extent offset by the increasing role of the security forces under the command of Chechen Prime Minister Kadyrov, either by themselves or in joint operations with federal forces. Human rights groups reported that these forces were frequently suspected of disappearances and abductions, including those of family members of rebel commanders and fighters. The International Helsinki Foundation for Human Rights estimated in a February 2005 report that Kadyrov's security forces were responsible for up to 75 percent of the crimes in Chechnya.

In April Kadyrov and other officials announced that steps had been taken to remove units from Kadyrov's direct oversight. Kadyrov announced that the Chechen Republic's Anti-Terrorist Center was to be abolished, and the forces attached to it reorganized into two police battalions, North and South, and subordinated to the federal Ministry of Internal Affairs. Human rights activists contended, however,

that these forces maintained their loyalty to Kadyrov and he continued to exert control over them.

According to human rights observers, government forces responding to Chechen attacks at times engaged in indiscriminate reprisals against combatants and non-combatants.

Amnesty International reported federal and Chechen security forces targeted female civilians, both in response to terrorist bombings carried out by Chechen women and to put pressure on male relatives suspected of being rebels.

In August masked men in camouflage detained Yelena Yersenoyeva, the widow of Chechen terrorist Shamil Basayev and also a journalist and AIDS activist in Grozny. A relative who was detained with her and later released said the two had been briefly held in a basement but then Yersenoyeva was moved. There was no further information on her whereabouts. Two days before the detention, she had written to human rights organizations claiming she and her family were being harassed by Chechen security forces. On October 6, Yelena Yersenoyeva's mother was reportedly abducted from a village near Grozny. At year's end, there was no further information on their whereabouts.

The whereabouts of Milana Ozdoyeva, whom the security forces questioned twice in 2004 about her alleged plans to become a suicide bomber, remained unknown. In 2004 several men entered her house and took her away, leaving her two children behind.

Troops also reportedly kidnapped and otherwise mistreated children (see section 5).

Abductions reportedly continued in Ingushetiya. Memorial stated that 35 persons were reported abducted during the year. Of them, 15 were freed, two were found dead, and 5 disappeared without a trace. The remaining 13 were later found in the custody of law enforcement agencies.

Amnesty International and other human rights groups reported that Adam Gorchkhanov disappeared from the village of Plievo, Ingushetiya, in May 2005 after being detained in a raid by an unknown security service. Relatives subsequently learned that he had been held in the pretrial detention center in Vladikavkaz, North Ossetia, and later transferred to the Regional Department for the Fight Against Organized Crime under the Ministry of Internal Affairs. In May 2005 relatives learned that he had been taken to a hospital where, according to police statements, he jumped from a fourth floor window. A doctor, however, later told Memorial that Gorchkhanov had been admitted with a serious head injury. He died in late May 2005 from his injuries.

There were no developments during the year in the case of Ingush Deputy Prosecutor Rashid Ozdoyev, who disappeared in March 2004 after he submitted a report on alleged FSB abuses in Ingushetiya.

Throughout the year security forces continued to conduct security sweeps and passport checks at temporary settlements in Ingushetiya housing IDPs from Chechnya. These sweeps sometimes led to reports of human rights abuses or disappearances.

Following rebel attacks across Ingushetiya in 2004, federal forces conducted sweeps in several settlements housing Internally Displaced Persons (IDPs) from Chechnya. Human rights groups reported cases in which military personnel beat or verbally abused persons during these sweeps; however, the 20 IDPs they arrested were all released. Human rights groups also reported that several dozen Ingush and Chechens disappeared in Ingushetiya. As with similar operations in Chechnya, reports of beatings, arbitrary detentions, and looting usually followed security sweeps.

Chechen Republic forces commanded by Ramzan Kadyrov and federal troops continued to arrest relatives of Chechen separatist leaders and fighters in an effort to force them to surrender, according to human rights groups. They noted that this practice may be linked to an October 2004 speech by Prosecutor General Ustinov suggesting that authorities detain relatives of alleged members of armed opposition groups in response to their hostage-taking (see section 1.d.).

In March 2005, according to Memorial, Zaudi Sadulayev, aged 65, and his son were detained by Chechen security forces under the command of Kadyrov in the village of Mairtup because another of Sadulayev's sons was allegedly a member of the Chechen rebels. Similar cases cited by Memorial included the detention of a 13-year-old boy in the village of Noviye Atagi by Kadyrov's forces and the abduction of four members of the Sirazhdiyev family in May 2005 by unknown security forces in revenge for the killing of a member of the Vostok battalion.

Government forces and Chechen rebel fighters have used landmines extensively in Chechnya and Dagestan since 1999; but there were fewer civilian landmine victims in Chechnya during the year. In June officials confirmed to Landmine Monitor, that forces continued to use antipersonnel mines in Chechnya, both newly emplaced

mines and existing defensive minefields. The most-affected regions were Dagestan: 60 casualties (nine killed and 51 injured); Chechnya: 24 casualties recorded by UNICEF; Ingushetia: 15 casualties (one killed and 14 injured); and Bushkiria: 14 casualties (all injured).

Federal forces and their opponents continued to use antipersonnel mines in Chechnya, although Landmine Monitor reported that Chechen fighters increasingly used improvised explosive devices. Reports suggested that the number of landmine casualties was declining over time. According to statistics this year, UNICEF recorded 30 new civilian mine/UXO (unexploded ordinance) casualties, including 9 killed and 21 injured; 10 were children (three killed and seven injured). According to UNICEF, as of December 31, there were 3,065 landmine and UXO casualties in Chechnya since 1995. Of these, 2,363 were wounded and 702 killed. Among the casualties were 754 children, 623 of whom were wounded and 131 were killed. Unlike previous years, there were no reports that Chechen rebels used children to plant mines and explosives.

Chechen officials acknowledged the presence of mass graves and dumping grounds for victims, and there was one report of a new mass grave discovered during the year. In April, officials in Grozny announced they had found a mass grave containing the remains of at least 57 persons. The grave appeared to have been used for the burial of rebel fighters and civilians killed during government forces' bombardment of the city in 2000. Nurdy Nukhazhiyev, then-head of the Chechen Republic's Committee for Protecting the Constitutional Rights of Citizens, reported in 2005 there were as many as 52 mass graves in the republic, although this report resulted in no investigations. In April 2004 local residents near the village of Serzhen Yurt found the bodies of nine men in a ravine. According to Amnesty International, the bodies bore gunshot wounds and marks of torture. Federal forces detained eight of the men in 2004 in the village of Duba Yurt. The ninth man had disappeared from his home in Grozny, according to Amnesty International. There were no reports by year's end that the Government had initiated any criminal cases related to the mass grave discoveries. Memorial reported that it was unaware of any charges brought against federal security officers in response to the discovery of any mass graves.

Armed forces and police units were reported to have routinely abused and tortured persons in holding facilities where federal authorities sorted out fighters or those suspected of aiding the rebels from civilians. Human Rights Watch documented 115 torture cases in Chechnya between July 2004 and September 2006.

In May, Memorial representatives discovered an illegal detention center in Grozny where detainees were reportedly held, tortured, "disappeared," and killed by federal police units that had temporarily been assigned to Chechnya (see section 1.c.). Despite appeals to officials to investigate Memorial's allegations, the building—a former boarding school for deaf children—was demolished.

Federal forces and Chechen police units reportedly ransomed Chechen detainees (and, at times, their corpses) to their families for prices ranging from several hundred to thousands of dollars.

Russian law prohibits the bodies of "terrorists" from being returned to their relatives. The body of Chechen rebel "President Abdul Khalim Saidulayev, who was killed in August, was not returned to his relatives.

Since the start of the Chechen conflict, there have been widespread reports that federal troops killed or tortured suspected rebel fighters they had detained and that rebel fighters killed or abused captured federal troops and Chechen security forces. A policy of "no surrender" appeared to prevail in many units on both sides. According to press reports, Chechen police beheaded a slain rebel in July and placed his head on a pole in what they claimed was retaliation for the fighter's beheading of one of their comrades.

According to human rights NGOs, federal troops on numerous occasions looted valuables and foodstuffs in regions they controlled. Many IDPs reported that guards at checkpoints forced them to provide payments or harassed and pressured them. The indiscriminate use of force by federal troops caused destruction of housing and commercial and administrative structures. In September an artillery bombardment near the village of Serzhen-Yurt reportedly inflicted heavy property damage although it caused no casualties.

A climate of lawlessness and corruption continued to flourish in Chechnya. The Government investigated and tried some members of the military for crimes against civilians in Chechnya; however, there were few convictions and reports concerning the number of convictions differed. President Putin stated in a May 2005 interview that hundreds of criminal cases had been opened into alleged crimes by servicemen and that over 50 persons had been convicted and given various prison terms, but he provided no further details. While this figure agrees with others the administra-

tion has provided, it does not make note of the fact that the majority received suspended sentences, as stated by Duma deputy Sergei Kovalev in 2003.

According to Memorial there were no arrests or convictions of servicemen during the year for crimes committed against civilians.

In November 2005 authorities reportedly arrested four Russian servicemen for the November 2005 killing of three Chechen civilians in the village of Staraya Sunzha. According to press reports, the victims were shot and stabbed by drunken soldiers, who were stopping vehicles and demanding money at a checkpoint.

According to statistics compiled by the federal Prosecutor General's office, through June 2005 verdicts had been rendered in 103 cases involving federal servicemen charged with crimes against civilians since 1999. Of these, 27 were given prison sentences of from one to 18 years, eight were acquitted, and 20 were amnestied. Sentences in the remainder were suspended or the guilty were fined, according to Memorial. Government statistics also showed that 34 law enforcement officers were charged with crimes against civilians, with seven sentenced to prison and the rest convicted and given suspended sentences.

The prosecutor general's office released statistics in 2004 indicating that, since 2001, 1,749 criminal cases were initiated in Chechnya to investigate approximately 2,300 cases involving disappeared persons. Of these, only 50 cases reached the courts. Memorial concluded that the majority of cases opened for alleged crimes by federal servicemen against civilians resulted in no charges because of the absence of the bodies or an inability to identify a suspect.

In May 2005, a retrial began of federal interior ministry officers charged with murdering three civilians in Chechnya in 2003. The retrial of Yevgeniy Khudyakov and Sergey Arakcheyev began after the Supreme Court overturned the north Caucasus military district court's 2004 acquittal of the two officers. A news service reported that the court found the jury for the trial was convened improperly. Khudyakov and Arakcheyev allegedly shot the three civilians in 2003 after forcing them out of a truck near Grozny and doused the bodies with gasoline and ignited them in an attempt to cover up the crime. A jury acquitted them again in October 2005. In May the Supreme Court overturned the verdict and ordered a new trial.

Following the death of Chechen terrorist Shamil Basayev in July, FSB chief Nikolay Patrushev, as chair of the National Antiterrorist Committee, announced an amnesty for Chechen rebels with an initial deadline of August 1. The deadline was extended until January 15, 2007 in legislation passed by the Duma and through December 25, 375 rebels had surrendered according to press reports.

In April 2004 then-Chechen President Akhmed Kadyrov asked that the State Duma extend an amnesty that had expired in September 2003. In June 2004, following his assassination, his son Ramzan stated that the amnesty program should be ended and gave fighters three days to turn in their weapons.

On July 27, the ECHR found that the Government was responsible for the "disappearance" of Khadzhimurat Yandiyev and ordered it to pay compensation to his mother. Yandiyev was detained in the village of Alkhan-Khala in 2000 and never seen again. Journalists had videotaped Colonel General Aleksandr Baranov aggressively interrogating Yandiyev and then ordering his execution.

In February 2005 the ECHR found in favor of six Chechen applicants to the court. The ECHR found the Government in violation of several articles of the European Convention on Human Rights and Fundamental Freedoms. Two of the cases concerned the killing and mutilation of the applicants' relatives in Grozny in 2000. Three others were brought in response to the bombing of a convoy of civilians in 1999 by government military aircraft. The sixth case involved the artillery and aerial bombardment of the village of Katyr Yurt in 2000 that resulted in the death of one applicant's son and three other relatives (see section 4).

Government forces continued to abuse individuals seeking accountability for abuses in Chechnya and continued to harass applicants to the ECHR. Amnesty International and other human rights groups have reported reprisals against applicants to the court, including killings, disappearances, and intimidation. According to press reports and human rights NGOs, at least five applicants to the ECHR have been killed or abducted.

Memorial reported that in December 2005 unknown security forces arrested and detained Mekhti Mukhaev, whose relatives had complained to the ECHR over the disappearance of four men from the village of Zumsoi in January 2005. According to Memorial, Mukhaev was tortured repeatedly while in custody and authorities fabricated a criminal case against him (see section 1.c.). Mukhaev was convicted in August of participation in an illegal armed formation and sentenced to eight months in prison. Taking into account the time he had already spent in detention since January, he was ordered released in September.

In April 2005 armed men took two ECHR applicants from their homes. The body of one of them was found in May 2005, and the other was still missing. Other applicants reported that they were offered pay-offs or were threatened in an effort to have them drop their cases.

The authorities continued to target the Russian-Chechen Friendship Society (RCFS) and in October it was ordered to shut down (see sections 2.b. and 4). The RCFS urged negotiations with Chechen rebels to settle the conflict and reported on human rights abuses perpetrated by both sides of the conflict. In February RCFS Executive Director Stanislav Dmitriyevskiy was convicted of inciting racial and ethnic hatred by a Russian court and given a two-year suspended sentence and four years probation. The guilty verdict was appealed to the Nizhniy Novgorod Regional Court, where it was upheld on April 11. In March authorities announced they were dropping a criminal case against the organization for tax evasion. Shortly after Dmitriyevskiy was convicted, authorities moved to shutdown the organization for failing to distance itself from Dmitriyevskiy. In October, under the new NGO legislation a Nizhny Novgorod court ordered RCFS to shutdown. At year's end, the RCFS remained open, pending appeals of Dmitriyevskiy's conviction and the court ruling to close it.

RCFS offices in Nizhniy Novgorod were raided in January 2005 and separate criminal and tax cases were opened against the RCFS executive director and the organization (see section 2.b. and 4). In January 2004 human rights activist Aslan Davletukayev, an RCFS volunteer, was abducted, tortured, and killed in Chechnya under circumstances that suggested the involvement of government forces. He was the third volunteer with the RCFS to have been killed since December 2001. According to Amnesty International and other human rights groups, he had been in the custody of federal forces. A criminal investigation into the incident was inconclusive and no charges were brought. The RCFS reported that it received anonymous threats following the September 2004 seizure of the school in Beslan.

Government oversight over human rights conditions in the Northern Caucasus remained weak. In February Chechen President Alu Alkhanov appointed Nurdi Nukhazhiyev as Chechnya's new human rights ombudsman. According to Amnesty International, Chechen Republic authorities also established a database of missing persons, and Alkhanov also established an interagency commission with the participation of federal law enforcement authorities to address the issue. A separate parliamentary commission was also created, but Amnesty International noted it remained to be seen how these entities would work together or how effective they might be.

In January 2004 President Putin abolished the post of Presidential human rights representative to Chechnya on the grounds that no other region had an analogous representative and Chechnya no longer warranted special treatment. Putin handed full responsibility for the issue to then-Chechen President Akhmed Kadyrov. In June 2004 Chechen President Alu Alkhanov appointed Lema Khasuyev as the republic's human rights ombudsman. In June 2005 Khasuyev said he would not cooperate with the human rights NGO Memorial, claiming that it was biased and worked in the interests of foreign donors.

The Independent Commission on Human Rights in the Northern Caucasus headed by the chairman of the State Duma Committee on Legislation has reduced the number of commission offices in Chechnya but as of November, it remained open. The commission heard hundreds of complaints, ranging from destruction or theft of property to rape and murder; however, it was not empowered to investigate or prosecute alleged offenses and had to refer complaints to military or civil prosecutors. Almost all complainants alleged violations of military discipline and other crimes by federal and Chechen Republic forces.

Chechen rebel fighters also committed numerous, serious human rights abuses. They committed terrorist acts against civilians in Chechnya and elsewhere in the country, killed civilians who would not assist them, used civilians as human shields, forced civilians to build fortifications, and prevented refugees from fleeing Chechnya. In several cases, Chechen fighters killed elderly ethnic Russian civilians for no apparent reason other than their ethnicity. Verifying or investigating these incidents was difficult. Chechen Minister of Internal Affairs Ruslan Alkhanov identified 120 attacks that he characterized as terrorist acts in Chechnya in 2004, but it was unclear what methodology he used to cite that figure.

Chechen rebels and others affiliated with them have committed terrorist acts involving bombings during the year. Chechen terrorist leader Shamil Basayev, who was killed in July, when a truck full of explosives presumably to be used in another terrorist act blew up, had continued to take responsibility for rebel attacks outside Chechnya and to threaten new ones. In a 2005 interview in which Basayev acknowl-

edged he was a terrorist, he said that attacks similar to the Beslan school attack were possible.

In July 2005, a bomb planted by fighters killed 15 persons including a number of civilians, and injured nearly 30 others in the Chechen village of Znamenskoye. Police were lured to the scene of the explosion after rebels placed a corpse in a stolen police car and made it appear as though a shooting was taking place. In August 2005, a woman and a 12-year-old boy were killed in central Groznyy when a car bomb exploded near the Government compound. Eleven others were wounded.

According to authorities 12 civilians were killed during a large-scale rebel attack on Nalchik, capital of the Republic of Karbardino-Balkariya in October 2005. The attackers, who numbered as many as 300, targeted military garrisons and police stations throughout the town. The death toll among military and law-enforcement personnel was reported to be 34. Chechen terrorist leader Shamil Basayev claimed responsibility. Most observers believed that a majority of the attackers were natives of Karbardino-Balkariya.

There were also rebel attacks in other parts of the Northern Caucasus. Chechen rebels continued to launch attacks on government forces and police in Ingushetiya during the year.

In Ingushetiya, several officials were killed by unknown assailants. On June 9, Ingushetiya Ministry of Internal Affairs Lieutenant Colonel Musa Nalgiyev, three of his children, a driver, and bodyguard were killed as he took the children to a childcare center. A short distance away, on June 9, deputy district administrator Galina Gubina was shot and killed (see section 1.a.)

In May, rebels killed Ingushetiya's Deputy Minister of Internal Affairs Dzhabrail Kostoyev using a roadside bomb. Two bodyguards and four bystanders were also killed. There had been repeated attempts on Kostoyev's life.

These attacks followed a number of terrorist acts in 2004. In February 2004 Basayev claimed responsibility for an attack in which a suicide bomber blew up a car on the Moscow metro, killing 40 persons. In March 2004 terrorist Abu al-Walid stated that further attacks should be expected. In August 2004 suicide bombers from Chechnya were believed to have carried out the near-simultaneous downing of two civilian aircraft, killing 89 persons, and a suicide bombing later that month at a metro station in Moscow that killed 10 persons. In September 2004 terrorists took an estimated 1,200 teachers, children and parents hostage in a school in Beslan, North Ossetia. During the hostage-taking and the rescue effort by troops and security forces, at least 330 hostages died. Security forces subsequently killed most of the hostage takers in a firefight that lasted several hours.

In other incidents rebels took up positions in populated areas and fired on federal forces, thereby exposing civilians to federal counterattacks. When villagers protested, the rebels sometimes beat or fired upon them. Chechen fighters also targeted civilian officials working for the Chechen Republic. Chechen Prime Minister Ramzan Kadyrov stated November 14 that 71 heads of local administration and 60 imams had been killed in Chechnya from 2000–06. Memorial documented three cases in which local officials in Chechnya were killed during the year.

In November 2005 about 100 Chechen rebels raided the village of Avtury, killing the head of the village administration Ibragim Umpashayev and his son Isa. In May 2004 Chechen rebels assassinated President of the Chechen Republic Akhmed Kadyrov while he was attending a Victory Day celebration in Groznyy. Chechen fighters also reportedly abused, tortured, and killed federal soldiers whom they captured. Rebels continued a concerted campaign, begun in 2001, to kill civilian officials of the Chechen Republic. According to Chechen sources, rebel factions also used violence to eliminate economic rivals in illegal activities or to settle personal accounts.

Rebel field commanders reportedly resorted to drug smuggling and kidnapping to fund their units. As a result, distinguishing between rebel units and criminal gangs was often difficult if not impossible. Some rebels allegedly received financial and other forms of assistance from foreign supporters of international terrorism. Government officials continued to maintain that there were 200–300 foreign fighters in Chechnya.

International organizations estimated that the number of IDPs and refugees who left Chechnya as a result of the conflict reached a high of approximately 280,000 in the spring of 2000 (see section 2.d.). At various times during the conflict, authorities restricted the movement of persons fleeing Chechnya and exerted pressure on them to return there (see section 2.d.). At year's end, the UN High Commission for Refugees (UNHCR) registered 20,075 IDPs from Chechnya for assistance in Ingushetia. About a third of these IDPs remained in temporary settlements. Approximately 150,000 persons lived within Chechnya, including thousands living in temporary accommodation centers. Conditions in those centers reportedly failed to meet international standards.

Beginning in 2004, authorities refused to grant the ICRC access, under ICRC's standard criteria, to those detained as part of the conflict in Chechnya, and the ICRC subsequently suspended its detention visits. The suspension was still in place at year's end.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, government pressure on the media persisted, resulting in numerous infringements of these rights. Faced with continuing financial difficulties, as well as pressure from the Government and large private companies with links to the Government, many media organizations saw their autonomy further weaken. The Government used its controlling ownership in all national television and radio stations, as well as the majority of influential regional ones, to restrict access to information about issues deemed sensitive. It severely restricted coverage by all media of events in Chechnya. There were indications that government pressure frequently led reporters to engage in self-censorship. Nonetheless, on most subjects, the public continued to have access to a broad spectrum of viewpoints in the print media and, for those with access, on the Internet.

While the Government generally respected citizens' rights to freedom of expression, it sometimes restricted this right with regard to issues such as the conduct of federal forces in Chechnya, discussions of religion, or controversial reforms in the social sector. Some regional and local authorities took advantage of the judicial system's procedural weaknesses to arrest persons for expressing views critical of the Government. With some exceptions, judges appeared unwilling to challenge powerful federal and local officials who sought to prosecute journalists. These proceedings often resulted in stiff fines.

Although all but two national newspapers remained privately owned, as did more than 40 percent of the 45,000 registered local newspapers and periodicals, the Government attempted to influence the reporting of independent publications. During the year government friendly corporations purchased majority or significant minority stakes in several key publications. Media freedom advocates viewed this trend as further evidence of government efforts to expand control of media beyond national television before the 2007–08 parliamentary and Presidential elections.

In June United Russia Duma Deputy Aleksandr Lebedev and former Soviet leader Mikhail Gorbachev purchased 49 percent of Novaya Gazeta, an independent investigative weekly. Both indicated that they did not intend to interfere with editorial policy and by year's end there was no indication that they had.

In August, after a year of rumors that the Government controlled company Gazprom would purchase the independent business daily Kommersant, 100 percent of the paper's holding company was sold to the general director of Gazprominvestholding, Alisher Usmanov. There was not been a discernible shift in the newspaper's editorial slant by year's end.

Other significant transactions leading to greater state ownership included the April purchase of 49 percent of Zhizn, the fourth largest mass-circulation weekly, by UFG Private Equity Fund. Boris Fedorov, UFG general partner, also sat on Gazprom's Board of Directors. In June 2005 Gazprom purchased the daily newspaper Izvestiya. In late 2005, after a personnel change at Izvestiya, the newspaper's editorial staff was reportedly told on several occasions to be careful not to provoke government authorities.

In October 2005 liberal weekly newspaper, Moskovskiye Novosti, was purchased from the Ukrainian-Israeli media company, Media International Group (MIG) by Israeli businessman Arkadiy Gaydamak. MIG had just purchased the newspaper in July from Mikhail Khodorkovsky after pledging not to change the existing editorial policy. Upon purchasing Moskovskiye Novosti, Gaydamak stated that he would transform the newspaper into a progovernment media outlet devoid of opinion or polemics.

Approximately two-thirds of the 2,500 television stations in the country were completely or partially owned by the federal and local governments. Furthermore, the Government indirectly influenced private broadcasting companies through partial ownership of such commercial structures as Gazprom and Eurofinance Bank which in turn owned controlling or large stakes of media companies. Such influence, however, was not uniform.

The Government exerted its influence most directly on state-owned media. Of the three major national television stations, the Government had a direct interest in two, the Rossiya Channel, which it owned outright, and the First Channel, in which it held a majority interest. Journalists and news anchors of Rossiya and First Channel reported receiving "guidelines" from the management prepared by the Presidential administration, indicating which politicians they should support and which

they should criticize. The two networks promoted a positive image of President Putin and supported a completely Russo-centric angle on the gas crisis with Ukraine, the dispute with Georgia, and the gas crisis with Belarus.

Gazprom has a controlling ownership stake in NTV, which maintained a slightly more independent editorial line than Rossiya or First Channel, avoiding criticism of the Government but continuing to highlight important stories—such as the prosecution of Mikhail Khordokovskiy—when other channels chose to bury the news deeper within their evening news programs. In March 2005 NTV management prohibited the broadcast of an investigative program about the 2000 murder of Ukrainian journalist Georgiy Gongadze. Media reports cited NTV sources as saying the program contained interviews with Ukrainian politicians and former senior government officials who made allegations of possible Russian government involvement in the murder. According to media freedom advocates, the program was pulled by order of Presidential Administration officials, who also demanded that NTV abstain from further reporting on Gongadze's case.

Of the two second-tier national television networks that have exhibited independence of the Government, REN-TV was sold in 2005. REN-TV ended up under the shared control of Severstal Group and Surgutneftegas Company, each with 35 percent of the shares and both under the control of government allies. The German media company RTL owned the remaining 30 percent of REN-TV. Following the sale REN-TV, observers alleged that the network's editorial line became more pro-government. The network's November 2005 decision to cancel the news show "24," anchored by one of the country's most outspoken journalists, Olga Romanova, was seen as evidence of this trend. Romanova was later dismissed after publicly protesting censorship at the network followed by a wave of resignations among the news staff who alleged the network had started to practice self-censorship aimed at pacifying the Government.

In August TV Center began broadcasting on affiliate stations in St. Petersburg and the regions. TV Center's core strategy is based on becoming an additional source for news, documentaries, and other informational programming. Owned by the city of Moscow, TV Center is widely considered Moscow's "local" television station and received a considerably higher audience share in the capital than in the country as a whole.

There were reports that the Government will continue funding Zvezda, a military-patriotic channel featuring programs and movies focusing on the armed forces that was launched in February 2005, and increase funding for Russia Today, the state-owned English-language news channel aimed at foreign audiences, to almost \$90 million (2.43 billion rubles).

The Government also maintained ownership of the largest radio stations, Radio Mayak and Radio Rossiya, and the news agencies ITAR-TASS and RIA-Novosti.

Originally conceived as a nonpolitical television talk show, *V Krug Sveta* (In the Spotlight) was cancelled in September by the Domashniy television channel after only four episodes. Reports indicated that the show incurred the ire of the authorities, when lawyer Genrikh Padva and political writer Marietta Chudakova were invited to discuss the success or failure of the jury trial system in the country. The guests also touched on the light sentences imposed on those convicted of hate crimes, the unrest in the Karelian town of Kondopoga, and the cases of military officers Eduard Ullmann and Yuri Budanov, who had been charged with crimes against Chechen civilians.

The Government also issued legal orders that directly curtail freedom of the press or could be used by the authorities to pressure independent journalists. On July 28, President Putin signed the new version of the law "On Countering Extremism," which stipulates that "public libel" of government officials is tantamount to extremist activity. Media freedom advocates expressed concern that this broad interpretation of extremism could create a basis for government officials to stifle criticism and label independent reporters as extremists (see section 3).

On July 25, RosOkhranKultura, the Federal Service for Media Law Enforcement and the Protection of Cultural Heritage (FSMLE) posted a letter from the director of the Federal Registration Service (RosRegistratsia) on its Web site regarding media mentions of the "liquidated" National Bolshevik Party (NBP) or any person claiming to act in the name of the NBP. The letter informed the media that all references to the NBP could be considered as the dissemination of false information and that disregard of this notice could lead to the "application of restrictive, precautionary and preventative measures."

In October Vladimir Rakhmankov, the editor of the now defunct Internet magazine *Kursiv*, was charged under the criminal code and fined \$750 (20,250 rubles) for a satirical critique of Putin's plans to boost birthrates in the country.



In September an Altai Republic court found the former head of the republican government's Information Policy Committee guilty of abusing his official position to interfere with legal journalistic activity. This decision resulted from an April 2005 complaint by the editors of two Altai newspapers, *Zvezda Altaya* and *Altaidyn Cholmony*, who complained that the head of the Information Policy Committee pressured them to report only positive stories about the Republic's government. The offender was sentenced to 10-months of incarceration (suspended) and one year of probation. He was also banned from government employment for a period of one year.

Government-controlled media exhibited considerable bias in favor of President Putin in its coverage of the 2004 Presidential campaign. President Putin did not actively campaign, but, as the OSCE election observation mission noted, he received coverage on the state-controlled television channels far beyond what was reasonably proportionate to his role as head of state. For example, the OSCE election observation mission reported that in the four weeks preceding the elections, First Channel provided in total more than four hours of its political and election news coverage to President Putin. The next most covered candidate received approximately 21 minutes of prime time coverage (see section 3).

The federal Ministry of Internal Affairs continued to control media access to the area of the Chechen conflict. On September 10, police detained British reporters with the CMI independent news agency and Fatima Tlisova, editor-in-chief of the *Regnum* news agency's North Caucasian branch in the city of Nalchik. The British journalists intended to interview Tlisova but were detained for the entire day and prevented from doing so. The reason given for the detention was that the reporters had strayed into an off-limits area.

On November 24, reporters from Austria's ORF television channel were detained for more than six hours at a checkpoint in Chechnya by FSB officers. The authorities searched the journalists and confiscated video recordings, a satellite phone, and three special accreditation certificates allowing the journalists to work in a zone of antiterrorist operations.

On December 14, Deutsche Welle journalist Kristof Wanner was detained by authorities when he entered a zone of antiterrorist operations in Chechnya to record video for a report on a German NGO. He did not have the proper accreditation certificate and the authorities ordered his expulsion from the Chechen Republic.

In March Dagestani police and FSB officers detained freelance reporter Kelly McEvers in Khasavyurt. McEvers, who was doing research on Islamic extremism but lacked the proper accreditation, was questioned for 10 hours and released, only to be again detained for several hours upon arriving in Dagestan's capital, Makhachkala. McEvers had been warned by authorities previously not to travel in the area without proper accreditation but failed to heed the warning.

On November 20, Moscow journalist Boris Stomakhin, editor of *Radikalnaya Politka*, was sentenced to five years in prison on charges of inciting ethnic hatred, according to news reports. He has filed an appeal with the Moscow City Court. Human rights activists asserted that the severity of the sentence was unprecedented.

In February 2005 the Ministry of Culture and Mass Communications issued a warning to the daily newspaper *Kommersant* for publishing an interview with Chechen rebel leader Aslan Maskhadov. The ministry claimed the interview "justified extremist activities." Under legislation governing the media, multiple warnings might allow the ministry to suspend the newspaper's publication. In April 2005 the Moscow arbitration court rejected the newspaper's appeal of the warning. In June 2005 the Moscow arbitration court's ruling was upheld.

In June 2005 police and FSB agents in Nazran, Ingushetia, detained Mariusz Pilis, Marcin Mamon, and Tomasz Glowacki, journalists of the Polish state television station TVP. The journalists, who were working on a documentary about Chechnya, had valid visas and accreditation. After 14 hours in detention, authorities confiscated the journalists' tapes, told them that their visas and accreditation cards were no longer valid, and ordered them to leave Ingushetia within 24 hours.

At year's end the ABC television network was still unable to obtain accreditation necessary to reopen its bureau in Moscow. The Russian government withdrew the bureau's accreditation in July 2005 after ABC News broadcast an interview with Chechen terrorist Shamil Basayev.

Mistreatment of journalists by authorities was not limited to Caucasus-related coverage. The Glasnost Defense Fund (GDF) and other media freedom monitoring organizations reported numerous abuses of journalists by police and other security personnel elsewhere, including physical assault and vandalism of equipment. In most instances, however, the mistreatment appeared to have been at the initiative of local officials.

On February 2, in Vladikavkaz, police officers beat Channel One reporter Olga Kiriy when she attempted to report on the victims of two explosions. When her television crew arrived at the hospital, three police officers barred their entry to the hospital, banned the use of cameras on the premises, and subsequently beat Kiriy on the head and stomach. Channel One reported the incident and the offending officer was sentenced to 3 1/2 years in jail.

On February 3, reporters from the Equipage television show arrived at the village of Bolshoye Kozino to cover a story about an unauthorized search of a private house (i.e., without a warrant). When they arrived at the location where the search was taking place, a group of law enforcement officers attacked the cameraman, broke his camera, and confiscated the cassette.

In April Yevgeny Khamaganov, a reporter for the Aulan-Ude newspaper InformPolis, was detained by the Organized Crime Division of the police for his alleged involvement in a murder case. The authorities subsequently questioned him about a February trip he made to Irkutsk and the Ust-Ordynsky District during which he collected material for an article critical of an upcoming unification referendum.

In May in Nizhny Tagil, Natalya Gorchakova, a reporter for the newspaper Tagilsky Rabochiy, was reporting on detainee abuse at a local police station when the officer on duty tried to tear the camera away from her and beat her in the presence of numerous eyewitnesses.

On June 7, Gennady Nikolayev, Yulia Yanbayeva, and Elena Volkovskaya from the Novy Region information agency were detained by FSB officers and regional prosecutors at the Volgograd municipal administration headquarters while gathering information about the recent arrest of Mayor Evgeny Ishchenko. The reporters were taken to the prosecutor's office and required to surrender their cell phones and computers.

In May 2005 police in Moscow's Red Square beat Aydar Buribayev, a correspondent for the daily Gazeta, and Shagen Ogandzhanyan, a correspondent for the daily Novaya Gazeta, who were covering a rally by a radical youth group. Buribayev, Ogandzhanyan, and Novaya Gazeta correspondent Irina Gordiyenko were subsequently taken to a police station, interrogated, and released after several hours.

According to the GDF, 69 journalists were physically attacked during the year and nine were killed. At least two of the deaths may have been related to their work in journalism. In most cases authorities and observers were unable to establish a direct link between an assault and the persons who reportedly had taken offense at the reporting in question. Independent media NGOs still characterized beatings of journalists by unknown assailants as "routine," noting that those who pursued investigative stories on corruption and organized crime found themselves at greatest risk.

In July in Saratov, Yevgeny Gerasimenko, an investigative reporter for the newspaper Saratovsky Rasklad, was found dead in his home with a plastic bag over his head, his hands bound behind his back with duct-taped and numerous bruises covering his body. There was no sign of forced entry, and the only item missing was his computer. His colleagues noted that Gerasimenko was working on an investigative article just prior to his death.

On October 7, an unknown person shot and killed prominent investigative journalist Anna Politkovskaya as she entered the elevator in her Moscow apartment building. The contract-style killing was carried out during daylight hours. Politkovskaya was known for her articles in the liberal newspaper Novaya Gazeta. Her writing was highly critical of the war in Chechnya, the Chechen authorities, human rights abuses, and President Putin's administration. As a result of her writing, she received many death threats. Authorities continued to investigate the crime at year's end. Following Politkovskaya's killing, two other Novaya Gazeta staffers received death threats—one for his work on a series of publications highlighting problems in the North Caucasus and the other in connection with his efforts to investigate the Politkovskaya killing.

On January 8 in Tula, Vaghif Kochetkov, a Trud staff correspondent and a political observer for the newspaper Molodoy Kommunar, died in the hospital after being attacked by unidentified persons. He was initially found alive three hours after the attack and was unwilling to talk about the assault or his attackers. Kochetkov's relatives suggested the attack was in some way connected with his work as a reporter.

On July 21 in Cheboksary, the body of Vlad Kidanov, an independent journalist, was found dead on a park bench with numerous bruises. He was taken to the city morgue and his relatives were not called for a week. No criminal proceedings have been initiated.

In May 2005 Pavel Makeyev, a reporter from the local Rostov-on-Don television company TNT-Plus, was found dead in a ditch with multiple bruises and fractures. His equipment and cell phone were missing. It appeared that Makeyev died shortly after beginning work on a story about illegal drag racing, and some of his colleagues stated that Makeyev's death was linked to his work. An investigation later determined that a driver participating in a drag race struck Makeyev with his car, but a conviction against this person was not pursued.

In June 2005 unknown assailants in Makhachkala shot and killed Magomedzagid Varisov, director of the Center for Strategic Initiatives and Political Technologies and a columnist of the local weekly *Novoye Delo*. Varisov's colleagues said he received numerous threats in connection with his commentary on local politics. No progress in the investigation of Varisov's killing had been reported by year's end.

In October 2005 Tamirlan Kazikhanov, the head of the press service of the Counterterrorist Center of the Ministry of Interior in the Southern Federal District was killed by rebels during an assault on the center's office in Nalchik. A sniper fatally shot Kazikhanov after he took a camera and started to film the attack on the building. A criminal case relating to the overall assault is currently underway, but no case was open on behalf of Kazikhanov's death.

Other journalists who may have been attacked this year because of their work include: Sergey Davydov, crime news editor for the newspaper *Togliattinskoye Obozreniye* in the Samara Region; Andrei Yundin, ATV editor-in-chief in Stavropol; Malika Gortikova, reporter for newspaper *Serdalo* in Ingushetia; Yulia Vassilyeva, reporter for Rossiya TV in St. Petersburg; Valery Ustinov, reporter for ITAR-TASS-Ural in Yekaterinburg; Roman Kulguskin, St. Petersburg freelance reporter in Moscow; Yuri Padalko, reporter for *Pravda.info* in Moscow; Dmitry Borko, photo correspondent for *Grani.ru* in Moscow; Alexei Savelyev, photo correspondent for Stringer news agency in Moscow; Boris Kosarev, reporter for *Regnum* news agency in Moscow; Vladimir Voronov, a *New Times* correspondent in Moscow; Viktor Volkov, a freelance journalist in the Moscow Region; Rustam Fakhretudinov, newspaper *Vechernyaya Tyumen* in Tyumen; Marina Litvinovich, editor-in-chief of the Web site *Pravda Beslana* in Moscow; Boris Pashkov, cameraman for RTR's *Vesti* in St. Petersburg; Vladimir Pozharsky, reporter for *Express Gazeta* in Moscow; and Vladimir Rakhmankov, editor of the Internet newspaper *Kursiv* in Ivanovo.

High-profile cases of journalists killed or kidnapped in earlier years remained unsolved. In 2005 the Government detained two of five Chechens suspected of being the shooters in the 2004 killing of Paul Klebnikov (the American citizen editor-in-chief of the *Forbes* Russia). Three other suspects remain at large. One of the suspects, former separatist Chechen figure Khoz-Akhmed Nukhayev, was charged with ordering the killing. Although the initial trial of the two suspects in custody, Kazbek Dukuzov and Musa Vakhayev, resulted in an acquittal, that verdict was subsequently overturned by the Supreme Court and a new trial with a new judge was ordered in November.

In March 2005 the Military Collegium of the Supreme Court rejected the general prosecutor's appeal of the 2004 Moscow circuit military court's acquittal of all the defendants accused of organizing the 1994 killing of Dmitriy Kholodov, military affairs correspondent for the daily newspaper *Moskovskiy Komsomolets* (see section 1.a.).

Authorities at all levels employed administrative measures to deter critical coverage by media and individual journalists. One method was to deny the media access to events and information, including filming opportunities and statistics theoretically available to the public. For example, under the media accreditation regulations adopted by the Karachayevo-Cherkessiya Republic government in March 2005, only media outlets providing "objective" reporting on the local government are allowed access to government media events.

In January the Ivanovo Regional Legislative Assembly restricted journalist access to its session without explanation or prior announcement that the session would be closed to the press.

In February President of Khakassia's Supreme Council Vladimir Shtygashev told a news conference that accreditation for Alexei Kirichenko, a reporter for the newspaper *Chance*, was being "temporarily withheld." The reason given was that "the majority of Council members have spoken negatively about Mr. Kirichenko's writings" and suggested that he be barred from covering official meetings.

In March, Rostov's Regional Court denied 15 local and national journalists access to two "open" hearings.

In April reporters in the Mariy-El Republic were told that continued access to Legislative Assembly sessions was dependent upon the number of stories published concerning the performance of parliamentarians.

At times officials or unidentified individuals used force or took extreme measures to prevent the circulation of publications that were not favored by the Government.

In January Oryol Deputy Governor Vitaly Kochuyev and Gubernatorial Trade Department Head Vladimir Agapov reportedly held meetings with companies leasing space to newspaper stalls and retail press distributors in order to pressure them to terminate retail sales agreements with the newspaper Orlovskiy Novosti.

On February 21, in Nazran, six armed men stormed into the home of Murat Oziyev, editor-in-chief of the independent newspaper Angusht. They searched his home without a warrant and confiscated 300 copies of the newspaper. Oziyev stated that the order to search his house and confiscate the Angusht circulation was issued by the Ingush Presidential administration in retaliation for publishing an article critical of the Ingush President.

In June the national press distribution service RosPechat refused to distribute the newspaper Ivanovo-Press. The newspaper contacted RosPechat and was told that the newly appointed local head of RosPechat had issued an order not to accept subscriptions for Ivanovo-Press and later barred all agreements with the newspaper.

Legal actions against journalists and journalistic organizations were another tool employed by authorities at the federal and local levels, primarily in response to unfavorable coverage of government policy or operations. The GDF estimated that 48 criminal cases and almost 300 civil cases were brought against journalists during the year. The utility of this tool was partially diminished as a result of a decision by the Supreme Court in 2004 prohibiting courts from imposing sentences in libel and defamation cases that would bankrupt the media organization being sued. However, one NGO reported that the decision was not always implemented properly on the local level. The court's order stated that compensations "should be commensurate with the damage and not infringe upon press freedom." The GDF noted that during the year the courts have upheld civil defamation claims against journalists in amounts equivalent to approximately \$136.1 million (884.9 million rubles).

In January the Yamalo-Nenets District's Territorial Electoral Commission initiated criminal proceedings against a reporter for Gazovik, Vyacheslav Kalinin, under penal code ("Interference with the exercise of electoral rights or the work of electoral commissions").

In April a defamation case was filed by the mayor of Lytkarino (in the Moscow Region) and a businessman against Artyom Danilov, editor-in-chief of the newspaper Delovoy Press-Tsentr. The journalist had asked regional authorities about municipal actions favoring the businessman, but the court ruled in favor of the plaintiffs and ordered the journalist pay \$3,775 (100,000 rubles) in "moral damages."

In May the Sverdlovsky District Court in Belgorod held a closed door trial involving a claim filed by Governor Yevgeny Savchenko against journalist Olga Kitova, founder of the newspaper Moskovsky Komsomolets v Belgorode. The paper had published an article critical of the governor and he received approximately \$37,750 (1,000,000 rubles) in "moral damages."

Authorities at various levels took advantage of the financial dependence of most major media organizations on the Government or on major financial-industrial groups to undermine editorial independence and journalistic integrity in both the print and broadcast media. Government structures, banking interests, and the state-controlled energy giant Gazprom continued to dominate the Moscow media market and extend their influence into the regions. Most news organizations experienced continued financial difficulties during the year, which reinforced their dependence on private sponsors and, in many cases, on the federal and regional governments. As a result the autonomy of the media and its ability to act as a watchdog remained weak.

Authorities also made use of the media's widespread dependence on governments for transmission facilities, access to property, and printing and distribution services to discourage critical reporting, according to the GDF and media NGOs. The GDF reported that approximately 90 percent of print media organizations relied on state-controlled organizations for paper, printing, or distribution, and many television stations were forced to rely on the Government (in particular, regional committees for the management of state property) for access to the airwaves and office space. The GDF also reported that officials continued to manipulate various other "instruments of leverage," including the price of printing at state-controlled publishing houses, to apply pressure on private media rivals. The GDF noted that this practice was more common outside the Moscow area than in the capital.

Newspapers in Mariy-El could no longer afford to pay delivery costs after the Federal Antimonopoly Service canceled the benefits previously granted to the republic's print media outlets. Many district newspapers report they were unable to absorb the

sharp rise in postal delivery costs, and had nearly doubled their subscription prices as a result, a move that has drastically reduced their circulation.

In February the Communist Party's regional branch in Oryol was forced to print its newspaper Orlovskaya Iskra in a neighboring region after a Oryol-based printing company unilaterally terminated its service agreement at the peak of preparations for the March 12 municipal elections in the region.

According to the GDF and other media NGOs, there were numerous instances of authorities using taxation mechanisms to pressure media across the country.

*Internet Freedom.*—The Government generally did not restrict access to the Internet; however, it continued to require Internet service providers to install, at their own expense, a device that routes all customer traffic to an FSB terminal called the “system for operational investigative measures” so that police could track private e-mail communications and monitor Internet activity. There appeared to be no mechanism to prevent FSB access to the traffic or private information without a warrant. The FSB was not required to give telecommunications companies and individuals documentation on targets of interest prior to accessing information.

There have been at least three known attempts by authorities to shut down local Internet sites. In February the governor of Vladimir held the Web site Kovrov.ru legally liable for allowing participants to post critical comments on its “Media and Politics” forum. The forum was closed without benefit of due process.

In May in Barnaul, the Altai Territory Regional Court heard a case brought by the FMLES against Internet news site BankFax under the criminal code (instigation or incitement of interethnic, racial or religious hatred or enmity). The site published a commentary on the scandal surrounding the caricatures of the Prophet Mohammed. The court ruled in favor of BankFax.

The “Internet in Russia” report, conducted by Public Opinion Fund during the year, concluded that the Internet audience in the country was roughly 26.3 million individuals (23 percent of the adult population). Almost 8.5 million individuals used the Internet daily, 15.6 million weekly, and 20.6 million at least once a month. An estimated 12.4 percent of all Internet users reside in Moscow and the wider Moscow region. The next largest groups of Internet users resided in St. Petersburg and the surrounding area (9.8 percent), and the Tomsk region (6.8 percent).

*Academic Freedom and Cultural Events.*—The Government did not restrict academic freedom; however, human rights and academic organizations questioned whether the convictions of Sutyagin, Danilov, and others inhibited academic freedom and contact with foreigners on subjects that the authorities might deem sensitive (see section 1.e.). This trend continued during the year as the renowned scientist Oleg Korobeinichev, an employee of the Institute for Chemical Kinetics and Combustion, was charged with disclosing state secrets to a foreign government. In December Novosibirsk investigators completed the probe into the case of Korobeinichev. The case brought against Korobeinichev has been passed to the court.

In March 2005 authorities found the Sakharov Center director and a staff member guilty of inciting religious hatred in connection with a 2003 exhibit of religious-themed art that many viewed as provocative (see section 2.c.).

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly and the Government generally respected this right in practice; however, at times authorities restricted this right.

Organizations are required to obtain permits to hold public meetings. They must apply for these permits between five and 10 days before the scheduled event, which were generally granted to both supporters and opponents of the Government. While police often granted demonstration permits, local elected and administrative officials at times denied some groups permission to assemble. Religious gatherings and assemblies do not require permits, but in several instances authorities denied religious groups access to venues where they could hold assemblies (see section 2.c.).

During the G-8 Summit in St. Petersburg in July, human rights activists claimed 577 alleged incidents of illegal action by law enforcement officials against protestors, including 94 cases of police taking person to police stations without explanation; 267 cases (three involving children) of temporary detention on trumped-up charges such as “minor hooliganism,” “verbal abuse,” and “resistance to law enforcement officials”; and 216 cases of persons prevented from traveling by bus or train to St. Petersburg for a “counter summit” organized by Russian NGOs.

According to Human Rights Watch, in the days before the Other Russia conference in Moscow in July, authorities tried to bar conference attendees from leaving their home cities. Tactics reportedly included summoning attendees to police departments, coercing from them written promises to stay at home, and threatening them with detention on administrative charges. In some cases police removed individuals

from trains and airplanes as they were about to depart to Moscow. Some participants were reportedly attacked and beaten by unknown assailants just before the conference.

On May 27, police intervened belatedly to protect participants in a lesbian and gay rights festival in Moscow from attack by antigay protesters (see section 5).

After organizing a picket in Moscow on September 3 in commemoration of the victims of Beslan, Lev Ponomarev was arrested and detained for three days. Media reports indicate that Ponomarev, leader of the Russian organization "For Human Rights," submitted the required notification prior to the event, but chose not to observe the subsequent recommendation that it take place elsewhere or on a different date. Human rights organizations assert that such responses from the Ministry of Internal Affairs are not binding under the law, and that his detention was both arbitrary and illegal.

On October 16, police in Ingushetia arrested rights activists and violently broke up a rally in memory of slain reporter Anna Politkovskaya who was killed October 7. Security forces cordoned off a site in the center of Ingushetia's main city of Nazran as approximately 40 rights activists and others tried to gather. According to press reports, police tore photographs of Politkovskaya from demonstrators' hands and injured at least one person. Kavkazky Uzel reported on October 17 that three participants in the Nazran demonstration—Fatima Yandieva, Zoya Muradova, and Zarema Mukusheva, all of whom are Memorial staffers—were fined \$18.50 (500 rubles) apiece for "violating the established order for holding a picket," while local journalist Ruslan Maisigov was released after being briefly held by police. The organizers of the demonstration—Magomed Mytsolgov, chairman of "Marsh," a group made up of relatives of persons who have disappeared, and Albert Khantygov of Memorial—were set to appear in court on October 17 on charges of organizing an unsanctioned demonstration. Interfax quoted Ingush Interior Minister Beslan Khamkhoev as saying: "There was an attempt to hold an unsanctioned meeting. For some reason, there was a disagreement between the members of the meeting, which turned into a fight. To preserve order and safety, policemen were forced to intervene."

Police detained hundreds of opposition activists ahead of the Other Russia demonstration on December 16, the "March of the Discontented," in Moscow. Demonstrators were not allowed to march, but approximately 2,500 convened at a Moscow rally surrounded by approximately 8,500 police, special forces troops, and FSB officers. About 80 protesters were detained in Moscow throughout the day and about 320 other activists were detained or taken off trains and buses on their way to Moscow. Some were kept in detention cells, while others were released after the rally was over.

On December 17, Moscow city authorities prohibited approximately 300 members of the political party Yabloko and their supporters from marching in memory of killed journalists. Yabloko was allowed to meet, however, but was refused a permit to march.

In May 2005 Moscow police, after breaking up a demonstration in front of city hall, detained 10 congregants and supporters of the Emmanuel Pentecostal Church. Members and supporters of the church continued to demonstrate, alleging discrimination by authorities who had refused the church permission to construct a church and renovate buildings in Moscow and another district. In June 2005 several of these demonstrators were arrested during a demonstration. City authorities contended that the demonstrations were illegal and that they had advised the demonstrators to hold their protests at an alternate site. Protestors said that the demonstration was legal and that they had never received such instructions from city authorities. Several protestors were charged with holding an illegal demonstration and sentenced to five-day jail terms. A Moscow district court ruled in November 2005, that local authorities had violated the legal procedure for regulating public events in its handling of the Church's repeated demonstrations. The same court ruled in October 2005 that 13 police officers had wrongfully detained Emmanuel members following a demonstration a week earlier. The church pastor confirmed that police interference ended following these court decisions.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right; however, the Government increasingly harassed several organizations of whose policies it disapproved. Public organizations must register their bylaws and the names of their leaders with the Ministry of Justice. There was no clear evidence that these registration requirements were being used to discourage or prevent the formation of associations; however, they afford an opening for abuse on the part of the authorities. The law requires that political parties have 50,000 members nationwide, at least 500 representatives in each of half of the country's regions, and no fewer than 250 members in each of the remaining

regions in order to be registered (see section 3). In addition, the finances of registered organizations are subject to investigation by the tax authorities and foreign grants must be registered. The authorities subjected some NGOs to lengthy investigations of their finances or delayed the registration of their foreign financed programs. Some NGOs said that these actions were intended to restrict their activities (see section 4).

President Putin signed into law on January 10 legislation providing strict measures to oversee NGOs through a registration body at the Ministry of Justice. The law, which entered into force on April 10, imposed more stringent registration requirements for NGOs, particularly the branch offices of foreign NGOs, strict monitoring of organizations, extensive reporting requirements on NGO programming and activities, and some limitations on the participation of foreign citizens in NGOs. The law also permits more intrusive means for government officials to scrutinize all forms of NGOs, including "public associations." In addition it granted the Federal Registration Service discretion to deny registration or shut down an organization based on vague and subjective criteria (see section 4).

On July 28, President Putin signed into law amendments to legislation "On Countering Extremism," despite concerns among many that the law may restrict activities of political parties, the media and NGOs, and legitimate criticism of the Government. Critics say that it could be used to stifle politically sensitive NGOs, and opposition political parties during the 2007–2008 election cycle (see sections 3 and 4).

A number of senior officials made critical statements during the year that contributed to, and reflected, increased suspicion of NGO activity. For example, FSB Director Nikolay Patrushev in a December interview said that foreign intelligence agencies were increasingly using NGOs and press bureaus as cover, citing specifically the Danish Refugee Council. In a January 31 press conference in the wake of Russian accusations against four British diplomats of spying and providing money for NGOs, President Putin stated that society needs NGOs to monitor the activities of the state and power structures and pledged support for their activities, but added that their financing must be transparent and efforts to control them by "foreign puppeteers" would not be tolerated. On February 7 in a speech to the FSB, President Putin called on the FSB to "protect society from any attempts by foreign states to use [NGOs] for interfering in Russia's internal affairs."

At a July 2005 meeting of the Presidential Council on Promoting the Development of Institutions of Civil Society and Human Rights, President Putin stated that he objected to foreign financing of "political activity" in the country. In May 2005 FSB Director Nikolay Patrushev said that foreign NGOs were often used for espionage. In his May 2004 State of the Nation address, President Putin charged that some foreign-funded NGOs existed "to serve dubious groups."

At the end of January, the Russian Ministry of Justice filed a lawsuit to close the Russian Research Center on Human Rights, an umbrella organization of a dozen Russian human rights groups, including the Moscow Helsinki Group and the USC. The Ministry of Justice claimed that the group had failed to file reports of its activities for the past five years, a claim disputed by the group. Also in late January, a Moscow arbitration court ruled against the Russian PEN Center, an NGO that advocates freedom of expression, holding that it owed \$75,500 (2 million rubles) in property taxes. The authorities froze its account following the court ruling.

In late July the Russian Federal Tax Service filed a tax claim against the Center for International Legal Defense (CILD), an NGO headed by one of former Yukos CEO Mikhail Khodorkovskiy's lawyers, after it was audited by tax inspectors (see section 4).

In October a Nizhniy Novgorod court ruled that the Russian-Chechen Friendship Society should be shut down after its Executive Director Stanislav Dmitriyevskiy was convicted of inciting racial hatred earlier in the year (see section 4).

Authorities in a number of regions continued operations against Hizb ut-Tahrir (HT), which had been banned by the Supreme Court in 2003 as a terrorist organization, despite the organization's denials that it supported terrorism. For example, in Bashkortostan Republic, Tyumen, Chelyabinsk Oblasts, Moscow, and Nizhnevartovsk there have been arrests and trials of alleged HT members. In April a Moscow court convicted Sardorbek Siddikov and sentenced him to one year in jail for membership in HT. In September 2005 the city court of Nizhnevartovsk, Khanty-Mansiisk autonomous okrug gave a four-year suspended prison term to Eduard Khusainov, who was believed to have headed the local HT group. Officials reportedly found extremist propaganda in his apartment. Khusainov was charged with organizing the activities of an extremist organization and with "involving others in committing terrorist crimes or otherwise abetting such crimes." In October 2005 in Tyumen Oblast, a Tobolsk Court found nine members of the local HT branch guilty on all charges of extremism brought against them. Three of the accused-local lead-

ers Marat Saybatalov, Dmitriy Petrichenko, and Rail Valitov—were sentenced to prison terms ranging from 5 1/2 to six years. Other members were sentenced to various terms from 12 months to 5 1/2 years. According to the Sova Center, police broke up an HT group in Chelyabinsk in March 2005 and detained one of its members, Rinat Galiullin. The criminal case against Rinat Galiullin was initiated in March 2005. He was arrested and tried in September–November 2005. He was given a one-year suspended sentence. Also Galiullin won a suit against a local newspaper for spreading information alleging that he had plotted a riot, stockpiled weapons, and encouraged people to sign a contract with Al Qaeda. The HT group to which Galiullin allegedly belonged was not found. As of July the courts had convicted 46 persons, 29 of whom were in prison, for membership in HT.

In August 2005 eight HT defendants were sentenced in Ufa, Bashkortostan to prison terms ranging from 3 1/2 to 8 1/2 years on charges of terrorism, forming a criminal group, involving others in terrorist crimes, illegal possession of arms, and sabotage. A ninth defendant was given a suspended sentence. Having appealed the case to the Supreme Court, the sentences were upheld in November 2005.

In August 2005 the Supreme Court overturned a decision by a lower court forcing the closure of the radical National Bolshevik Party. In October 2005 the Presidium of the Supreme Court canceled the August Supreme Court decision and sent the case back for new hearings. In November 2005 the Supreme Court ruled in favor of the previous lower decision to ban the party. In April, a Moscow district court upheld a January 30 decision by the Ministry of Justice to deny registration to the party. In August, a faction of the National Bolshevik Party split off to form the National Bolshevik Front. Also in August the Federal Registration Service asked the federal media agency to stop the media from referring to the National Bolshevik Party by its name, arguing that the organization was never registered as a political party.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice; however, authorities imposed restrictions on certain groups. Although the constitution provides for the equality of all religions before the law and the separation of church and state, the Government did not always respect these provisions in practice.

A 1997 law required all religious organizations registered under the previous 1990 law to reregister by the end of 2000. The law provides that a religious group that has existed for 15 years and has at least 10 citizen members may register as a “local organization,” giving it status as a juridical person and certain legal advantages. A group with three functioning local organizations in different regions may found a “centralized organization” with the right to establish affiliated local organizations without meeting the 15-year requirement. In practice the law placed a hardship on groups that were previously unregistered and less well established, including groups new to the country. The process, which involves simultaneous registration at the federal and local levels, required considerable time, effort, and legal expense.

In January 2005 authorities amended the 1997 law to conform to a new law on state registration of other legal entities. The amended law requires all registered local religious organizations to inform the Federal Registration Service within three days of changes in its leadership or legal address. If a local organization fails to meet this requirement on two or more occasions, the Federal Registration Service can file suit to dissolve and deregister the organization. Some denominations with numerous local organizations feared that compliance with this change would be highly burdensome (see sections 2.b. and 4).

The law accords no explicit privileges or advantages to the Russian Orthodox Church or the other groups formally designated as traditional religions—Judaism, Islam, and Buddhism. However, many politicians and public figures supported closer cooperation with those religions, above all with the Russian Orthodox Church’s Moscow Patriarchate. Many government officials and citizens appeared to equate Russian Orthodoxy with the Russian national identity. The Russian Orthodox Church has a number of formal and informal agreements with government ministries on matters such as guidelines for public education, religious training for military personnel, and law enforcement and customs decisions. These agreements have given the Russian Orthodox Church far greater access than other religious groups to public institutions, such as schools, hospitals, prisons, the police, the FSB, and the army. Starting September 1, schools in four regions required the teaching of a controversial Foundations of Orthodox Culture course; in many other regions, the course is taught as an elective. Public statements by some government officials and anecdotal evidence from religious minorities suggest that the Russian Orthodox Church has increasingly enjoyed a status that approaches official.

On January 10, President Putin signed the Law on Public Associations (NGO Law) and implementing regulations took effect on April 10. While the law governing



religious organizations is largely unaffected by the NGO law, some provisions of the new law appear to apply to religious organizations as well. For example, the new law's inspection provisions appear to permit government inspections of religious organizations and attendance at some of their public events with advance notice. Other provisions that appear to apply include new reporting requirements; authority for the registration body (located in the Ministry of Justice) to request certain documents, send its representatives to participate in events, and annually review compliance of an organization's activities with its statutory goals; and a requirement that covered nonprofit organizations inform authorities of changes to certain data (such as addresses and leadership) within three days of the changes. It was not clear at year's end how authorities would implement the new law and the impact it would have on religious organizations.

According to the human rights ombudsman's annual report, the Ministry of Justice had registered 22,513 religious organizations as of December 2005, approximately 500 more than January 2005. Local courts largely upheld the right of non-traditional groups to register or reregister. Nonetheless, some religious groups continued to contest denials of registration in the courts. While such cases were often successful, administrative authorities were at times unwilling to implement court decisions. In April, the Federal Registration Service restored the Salvation Army's registration documentation for the country-wide central religious organization, although the legal status of its Moscow branch remained unresolved. Although the Constitutional Court found earlier rulings by Moscow courts dissolving the Moscow branch to be unconstitutional, the Moscow Oblast Department of Justice had not reregistered the organization by year's end and two court judgments that legally dissolved the branch remained in force, despite the Constitutional Court ruling.

A court ruling against the Salvation Army's registration in Moscow's Presnenskiy District referred to the Salvation Army as a "militarized organization." The Slavic Center for Law and Justice was working with the Moscow office of the Salvation Army to overturn the Presnenskiy Court ruling. On October 5, the ECHR unanimously ruled in favor of the Moscow branch of the Salvation Army. The Court ruled Russia violated the Salvation Army's right to freedom of association and their right to freedom of religion. As a result, Russia was ordered to pay the Salvation Army approximately \$13,000 (344,500 rubles) in compensation, and the ruling has cleared the way for the Salvation Army to regain its legal status in Russia.

Moscow authorities continued to deny reregistration to the Moscow branch of the Church of Scientology, threatening it with dissolution. In February 2005, after years of legal proceedings, a Moscow appeals court ordered Moscow Oblast officials to permit the church to apply for reregistration and to examine the application on its merits. The Church of Scientology filed a suit against the dissolution order with the ECHR, which admitted the suit in 2004. The case was pending in the ECHR at year's end. The church had filed for reregistration 11 times; the Moscow registration service rejected the tenth claim in June 2005.

Local authorities have impeded the operation of Scientology centers in Dmitrograd, Izhevsk, St. Petersburg, and other localities. Since these centers had not been in existence for 15 years, they were unable to register and could not perform religious services, although they were allowed to hold meetings and seminars. The Churches of Scientology in Surgut, Khanty-Mansiysk and Nizhnekamsk, Tatarstan filed suits with the ECHR against the refusal of officials to register the churches, based on the 15-year rule. The ECHR found the suits admissible in June 2005; the cases were awaiting a final decision.

The Church of Jesus Christ of Latter-day Saints (LDS) has succeeded in registering 52 local religious organizations by year's end. During the year, authorities registered the LDS Church in Novocherkassk. In 2005 authorities registered the LDS Church in Tver following a series of rejections of its registration application. The LDS Church has not been able to register a local religious organization in Kazan, Tatarstan, despite numerous attempts since 1998.

The 1997 Law gives officials the authority to ban religious groups. Unlike dissolution, which involves only the loss of an organization's juridical status, a ban is a more serious legal step and prohibits all of the activities of a religious community. Authorities have not used the law to ban many groups to date. However, in a notable exception, the decision of a Moscow court judge in 2004 to uphold on appeal the ban on Jehovah's Witnesses garnered significant media coverage and prompted an upswing in restrictions on Jehovah's Witnesses. As of April authorities permitted registration of Jehovah's Witnesses groups in 404 local communities in 72 regions, but problems with registration continued in some areas, notably Moscow, where the Moscow Golovinskiy Intermunicipal District Court and the Moscow City Court of Appeal have banned them. There was a pending ECHR case on the Moscow ban.

The ban on the Islamic organization HT, which was declared by the Government to be a terrorist organization, remained in effect and a number of prosecutions were undertaken (see section 2.b.).

Treatment of religious organizations, particularly minority groups, varied widely in the regions, depending on the decisions of local officials. In some areas local authorities prevented minority denominations from reregistering as local religious organizations and subjected them to legal harassment.

Contradictions between federal and local law in some regions and varying interpretations of the law provided some regional officials with opportunities to restrict the activities of religious minorities. According to many observers, local governments were often susceptible to discriminatory attitudes and lobbying by majority religions, leading to discriminatory practices. However, instances in which local officials detained individuals engaged in public discussion of their religious views remained isolated and were usually resolved quickly.

Some local and municipal governments prevented minority religious groups from obtaining venues for large gatherings and from acquiring property for religious uses. Regional and local authorities, as well as businessmen, on a number of occasions refused to lease facilities to local Jehovah's Witnesses communities. During the year Jehovah's Witnesses reported a problem similar to their 2004 attempt to find a suitably large venue in Sochi, when a landlord denied access to a meeting venue after FSB pressure but later reversed the denial. During the year 56 district conventions were scheduled between June and October. However, local authorities did not permit conventions to go ahead in Pervouralsk and Nizhniy Tagil (both in Sverdlovsk Region). In Ivanovo the city administration and the FSB forced the cancellation of the convention planned for July 28–30, but allowed it to be conducted at a later date. In some cities it was again impossible to find suitable premises for a single district convention, thus the program was held in shifts on the same weekend or repeated on consecutive weekends. In total 59 conventions were eventually held throughout the country. In Moscow Oblast, which is a separate jurisdiction from the city of Moscow, the Jehovah's Witnesses reported that a hotel conference center, a cinema, and a cultural center, each of which previously had been used by the church, cancelled their leases. During the year Jehovah's Witnesses religious assemblies were also disrupted or prevented in Yekaterinburg and Archangelsk. The Jehovah's Witnesses stated that Father Valeriy of the Arkhangelsk Orthodox Diocese exerted pressure on Archangelsk authorities to prevent the Jehovah's Witnesses from holding a district convention scheduled for August 2005.

Jehovah's Witnesses reported continuing difficulties obtaining construction permits in Sosnovyy Bor, Leningrad Oblast and were using a privately owned building for their meetings. Local authorities refused to let a Jehovah's Witness community construct a prayer center on the basis of a 2004 referendum in which 90 percent of voters opposed the construction.

On May 5, Mayskaya Gorka city circuit in the Arkhangelsk region held a public meeting to discuss a Jehovah's Witness application for a plot of land to build a place of worship. Reports indicated that the atmosphere was hostile, not giving the representatives of the Jehovah's Witnesses the opportunity to reply to all the questions, the majority of which were about religious beliefs rather than plans for the land. At the conclusion of the meeting, those present voted not to provide Jehovah's Witnesses with a plot of land.

In Zlatoust, Chelyabinsk Oblast, local authorities in June 2005 withdrew a building permit issued to the Jehovah's Witnesses, and threatened to tear down a new prayer hall. In February the Chelyabinsk Oblast Arbitration Court dismissed the city administration's application for demolition at the expense of the Jehovah's Witnesses; the city did not appeal the decision. As of December 31, the hall was still not being used for worship, as residents refused to remove garages that illegally occupied part of the land on which the hall was built, and the city authorities have not granted permission for the use of the building.

Various minority religious organizations encountered similar difficulties in obtaining or renovating property. The mayor's office in Krasnodar continued to deny the Muslim community's request to build a mosque in the city of Sochi, even though the organization's current rented premises barely accommodated the approximately 30 members who attended Friday prayers. The Muslim community in Kaliningrad has sought unsuccessfully since 1993 to obtain permission to construct a mosque.

Human rights groups and religious minority groups criticized the federal prosecutor general for encouraging legal action against some minority religions and for giving an official imprimatur to materials that were biased against Jehovah's Witnesses, the Latter Day Saints Church, and others. The FSB, the Office of the Prosecutor General, and other agencies conducted campaigns of harassment against some individual Muslims and members of some Protestant groups and newer reli-

gious movements. Security services continued to treat the leadership of some minority religions—especially Muslims, Roman Catholics, some Protestant denominations, and other groups—as security threats. Some religious groups were investigated for alleged criminal activity and violations of tax laws, landlords were pressured to abrogate contracts, and in some cases the security services were thought to have influenced the Ministry of Justice to reject registration applications.

The authorities permit Orthodox chapels and priests on army bases and also give Protestant groups limited access to military facilities. Authorities largely banned Islamic services in the military and generally did not give Muslim conscripts time for daily prayers or alternatives to pork-based meals. Some Muslim recruits serving in the army reported that their fellow servicemen insulted and abused them on the basis of their religion.

There were occasional reports of short-term detentions on religious grounds, but such incidents were generally resolved quickly. Local police frequently detained missionaries for brief periods throughout the country or asked them to cease their activities, such as displaying signboards, regardless of whether they were actually in violation of local statutes on picketing. The Jehovah's Witnesses organization reported a number of incidents in which its members were assaulted by other citizens or briefly detained by authorities while conducting lawful preaching activities. As of November the Jehovah's Witnesses reported approximately 51 incidents, 28 of which took place in Moscow, in which authorities briefly detained their members or other citizens while conducting lawful preaching activities, and 35 incidents of assault on Jehovah's Witnesses, nine of which occurred in Moscow.

In April 2005 masked paramilitary troops stormed the Work of Faith Church in Izhevsk, Udmurt Republic, during a worship service. They reportedly took the worshippers outside, searched them without a warrant, and threatened some of the women with rape. Police detained 46 persons for several hours. Udmurtian officials claimed that there had been no time to get a warrant and that some police officials had been reprimanded for procedural irregularities. According to Udmurt authorities, the raid was part of a murder investigation involving two former parishioners of the Work of Faith Church.

Human rights groups reported that following the 2004 hostage-taking in Beslan, police activity was stepped up in the Northern Caucasus. Increasing numbers of Muslims, both Russian citizens and citizens of the predominately Muslim states bordering the country, were charged with extremism. Some observers said that police harassment of Muslim clerics and alleged militants in the Kabardino-Balkariya Republic, including torture and the closure of all but one of Nalchik's mosques, were part of the Government's reaction to the October 2005 rebel attack on Nalchik (see section 1.g.). The Caucasian Knot Web site and other human rights organizations reported in March that law enforcement officials in Kabardino-Balkaria continued to monitor children in schools who observed Muslim customs, after the phrase "Jihad is freedom" appeared on the wall in a Nalchik school. The authorities reportedly kept lists of students who said Muslim prayers, had Muslim middle names, or who sent messages with Islamic themes via their mobile phones.

Nine female Muslim students at the Kabardino-Balkariya State University were reportedly detained in June 2005 and interrogated because they were wearing hijab and practicing group study of the Koran, which are against University statutes. The students were subsequently released. In October 2005 in Maykop, Adygea Republic, police allegedly assaulted and apprehended a group of young Muslims, including the Maykop mosque's imam, as they were leaving a mosque. The imam told a journalist that masked police dragged the group to minibuses and took them to the interior ministry's antiorganized crime department, where they were beaten and questioned about why there were wearing beards and observing Islamic norms of hygiene. After a night in detention they were taken before a judge, who ordered their immediate release.

Authorities either deported or denied entry to several religious workers with valid visas. On January 9, authorities deported the founder and legal/spiritual advisor of the Unification Church in Moscow, who may not reapply for a visa for five years, despite having lived in the country since 1990.

Some religious personnel experienced visa difficulties while entering or leaving the country. In September 2005 border guards at a Moscow airport denied reentry to the rabbi of the Moscow Choral Synagogue, Pinchas Goldschmidt. He had lived in Moscow since 1989 and his family resides in Moscow. Authorities did not tell Goldschmidt why they had annulled his visa. In December 2005 Goldschmidt was issued a one-month religious worker's visa and returned to Moscow; he subsequently left the country briefly in January to receive a one-year multientry religious work visa and was granted one. He spent the rest of the year in Moscow without incident.

The Dalai Lama was permitted to visit the Kalmykia Republic in 2004 after many years of denials. Catholic authorities reported a decrease in visa problems for Catholic priests during the year, although there was a report of one foreign priest whose visa was not renewed.

In March 2005 the Government denied entry to high-ranking British and Danish Salvation Army officials who sought to attend a church congress. In explaining its decision to deny entry, the Moscow city branch of the federal Ministry of Internal Affairs cited the provision of law under which foreigners may be denied entry "in the interests of state security."

Laws in three regions, Belgorod, Kursk, and Smolensk, forbid foreign visitors from engaging in missionary activity or preaching unless specifically authorized by their visas. According to local religious officials the laws were not enforced.

After nearly two years of criminal proceedings, in March 2005, authorities found the Sakharov Center director and a staff member guilty of inciting national, racial, and religious hatred and fined them approximately \$3,750 (100,000 rubles) each. Officials acquitted a third defendant of all charges. Although the Moscow City Court dismissed their appeal, the center entered an appeal at the ECHR in December 2005. The charges stemmed from a 2003 exhibit of religious-themed art, which many viewed as provocative, entitled "Danger, Religion!" Authorities never charged those who vandalized the exhibit with a crime, and according to activists the verdict could enable the state and the Russian Orthodox Church to define parameters for religious and artistic expression (see section 2.a.).

Restitution of religious property seized by the Communist regime remained a problem. Many properties used for religious services, including churches, synagogues, and mosques, have been returned, and more restitution cases were ongoing. The Russian Orthodox Church appeared to have had greater success in gaining restitution of prerevolutionary property than other groups, although it continued to pursue property claims. The Jewish community was still seeking the return of a number of synagogues, religious scrolls, and cultural and religious artifacts, such as the Schneerson book collection, a revered collection of the Chabad Lubavitch. The Roman Catholic Church reported 44 disputed properties, most of which they would use for religious services. Muslims in Beslan, North Ossetia, have appealed to the Presidential Council for Cooperation with Religious Associations to return a historic mosque to the Muslim community. The Cathedral Mosque, built in 1906 by decree of Tsar Nicholas II, was occupied by a vodka-bottling plant and a bottle washing shop, and was soon to be modified to accommodate a car wash. The North Ossetian government alleged that there was nowhere to move the plant, but the republic's Muslim council stated that locating a factory in a mosque was illegal and that there were several facilities in the town to accommodate the factory.

*Societal Abuses and Discrimination.*—While religious matters were not a source of societal hostility for most citizens, members of minority and "nontraditional" religions continued to encounter prejudice, societal discrimination, and in some cases physical attacks. Conservative activists claiming ties to the Russian Orthodox Church disseminated negative publications and staged demonstrations throughout the country against minority religions. Some church figures publicly expressed similar views. Authorities usually investigated incidents of religious vandalism and violence, but arrests of suspects were extremely infrequent and convictions were rare. Unlike previous years, relations between non-traditional religious organizations and traditional ones were sometimes tense, particularly at the leadership level.

Tensions between the Russian Orthodox Church and the Roman Catholic Church continued. Russian Orthodox Church figures accused the Roman Catholic Church of deliberately proselytizing among Orthodox faithful but less often than in previous years. In a meeting in March with a Franciscan Order delegation, Patriarch Aleksey II reportedly said that he hoped the Roman Catholic Church would stop proselytizing Orthodox believers and those with Orthodox roots because the "rivalry in winning souls makes their work more difficult at a time when the world needs the fruit of both churches in their Christian efforts."

Popular attitudes toward traditionally Muslim ethnic groups remained negative in many regions, and there were manifestations of anti-Semitism as well as societal hostility toward Roman Catholics and adherents of newer, non-Orthodox, religions. Racially or ethnically motivated attacks increased significantly in recent years, although it has often been difficult to determine whether xenophobia, religion, or ethnic prejudices were the primary motivation. Ethnic tensions ran high in the predominantly Muslim Northern Caucasus, and there were problems in some cities outside that region. Anti-Chechen and anti-"Wahhabist" sentiment increased after each terrorist attack tied to Chechen rebels and spiked in some regions after the 2004 seizure of a school in Beslan, North Ossetia, in which hundreds of persons, including many children, died at the hands of terrorists (see section 1.g.). Government offi-

cials, journalists, and the public were quick to label Muslim organizations “Wahhabi,” a term that has become associated with extremism. Such sentiment led to a formal ban on Wahhabism in Dagestan and Kabardino-Balkariya.

Muslim cemeteries and buildings were vandalized in Moscow and other regions. Two skinheads were given suspended sentences after being found guilty in a Yaroslavl court for inciting ethnic hatred, according to a December 25 report by the Regnum news agency. The Leninsky district court found the 17 and 18 year old college students guilty of throwing Molotov cocktails at a Yaroslavl mosque and a car parked nearby in September. The defendants also painted racist and neo-Nazi graffiti on the mosque. In April officials detained seven teenagers between the ages of 15 and 16 in the town of Dzerzhinsk in Nizhniy Novgorod Oblast for throwing stones and a Molotov. In December 2005 vandals set on fire a two-story wooden building housing the Muslim Board of Komi, which housed a mosque. The fire destroyed the roof and damaged 30 square meters of the premises; there were no injuries. The emergency situations’ authorities said the fire was the result of arson. In January and February 2005, tombs in Muslim cemeteries in Moscow and Yoshkar-Oly, Mariy-El Republic were desecrated. Although several teenagers were detained in the January 2005 incident, the suspects were not charged due to their age. Vandals continued to attack the Tauba mosque in Nizhniy Novgorod. In January 2005 swastikas were painted on the mosque walls. The local prosecutor’s office did not find grounds to initiate a criminal case. The local Muslim Spiritual Administration appealed to local authorities to guard the mosque. A mosque in Penza was reportedly vandalized in August 2005. Anti-Muslim slogans were painted on the wall and a brick was thrown through the window.

The number of underground nationalist-extremist organizations (as distinguished from such quasi-public groups as Russian National Unity) appeared to be growing (see section 5). Their targets included Muslims, Jews, and adherents of minority faiths they considered to be foreign in origin.

There was no progress in the investigation of the 2004 explosion and subsequent fire in a building belonging to a congregation of unregistered Baptists (known as *Initsiativniki*) in Tula Oblast. In 2004 an *Initsiativniki* church in Lyubuchany, Moscow Oblast burned down. The official investigative report in late 2004 on the fire attributed it to arson, but no one was charged in the incident. In the summer preceding the fire, security agencies, including local police and FSB officers, intimidated several thousand participants at an open-air gathering sponsored by the church. Press reports claimed that eyewitnesses placed some of the same law enforcement personnel at the church site minutes before the fire broke out.

Reports of the harassment of evangelicals and Pentecostals decreased during the year. In contrast to previous reports about the vandalizing and burning of prayer houses in Nekrasovskoye, Chelyabinsk, Bratsk, Izhevsk, Buryatiya, Oshkar Ola, Khalsk, and Poldolsk, where authorities made no arrests, few such instances appeared to have occurred since December 2005, when Bishop Sergey Ryakhovskiy joined the Public Chamber. Nevertheless, African-Russian and African ministers of non-Orthodox Christian churches experienced prejudicial treatment, based apparently on a combination of religious and racial bigotry.

In April 2005 vandals set fire to an Adventist church in Taganrog in Rostov Oblast, after breaking windows earlier that week. The fire was termed arson by police. A group of Pentecostals holding a demonstration on August 2005 in Moscow reported being attacked by a group of youths who yelled “burn the heretics,” while assaulting them and destroying their posters. The Slavic Law Center reported that a Baptist Church in Chelyabinsk Oblast was firebombed in April 2005. The Jehovah’s Witnesses organization reported two incidents in March 2005 in which members were physically assaulted by residents in areas where they were preaching, leaving one member with a concussion.

An estimated 600,000 to one million Jews (0.5 percent of the population) lived in the country, following large-scale emigration over the last two decades; the Federation of Jewish Communities estimated that up to 500,000 Jews lived in Moscow and 100,000 in St. Petersburg. These estimates significantly exceeded the results of the official government census. Between 5,000 and 7,000 Jews lived in the Jewish Autonomous Oblast (region), located in the Far East.

Anti-Semitism remained a serious problem. Racially motivated violent attacks against Jews decreased during the year, despite an increase in racist violence targeting other ethnic groups. Vandalism targeting Jewish religious and cultural facilities is common, sometimes combined with threats to the life and health of the attending persons. Anti-Semitic graffiti and leaflets appear frequently in many regions. While less frequent than vandalism and graffiti, anti-Semitism in mass media also occurred. However, there was positive progress in countering anti-Semitic manifestations since previous years. Many in the Jewish community attribute this

to the absence of official “state-sponsored” anti-Semitism and because the Jewish community has undergone a major institutional revival.

On January 11, in Moscow, 20-year-old Aleksandr Koptsev attacked worshipers in the Chabad synagogue with a knife, wounding nine persons among them citizens of Russia, Israel, Tajikistan, and the United States. On March 27, the Moscow City Court sentenced Koptsev to 13 years’ imprisonment, ordering him to undergo mandatory psychiatric treatment. The court dropped the charges of provoking inter-ethnic hatred but left the charge of attempted murder of two or more persons for reasons of ethnic enmity. The lawyers of the victims filed an appeal, protesting the decision to drop charges of inciting ethnic hatred; Koptsev’s lawyers also filed an appeal due to his mental illness and the fact that none of the victims were killed or disabled. On June 20, the Supreme Court overturned the verdict on the grounds that the charges had not referred to the incitement of racial and religious hatred and ordered a new trial in a different court. The second trial, at which a different judge presided, concluded on September 15. Koptsev was convicted of attempted murder and incitement of racial hatred and sentenced to 16 years in prison. Koptsev’s attorneys and relatives informed reporters that they consider the sentence too severe. However, a formal appeal has not yet been filed. Both President Putin and Foreign Minister Lavrov publicly condemned this attack.

According to the *Obschestvennoye Mnenie* (Public Opinion) Foundation, after the January Moscow synagogue attack, the number of citizens who condemned anti-Semitism increased by almost 10 percent. A poll concerning the attack showed that the proportion of citizens who had a negative attitude towards anti-Semites increased from 34 to 42 percent, while the proportion of those who claimed to be indifferent decreased from 47 to 38 percent. Distrust and dislike of Jews was expressed by 7 percent of the respondents, while 5 percent sympathized with those who expressed dislike. No subsequent polling data is known to back up this trend. Anti-Semitic events, however, continued.

In late December a Jewish man in Moscow was stabbed to death on his way to pick up his son. Media reports speculate that anti-Semitism may have been a motive.

There were a series of attacks around a Moscow synagogue in Maryina Roscha in the winter of 2004–05; in one incident, the attackers beat Rabbi Alexander Lakshin. Although police arrested and convicted two suspects of disorderly conduct and of inflicting bodily injuries, the judge found insufficient evidence to recognize racial hatred as an aggravating circumstance. After this incident, and at the request of Jewish leaders, Moscow authorities increased police presence in the vicinity of Marina Roscha Synagogue. There were three known explicit anti-Semitic violent attacks and four incidents of public insults and threats in 2005, which was down from 2004.

Synagogues and Jewish community centers were frequently attacked during the year across the country. Police continue to not investigate such incidents as hate crimes, instead calling them acts of “hooliganism.” On November 4, two petrol bombs were thrown at the Jewish cultural center in Surgut. The police classified the incident as “causing damage to property,” not as an anti-Semitic attack. According to RIA Novosti, on the night of August 13, unidentified people threw a Molotov cocktail at the Khabarovsk synagogue, and a month later its windows and door were broken by attackers throwing rocks. The police classified the incidents as “hooliganism.” The synagogue in Vladivostok was defaced in October, with swastikas and the words “Jews, go to Israel” written on the walls.

In June police arrested a man who entered a Jewish cultural center in the city of Yekaterinburg and stabbed the door of the synagogue 10 times with a knife. According to local Jewish community leader Mikhail Oshtrakh, the man was mentally ill and was sent back to the psychiatric clinic. According to a report from the “US—Advocates on behalf of Jews in Russia, Ukraine, the Baltic States and Eurasia,” a May 18 article in the local newspaper *Saratovskaya Oblastnaya Gazeta* reported that the courts sentenced a 20-year-old man to a two-year suspended sentence for painting swastikas and anti-Semitic slogans on the Saratov Jewish Center. Unknown assailants have also thrown rocks at the center. Local police allegedly ignored the Jewish community’s complaints until the swastika-painting incident. In April at the Orenburg synagogue, a group of young men threw stones, kicked the synagogue doors, shouted anti-Semitic slogans, and hit windows with a metal bar. Police detained a 15-year-old boy near the synagogue, while others escaped. Officials opened criminal proceedings on charges of hooliganism, not extremism. As a minor, the boy could not be prosecuted as a criminal. In March in Lipetsk, vandals painted a swastika on the fence in front of the main entrance of the Jewish community center and the region’s first synagogue under construction.

On December 26, unidentified persons plunged a swastika-engraved dagger through a note that threatened: "We should kill the Jews or teach our children to kill them" into a tree just outside the Chabad house in Ulyanovsk. Chabad representative, Rabbi Yossi Marozov discovered the note when he went to investigate after a bottle filled with gasoline was thrown through the synagogue's front window. Police responding to the crime recommended placement of surveillance cameras and armed guards. The prosecutor of the Lenin region of Ulyanovsk opened a criminal case according to the criminal code (instigation or incitement of interethnic, racial or religious hatred or enmity). On December 28, the prosecutor opened another case for another attack on the building on December 27 in which two drunk 18- to 20-year-olds entered the premises and yelled "Get out of here now! We will cut you!" Then they broke a window and a mirror. In response to this attack, the head of the Ulyanovsk Ministry of Internal Affairs personally visited the scene to lead the investigation. One of the suspects was detained.

In May 2005 a fire deemed by the authorities to be arson destroyed the historic synagogue of Malakhovka on the outskirts of Moscow. Authorities detained the main suspect, Andrey Terekhov, a few days after the incident after he broke into a Christian church in Malakhovka. At the trial, which began in December 2005, the court convicted Terekhov of setting the fire in order to eliminate evidence of his robbery and sentenced him to five years in prison and a fine.

In December 2005, according to a press report, a suspect was sentenced to four years in prison in connection with the arson of the Jewish community center in the Moscow suburb of Saltykovka, which was hit by arson in January and again in February 2005. The suspect denied being an anti-Semite and said that he could not explain his motivation for the arson. The prosecutors found no criminal substance in his actions and closed the case.

The synagogue in the Perovo district of Moscow was vandalized in January and again in February 2005. In July 2005 unknown persons attempted to start a fire at the Jewish center in Penza and the Jewish Center in Taganrog was vandalized. In March a brick was thrown through the window of the Jewish center in Penza.

Many Jewish cemeteries were desecrated and were often prosecuted as hooliganism rather than as hate crimes. Desecration of Jewish cemeteries occurred in Volograd, with 30 gravestones destroyed on the 65th anniversary of the Babi Yar mass-killing of Jews (September 27); in Nizhny Novgorod (May 6); and in Omsk (April 20). On October 16, 2005, vandals toppled and broke at least fifty tombstones, and Vandals also desecrated graves in the settlement of Khokhryaki near Izhevsk (November 2005), Kostroma (October 2005), in Velikiye Luki (September 2005), Tambov (August 29 and August 31, 2005). Most of these cases were classified as vandalism. Two cases, however, were classified as vandalism with ethnic and religious hate motivation: on October 6, 2005, vandals desecrated approximately seventy Jewish graves in St. Petersburg and in August 2005 vandals also desecrated graves in Tver. Earlier in 2005, vandals desecrated Jewish cemeteries in Kazan, Moscow, Saratov, Petrozavodsk, Makhachkala, Irkutsk, and St. Petersburg. In late May 2005, vandals painted swastikas on 26 Jewish tombstones in the Jewish section of Kazan's Arskoye Cemetery. The Federation of Jewish Communities reported that the authorities were investigating the incident as a hate crime and the Kazan City Council issued a statement condemning the attack. In May 2005 vandals desecrated Jewish graves at the Vostryakovskoye Cemetery, near Moscow; the case was being treated as a hate crime rather than simple "hooliganism."

In October a group of youths associated with the extremist group Russian National Unity were detained on suspicion of vandalizing Muslim and Jewish graves in the Tver region. They destroyed over 170 Jewish and Tatar graves and sprayed swastikas and offensive slogans about Jews and Muslims. A criminal investigation was opened under the criminal code article which deals with outrages upon the deceased and their burial places for reason of national, ethnic, racial, or religious hatred or enmity, which is punishable by a prison sentence of up to three years.

In April 2005 Nazi posters reportedly appeared in Petrozavodsk, Karelia Republic, on the anniversary of Hitler's birth. Although two students were arrested five days later, no criminal case was initiated. Law enforcement officials reprimanded the students and released them. Such posters did not appear during the year in the region.

In 2004, according to the Anti-Defamation League, two skinheads were arrested for the attack earlier in the month on Aleksey Kozlov, a human rights activist and anti-Semitism monitor, in Voronezh. The crime was treated as a misdemeanor, and the case was later closed with no further action taken by police.

Some State Duma deputies and other prominent figures expressed anti-Semitic sentiments. In May two Duma members reportedly made anti-Semitic comments while speaking at an April 29 gathering in St. Petersburg organized by the Union of Russian People. Addressing the group Duma Deputy Igor Rodionov reportedly

claimed that “today our country is ruled by a Jewish mafia.” In January 2005 approximately 500 persons, including 20 State Duma members, wrote to the Office of the Prosecutor General asking that he conduct an investigation of the country’s Jewish organizations with the possibility of initiating proceedings to ban them. The letter charged that a Russian translation of a compilation of ancient Jewish law, the *Kitzur Shulchan Arukh*, incited hatred against non-Jews; the letter also accused Jews of ritual murders. The Ministry of Foreign Affairs condemned the letter, as did President Putin in remarks delivered in Krakow in late January 2005. In February 2005 the State Duma passed a resolution condemning the letter. In March 2005 approximately 5,000 persons, reportedly including a number of Russian Orthodox clerics and some prominent cultural figures, signed a similar anti-Semitic letter sent to the Office of the Prosecutor General. A Moscow district prosecutor opened an investigation into the Jewish organization that published the translation, as well as into charges brought by Jewish and human rights organizations that the letters violated federal laws against ethnic incitement, but closed both investigations in early June 2005 without bringing charges. Later in June 2005, the Moscow city prosecutor ordered the district prosecutor to reopen the investigation into the Jewish organization. The prosecutor closed the investigation again in late June 2005. In January some of the deputies who had signed the letter said in an interview that the letter had been the “right step.”

According to the Anti-Defamation League, human rights organizations made numerous attempts to prosecute the authors of the “Letter of 500.” However, their attempts were unsuccessful.

The human rights ombudsman for the Komi Republic was placed under investigation by the local prosecutor’s office after making an anti-Semitic comment in an interview with a local paper, according to a December 20 article in the Komi edition of the national daily *Moskovsky Komsomolets*. Prosecutors were considering hate speech charges against Leonid Vokuev after he used the phrase “A kike is a kike, even in Africa” in an interview with the newspaper *Zyryanskaya Zhizhn*. Vokuev responded to the investigation by publicly denying any intent to insult Jews and at the same time refusing to apologize: “I don’t think I did anything shameful and can say from the bottom of my heart that I have never insulted anyone.”

According to the Anti-Defamation League (ADL), there were several cases against the editors of regional newspapers for publishing anti-Semitic articles. On October 19, Vladimir Vostryagov from Vladimir was found guilty of fueling ethnic discord. Vostryagov received a 1 1/2 year suspended sentence for publishing and distributing an unregistered *Vest* newspaper that called for the extermination of Jews. According to prosecutors, these articles were anti-Semitic. On November 27, Uriy Ekishev, a writer from Syktyvkar, Komi Republic, was sentenced to 1 1/2 years of imprisonment for anti-Semitic articles published in *Stenogramma* newspaper and statements at a nationalistic rally. On December 13 in Novosibirsk, Boris Mironov—former head of the Russian Publishing Committee—was indicted for fueling ethnic discord. The criminal case of Mironov started two years ago in connection with newspaper articles that were published during the 2003 regional election campaign, in which Mironov was a candidate for the region’s governor position. In Ulyanovsk in January 2005 preliminary hearings were held arising out of a criminal case initiated in 2002 against the editor of the local newspaper, Orthodox Simbirsk, who ran a number of articles demonizing Jews. The Federation of Jewish Communities, reported that the editor of the newspaper was fired, although the ADL noted that in March 2005, Ulyanovsk Governor Morozov promised to provide government financial support to keep the newspaper from going bankrupt. According to ADL, in February 2005 the St. Petersburg prosecutor’s office reopened a case against “Our Fatherland” which has reportedly published anti-Semitic articles.

Anti-Semitic statements have been legally prosecuted and the Government has publicly denounced nationalist ideology and expressed support for legal action against anti-Semitic acts; however, some lower-level officials remained reluctant to call such acts anything other than “hooliganism.” State Duma Speaker Boris Gрызлов stated that, “Any expression of extremism is unacceptable. If existing legislative measures are not enough, then, possibly, they need to be strengthened.”

The support of federal authorities, and in many cases regional and local authorities, facilitated the establishment of new Jewish institutions. On June 26, Arkadiy Gaydamak, President of the Congress of Jewish Religious Organizations and Associations of Russia, and Chief Rabbi of Russia Adolph Shayeveich signed an investment contract regarding the construction of a Moscow Jewish community center. Work began on the \$100 million (2.7 billion rubles) complex on land donated by the Moscow city government to house Jewish community institutions, including a school, a hospital, and a major new museum devoted to the history of the country’s Jews, the Holocaust, and tolerance.



For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, the Government placed restrictions on freedom of movement within the country and on migration.

All adults are issued internal passports, which they must carry while traveling internally, and they are expected to register with the local authorities within a specified time of their arrival at their new location. Authorities often refused to provide governmental services to individuals without internal passports or the proper registration. The official grace period for registration given to an individual arriving in a new location is 90 days; however, darker skinned persons from the Caucasus or Central Asia were often singled out for document checks. There were many credible reports that police arbitrarily imposed fines on unregistered persons in excess of legal requirements or demanded bribes from them.

Although the law gives citizens the right to choose their place of residence freely, many regional governments continued to restrict this right through residential registration rules that closely resembled Soviet-era regulations. Citizens moving permanently must register to reside, work or obtain education for their children in a specific area within seven days of moving there; those who are temporarily residing in a new place can stay 90 days before they are required to register. Citizens changing residence within the country and migrants, as well as persons with a legal claim to citizenship who decide to move to the country from other former Soviet republics, often faced great difficulties or simply were not permitted to register in some cities. Corruption in the registration process in local police precincts remained a problem. There were frequent reports of police demanding bribes when processing registration applications and during spot checks for registration documentation. In 2004 Krasnodar Kray authorities enacted a law that extended the definition of “illegal migrant” to include Russian citizens as well as foreign citizens and stateless persons.

Following the September arrest of four Russian officers in Georgia, a diplomatic feud erupted, which resulted in an anti-Georgian campaign against the approximately one million Georgians who live in the country. Officially, the Georgians were deported for violations of migration legislation. Law enforcement officials were reportedly instructed to step up actions against Georgians. Other anti-Georgian actions included raids on Georgian businesses, police orders for schools to produce lists of Georgian students, and severed transportation and postal links. The actions against Georgians were criticized as illegal by the state human rights body, civil society institutions, and the Human Rights Council. The council also called the actions a wave of “selective persecution” against Georgians. According to the Georgian parliamentary ad hoc Investigatory Commission Studying Actions Carried Out by the Russian Federation Against Georgian Citizens, as of October 31 the immigration service had issued decisions on deportation of 2,598 Georgian citizens, out of which about 1,140 were actually deported. As of December 28, commission head Nika Gvaramia said that the number of deportees had increased to between 3,800 and 4,000. The commission officially recorded the deaths of three people while in detention.

Unlike previous years, Krasnodar Kray authorities did allow some Meskhetian Turks to obtain residence permits (*propiskas*) in Krasnodar Kray if they had obtained Russian passports in other regions. Meskhetian Turks without Russian passports were denied the right to register, however, which deprived them of all rights of citizenship to which they were entitled under the law. Krasnodar authorities continued to prohibit Meskhetian Turks who were not registered in Krasnodar from leasing land, obtaining employment or engaging in commercial activity. Because of the difficult conditions in Krasnodar, about 23,000 Meskhetian Turks applied for emigration to a third country, and Krasnodar officials cooperated in facilitating their departure. As almost 11,000 Meskhetian Turks departed from Krasnodar since 2004 human rights groups and other observers reported a significant decline in arbitrary fines, public statements, and other forms of harsh treatment used previously by authorities against the community. Authorities continued to refuse to grant permanent residency to those wishing to remain in Krasnodar, depriving them of the rights of citizenship to which they were entitled under the law. They and some other ethnic minorities living in Krasnodar were permitted only temporary registration and were subjected to special restrictions, such as being required to reregister every 45 days. There have been reports, however, that police continued to arbitrarily fine those who were not emigrating. Human rights NGOs reported that police stopped and checked persons who looked like Meskhetian Turks, immediately releasing those who declared their intention to emigrate and penalizing others.

The law provides for freedom to travel abroad and citizens generally did so without restriction; however, there were exceptions. If a citizen had been given access to classified material, police and FSB clearances were necessary to receive an external passport. Persons denied travel documents on secrecy grounds could appeal the decision to an Interagency Commission on Secrecy chaired by the first deputy minister of foreign affairs.

The law prohibits forced exile, and the Government did not employ it.

The law provides all citizens with the right to emigrate and this right was generally respected. In some cases those trying to depart for countries that had granted them refugee status experienced logistical delays in gaining exit permission.

As of June 30, 6,941 Russian citizens had sought asylum in foreign countries, a decrease from the 21,633 appeals filed during 2005. Many persons fleeing Chechnya applied for refugee status.

The law exempts the estimated 1.5 million former Soviet citizens residing in the country without benefit of citizenship from having to meet most requirements for naturalization. In essence, this reaffirmed earlier provisions that granted citizenship to persons with Soviet citizenship who were legally in the country as of February 6, 1992. However, authorities have not always been willing to recognize the acquisition of citizenship on this basis. On January 5, President Putin signed an amendment extending the deadline for former Soviet citizens to obtain citizenship until January 1, 2008 and simplifying some earlier requirements. In addition the new law extended the right to seek citizenship to those who obtained a resident permit in the country after January 1, 2002, increasing the number of persons potentially eligible for citizenship.

International agreements permit persons with outstanding warrants from other former Soviet states to be detained for periods of up to one month while the prosecutor general investigates the nature of those warrants. This system was reinforced by means of informal links among senior law enforcement and security officials in many of the republics of the former Soviet Union. Human rights groups continued to allege that this network was employed to detain opposition figures from the other former Soviet republics without legal grounds.

In June 2005 authorities detained 12 Uzbek citizens, one Kyrgyz citizen, and one ethnic Uzbek with Russian citizenship on a request from Uzbek authorities. The arrests occurred following violence in the Uzbek city of Andijon; their relationship to events in Andijon was unclear. The Russian citizen was subsequently released and left Russia for a third country after Russian officials moved to revoke his citizenship. The remaining 13 requested asylum in Russia because they feared persecution if they were sent back to Uzbekistan, but the Federal Migration Service denied their requests and Russian courts upheld that decision. They also applied for refugee status, which was rejected on January 17 and in subsequent appeals. In August the Office of the Prosecutor General announced that the 13 would be deported to Uzbekistan. The deportations were not carried out, however, after the intervention of the ECHR. Although Russian law limited the period in which an individual could be held to 180 days, officials refused to release members of the group when this period expired in December.

Two other Uzbek citizens were detained in Novosibirsk in November 2005 under a similar request from Uzbek authorities.

*Internally Displaced Persons (IDPs).*—At year's end 20,070 IDPs from Chechnya were in temporary settlements or in the private sector in Ingushetiya; approximately 30,000 Chechen IDPs reportedly were elsewhere in the country, and an estimated 200,000 Chechens were living as IDPs within Chechnya itself. In addition to ethnic Chechen IDPs, almost the entire population of ethnic Russians, Armenians, and Jews left Chechnya during the strife of the past decade.

During the year Chechen Prime Minister Ramzan Kadyrov reaffirmed that efforts should be made for IDPs to return home but noted they should do so on a voluntary basis. Chechen and Ingush migration service officials jointly conducted another re-registration of IDPs in Ingushetiya, deregistering IDPs and trying to convince others to return to Chechnya.

Officials stated publicly that they would not pressure or compel IDPs to return to Chechnya. However, the UNHCR reported that government officials stated their intention to deregister those IDPs who had received compensation from federal assistance lists and indicated that 52 families were deregistered in June 2005. Those who were deregistered faced the threat of eviction from their accommodations in temporary settlements, despite their willingness to pay for the accommodation. Although some of the inhabitants chose to remain in Ingushetiya, the UNHCR estimated that 70 to 75 percent chose to return to Chechnya despite the inadequacy of the temporary lodging. For example, in August the Government of Chechnya submitted to UNHCR a list of 169 IDP families, largely from Ingushetiya, willing to re-

turn to Chechnya. The UNHCR along with the local NGO Vesta recorded 699 individual returns to Chechnya from Ingushetiya during the first six months of the year.

The UNHCR reported that, despite passport checks and occasional security sweeps that continued in IDP settlements, IDPs were generally able to remain in Ingushetiya without any pressure to return (see section 1.g.). The UNHCR reported that those who returned during a spring and summer campaign by the Government did not return due to undue government influence. However, other international and domestic organizations expressed concerns during the year over the Government's treatment of Chechen IDPs in Ingushetiya. In 2005 the Norwegian Refugee Council noted that IDPs were frequently denied status as "forced migrants" under Russian law, which severely limited their access to social benefits and protection. Others living in regions outside Chechnya were often denied residential registration by local authorities, in what the council characterized as discriminatory practices against Chechens.

The UNHCR also reported that progovernment Chechen authorities undertook an extensive campaign to return Chechen refugees from Georgia, with the first returnees arriving in Chechnya in May 2005. The UNHCR reported that the returns were voluntary.

In April Chechen Prime Minister Kadyrov announced that all temporary accommodation centers in Chechnya should be closed because they fostered drug addiction, prostitution, and other criminal behavior and because many persons living there could return to their homes. According to the UNHCR, five temporary accommodation centers across Chechnya were closed during the year, with many of those residents moving to other centers (see section 5).

*Protection of Refugees.*—The law provides for granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, but the Government has not established a system for providing protection to refugees. In practice, the Government generally provided protection against refoulement, the return of persons to a country where they feared persecution; however, it rarely granted asylum. Individuals who sought entry into the country without proper documentation and who sought to claim asylum were often denied access to the Federal Migration Service by border guards and Aeroflot airlines and often returned them to their countries of origin, including in some cases to countries where they demonstrated a well-founded fear of persecution. The UNHCR stated that many refugee seekers at times faced detention, deportation, fines by police, and racially motivated assaults, which sometimes even led to the loss of life.

The Government cooperated with the UNHCR and the International Organization for Migration (IOM); both organizations assisted the Government in trying to develop a more humane migration management system. The UNHCR reported improved communication with the Federal Migration Service on regulatory provisions and practices that do not meet international standards. The UNHCR reported that the number of active, registered cases of asylum seekers and refugees continued to decline during year. At year's end it had 3,196 such cases. In 2005 it had 3,789 cases. The Government acted more expeditiously and with greater leniency in cases involving applicants who had been citizens of the former Soviet Union. Officials and would-be applicants continued to demonstrate widespread ignorance of refugee law.

Russian authorities deported Uzbek citizen Rustam Muminov in October for administrative violations, after a local court in Lipetsk had refused to order his extradition and ordered him set free. In 2005, Uzbek authorities sought his extradition on charges of being a member of HT. Muminov was deported after being arrested in Moscow, despite seeking refugee status, and a Moscow court later ruled in October the deportation had been illegal. Migration officials later said the deportation had been a mistake.

During the year four cases of deportation proceedings were reported to the UNHCR, including the case of Rustam Muminov.

In another example in 2005, authorities in Tatarstan deported an Uzbek student, Marsel Isayev, to Uzbekistan, where he was held incommunicado for 10 days after he refused to cooperate with authorities, according to the migrants' rights NGO Civic Assistance. The student was reportedly pressured by Russian authorities to provide false evidence against classmates accused of being members of the banned HT. Isayev appealed his deportation unsuccessfully to the courts; intervention of Human Rights Ombudsman Lukin was also unsuccessful. Marsel Isayev, was deported based on a court decision for violating registration rules. His family remained in Tatarstan.

According to NGO Civic Assistance, during the year Bakhrom Dadazhenov was accused of associating with an extremist group in a high-profile case in Arzamas, Nizhniy Novgorod. The court proceedings were reportedly based on fabricated evi-

dence. NGO Civic Assistance's intervention helped prevent his family's deportation, and they were seeking asylum in a foreign country.

In November two brothers from Uzbekistan were deported from the Siberian city of Krasnoyarsk for allegedly violating Russian immigration laws and were handed over to Uzbek authorities. The two, who had lived in Krasnoyarsk since the beginning of the year, were arrested in September on charges of participating in HT.

An FSB spokesperson reported to the press that 19 Uzbek citizens had been extradited since January. The fate of many deportees is unknown to their families.

In 2005 the approximately 1,500 Armenian refugees who were held in "temporary quarters" for almost two decades were granted citizenship.

The UNHCR continued to be concerned about the situation of asylum seekers and refugees in the country. The UNHCR reported that undocumented asylum seekers continued to face problems with law enforcement bodies over their status in the country. The Government does not issue documents to asylum seekers who are awaiting review of their requests for asylum; consequently, they remained vulnerable to fines and detention, as well as being denied access to government-provided assistance. At Sheremetyevo Airport, authorities systematically deported improperly documented passengers before they were able to file asylum claims with the Federal Migration Service, including persons who demonstrated a well-founded fear of persecution in their countries of origin. Legally bound to provide food and emergency medical care for undocumented travelers, the airlines returned them to their point of departure as quickly as possible; airlines were fined if an undocumented passenger was admitted to the country but not if the passenger was returned to the country of origin. The treatment of asylum seekers in the transit zone reportedly was harsh.

During the year the UNHCR reported two instances of would-be asylees being stranded at the Sheremetyevo-2 Airport. Although authorities had been housing asylum seekers in a nearby hotel rather than requiring they remain in the transit zone, this arrangement ended when the hotel was sold. According to the UNHCR there was an Iranian family staying in the transit zone after seeking asylum upon arriving in the country after being turned back by German authorities. The family fled Iran after the mother had been imprisoned for dissident activities. None of these cases were recognized by either the Federal Migration Service or the UNHCR as a refugee. In the additional case, the would-be asylum seeker's claim was rejected by both Russian authorities and UNHCR.

To the UNHCR's knowledge, no asylum seeker arriving at Sheremetyevo-2 Airport had been accepted since at least 1999. UNHCR received three applications at the Sheremetyevo-2 PIC during the year. Most cases involved labor migrants entering or leaving the country, but a few cases involved asylum seekers. During the year the UNHCR continued to examine each case and seek resettlement on an emergency basis for those deemed to be in need of international protection.

While federal law provides for education for all children, regional authorities frequently denied access to schools to children of asylum seekers if they lacked residential registration. Authorities frequently deny migrants and Russian citizens the right to work if they do not have residential registration. Refugees also cannot work legally if they are not registered, and cannot obtain registration if they are not officially accepted as refugees by the Government.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully; while citizens generally have exercised this right in practice, the March 2004 Presidential elections did not adequately reflect principles necessary for a healthy democratic election, particularly in equal access to the media by all candidates and secrecy of the ballot. A move away from the election of governors to their nomination by the President, subject to confirmation by regional legislatures, led some observers to complain about reduced accountability of regional leaders to those whom they govern. The fact that the President could dissolve a regional parliament that rejected Presidential nominations three times further increased this concern. Corruption also limited accountability. During the year further electoral amendments allowed the removal of candidates from the ballot for "extremism" and forbade negative campaigning. The Government also did away with a minimum voter turnout to validate an election.

*Elections and Political Participation.*—Incumbent President Vladimir Putin, who was first elected President in 2000, was re-elected in March 2004 by a wide margin. The OSCE, which observed the elections, offered a positive evaluation of the technical conduct of the balloting but concluded that the overall election process, marred by widespread misuse of administrative resources, systematically biased campaign

coverage, and inequitable treatment of political parties, failed to meet international standards. Although the legal requirements for televised political debates and free time for party candidates to present their views were observed, the Government used its influence over the media, particularly the electronic media, to promote President Putin, resulting in coverage that was heavily biased (see section 2.a.).

In the November 2005 parliamentary elections in Chechnya, human rights groups and members of a Parliamentary Assembly of the Council of Europe fact-finding mission who were present alleged that the official voter turnout numbers were artificially high. Human rights groups also concluded that poor security and continuing human rights violations did not allow for a free and fair election in Chechnya. Other reports suggested that the results of the election were predetermined in favor of candidates loyal to then acting Chechen Prime Minister Ramzan Kadyrov, although the Chechen Central Election Commission reported there were no complaints of election law violations filed by parties or candidates.

Regional elections were held on October 8. Many political actors and analysts claimed that the proPresidential majority party, United Russia, had unfairly used administrative resources to sway results. There were no allegations, however, regarding misuse of the media. Additionally, parties in some regions alleged that votes had been mistallied. In the Tuva Republic, political party election monitors complained of nearly being prevented from reaching polling stations. Voter turnout was slightly lower than predicted. In particular, in Karelia turnout decreased significantly from almost 50 percent in 2002 to just over 33 percent. This decrease, however, was not attributed to voters being prevented from voting.

On October 19, unknown assailants killed mayoral candidate Dmitry Fotyanov in the town of Dalnegorsk. As he was killed days before a runoff election, many believe this was politically motivated; the prosecutor general's office stated it was looking into whether the murder was connected with the elections (see section 1.a.).

Competitive elections for other regional and local offices were held throughout the year. Most observers viewed these elections as generally free and fair, although there were problems in some regions involving unequal access to the media and the use of administrative resources by incumbents to support their candidacies. The counting of the votes in most locations was professionally done.

Laws enacted and implemented in 2005, particularly those eliminating direct gubernatorial elections, contributed to the consolidation of the Government's political power. For example, the law specifies that, for future national elections, the State Duma will be chosen strictly on the basis of party lists. Electoral blocs will be banned and the threshold for a party to be represented in the State Duma will be raised to 7 percent of the vote. According to some experts, the laws worked to the disadvantage of parties not currently represented in the State Duma. In addition the electoral law limits domestic observation of federal elections, a provision that may have already created difficulties for NGOs hoping to observe one regional election. The laws also provide that all regional legislative elections will be held on two dates a year and established a 7 percent threshold for parties to enter regional legislatures. Some commentators saw these laws as primarily benefiting the proPresidential United Russia party and limiting the independent observer's ability to monitor future elections; whereas others thought the single election date would reduce the potential for fraud.

Another law provides that republic Presidents and regional governors be nominated by the President subject to confirmation by regional legislatures. If a regional legislature fails to confirm the President's nominee three times, the legislature may be dissolved. Regional leaders in power when the law entered into force in 2004 were given the option of either serving out their elected terms or resigning early and seeking a Presidential appointment to serve a new term. The President also acquired the power to remove the regional leaders in whom he had lost confidence, including those who were popularly elected. At the end of 2005, the new system of choosing regional heads had been used in almost half of the country's regions. By year's end no regional legislature has failed to confirm a President's nominee and the new system has spread throughout the country's regions. The law gives the President significant influence over the federal legislative branch, since regional leaders appoint half of the upper house of that legislature, the Federation Council. In December 2005 President Putin signed a new law that allows political parties that have won elections to regional parliaments to propose their own candidates for head of a region subject to approval by the President and that region's legislature.

Election laws were further amended this year. In July the option "against all candidates" was eliminated from ballots. In December further amendments abolished early voting and the requirement for a minimal voter turnout, expanded circumstances under which a candidate may be removed from the ballot (including for vaguely-defined "extremist" behavior), and prohibited "negative" campaigning in tel-

evision ad spots. There are concerns among commentators that candidates may be arbitrarily removed from ballots, thereby reducing voter choice.

Political parties historically have been weak. Although the law includes a number of measures to enlarge the role of political parties, particularly of established political groupings, it also gives the executive branch and prosecutor general broad powers to regulate, investigate, and close parties. Other provisions limit campaign spending, set specific campaign periods, establish conditions under which candidates can be removed from the ballot, and provide for restrictions on campaign materials. To be registered as a political party, the law requires groups to have at least 50,000 members with at least 500 representatives in half of the country's regions and no fewer than 250 members in the remaining regions, making it difficult for smaller parties to register. Galina Fokina, acting head of the Federal Registration Service announced that, as of December 31, of the 35 political parties that applied for reregistration in accordance with the amended and more demanding law, only 19 passed the inspection, although two decided to register as "public associations." As a result, the 15 parties that did not pass the inspection must re-register as public organizations, movements, or NGOs or be dissolved through court procedures.

On July 28, President Putin signed into law amendments to legislation "On Countering Extremism," despite concerns among many that the law may restrict activities of political parties, the media, and NGOs and legitimate criticism of the Government. Critics say that it could be used to stifle politically sensitive NGOs and opposition political parties during the 2007–08 election cycle (see sections 2.b. and 4).

On December 12, government agents, both police and FSB, raided the offices of the political organization United Civil Front headed by Garry Kasparov. The officers had an order to search the premises due to suspicions of "extremist activity." The agents seized books and material promoting the "March of the Non-Agreers"—a demonstration planned for December 16 against President Putin's government. Although no charges were brought and the demonstration was held, albeit under the watchful eye of government security forces, some view this as an example of how the Government is using the new law on extremism against opposition.

There were 44 women in the 450-member State Duma (there were currently 445 Duma deputies—some seats were unfilled), and 10 women in the Federation Council. A woman, Lyubov Sliska, served as First Deputy Speaker of the Duma. Svetlana Orlova was a Deputy Chair of the Federation Council, and Valentina Petrenko chaired the Federation Council's Social Policy Committee. One woman, Valentina Matviyenko, served as governor of a prominent region, St. Petersburg.

National minorities took an active part in political life; however, ethnic Russians, who by some estimates constituted approximately 80 percent of the population, dominated the political and administrative system, particularly at the federal level.

*Government Corruption and Transparency.*—The country is still to complete the transition from a former communist state to a modern democratic society based fully on the rule of law and a free market economy. Corruption was widespread throughout society, a conclusion supported by domestic opinion surveys, and was extensive in the executive, legislative, and judicial branches at the federal and regional levels of government. Manifestations included bribery of officials, misuse of budgetary resources, theft of government property, kickbacks in the procurement process, extortion, and official collusion in criminal acts. International organizations gave the country poor marks on corruption issues. In an October Transparency International report, the country received a score of 2.5 on the organization's 10 point index of the degree to which corruption is perceived to exist among a country's politicians and public officials, indicating a perception that the country has a serious corruption problem. Many public institutions remained weak. The media lacked a strong tradition of investigative journalism, although a number of journalists throughout the country reported on corruption cases, sometimes resulting in prosecution of the alleged offenders. In general, however, citizens lacked a broad range of outlets to voice their views concerning corruption or to lodge complaints about its existence. The principal exception is the work of some regional anticorruption committees who follow corruption at the city and state level. Business associations were also active watchdogs of corruption in some regions.

President Putin and senior government officials frequently addressed the issue in public statements, and many jurisdictions throughout the country established local anticorruption committees. An anticorruption conference that brought together representatives from several regional coalitions was held October 26 in Moscow. Several regional anticorruption committees have organized successful projects including: week-long anticorruption festivals, television spots, corruption report cards for local officials, and committees to evaluate draft laws for corruption loopholes. These efforts were largely isolated to particular regions.

Various initiatives were undertaken at the federal level, with indeterminate results. Most anticorruption campaigns tended to be limited in scope and focused on lower-level officials. Allegations of corruption were also used as a political tactic, which made it more difficult to determine the actual extent of corruption. Prosecutor General Yuri Chayka took office in June and made several statements about the problem of corruption. Although no new major corruption convictions occurred during the year, the prosecutor general's office claimed 9,000 bribery cases were uncovered through August. In August-September, prosecutors identified 47,000 incidences of corruption and initiated approximately 600 criminal cases. There were several high-profile dismissals of government officials following President Putin's annual State-of-the-Nation address May 10, including employees of the Federal Customs Service, the Federal Security Service, the Interior Ministry, and some regional governors and mayors. So far, none of them have been formally charged with corruption.

However, there was a widely publicized allegation of major corruption in October 2005 involving the videotaped handover of \$1 million (26.5 million rubles) to a federal tax inspector by a commercial bank officer. Both the federal tax inspector and the Central Bank official with whom he was cooperating were charged and remained in detention, but the case had not yet reached court at year's end. The tax inspector and the Central Bank official were asking a commercial bank for a bribe in return for eliminating tax claims against the bank.

In June a senior auditing official in the Ministry of Industry and Energy was arrested and indicted for allegedly accepting a bribe. In August the Moscow City Court sentenced the official to seven years in prison for bribe-taking.

The law authorizes public access to all government information resources unless the information is designated confidential or classified as a state secret, and refusal to provide access to open information or the groundless classification of information as a state secret has been successfully contested in court. However, access to information is often difficult, and subject to prolonged bureaucratic procedures.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Although a number of domestic and international human rights groups operated in the country, investigating and publicly commenting on human rights problems, official harassment of NGOs increased. Authorities harassed some NGOs that focused on politically sensitive areas during the year, and other official actions and statements indicated a declining level of tolerance for unfettered NGO activity, particularly for those NGOs that received foreign funding. NGOs operating in the Northern Caucasus were at times hampered, although these organizations had wider access than in the past.

An estimated 20–25 percent of the approximately 450,000 registered public associations and nongovernmental, noncommercial organizations were regularly active. The vast majority were engaged in social or charitable activities, although many were working to influence policy and were critical of the Government. There were several dozen large NGO umbrella organizations as well as thousands of small grassroots NGOs. There was often a large gap between these two categories of NGOs in terms of their organizational capacity. In the regions NGO coalitions continued to advocate on such issues as the rights of the disabled and of entrepreneurs, environmental degradation, violations by law enforcement authorities, and the war in Chechnya.

On January 10, President Putin signed into law legislation providing strict measures to oversee NGOs and requiring their registration with the Federal Registration Service. After vocal criticism of the draft bill from the civil society sector and foreign governments, some controversial measures, such as the banning of subsidiaries of international NGOs and the required notification for informal groups, were dropped. The law, which entered into force on April 10, imposes more stringent registration requirements for NGOs, particularly the branch and representational offices of foreign NGOs, strict monitoring of organizations, extensive reporting requirements on NGO programming and activities, and some limitations on the participation of foreign citizens in NGOs. The law also permits more intrusive means for government officials to scrutinize NGOs, including "public associations," with very limited procedural protections and grants the Federal Registration Service discretion to deny registration or shut down an organization based on vague and subjective criteria (see section 2.b.). All foreign NGOs were expected to register with the Federal Registration Service by October 18. While several organizations submitting applications reported difficulties obtaining approval from the Federal Registration Service, it appeared that most of these problems were bureaucratic, rather than political, in nature even though the process entailed a time-consuming and burdensome process of

multiple editorial revisions that most organizations did not anticipate. By year's end most foreign NGOs that applied had been registered (197 total), with only a handful still awaiting final approval. All NGOs operating in the country will have to submit periodic reports to the Federal Registration Service in 2007 that disclose, particularly by foreign NGOs, potentially sensitive information, including sources of foreign funding and detailed information as to how funds are used. The reporting requirements will not begin to affect domestic NGOs until April 2007, therefore it was unclear how extensive the process will be and whether it could be used in a punitive fashion to limit the activities of selected organizations.

On July 28, President Putin signed amendments to the law "On Countering Extremism," despite concerns among many that they may restrict activities of political parties, the media, and NGOs as well as legitimate criticism of the Government. The revised law expands the definition of extremist activity to include public libel of a government official or his family, as well as public statements that could be construed as justifying or excusing terrorism. Critics noted that the law could be used to stifle politically sensitive NGOs and opposition political parties during the 2007–2008 election cycle (see section 2.b.).

The Government continued to scrutinize organizations that it considered to have an opposition political agenda. Numerous human rights and opposition groups reported politically motivated hostility from the Government. During the year the Government damaged the public image of the NGO community with statements that NGOs are suspicious organizations funded by foreign governments. Government accusations that implied connections between foreign-funded NGOs and alleged espionage by resident diplomats increased public perceptions that NGOs serve foreign interests and fuel instability.

The new "Law on the General Principles of Organization of Local Self-Governance in the Russian Federation," which went into effect January 1, provides more opportunities for NGOs to participate in policy-making at the local level. The law creates participatory mechanisms such as referendums, municipal elections, public hearings, law-making initiatives, community forums, and citizen surveys. The law requires public participation in drafting the charters for municipal entities, planning local development and budgets, deciding land use issues, and other activities. The Vladivostok Public Chamber advocated for transparent decision-making on adoption of the city's charter, and negotiation of lower tariffs for communal services.

While NGO advocacy efforts were sometimes hindered by a lack of unity and leadership, there were examples of successful advocacy campaigns. For example, efforts of the Primorye Coalition Against Corruption resulted in several new laws and amendments passed by the Primorskiy Kray and Vladivostok city governments, including a law regulating citizen access to public information, new provisions regulating conflicts of interests and gifts to public officials, and the establishment of a "one-stop-shop" for public services. Early in the year, the Free Choice Motorists' Movement headed a campaign to overturn the conviction of a driver charged in a fatal crash with an official vehicle in 2005 and persuade the Government to limit, for the safety of the driving public, the number of official vehicles that are allowed to use blue lights and sirens to by-pass traffic.

On October 13, a Nizhniy Novgorod court ruled that the RCFS should be shut down after its executive director, Stanislav Dmitriyevskiy, was convicted of inciting racial hatred on February 3 (see section 2.b.). It was the first case in which courts shut down an NGO under new NGO legislation. Dmitriyevskiy was given a suspended two-year sentence and four years of probation for publishing statements by Chechen separatist leaders in RCFS's *Pravozaschita* newspaper; the Nizhniy Novgorod Oblast Court subsequently upheld the verdict. Under the NGO law, Dmitriyevskiy lost his right to found or participate in any public association; however, Dmitriyevskiy remained in his position while the RCFS pursued its appeals. Authorities dropped a tax evasion case against the RCFS in March, and the tax inspectorate discontinued pursuing claims for unpaid taxes on foreign grants.

There were no developments during the year in the criminal case that was opened after threatening leaflets were distributed near the home of RCFS coeditor Oksana Chelysheva in September 2005. The leaflets were distributed on Dmitriyevskiy's apartment block against both Dmitriyevskiy and Chelysheva.

During the year the Nizhniy Novgorod Human Rights Society resumed its activities, reportedly as a result of a campaign by international organizations. In June 2005 authorities ordered the closure of the society, a partner organization of the RCFS, on the grounds that it did not submit necessary documentation of its activities to the Ministry of Justice.

Authorities pursued legal action against the human rights NGO Chechen Committee for National Salvation (CCNS) in 2005. In February 2005 the Supreme Court of Ingushetiya ordered a retrial of the committee on charges that it had violated the



law by issuing press releases accusing authorities of violating human rights. The organization had earlier been acquitted of the charges. Neither the committee's chairman, Ruslan Badalov, nor his lawyer was notified of the hearing. The retrial began in April 2005, with the court ordering a new expert analysis of CCNS's press releases to determine if they promoted extremism or hatred. The experts found no extremist content in the press releases, but the trial continued. In April the court resumed the case, but the judge refused to conduct the trial, and a new federal judge was appointed. On April 26, the prosecutor made a new request to carry out another assessment of the CCNS press releases and the request was granted. In July the Supreme Court returned the Badalov case for further consideration. The general prosecutor's office protested the decision, and an appeal was pending at year's end.

In August 2005 State Duma Deputy Nikolay Kuryanovich, who was criticized in a report by the Moscow Bureau for Human Rights (MBHR), sent a letter to the Government asking for the MBHR to be liquidated and accusing it of collaboration with foreign intelligence. In response to Kuryanovich's letter, several inspections were conducted by the Federal Tax Service and the prosecutor general's office. The prosecutor general's office did not find grounds to initiate a criminal case against the MHRB. As of November 17, the tax service continued its inspections of the MHRB, but had not made any claims.

There were no further official actions during the year regarding Open Russia, an NGO founded and heavily funded by former Yukos head Mikhail Khodorkovskiy. Open Russia's Moscow office was raided in October 2005 by authorities, who seized documents reportedly related to an ongoing investigation of money laundering and investigation of possible embezzlement by Yukos employees. Authorities did not bring charges against Open Russia; however, after Yukos declared bankruptcy, funding to Open Russia was cut and it has since shut down.

In late July the Federal Tax Service filed a tax claim against CILD, an NGO headed by one of former Yukos CEO Mikhail Khodorkovskiy's lawyers, after it was audited by tax inspectors. On July 31, the Center appealed the claim to the Federal Tax Service. The center was founded in 1994 to assist victims of human rights violations through international legal mechanisms, including the ECHR, the UN Committee for Human Rights, the European Committee against Tortures, Inhuman or Humiliating Treatment and Punishment, and others. As of December 31, the ECHR had passed judgment on the merits of 17 cases presented by CILD lawyers and was considering 19 additional cases. Lawyers cooperating with the CILD accounted for approximately 8 percent of the 300 cases under ECHR consideration involving the country. The total tax claims and fines against CILD were approximately \$170,000 (4.6 million rubles), which if collected could potentially put the NGO out of business. The Federal Tax Service claimed that the CILD failed to pay taxes on \$500,000 (approximately 13.5 million rubles) in foreign grants received between 2002 and 2004 (see section 2.b.).

In the regions a few local officials harassed human rights monitors.

Some government officials viewed the activities of some NGOs working on Chechnya with suspicion. For example, in June 2005, Lema Khasuyev, the then-Chechen Republic's human rights ombudsman, stated that he would not cooperate with the human rights NGO Memorial, claiming that it was working in the interests of foreign donors.

A foreign NGO reported that central authorities continued to pressure it and its domestic partner, the VOICE Association for Voters' Rights, during the year. Prosecutors opened an investigation of the USC in 2004 following the committee's announcement that it intended to meet with Chechen rebel leader Aslan Maskhadov or his emissary Akhmed Zakayev. State Duma deputies had called for an investigation of the group and its finances. Tax inspectors later conducted an investigation, but reportedly found no violations. The committee was permitted to register as an NGO, but was denied registration as a political party in conjunction with the Republican Party.

At times the Government's attitude towards human rights NGOs appeared to depend on the perceived threat to national security or level of criticism that an NGO might offer. In the view of some observers, NGOs working in the Caucasus were particularly vulnerable to interference. For example, in April 2005 two expatriate staff members of the humanitarian aid NGO International Rescue Committee were denied entry into the country although they had valid passports, visas, and other necessary documents. Officials provided various explanations for the denial, and the two individuals were eventually told they could re-enter the country.

Officials, such as Human Rights Ombudsman Vladimir Lukin and the chairman of the Presidential Council on Promoting the Development of Institutions of Civil

Society and Human Rights, Ella Pamfilova, regularly interacted and cooperated with NGOs.

Government and legislative officials recognized and consulted with some NGOs, and such groups participated, with varying degrees of success, in drafting legislation and decrees. For example, a network of NGOs concerned with disability issues worked successfully with local authorities in Moscow and elsewhere in the country to promote the mainstreaming of students with disabilities into the school system and engaged both the Ministry of Education and a State Duma working group drafting education legislation.

Regional human rights groups generally received little international support or attention and often suffered from inadequate funding. They reported that at times local authorities obstructed their work. Some domestic NGOs involved in human rights advocacy reported receiving death threats from nationalist organizations. While these groups were generally free to criticize government and regional authorities, authorities in some areas were intolerant of criticism. Local human rights groups in the regions had some opportunities to interact with legislators to develop draft laws; however, local authorities excluded some organizations from the process entirely.

In 2005 the Siberian Civic Initiatives Support Centers in Omsk and Irkutsk worked with local governments to develop social policies on education, health care, and communal reforms. In the Jewish Autonomous Republic, Amur Oblast, and selected regions in Primorskiy Kray, NGOs worked with local governments to encourage citizen participation in local self-governance on issues related to implementation of the new law on local governance.

Some international NGOs maintained small branch offices staffed by local employees in Chechnya; however, all of them were based outside of Chechnya (see section 1.g.).

By law every person in the country may bring cases to the ECHR for alleged human rights violations after May 1998, provided they have exhausted "effective and ordinary" appeals in the courts. This provision was usually satisfied by two appeals (first and cassation) in courts of ordinary jurisdiction or three (first, appeal, and cassation) in the commercial court system. The ECHR received 8,781 complaints in 2005. Of those, 5,262 were declared inadmissible, 341 were communicated to the federal government, and 110 were declared admissible. Eighty-one cases resulted in findings of at least one violation by the Government, and two cases were found to have no violations. During the year the ECHR received 10,569 complaints. Of those, 4,856 were declared inadmissible, 380 were communicated to the federal government, 10,177 were allocated to a decision body, and 151 declared admissible. One hundred and two cases resulted in findings of at least one government violation, 64 of which were based on the right to a fair trial. Ninety-six of the judgments found at least one violation, five found no violation, and one judgment was found "other" (i.e., just satisfaction, revision judgments, preliminary objections and lack of jurisdiction).

On October 26, the ECHR ruled in favor of four applicants from Vologda, finding the Government in violation of their "right to respect for private and family life" by refusing to assist them to move outside a zone contaminated by pollution from the Severstal steel plant in Cherepovets. The court ruled that the Government owed the plaintiffs compensation and that it must resolve their untenable living conditions, either by relocating or compensating them for new housing outside the zone or by forcing Severstal to reduce emissions. The Government paid the court-designated damages but had not relocated or otherwise remedied the plaintiffs' living situation. The court ruled in favor of the plaintiff in an identical case in June 2005.

In February 2005 the ECHR ruled in favor of six Chechen applicants, finding the country in violation of several articles of the European Convention on Human Rights and Fundamental Freedoms. In these cases the ECHR found the applicants had no effective remedy in domestic courts. The ECHR rejected a government appeal of the rulings in July 2005 (see section 1.g.). The Government generally paid financial judgments ordered by the ECHR in a timely fashion; however, it issued blanket refusals in response to ECHR requests for disclosure of the domestic case files relating to alleged gross violations in Chechnya. The ECHR criticized this failure of disclosure.

Human rights institutions that were a part of the Government itself rarely challenged government activities, but sought to promote the concept of human rights and to deal with specific abuse complaints. Human Rights Ombudsman Vladimir Lukin commented on a broad range of human rights problems, such as the treatment of children, the rights of prisoners, hazing in the military, and religious intolerance. During the year Lukin spoke out against intolerance, stating that the grow-

ing wave of ethnic, religious, sociopolitical, and ordinary human hatred within the country is a threat to national security.

Lukin's office had approximately 200 employees and several specialized sections responsible for investigating complaints. During the year the office published reports on human rights issues, such as the rights of disabled children and human rights and the modernization of education. However, Lukin's role remained primarily consultative and investigatory, without powers of enforcement. In October the President signed into law amendments that considerably broadened the powers of the human rights ombudsman's office. The new law gives the ombudsman the right to propose parliamentary investigations into reported mass or flagrant human rights abuses, to participate in parliamentary meetings when the final results of investigations are presented, and to propose State Duma hearings into the violations of citizens' rights. At the end of November, 34 of the country's 88 regions had regional human rights ombudsmen with responsibilities similar to Lukin's. However, the effectiveness of the regional ombudsmen varied significantly.

The Presidential Council on Promoting the Development of Institutions of Civil Society and Human Rights, headed by Ella Pamfilova, promoted NGO concerns and worked to advance human rights in the country. For example, from February through July, Pamfilova organized a series of civil society events within the framework of the G-8. The council was widely respected in the NGO community.

In January the 126-member Public Chamber of the Russian Federation began operation. The Public Chamber was established by legislative mandate in 2005 as a mechanism to channel public and civil society input into legislative decision-making. Forty-two of its members (one-third), distinguished by special services to the nation, were selected by President Putin. These members selected another 42 representatives nominated by national NGOs. The 84 members selected 42 representatives from regional and interregional associations. Some prominent human rights groups declined to participate in the chamber out of concern that the Government would use it to increase control over civil society. The Public Chamber's tasks are broad, relying on some 30 committees on topics ranging from juvenile justice to anticorruption to philanthropy. Committees conduct public discussions on key issues, review draft laws, travel to the regions to promote the role of regional public chambers, conduct studies, and give nonbinding recommendations to the Government and legislature. During the year the chamber held a competition for federal grant subsidies for civil society organizations, totaling more than \$189,000 (5 million rubles). Several hundred final awardees were approved by the Presidential Administration, including some independent NGOs. During the year the Public Chamber urged reversal of the conviction of the driver involved in the car crash that killed Altai Governor Mikhail Yevdokimov, the prevention of eviction of families from Southern Butovo in Moscow's outskirts, and prosecution of the hazing case of Private Andrei Sychov. The Public Chamber reviewed 18 bills during the year; however, the State Duma largely ignored its suggestions. The overall function and effectiveness of the Public Chamber as a check on the federal government was unclear as of year's end.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, language, social status, or other circumstances; however, both governmental and societal discrimination persisted.

*Women.*—Domestic violence, including spousal abuse, remained a major problem, and law enforcement authorities frequently failed to respond to incidents of domestic violence. There are no official statistics on domestic violence in the country. Nevertheless, an Amnesty International report estimated that approximately 36,000 women were beaten by a husband or partner every day. Official estimates indicated that, on average, more than 250,000 violent crimes were committed against women annually; however, because such crimes were usually not reported, the real figures were likely to be higher. According to official data, 9,000 women were killed as a result of family and domestic crimes in 2003. These crimes constituted 32 percent of the total murders in the country. A news report stated that each year 14,000 women are killed by their husbands.

There is no legal definition of domestic violence. While the law prohibits battery, assault, threats, and murder, those of its provisions most commonly applied to cases of domestic violence (such as light injury) are not within the jurisdiction of the prosecutor's office. Victims of crimes resulting in light injury are required to prosecute such cases without state assistance, and their complaints must satisfy certain legal requirements, which victims without legal knowledge have difficulty meeting. As a result few cases were prosecuted and there were few convictions. According to a survey of discrimination against women conducted during the year, police frequently

discouraged victims from submitting complaints. Even when victims submitted applications, the majority of domestic violence cases were not adjudicated by the courts due to dismissal based on technical errors in the application or the fact that justices of the peace focus on reconciliation of the couple and preservation of the family, rather than punishment of the perpetrator. There are minimal remedies for domestic violence in the civil law; the most common were administrative fines and divorce.

In 2005 22 crisis centers for women operated as part of a broader structure of social protection institutions. Crisis services are not focused exclusively on violence against women, although some do offer services to domestic violence victims. NGOs operated centers for victims of domestic violence throughout most of the country; however, there are reportedly few domestic violence shelters. An informal informational network affiliated with the NGO National Center for Prevention of Violence "Anna," received 85,000 complaints of domestic violence in 2004. In 2005 "Anna" reported that 22 of the 170 organizations in its network closed, primarily due to lack of financing.

Under the law rape is illegal, but in practice it is a problem. In 2004 8,795 rapes were registered, and in the first half of the year, 5,007 rapes were registered. From January to October, 7,567 rapes and attempted rapes were reported. However, according to NGOs, many victims never reported rape due to social stigma and lack of government support. Rape victims can act as full legal parties to criminal cases brought against alleged assailants and can seek legal compensation as part of the verdict without seeking a separate civil action. Although some crisis centers may provide support to rape victims, anecdotal information suggested that women were discouraged from reporting rape cases by crisis center psychologists, who considered the investigation and prosecution process traumatizing; such advice did not reflect official policy. Members of the medical profession, including at hospitals and elsewhere, assisted women who were assaulted. However, to avoid spending long periods in court, some doctors were reluctant to ascertain the details of a sexual assault or collect physical evidence.

Spousal or acquaintance rape was not widely perceived as a problem by society or law enforcement; studies suggested that up to half of women and more men think that women cannot refuse sex in marriage. The criminal code makes no distinction based on the relationship between the rapist and victim. Women were unlikely to report cases of rape by persons they know. Law enforcement and prosecutors held many of the same notions and allegedly did not encourage reporting or prosecution of such cases.

The organization and operation of a prostitution business is a crime, but selling sexual services is only an administrative offense. Prostitution remained widespread in the country and some observers expressed concern about sex tourism. In addition there were reports of prostitutes bribing police and of violence against prostitutes by police.

Trafficking of women for sexual exploitation or forced labor was a serious problem (see section 5, Trafficking).

The law does not prohibit sexual harassment, and women have limited legal recourse when sexually harassed. Sexual harassment remained a widespread but mostly unacknowledged problem. NGOs operating hotlines reported that women routinely sought advice on the problem. However, due to the lack of legal remedies and limited economic opportunities, many women tolerated harassment.

Although the law states that men and women have equal rights and opportunities to pursue those rights, credible evidence suggested that women encountered discrimination in employment. Job advertisements sometimes specified sex and age groups, and some ads specified desired physical appearance as well as a preference for applicants open to intimate relations with the prospective supervisor. Employers often preferred to hire men, thereby saving on maternity and childcare costs and avoiding the perceived unreliability that accompanies the hiring of women with small children. UN Development Program's 2005 Human Development Report, women account for 49 percent of wage employment, but according to official government statistics, on average women earned only two-thirds as much as their male counterparts. Professions dominated by women were much more poorly paid than those dominated by men. For example, according to the UNDP, in education where women are 80 percent of the workforce, women's average wages were 23 percent lower than those of men.

*Children.*—The Government expressed its commitment to children's rights and welfare, but devoted only limited resources to the welfare of children.

Children have the right to free education until grade 11 (or approximately age 17), and school is compulsory until approximately age 15 or 16. Primary education is compulsory, free, and, by law, universal. According to UNICEF statistics, 93 percent of school-age children attended school. The highest level achieved by the major-

ity of children was secondary education. Boys and girls were treated equally in the school system. While federal law provides for education for all children in the country, regional authorities frequently denied school access to the children of unregistered persons, including Roma, asylum seekers, and migrants.

In Krasnodar in September producers of a documentary film about ethnic discrimination against children reportedly had difficulties in exporting the film footage from Russia-Krasnodar airport; airport security officials allegedly seized the film and later returned it damaged. Under the law health care for children is free; however, the quality varied and individuals often incurred significant out-of-pocket expenses. More than six years after the start of the second conflict in Chechnya, much of that republic's social and physical infrastructure remains destroyed or seriously damaged. As a result social services for children were inadequate, especially in the education, health and water, and sanitation sectors. These inadequacies, and the continued instability in the region, continued to threaten the health and well-being of children.

Although child abuse was a widespread problem, the majority of child abuse cases were not subject to legal action. The Moscow Human Rights Research Center estimated that approximately 50,000 children run away from home annually to avoid domestic violence. The Moscow Helsinki Group indicated that each year approximately two million children under 14 years of age were victims of domestic violence.

Trafficking in children was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.)

There were reports that boys under 18 were detained as part of targeted raids and security sweeps conducted by Russian and pro-Moscow Chechen forces in Chechnya.

Troops in Chechnya reportedly placed Chechen boys ages 13 and older in filtration camps where some reportedly were beaten and raped by guards, soldiers, or other inmates. The women's action group White Kerchief (Belyy Platok) reported that some federal forces kidnapped children in Chechnya for ransom. In September 2004 at least 338 hostages, about half of them children, were killed after terrorists took an estimated 1,200 hostages at a school in Beslan, North Ossetia (see section 1.g.).

Estimates of the number of homeless children ranged from two million to five million. During the year, according to the Russian Statistics Committee (Goskomstat), there were 800,000 abandoned children in the country. According to the Ministry of Internal Affairs, approximately 109,000 vagrant minors were removed from the streets and public places in the first quarter of 2004 alone.

According to the Moscow Department of Social Security, 12 percent of street children who ended up in shelters have run away from orphanages or boarding schools. Law enforcement officials reportedly often abused street children, pinned the blame for otherwise unsolved crimes on them, and committed acts including extortion, illegal detention, and psychological and sexual violence against them. According to the Public Verdict Foundation, in 2005, prosecutors refused to bring charges in 80 percent of cases of alleged police misconduct towards such minors; the situation improved slightly during the year. According to the Public Verdict Foundations, in some regions, like in Krasnodar Kray, the situation is better than in other regions, like in Blagoveshchensk, Amur Region.

A case was pending in Basmanniy Court of Moscow, alleging that police abused and beat a 12-year-old boy who was detained. The case was brought by the boy's parents with the assistance of Public Verdict lawyers and has received some media coverage. Homeless children often engaged in criminal activities, received no education, and were vulnerable to drug and alcohol abuse. Some young girls on the streets turned to, or were forced into, prostitution to survive. According to Ministry of Internal Affairs statistics, during the first six months of the year over 90,000 criminal offenses were committed by minors or with minors' participation.

Local and international NGOs provided a variety of services for the homeless. Many Moscow charitable organizations established productive relations with the city government to address the needs of children with disabilities, as well as other vulnerable groups. In St. Petersburg local government and police ran various programs for homeless children and cooperated with local NGOs; however, resources were few and overall coordination remained poor. In St. Petersburg, NGOs ran seven drop-in centers. There are new Web sites [www.usinovity.ru](http://www.usinovity.ru), a project of the Ministry of Education and Science, and [www.siroty.ru](http://www.siroty.ru) which provide additional information about abandoned children. Also an increasing number of regions have children's rights ombudsmen.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking continued to be a substantial problem, although there is increasing awareness and sensitivity by authorities. Allegations continued that corrupt government officials facilitated trafficking, although it remained difficult to ascertain the scope

of such corruption. The Government at all levels remained committed to combat trafficking, and investigations and prosecutions significantly increased, from 11 in 2004 to 53 in 2005, since the State Duma amended the criminal code in 2003 to specifically outlaw human trafficking and the use of forced labor. During the year investigations and prosecutions more than trebled; the police opened more than 80 human trafficking investigations. In 2004 the Government reported 26 human trafficking criminal cases of which eight related to forced labor, and 18 related to sex trafficking. In 2005 the Government reported 80 human trafficking cases of which 20 related to forced labor and the remainder were sex trafficking cases. Although the Ministry of Internal Affairs does not report criminal statistics until March 1 of each calendar year, ministry officials stated that investigations and prosecutions of human trafficking cases continue apace. Recent amendments to the law permit confiscation of property in criminal cases involving sex and labor trafficking.

There were no reliable estimates of the scope of trafficking, but observers believe it remained widespread. The country continued to be a source, destination, and transit country for human trafficking; however, as a result of economic factors, there appears to be a decreasing number trafficked abroad. While women and children were trafficked for sexual purposes, men were also trafficked into the country on a significant scale from former Soviet Union countries to urban centers, particularly for the construction and agriculture industries. In the Russian Far East, there is trafficking in the fishing industry. The International Labor Organization (ILO) estimates that one million illegal immigrants living in the country are victims of forced labor.

According to the IOM, women have been trafficked to almost 50 countries, including every West European country, the United States, Canada, former Soviet republics, and Middle Eastern and Asian countries. Women who were trafficked abroad and returned to Russia seldom reported their experiences to police, because they feared humiliation and retaliation by traffickers. Traffickers usually targeted unemployed females between the ages of 14 and 45, with females between the ages of 15 and 25 being the primary targets. Traffickers often lured women with promises of economic opportunities. Some trafficking victims knowingly agreed to work in sex industries. However, all the victims interviewed in the IOM study stated that they never suspected the severity of the conditions and abuse to which they would be subjected.

Igor Khvan, an Uzbekistan citizen who resides in Primorye, was arrested in December 2004 for trafficking women from Uzbekistan. His two female assistants recruited young women in Tashkent, Uzbekistan, for hostess positions in Ussuriysk, Primorskiy Krai. Upon their arrival, Khvan took away the women's passports and forced them to work in prostitution. Khvan took all revenue from their activities, leaving the women an allowance of only \$1.80 to \$3.60 (47.7 to 95.4 rubles) a day for food. On January 25, the Ussuriysk Court sentenced Khvan to seven years in prison. His two associates were sentenced to the same term in Uzbekistan.

Reports indicated that internal trafficking, fueled by poverty and unemployment, remained a problem. Women were recruited and transported from rural areas to urban centers typically to work for commercial sexual exploitation.

There were continued reports of child trafficking, primarily for sexual exploitation. The victims were usually homeless children or children in orphanages. There are no reliable estimates of how many children were trafficked. The country has become a major producer and distributor of Internet child pornography, leading to confirmed cases of child sex trafficking and child sex tourism.

The lack of effective legislation precludes effective investigation and prosecution of pornography cases. The law lacks a definition of child pornography, does not criminalize the possession of child pornography (thereby legitimizing a market for child pornography), and the pornography manufacture and distribution statute is poorly drafted and seldom used. Police and prosecutors complained that cases are often thrown out of court because there are no ascertainable standards of what constitutes the offense. Even where cases are prosecuted and a conviction obtained, courts often impose the minimum sentence possible, often probation. Police complained that it was difficult to investigate these offenses because the crimes are deemed "grave" offenses under law, and therefore, the investigative means available under law are limited. The consequence of these defects was that few child pornography cases were investigated and prosecuted, creating an environment where child pornography can flourish. There was wide agreement that reform is necessary but little interest in the issue from the administration.

Information from foreign prosecutions, academic researchers, and law enforcement sources suggested that criminal groups carried out most trafficking with the assistance of front companies and established organized crime groups. Typically traffickers used a front company-frequently an employment agency, travel agency, or

modeling company-to recruit victims with promises of well paying work overseas. Many placed advertisements in newspapers or public places for overseas employment, some employed women to pose as returned workers to recruit victims, some placed Internet or other advertisements for mail order brides, and some victims were recruited by partners or friends. Once the victims reached the destination country, the traffickers typically confiscated their travel documents, kept them in a remote location, and forced them to work. The Ministry of Foreign Affairs placed detailed warnings about employment and travel abroad on its Web site. Newspapers and NGOs also reinforce these warnings.

Reports indicated that employers or traffickers withheld workers' passports or other documentation. They threatened workers with deportation or prosecution if they demanded compensation. One trafficking researcher indicated that some local police cooperated with employers to "shake down" such workers to deprive them of their wages. Traffickers often used their ties to organized crime to threaten victims with harm to their families should they try to escape. They also relied on ties to organized crime in the destination countries to prevent the victims from leaving and to find employment for the victims in the local sex industry. Trafficking organizations typically paid domestic organized crime entities a percentage of their profits in return for "protection" and for assistance in identifying victims, procuring false documents, and corrupting law enforcement.

Under the law if certain aggravating factors are established, trafficking and forced labor are punishable by a maximum of 15 years' imprisonment, recruitment into prostitution by a maximum of eight years, organization of a prostitution business by a maximum of 10 years, and manufacture and distribution of child pornography by a maximum of eight years. In January 2005 new witness protection legislation went into effect that has been used as a mechanism to protect and shelter trafficking victims and their families against traffickers. Newly drafted asset forfeiture legislation pertains to trafficking offenses and permits the confiscation of criminal proceeds from traffickers. Four victims of trafficking benefited from the program in 2005.

Law enforcement agencies increasingly investigated and prosecuted trafficking cases. Then-prosecutor general Ustinov announced in February that in 2005, the Government initiated 80 trafficking cases, of which 60 investigations were brought under the law against sex trafficking and 20 investigations were brought under the law against labor trafficking. The Ministry of Internal Affairs worked closely with foreign governments and continued to assist international trafficking prosecutions. The Ministry of Foreign Affairs developed guidance for consular officers abroad on dealing with trafficking victims and expressed a commitment to assist with the repatriation of trafficking victims, although funding was not made available to assist with the repatriation. The Government cooperated with international trafficking investigations.

Journalists, politicians, NGOs, and academic experts stated that corrupt elements in the Ministry of Internal Affairs and other law enforcement bodies facilitated and, in some cases, controlled trafficking. In addition, individual government officials reportedly took bribes from traffickers in return for false documents and facilitating visa fraud. Law enforcement sources agreed that document fraud was often committed in the process of obtaining external passports and visas, but they were uncertain to what extent this involved official corruption rather than individual or organized criminal activity. There were reports of prosecutions of officials involved in such corruption.

During the year reports noted the country failed to meet minimal standards for the elimination of trafficking; in particular, inadequate protection and assistance are afforded human trafficking victims. Assistance provided to trafficking victims remained inconsistent and inadequate, with the Government relying in many instances on NGOs. There was a dearth of human trafficking shelters in the country and none funded by the Russian government which instead relies upon local shelters maintained by municipalities or upon assistance provided by NGOs to repatriate and shelter trafficking victims.

Many of the more than 100 NGOs that conduct antitrafficking activities throughout the country disseminated information on trafficking, engaged in preventative efforts, and provided assistance to victims. NGOs have helped to reintegrate victims upon return to the country. Such NGOs received varying degrees of support from regional and local governments. Some were invited to brief local officials and law enforcement personnel, and some provided training to local crisis centers and hospital staff. The Primorskiy Krai administration worked closely with antitrafficking NGOs in the Russian Far East to organize a major international antitrafficking conference, the Stop Trafficking Now Conference.

Shelters run by local NGOs provided assistance to trafficking victims. There were no government-run shelters for trafficking victims, and the Government intends to rely upon the provisions of the Witness Protection law to shelter and protect trafficking victims. A shelter run by the IOM, however, opened in Moscow with the assistance of city authorities and it receives referrals from the police and Federal Border Service.

The Government had no official comprehensive trafficking prevention program but continued to sponsor several events designed to raise awareness among specific professionals of the problem. The State Duma, with the support of the Presidential Administration, sponsored seven regional conferences in 2005 and during the year to teach law enforcement officers, NGOs, and public officials about relevant laws and to encourage closer cooperation between police and NGOs. The Ministry of Internal Affairs sponsored three "train the trainer" conferences in 2005 for ministry training officers from regional academies throughout the country employing experts to develop well trained antitrafficking investigators. The Government also sponsored some events designed to raise general public awareness of the danger of trafficking. On March 7, the Khabarovsk branch of the United Russia party, a local youth NGO Moy Kray, and the Russian Orthodox Church organized a protest rally about trafficking in the Khabarovsk central square. Speakers warned young persons, particularly young women, not to pursue "generous" job offers abroad. They also listed measures that the authorities need to urgently implement to combat this problem. At the end of August, the Primorye regional government sponsored the first annual Asian-Pacific International Forum "Stop Trafficking." Law enforcement officers, NGOs, public officials, speakers from the United States, China, Israel, and the OSCE Secretariat shared their experience in combating and in preventing trafficking in persons. The participants of the forum adopted a draft resolution with recommendations to develop a national comprehensive trafficking prevention program, to encourage closer cooperation between law enforcement agencies and NGOs, to increase public awareness.

*Persons With Disabilities.*—Several laws prohibit discrimination against persons with disabilities or to establish conditions of equal rights for them; however, the Government generally did not enforce these laws. Citizens with disabilities continued to face discrimination and were denied equal opportunity to education, employment, and access to social life. Overall, the situation for persons with disabilities has reportedly worsened since the passage in 2004 of a law which replaced government subsidies for such items as transportation and medicine with cash payments. Some affluent regions, such as Moscow, preserved benefits for persons with disabilities at preexisting levels, most others regions provide a limited number of benefits such as free transportation.

The Minister of Health and Social Protection Zurabov at a conference organized by the All-Russia Society of Disabled People noted that there are 15 million persons with disabilities. In December the human rights ombudsman said that, in the previous 10 years, over 120,000 persons became invalids as a result of military actions and war injuries. Persons with disabilities were generally excluded from the social and political life of their communities and isolated from mainstream society.

The residents of disabled adult institutions were mainly "graduates" of the institutions for children. Institutions often did not attempt to develop the abilities of the interned persons. The residents were frequently confined to the institutions and sometimes movement within the institutions was restricted. The use of psychotropic drugs as punishment was allegedly widespread. Conditions in the institutions were often poor, with unqualified staff and overcrowding.

Laws prescribe penalties for enterprises that fail to build ramps or other accessibility features but contain no enforcement mechanisms. Federal law on the protection of persons with disabilities requires that buildings be made accessible to the disabled, but authorities did not enforce the law and in practice most buildings were not accessible.

Approximately 90 percent of persons with disabilities were unemployed. Laws providing employment quotas exist at the federal and local levels; however, some local authorities and private employers continued to discourage persons with disabilities from working, and there was no penalty for failure to honor quotas. Human rights NGOs made some progress in persuading foreign companies in larger cities, including Moscow, to consider persons with disabilities as potential employees, and the Moscow city government has reportedly encouraged employers to hire disabled persons. Overall, according to NGO All-Russia Society of Disabled People, the number of persons with disabilities in the workforce declined from 72,500 in 2002 to 28,000 in during the year. The NGO attributed this to the 2002 elimination of tax benefits which encouraged employment of persons with disabilities.



Authorities generally segregated children with disabilities from mainstream society through a complex and cumbersome system that institutionalized children until adulthood. Observers concluded that issues of children's welfare were lost within the bureaucracy, and little clear recourse existed in instances of abuse by the system. Human rights groups alleged that children in state institutions were poorly provided for and, in some cases, physically abused by staff members. "Graduates" of state institutions also often lacked the necessary social, educational, and vocational skills to function in society. According to a December 28 report by the prosecutor general's office, half of the more than 600,000 children with disabilities in state care lack medicines, hearing aids, and wheelchairs.

An international NGO delegation that visited two psychiatric hospitals in 2004 noted that there was no judicial process for commitment that provided individuals subject to commitment with the right to appear before a court for a determination of the legality of their commitment.

The assignment of categories of disability to mentally disabled children often followed them through their lives. The labels "imbecile" and "idiot," which are assigned by a commission that assesses children with developmental problems at the age of three, and which signified that a child was uneducable, almost always was irrevocable. Even the label of debil—lightly retarded—followed an individual on official documents, creating barriers to employment and housing after graduation from state institutions. This designation was increasingly challenged in the case of children with parents or caregivers, but no one advocated for the rights of institutionalized children.

Youths with disabilities not in institutions faced significant barriers to education, including lack of access to schools. Education authorities often tried to keep youths with disabilities out of school due to lack of special programs. At the same time, the "home program" for children with disabilities was highly inferior to school classes. The majority of teachers and administrators in schools and universities had little or no understanding of disability issues. Often parents of children without disabilities were averse to their children studying with children with disabilities.

NGOs cited some examples of courts ordering children with disabilities admitted to schools that initially refused to take them. For example, two children with disabilities in Petrozavodsk, Karelia, were denied permission to attend a preschool program because the preschool stated that it did not have the capacity to admit children with their disabilities. The Petrozavodsk court initially supported the preschool, but the children's parents prevailed in a rehearing in February, and the children were admitted to a different preschool, which was ordered to provide a satisfactory program. A final court decision on this case came on April 24, when the Petrozavodsk court ruled that the children's right to education had been violated. The court ordered a local special school (because by the time the court case was won, the children were already of school age) to provide a satisfactory special education program for the children.

According to government reports, of approximately 450,000 school-aged children with disabilities, approximately 200,000 did not receive any education. Of the approximately 250,000 who received an education, 140,000 attended regular schools, 40,000 studied at home, and 70,000 attended special schools. Because special schools comprised only 3 percent of all schools, most children with disabilities could not study in the community where they lived, were isolated from other members of the community, and received an inadequate education.

Persons with disabilities faced barriers to participation in political life, including inaccessible government buildings. The election laws contain no special polling-place accessibility provisions, and the majority of polling places were not accessible to persons with disabilities. While the use of mobile ballot boxes allowed them to vote at home, they sometimes lacked detailed access to information about candidates that was available at the polls.

Government bodies charged with protecting human rights also protect the rights of persons with disabilities, including the human rights ombudsman and the regional ombudsmen, the Presidential Council on Promoting the Development of Institutions of Civil Society and Human Rights, and the prosecutor's office. These bodies have carried out a number of inspections in response to complaints from disability organizations and, in some cases, have subsequently appealed to the responsible agencies to remedy the situation. For example, the human rights ombudsman has conducted inspections of homes for children with mental disabilities that disclosed severe violations of children's rights and substandard conditions.

In response to actions by disability rights NGOs and parents of disabled children, during the year the human rights ombudsman prepared a country report titled *On the Observance of the Rights of Disabled Children*, which called attention to the in-

equalities that children with disabilities face in view of the legislative changes, terming the legislation a violation of the constitution.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination based on nationality; however, Roma, persons from the Caucasus and Central Asia, dark skinned persons, and foreigners faced widespread governmental and societal discrimination, which was often reflected in official attitudes and actions (see section 1.c.). Skinhead groups and other extreme nationalist organizations fomented racially motivated violence.

Muslims and Jews continued to encounter prejudice and societal discrimination, although it was often difficult to separate religious from ethnic motivations (see section 2.c.). Human rights observers noted that racist propaganda and racially motivated violence are punishable by law, but despite some improvement in law enforcement efforts, the law was employed infrequently. However, the authorities demonstrated an increased awareness of the problem through numerous public statements. For example, in his public address on May 9, Putin stated “those who try to raise the rejected banners of Nazism, who spread racial hatred, extremism, and xenophobia are leading the world to a dead end, to senseless bloodshed and cruelty.”

Federal and local law enforcement continued to be applied disproportionately to members of ethnic minorities. Police reportedly beat, harassed, and demanded bribes from persons with dark skin, or who appeared to be from the Caucasus region, Central Asia, or Africa.

Following the September arrest of four Russian officers in Georgia, a diplomatic feud erupted that led to an anti-Georgian campaign against the approximately one million Georgians who live in the country. Officially the Georgians were deported for violations of migration legislation. Law enforcement officials were reportedly instructed to step up actions against Georgians. Other anti-Georgian actions included raids on Georgian businesses, police orders for schools to produce lists of Georgian students, and severed transportation and postal links. The actions against Georgians were criticized as illegal by the state human rights body, the Civil Society Institutions and Human Rights Council, which also called the actions a wave of “selective persecution” against Georgians. According to the Georgian parliamentary ad hoc Investigatory Commission Studying Actions Carried Out by the Russian Federation Against Georgian Citizens, as of October 31, the immigration service had issued decisions on deportation of 2,598 Georgian citizens, out of which about 1,140 were actually deported. As of December 28, commission head Nika Gvaramia said that the number of deportees had increased to between 3,800 and 4,000. The commission officially recorded the deaths of three people while in detention.

Authorities in Moscow subjected dark-skinned persons to far more frequent document checks than others and frequently detained or fined them in amounts that exceeded legally permissible penalties. The Moscow Metro Monitoring Study, published in June by the Open Society Justice Initiative and other organizations, found that persons of non-Slavic appearance made up only 4.6 percent of the riders on the Metro system but 50.9 percent of persons stopped by police at Metro exits. At one station, those of non-Slavic appearance were 85 times more likely be stopped by police. According to a poll by the Public Opinion Fund, 52 percent of Russians would approve if some ethnic groups were expelled. This is an increase from 44 percent in 2002.

Police often failed to record infractions against minorities or to issue a written record to the alleged perpetrators. Law enforcement authorities also targeted such persons for deportation from urban centers. In April Chechen Prime Minister Kadyrov announced that all temporary IDP accommodation centers in Chechnya should be closed. According to the UNHCR, five temporary accommodation centers across Chechnya were closed during the year (see section 2.d.). In March 2005 the Institute for War and Peace Reporting noted that police arrested illegal migrant workers from Central Asia, illegally took their money, then took them to the outskirts of Moscow instead of deporting them in order for police to pocket the cost of the deportation and leave the workers in Moscow for future arrests. This practice reportedly continued during the year.

A May 2005 report by the European Roma Rights Center noted “alarming patterns” of human rights abuse of Roma in the country. The report also asserted that the magnitude of the abuse was only comparable to that of the impunity of the perpetrators. The report stated that the media’s frequent association of Roma with drug dealing provided the context for many of the human rights violations against them. It provided evidence of widespread police violence against Roma and noted that the abuse was rarely reported to higher authorities.

On December 17, a neighbor of a Romani family, who also happened to be a militiaman, reportedly sprayed an unidentified gas either in the apartment or on the landing next to the their apartment in Petrozavodsk, Karelia. The gas severely

sickened the family's six-year-old child and an elderly relative, according to Olga Martynova, head of the Society of Gypsy Culture of Karelia. According to the family, they did not do anything to provoke the man and called militia. Shortly afterwards, policemen stormed into the house and started to beat everyone present, including elderly persons and women. The report offered no information about any criminal charges filed, but the family allegedly filed a complaint to the prosecutor's office and it was accepted.

On September 12, in Belgorod, the far right wing group, Belgorod National Corps, was found guilty of the assault on a Romani family. In August 2005 an armed, masked youth gang of approximately 20 persons attacked the house of the Nikolaenko family shouting "kill the gypsies." A Molotov cocktail was thrown into the kitchen window, followed by another incendiary device. The owner of the house, his wife, and son were then attacked as they fled into the yard. Eleven persons were detained, including two minors and also former students of the Judiciary Institute of the Ministry of Internal Affairs. All the detained were charged with hooliganism, deliberate infliction of grievous bodily harm by an organized group motivated by ethnic hatred, and organization of and participation in an extremist group. Three of the detained were also charged with the involvement of minors in criminal activity. The trial began on June 6; and on September 12, all the defendants were found guilty. The group leaders Maksim Sharov, Andrey Petrov, and Ilya Sutula were sentenced to five, four, and three years of imprisonment respectively. Another seven of them received prison terms of 18 months to 33 months in prison. One of them received a suspended sentence after cooperating with investigators.

From May 29 to June 2, authorities bulldozed 37 houses belonging to more than 200 Roma, including over 100 children, in the village of Dorozhnoe, Kaliningrad Oblast, and set fire to the ruins. Over 100 of the displaced Roma were forced to live in tents and other temporary shelters and were threatened with physical expulsion from their land, while the others left of were expelled from the area. Regional authorities began their eviction campaign by initiating court proceedings to have the Romani families' ownership of their homes declared illegal. According to observers, the proceedings violated fundamental standards of due process; on May 3, the court issued decisions rejecting the families' claims. On November 3, the Open Society Institute's Justice Initiative filed a request for interim measures with the ECHR on behalf of 33 of the evicted.

In July a Romani settlement in Arkhangelsk was demolished by local authorities. The mayor of Arkhangelsk offered about \$110,000 (3 million rubles) to the local Romani community as compensation for resettlement to Volgograd Oblast. The community reportedly accepted the sum and left.

On April 13, according the European Roma Rights Center, approximately 20 youths killed Grigoriy Marienkov, a Romani man, and a Russian woman whose first name was Galina. The attack and killings took place in the Volgograd region. The attackers also severely beat and injured approximately six members of Marienkov's family. According to press reports, police arrested six suspects, all of whom were between the ages of 17 and 20, and three of whom were girls. The regional prosecutor reportedly opened a criminal investigation under statutes related to racially or ethnically motivated murder.

In February 2005 approximately 400 members of the Romani community left the village of Iskitim, Novosibirsk Oblast, after a group of armed men attacked and burned a number of Romani houses there. According to NGOs, similar attacks took place in January 2005 and in 2004. Members of the Romani community indicated that, after those incidents, law enforcement and municipal authorities had done nothing to prevent a recurrence. Police eventually arrested seven suspects, and the Novosibirsk regional prosecutor's office took over the investigation. The case reached court March 31, and there were reports that warrants were issued for nine other suspects. The case reached court on March 31.

There was also evidence of hostility on ethnic and racial grounds within the society at large. Despite appeals for tolerance during the year by senior officials, violence and societal prejudice against ethnic and national minorities, as well as against foreigners remained a problem. In a public opinion poll of Russians by the Public Opinion Fund conducted this year, 28 percent of respondents admitted personally disliking people of other nationalities. In the view of some experts and human rights leaders, this phenomenon worsened, but others insisted that it reflected better reporting and greater media attention.

During the year numerous racially motivated attacks took place against members of minority groups and foreigners, particularly Asians and Africans. According to Ministry of Internal Affairs statistics, 13,307 crimes were committed against foreign citizens and persons without citizenship in 2005, a 29 percent increase over 2004, although this figure covers all crimes against this sector of the population, not only

hate crimes. The ministry's 2005 annual report reported 152 crimes "of an extremist nature" although it does not specify its criteria or the specific crimes categorized under that general heading. The St. Petersburg city prosecutor claimed 1.8 percent of the crimes against foreigners in the city were "extremist" in nature. According to the prosecutor, there were 39 foreigners killed in St. Petersburg in 2005 and only two of them qualified as hate crimes. St. Petersburg's African Union reported six deaths in the city as the result of xenophobia during the first 11 months of the year.

According to the NGO SOVA Center, xenophobic attacks killed at least 54 persons and injured 466 during the year; in 2005, the figures were 31 and 413, respectively. SOVA Center found four guilty verdicts reported with a bias motive in 2003, eight in 2004, 16 in 2005, and 28 during the year.

Ethnic conflict flared in Kondopoga, Karelia in the first week of September. Following the alleged murder of two ethnic Russians by local Chechens, a mob burned dozens of businesses owned by persons from the Caucasus. Several Chechen families had to leave the town, as the authorities could not guarantee their safety. It was not until special police arrived in Kondopoga after nearly a week of unrest that the authorities finally stemmed the violence. The police dispersed the mobs and arrested more than 100 suspects. The country's television media provided minimal coverage of the event. A poll by the Public Opinion Fund reported half of the country's population had not heard about the event. Authorities in the region attempted to minimize the event as the result of a common quarrel. The Karelian prosecutor's office announced there was "no ethnic basis for the conflict." President Putin was initially silent on the matter. At the end of October, he publicly criticized the regional governor for being on vacation during the crisis. As a result of the events, President Putin dismissed the head of the FSB for the region and the interior minister for the region. On November 14, the first trial began for one of the accused instigators of the fight. Authorities investigated four other criminal cases. On December 15, the Karelian prosecutor opened a criminal case accusing Alexander Potkin, as head of the Movement Against Illegal Immigration, of coming to Kondopoga and inciting the mob to violence (see section 1.a.)

The Moscow prosecutor's office charged Oleg Kostyryov and Ilya Tikhomirov with racially or ethnically motivated murder following the August bombing of Cherkizovsky market in Moscow. The bombing killed 13 persons and injured 53. As with most markets in Moscow, many traders at the market were from the North Caucasus region and Central Asian countries, as well as China and Vietnam. The suspects were also charged with the murder of a 17-year-old Armenian student, who was stabbed to death the day after the bombing while waiting for the metro.

On September 24, unknown assailants killed an Indian medical student in St. Petersburg. At the same location in April, another Indian student was attacked and wounded. The investigation was ongoing at year's end, but local human rights groups reported that the medical school's administration and the St. Petersburg city government had been unresponsive.

There were additional reports of violence against Asians in the Far East region. For example, in November two North Korean workers died after being severely beaten in Vladivostok; a third worker remained in serious condition. Several teenagers were later arrested for these attacks—and some earlier ones—which police say they committed at random while intoxicated; however, there was speculation in Vladivostok media that the crimes were racially motivated. Four teenagers in Vladivostok confessed to beating two North Korean men to death and injuring a third in December, RIA-Novosti reported. The four teenagers, aged from 15 to 16, were arrested on suspicion of attacking the three North Koreans on December. The suspects have been charged with deadly assault but released from custody on the condition that they do not leave the city.

On December 14, a district court in Yekaterinburg sentenced two skinheads who attacked and beat an African journalist in September 2003. Oleg Orlov, 21, was sentenced to 3 1/2 years' imprisonment, while Vladimir Molokov, 23, received a three-year term. Orlov and Molokov were found guilty of "inciting racial hatred" under the criminal code.

In November a Moscow court convicted three men of racially motivated assault in the case of Zaur Tutov, the culture minister of Kabardino-Balkaria, who was badly beaten by skinheads on April 1. Two of the men were sentenced to 18 months at a prison colony and the third received one year.

On November 13, the St. Petersburg City Court sentenced three persons under 18 to prison sentences for racially motivated attacks on students from Ghana (three-year sentence), from China (2 1/2 years), as well as a Palestinian (2 1/2 years). However, a jury in the same court on October 17 acquitted 14 defendants—including five charged with murder—accused of participating in the 2004 killing of a Vietnamese student. The Vietnamese community in St. Petersburg picketed the court following

the acquittals and the Republic of Vietnam sent a formal note to the Russian Foreign Ministry.

In July 2005 approximately a dozen skinheads beat a Vietnamese man to death in a Moscow park (see section 1.a.). In September 2005 Roland Epassak, a Congolese student, was killed in St. Petersburg. In 2004 the same student was attacked and hospitalized, at which time he gave evidence that the attack was racially motivated. In May the trial of four men charged with Epassak's murder began. Lawyers demanded that court authorities take extra security measures to protect the defendants from possible attacks but the court declined this request. On July 25, the four were acquitted. St. Petersburg Governor Valentina Matviyenko publicly questioned the verdict and efficacy of jury trials in such cases. On November 2, the Supreme Court overturned the verdict and returned the case for a retrial. The new hearing will be with a new judge and a new jury.

In October 2005 in Voronezh, a Peruvian student was killed and two other students, from Spain and Peru, were badly injured when a group of youths attacked them. There had been several previous attacks on foreigners in Voronezh. Later in October 2005, the authorities charged Igor Pavlyuk, a Russian student, with murder and another 12 youths with hooliganism and robbery; ethnic hatred was also taken into account by authorities as a motivation for those participating in the attack. On August 25, in Voronezh, a city southeast of Moscow, Pavlyuk was sentenced to 16 years in prison for the murder. The court handed down prison terms from two to five years for five other defendants in the case, gave suspended sentences of up to three years to six more defendants, and acquitted a 13th defendant.

Not all of the attacks against foreigners were fatal. During the year there were at least 75 nonfatal attacks likely motivated by racism.

On March 25, assailants stabbed nine-year-old Liliana Sisoko, whose father is a native of Mali and whose mother is Russian, while she was returning home in the center of St. Petersburg. The girl was hospitalized. In February 2005 two Korean students were attacked and hospitalized in St. Petersburg. In March 2005 a Chinese student was attacked during daylight on a major city street in St. Petersburg. In these cases generally authorities initiated criminal investigations but arrested no suspects and made available no reports on the progress of the investigation. In March 2005 four skinheads attacked an African student of a pedagogical university in Lipetsk.

According to the Ministry of Internal Affairs, there were 557 crimes against foreigners registered in St. Petersburg during the first seven months of 2005. The ministry did not publicize such data this year. According to NGOs the city administration appeared to have begun to take hate crimes more seriously, but law enforcement agencies did not do enough to address the issue, in part because they lacked the necessary resources and, in some cases, because some working-level staff sympathized with the nationalistic causes.

On August 29, Yuriy Belyayev was given a suspended sentence of 1 1/2 years for publishing an article directly encouraging his readers to assault people from the Caucasus region. As head of the nationalist Party of Freedom, Belyayev had already been connected to incidents of vote-buying in the 2003 gubernatorial St. Petersburg election, as well as promotion of so-called "white patrol" units in St. Petersburg known for their violent actions against ethnic minorities. Human rights organizations lamented the light sentence, but were pleased that the case had at least resulted in a conviction.

Private individuals or small groups that espoused racial hatred generally carried out such attacks. Law enforcement authorities knew the identity of some of the attackers based on their racial intolerance or criminal records. During the year members of ethnic or racial minorities were the victims of beatings, extortion, and harassment by skinheads and members of other racist and extremist groups. Police investigations of such cases were frequently ineffective and authorities were often reluctant to acknowledge the racial or nationalistic element in the crimes, often calling attacks "hooliganism." Many victims, particularly migrants and asylum seekers who lacked residence documents recognized by police, chose not to report such attacks or experienced indifference on the part of police.

Skinhead activity continued to be a serious problem. Skinheads primarily targeted foreigners and individuals from the Northern Caucasus, although they also expressed anti-Muslim and anti-Semitic sentiments and hostility toward adherents of "foreign" religions (see section 2.c.). According to the Ministry of Internal Affairs, neofascist movements have approximately 15,000 to 20,000 members, of which over 5,000 are estimated to live in Moscow. According to the Moscow Bureau of Human Rights, there were approximately 50,000 skinheads in 85 cities. Skinhead groups were particularly numerous in Moscow, St. Petersburg, Nizhny Novgorod, Yaroslavl, and Voronezh. According to the Moscow Bureau of Human Rights, 170

attacks motivated by ethnic hatred were registered between January and December. As the result of these attacks, 51 persons died and 310 were injured. Numerically, the most xenophobic city is Moscow, with 27 deaths and over 125 injuries registered. There were five deaths and 48 injuries in St. Petersburg.

There were indications that the authorities were increasingly willing to acknowledge racial, ethnic, or religious motivations for such criminal acts; 109 persons were convicted for committing ethnically motivated crimes during the year. In most cases the attackers wore skinhead attire or proclaimed nationalist slogans. On June 30, three skinheads charged with organizing an extremist group were sentenced by a city court in Verkhnyaya Pyshma, Sverdlovsk Oblast, to imprisonment terms ranging from 10 1/2 years to one year and nine months. Two of the skinheads were earlier sentenced on murder charges to life imprisonment and 23 years' imprisonment respectively for murdering three Armenians in Verkhnyaya Pyshma in May 2005. The group was also involved in the killing of a Kyrgyz national in January 2005.

In March a Thai ship captain was attacked by Vladivostok skinheads and hospitalized with serious injuries. Police arrested four young men who appeared to be skinheads and found Nazi literature in their homes. On April 8, a group of 10 skinheads attacked a Chinese student when he was leaving a Vladivostok law school. According to two other Chinese students, the skinheads beat the victim with sticks. He suffered a broken nose and was taken by police to a hospital.

On December 22, a homemade bomb exploded outside the apartment of one of the creators of [www.antifa.ru](http://www.antifa.ru) Web site, Tigran Babadzhanian. He discovered it when he came out of his apartment and called the police who tried to defuse it, but it exploded, injuring the police officers. Previously his photograph had been posted on skinhead Web sites, he had received death threats, and swastikas and other offensive graffiti had been left in the stairwell of his apartment building. The district prosecutor's office opened a criminal investigation for "hooliganism committed in a socially dangerous way" and identified three suspects from an extremist gang.

In May a district court in Ufa, Bashkortostan, sentenced two young residents of the city to 5 and 1/2 years imprisonment for beating an Iraqi student of Ufa Oil University in December 2005. Their accomplice got a five-year suspended sentence. The Iraqi—who suffered a skull fracture along with other severe injuries—was rescued by passersby. A spokesman for the Bashkortostan Interior Ministry said the attack was an act of hooliganism and had no racist overtones.

In July, for the first time, skinheads were tried for murder in the Jewish Autonomous Oblast. Two high school students were charged with the murder of three non-Russian homeless individuals. Witnesses gave testimony that there was a skinhead organization of more than 40 persons that targeted Chinese and other Asians, as well as Caucasians, but was indifferent to Jews. In order to join the skinheads' organization, prospective members had to assault a Chinese or a Caucasian. The director of the regional militia, Andrey Parkhomenko, reported to *Kommersant*—in *Dalniy Vostok*—that there were no formally designated skinhead organizations in the region.

On March 22, a St. Petersburg court convicted seven of eight defendants of "hooliganism" in a 2004 attack on a Tajik family, in which they killed a nine-year-old girl. Prosecutors dropped the original charges of racial hatred. The one defendant on trial for murder was acquitted of that charge, but found guilty of hooliganism. In August the Supreme Court confirmed the decision of the local court.

On February 13, a court sentenced the self-proclaimed leader Vladimir Popov of the group "Russian Republic" to one year in prison for inflaming racial hatred. Russian Republic had posted on its Web site a posthumous death sentence on Nikolay Girenko, a hate-crimes expert and senior researcher at the Museum of Anthropology and Ethnography at the Russian Academy of Sciences, who was killed in 2004 in his St. Petersburg apartment. The court also found the "Russian Republic" leader guilty of posting an Internet death sentence on Governor Matvienko for opening St. Petersburg to Asian migrants.

On December 30, the case of the murder of antifascist activist Aleksandr Riukhin was submitted to the courts for trial. On April 16, Riukhin was killed on the outskirts of Moscow. Three attackers (two were members of Slavic Union and one was a member of the Format 18 gang, both ultraright extremist groups) were detained and Nazi paraphernalia and literature were found at their residences. They were being charged with premeditated group hooliganism, premeditated nongrievous bodily harm, and assault. The murder case was being treated separately, with three suspects still at large.

*Indigenous People.*—The law provides for support of indigenous ethnic communities; it permits them to create self-governing bodies, and allows them to seek compensation if economic development threatens their lands. In some regions local communities organized to study and make recommendations regarding the preservation

of indigenous cultures. Groups such as the Buryats in Siberia and ethnic groups of the North (including the Enver, Tatarli, Chukchi, and others) continued to work actively to preserve and defend their cultures as well as the economic resources of their regions. Most affirmed that they received the same treatment as ethnic Russians, although some groups believed they were not represented or were underrepresented in regional governments. The principal problems of indigenous people remained the distribution of necessary supplies and services, particularly in the winter for those who lived in the far north, and claims to profits from exploitation of natural resources.

However, support for the self-government of indigenous ethnic communities was undermined in one region recently as the federal government made an attempt early in the year to remove the Republic of Adygea's autonomy. One of many such ethnic territories, the Republic of Adygea was created in 1991 as a homeland for the Adyghs, a group indigenous to the Northwest Caucasus. The move was thwarted, however, due to opposition within Adygea and among the region's other territories, given the prospect that even administrative changes could lead to widespread violence.

There continued to be reports of pressure on members of the Finno-Ugric Mari ethnic group. The Moscow Helsinki Group and International Helsinki Federation for Human Rights reported in September that two Mari national activists might have been prosecuted for exercising their freedom of speech. One activist, Vitaliy Tanakov, who earlier in the year published a brochure about the Mari people and their religious beliefs, was charged with incitement to ethnic, racial, or religious enmity under the law, a conviction is punishable with heavy fines and up to four years' imprisonment. On December 25, he was convicted and sentenced to 120 hours of mandatory work, which was viewed by many as a symbolic sentence. A second activist, Nina Maksimova, faced similar charges for helping to distribute the brochure. The International Helsinki Federation for Human Rights and Moscow Helsinki Group believed that the two cases were politically motivated, targeting the activists for their involvement in the Mari national movement.

Unlike the previous year, there were no reports of attacks on the Mari ethnic group.

In May 2005 the European Parliament adopted a resolution criticizing Russia for violating the rights of the Mari. According to press reports, in June 2005 the Government blocked the release of a report by the Parliamentary Assembly of the Council of Europe that was critical of human rights abuses in the Republic of Mariy-El.

*Other Societal Abuses or Discrimination.*—Persons with HIV/AIDS often encountered discrimination. Federal AIDS law contains antidiscrimination provisions, but these were frequently not enforced. Human Rights Watch reported that HIV-positive mothers and their children faced discrimination in accessing healthcare, employment, and education. Persons with HIV/AIDS found themselves alienated from their families, employers, and medical service providers.

While homosexuality is not illegal, the gay community continued to suffer societal stigma and discrimination. Medical practitioners reportedly continued to limit or refuse their access to health services due to intolerance and prejudice. According to recent studies, male homosexuals were often refused work due to their sexuality. Openly gay men were targets for skinhead aggression, which was often met with law enforcement indifference.

In May gay rights activists hosted a small international conference in Moscow on combating homophobia; however, the mayor of Moscow and the courts denied their applications to hold a gay pride parade. According to Human Rights Watch, on May 27, several dozen Russian lesbian, gay, bisexual, and transgender protesters, accompanied by Russian and foreign supporters, including members of the European and German parliaments, sought to hold two successive protest rallies, one to lay flowers on the Tomb of the Unknown Soldier near the Kremlin wall, and the second a vigil at city hall in support of the freedoms of assembly and expression. Organizers decided to hold these events after a court upheld Mayor Yuriy Luzkhov's ban on a march they planned for that day. At both events hundreds of antigay protesters, including skinheads and nationalists attacked the participants, beating and kicking many, while throwing projectiles and chanting homophobic slogans. Police intervened only belatedly, failing to protect demonstrators from violence; observers noted that police inaction aggravated the violence.

In protest of a large lesbian, gay, bisexual, and transgender "open party" held in Moscow on April 30, several hundred protesters gathered outside a night club, shouting threats and throwing bottles, rocks, and eggs at the attendees. The following night at least 100 protesters gathered outside another gay club, conducting themselves in a similar manner. While human rights groups protested the organized nature of what appeared to be a campaign against the lesbian, gay, bisexual, and

transgender community, public officials were notably reluctant to condemn the violence, with one Duma deputy accusing gays of provoking Orthodox believers.

Gay rights organizations were few and often operated “under the radar.” Projects working with homosexuals and educating them about HIV and sexual health continued to be scarce. In April, the Moscow city Duma urged President Putin to restrict the activities of foreign NGOs that fight HIV/AIDS, saying they encouraged pedophilia, prostitution, and drug use among teenagers. The Moscow Duma also accused the Ministry of Education of aiding NGO activities. The State Duma, however, responded at the federal level with a clear statement supporting the urgent need to prevent HIV/AIDS.

The Government has made a major effort to deal with AIDS, including stigma and discrimination with dramatic increases in the federal and regional budgets for AIDS. HIV/AIDS media and prevention messages are being piloted in school curricula, and a national “stop AIDS” campaign was launched. The Ministry of Justice has agreed to make AIDS treatment available to prisons. President Putin spoke out about the fight against HIV/AIDS and in April specifically mentioned the importance of NGO work in the field.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Although the law provides workers with the right to form and join unions, in practice government policy and the dominant position of the Federation of Independent Trade Unions of Russia (FNPR) limited the exercise of this right. The FNPR reported that approximately 46 percent of estimated work force of 74 million workers was unionized, and approximately 95 percent of union members belonged to the FNPR (approximately 29 million members). Over the past five years, the federation’s membership has decreased by 10 million.

The FNPR and other trade union federations acted independently on the national political level, but in some cases FNPR unions were affiliated closely with local political structures, giving FNPR advantages over unions without such established political ties. FNPR unions frequently included management as part of the bargaining unit or elected management as delegates to its congresses.

In April a new law on NGOs was implemented which restricts their creation and existence (see section 4). Despite a separate law specifically governing trade unions, the Federal Registration Service stated in June that the provisions of the NGO law also apply to unions. Specifically trade unions must receive permission to register and submit programmatic and financial reports to authorities. Failure to do so will trigger a legal process aimed at the abolishment of the union. The Government oversight agency has the right to attend union meetings and monitor all union activities. Migrant workers do not have the right to create or join unions.

The law specifically prohibits antiunion discrimination, but the FNPR reported that actions aimed at harassing union leaders and employees who wished to form or enter unions had increased since last year. Union leaders were at times followed by the security services, detained for questioning by police, and subjected to heavy fines, losses of bonuses, and demotions. Unregistered unions faced operational constraints, such as difficulty in opening bank accounts and collecting fees. There were also reports of employers using tax authorities or offices of the public prosecutor to put heavy pressure on unions using falsified investigations, often resulting in large decreases in union membership.

*b. The Right To Organize and Bargain Collectively.*—The rights of unions to conduct their activities without interference and the right to bargain collectively are recognized in law but other legal provisions give employers a strong role in dealing with labor relations. The law makes collective bargaining mandatory if either employer or employees request it; it obliges both sides to enter into such negotiations within seven days of receiving such a request; and it sets a three-month time limit for concluding such agreements. Unresolved issues are to be included in a protocol of disagreement, which may be used to initiate a collective labor dispute. Despite these requirements, however, employers continued to ignore union requests to negotiate collective bargaining agreements. In July 2005 St. Petersburg dockworkers went on strike to protest management’s refusal to sign a collective bargaining agreement and as a result, by that fall, all port companies signed an agreement favoring the workers; the dockworkers returned to work in March.

Labor experts have criticized provisions in the law that favor the designation of a majority union as the exclusive bargaining agent, a provision that favors larger unions. They have also voiced concern about such provisions of the Labor Code as the stipulation that there be only one collective agreement per enterprise, covering all employees, which limits the ability of professional or “craft” unions (the majority of new unions in the country) to represent their members’ interests. An employer has the right to refrain from negotiating with trade unions whose membership does



not comprise of a majority of an enterprise. These smaller unions have the right to send a representative to negotiate, but any negotiation depends on the desire of the majority union and employer to participate. In May 2005, the ILO Committee on Freedom of Association renewed its request to the Government that it amend the Labor Code to allow collective bargaining at the occupational level; the Government had not taken any action on this request by year's end.

According to the International Trade Union Confederation, a 2004 law on commercial secrets specifies that information on wages in commercial companies is a commercial secret. Lack of access to this information disadvantaged unions engaged in collective bargaining.

Although collective bargaining agreements had been officially registered only by an estimated 16 to 18 percent of enterprises, the FNPR claimed that approximately 85 percent of its enterprises had concluded such agreements. This apparent discrepancy appeared to be due in part to agreements that were concluded but not registered with the Ministry of Labor. The law states that collective agreements become effective upon signature, regardless of whether they are registered or not.

The law provides for the right to strike; however, this right remained difficult to exercise. Most strikes were considered technically illegal because they violated one or more of the exceedingly complex procedures governing disputes. A strike may be called at an enterprise only after approval by a majority vote at a conference composed of at least two-thirds of all personnel, including management. Strikes were banned in certain sectors, including the railway and air traffic sectors and government agencies.

The law specifies that a minimum level of essential services must be provided if a strike could affect the safety or health of citizens. Under this definition most public sector employees could not strike and other provisions were often manipulated to prevent many would-be strikers from walking off the job. Strike actions were further discouraged by the fact that civil courts have the right to order confiscation of union property to settle damages and losses to an employer if a strike is found to be illegal and not discontinued before the decision goes into effect. As a result labor actions were often organized by strike committees rather than by unions.

Unlike in previous years there were no major national strikes during the year, many were carried out on the local level. Court rulings have established the principle that nonpayment of wages—estimated to be the cause of 90 percent of labor disputes—is an individual matter and cannot be addressed collectively by unions. As a result a collective action based on nonpayment of wages was not recognized as a strike. The law does not protect individuals against being fired while on strike.

The law prohibits strikes in the railway and air traffic sectors, at nuclear power stations, and by members of the military, militia, government agencies, and disaster assistance organizations. As a result workers in these professions at times resorted to other forms of protest, such as rallies, days of action, or hunger strikes. The law prohibits reprisals for strikes, but reprisals were common, and included threats of night shifts, denial of benefits, blacklisting, and firing.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. According to credible reports, significant numbers of illegally employed migrants from other countries of the former Soviet Union were forced to work without pay because the firms that brought them into the country held their passports (see section 5). According to an ILO study, employers of illegal migrants withheld passports in 20 percent of forced labor cases.

It was reported that wages of some of the several thousand North Koreans reportedly employed in the Russian Far East were withheld until the laborers returned home, making them vulnerable to deception by North Korean authorities, who promised relatively high payments. Amnesty International has charged that a 1995 bilateral agreement with North Korea allowed the exchange of free labor for debt repayment, although the Government claimed that a 1999 intergovernmental agreement gave North Koreans working in the country the same legal protections as citizens.

There were reported incidents throughout the year of military officers forcing soldiers under their charge to work for private citizens or organizations, often under abusive conditions.

In 2004 the television station Rossiya reported that dozens of workers died at a slave labor camp in Western Siberia, where the owners of a logging company reportedly decided to increase their profits by using slave labor. The Kemerovo regional prosecutor's office was trying the case at the end of 2005 and no further information on the case was available.

The law prohibits forced or bonded labor by children; however, such practices reportedly occurred (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government did not effectively implement laws and policies to protect children from exploitation in the work place. The law prohibits most employment of children under the age of 16 and regulates the working conditions of children under the age of 18, including banning dangerous nighttime and overtime work; however, the Federal Labor and Employment Service and the Ministry of Internal Affairs, which are responsible for child labor matters, did not enforce the laws effectively. Children are permitted, under certain conditions and with the approval of a parent or guardian, to work at the age of 14. Such work must not threaten the health or welfare of the children. The Federal Labor and Employment Service, under the auspices of the Ministry of Health and Social Development, is responsible for routinely checking enterprises and organizations for violations of labor and occupational health standards for minors. In 2004 approximately 8,300 cases of child labor violations were reported. Most serious violations of child labor and occupational health standards were believed to occur in the informal sector. Local police investigations only occurred in response to complaints.

Accepted social prohibitions against employment of children and the availability of adult workers at low wages generally prevented widespread abuse of child labor. Nonetheless, children working and living on the streets remained a problem. Parents often used their children to lend credence to their poverty when begging or had them beg. Homeless children were at heightened risk for exploitation in prostitution or criminal activities (see section 5). Trafficking of children was also a problem (see section 5).

*e. Acceptable Conditions of Work.*—The monthly minimum wage, essentially an accounting reference for calculating transfer payments, increased to \$40 (1,100 rubles) on May 1, up from \$28 (800 rubles) in September 2005. The amounts were not sufficient to provide a decent standard of living for a worker and family. Since 2004 monthly subsistence wages have been set at the regional, not federal, level, and ranged from slightly less than \$112 (3,000 rubles) to approximately \$187 (5,000 rubles) a month. Approximately 15 percent of the population had incomes below the official subsistence minimum.

The law provides a standard workweek of 40 hours, with at least one 24-hour rest period, and requires premium pay for overtime work or work on holidays; however, workers complained that employers required them to work in excess of the standard workweek, abrogated negotiated labor agreements, and of being transferred against their will.

Although nonpayment of wages declined, especially in the public sector, it continued to be the most widespread abuse of labor legislation. According to the Federal State Statistics Service, wage arrears through July totaled \$200 million (5.4 billion rubles), 49 percent less than the same period in 2005.

The law imposes penalties on employers who pay their employees late or make partial payments and requires them to pay two-thirds of a worker's salary if the worker remains idle by some fault of the employer. Proving that an employer was at fault, however, was difficult. Courts often were willing to rule in favor of employees seeking payment of back wages, but collection remained difficult. Courts often insisted that cases be filed individually, in contradiction to the Law on Trade Unions, thereby undercutting union attempts to include the entire membership in one case. Individually filed cases made for a lengthier process, one more difficult for the individual worker, and one that left them more exposed to possible retaliation (see section 6.b.).

Although the law establishes minimum conditions for workplace safety and worker health, the Government did not allocate sufficient resources to enforce these standards effectively. According to the Center for Social and Labor Rights, approximately one-third of employees work under conditions that violate their labor rights. In many cases workers wore little protective equipment in factories, enterprises stored hazardous materials in open areas, emergency exits were locked, and smoking was permitted near containers of flammable substances. In June the Labor Code was revised to include a new requirement that businesses employing more than 50 workers must establish a work safety division and create a position of work safety specialist. Amendments were also added to improve the procedure for investigating industrial accidents.

The law provides workers the right to remove themselves from hazardous or life-threatening work situations without jeopardy to their continued employment; however, the Government did not effectively enforce this right. The risk of industrial

accidents or death for workers remained high. The Federal State Statistics Service reported 3,091 deaths in 2005 and 1,891 deaths from January to June.

The law entitles foreign workers working legally in the country to the same rights and protections as citizens and prohibits forced or compulsory labor; however, foreign workers reportedly were brought into the country to perform such labor (see section 6.c.). Foreign workers residing and working illegally in the country are subject to deportation but may seek recourse through the courts. Experts stated that millions of migrants, most of whom are citizens of other former Soviet Union countries, worked illegally in Moscow and other larger cities for lower wages than citizens and under generally poor conditions. The All-Russia Confederation of Labor stated that 45 percent of jobs in Moscow were in the shadow economy.

## SAN MARINO

The Republic of San Marino, with a population of approximately 30,000, is a multiparty democracy. The popularly elected unicameral Great and General Council (parliament) selects two of its members to serve as Captains Regent (co-chiefs of state). They preside over meetings of the council and the cabinet (Congress of State), which has no more than ten other members (secretaries of state) who the council also selects. Parliamentary elections were held on June 4 and were considered free and fair. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. The Government permitted visits by independent human rights observers, but there were none during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The Ministry of Interior controls the civil police, who are responsible for domestic security, traffic, and civil defense. The Ministry of Foreign Affairs controls the gendarmerie and the national guard, who are responsible for the protection of the national borders and the security of public buildings; they also coordinate with the civil police in the prevention of crime and the maintenance of public order.

The security forces are adequately staffed and effective in maintaining law and order. There were no reports of corruption involving members of the security forces. Impunity was not a problem. Investigations of police abuse are usually assigned to one of the three police forces not involved in the case. There were no instances where police failed to prevent or to respond to societal violence during the year.

*Arrest and Detention.*—Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. The law provides a detainee with the right to a prompt judicial determination of the legality of his detention, and the authorities generally respected this right in practice. There is a well-functioning bail system. Detainees are allowed prompt access to family members and to a lawyer of their choice; the state provides legal assistance to indigent persons.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary is composed of the commissioner of the law, the judging magistrate, the appellate judge, the juvenile court, and the judge of final appeal. The commissioner tries civil and penal cases with penalties not exceeding a three-year sentence. The judging magistrates, who are appointed by parliament for a three-year term and can be indefinitely reappointed, preside over all other cases. Most lower court

judges were Italian citizens. A local conciliation judge handles minor cases. Under the law, the final court of review is the judge of final appeal. In civil matters, this court confirms or overrules either the lower court judgment or an appellate decision; in criminal matters, this court rules on the legitimacy of detention measures and on the enforcement of a judgment.

The Constitutional Court has the following functions: verify that laws, acts, and traditions that are given the force of law conform to constitutional precepts; verify the admissibility of referenda; decide on conflicts between constitutional institutions; and control the activity of the Captains Regent.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and are presided over by a single judge. There are no provisions for a jury trial. Defendants have the right to be present and to consult with an attorney even during preliminary investigations. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. They have access to government-held evidence relevant to their cases. They enjoy a presumption of innocence and have the right to two levels of appeal.

In case of legal actions against military personnel, a civil judge is temporarily given a military grade and assigned to an ad hoc military tribunal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Judges act independently and impartially on civil matters, and administrative remedies as well as judicial remedies exist for alleged wrongs. There were no reports of problems facing law enforcement agencies in enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Public institutions promote use of the Internet in schools, and the Government makes information of public interest available on the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for these rights and the Government generally respected them in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

The Catholic Church receives direct benefits from the Government through income tax revenues; taxpayers may request that 0.3 percent of their income tax payments be allocated to the Catholic Church or to “other” charities, including three religions (the Waldesian Church, Jehovah’s Witnesses, and Baha’i).

The Government does not require official recognition, registration, or license for religious groups. However, it requires legal status for tax or other commercial purposes. While a concordat with the Holy See regulates relations with the Catholic Church, other religions, such as the Baha’is and Jehovah’s Witnesses, are included in a registry of cultural associations.

*Societal Abuses and Discrimination.*—There were only a small number of Muslims and no known Jewish citizens in the country. During the year there were no reports of violence or discrimination against religious minorities or anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—While the law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government may grant refugee status or asylum by an act of the cabinet. For humanitarian reasons, the Government indefinitely extended an Eritrean woman and her two children's permit of stay, which otherwise would have expired in April.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Parliamentary elections held on June 4 were considered generally free and fair. However, local dailies reported allegations by leaders of small parties that unnamed supporters of the largest parties illegally funded travel of nonresident voters to the country. The Christian Democratic Party, the country's single largest party which had led the Government for over 20 years, obtained 21 of the 60 parliamentary seats, but was unable to form a coalition government. The second largest party, the Party of Socialists and Democrats, obtained 20 seats and succeeded in forming a coalition government with the centrist Popular Alliance, the third largest party with seven seats, and the newly-formed United Left, with five seats.

There were eight women in the 60-seat Great and General Council and two women in the 10-member Congress of State.

There were no members of minorities in the Government.

*Government Corruption and Transparency.*—There were no reports of corruption by public officials during the year.

The law provides for public access to government activity and the Government provided access for citizens and noncitizens through the Great and General Council's Web site.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no domestic human rights organizations, although the Government did not restrict their formation. The Government declared itself open to investigations by international nongovernmental organizations of alleged human rights abuses, but there were no known complaints or requests for investigations during the year.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government effectively enforced it.

*Women.*—Violence against women, including spousal abuse, was rare. The law prohibits violence against women, and the Government effectively enforced it. During the year there were no reports of violence against women. The penalty for spousal abuse is two to six years' imprisonment. In the case of aggravating circumstances the penalty is four to 10 years' imprisonment.

There were no reports of rape. Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted persons accused of such crimes. The penalty for rape is two to six years' imprisonment. In the case of aggravating circumstances the penalty is four to 10 years' imprisonment.

Prostitution is illegal, and it was not common. No arrests were reported during the year.

Sexual harassment is illegal, and the Government effectively enforced the law. There were no reports of sexual harassment during the year.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. There was no economic discrimination against women in pay, employment, or working conditions. There is no special government office to ensure the legal rights of women.

*Children.*—The Government was committed to children's rights and welfare.

Education is free until grade 13 (usually age 18) and compulsory until age 16. Most students continued in school until age 18. No differences were apparent in the treatment of girls and boys in education.

Medical services were amply funded, and boys and girls had equal access to health care.

Violence against or abuse of children was uncommon. There were no reported cases during the year. A case from 2003 was still pending, while a case heard in 2004 resulted in conviction and the defendant was sentenced in June.

*Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country during the year.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services, and the Government effectively enforced these provisions. There were no reports of societal discrimination against persons with disabilities. The Ministry for Territory has not fully implemented a law that mandates easier access to public buildings by persons with disabilities, and many buildings were inaccessible.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law all workers (except the armed forces) are free to form and join unions, and workers exercised this right in practice. The law sets the conditions to establish labor unions. Union members constituted approximately 50 percent of the country's work force, which numbered approximately 15,000 citizens plus 5,000 nonresident Italians. A "conciliatory committee" composed of representatives from labor, business, and government generally resolved complaints of antiunion discrimination amicably.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law gives collective bargaining agreements the force of law. Negotiations were conducted freely, often in the presence of government officials by invitation from both unions and employer associations. All workers are under collective bargaining agreements. The law allows all civilian workers, including the civil police, the right to strike, and workers exercised this right during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced the laws and policies to protect children from exploitation in the workplace. The minimum age for employment and compulsory education is 16, and no exceptions were granted by the Ministry of Labor and Cooperation. The law does not limit children between the ages of 16 and 18 from any type of legal work activity. The Government devoted adequate resources and oversight to child labor policies, and the Ministry of Labor and Cooperation effectively enforced compliance with the law.

*e. Acceptable Conditions of Work.*—The national minimum wage of approximately \$8.25 (6.86 euros) per hour did not provide a decent standard of living for a worker and family. However, wages generally were higher than the minimum provided by law.

The law sets the workweek at 36 hours in the public sector and 37<sup>o</sup> hours for industry and private businesses, with 24 consecutive hours of rest per week mandated for workers in both categories. The law requires a premium payment for overtime and allows a maximum of two hours of overtime per day. There was effective enforcement of laws and industry contracts that prohibit excessive compulsory overtime.

The Government set safety and health standards, and the judicial system effectively enforced these standards. Most workplaces complied with the standards; however, there were some exceptions. The construction industry did not consistently abide by safety regulations, such as work hour limitations. However, on-the-job injuries declined due to stricter safety rules and more severe government-imposed penalties for violations, in addition to improved training for the workforce. There was just one serious (but not fatal) construction accident during the year. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and the authorities effectively enforced this right.

Nearly one-quarter of the workforce is nonresident, commuting from nearby Italy. The law for legal foreign workers prohibits indefinite employment status, but allows the Government to grant work permits that have to be renewed every 12 months. The law also requires non-Italian foreign workers to obtain an Italian residence per-

mit before they can apply for employment. In practice, these provisions limited unemployment benefits for foreigners to a period of less than 12 months.

## SERBIA

The Republic of Serbia is a parliamentary democracy with approximately 7.5 million inhabitants.[1] Prime Minister Vojislav Kostunica has led Serbia's multiparty government since March 2004. Boris Tadic was elected President in June 2004 elections that observers deemed essentially in line with international standards. Following Montenegro's May 21 referendum in which 55.5 percent of voters supported independence, authorities began the work of dissolving the state union of Serbia and Montenegro and reassigning responsibilities to the republic level. In a referendum on October 29 and 30, voters in Serbia approved a new constitution. According to the election commission, turnout was nearly 55 percent, and 53 percent of voters supported the new constitution, although some human rights groups dispute the results. Civilian authorities generally maintained effective control of the security forces, and there were fewer reports of members of the security forces acting independently of government authority.

The Government generally respected the human rights of its citizens and continued efforts to address human rights violations; however, numerous problems persisted. The following human rights problems were reported: widespread corruption in the police and the judiciary; impunity; inefficient and lengthy trials; government failure to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) in apprehending war crimes suspects; government failure to initiate new domestic investigations and prosecutions of war crimes from the 1990s; harassment of journalists, human rights workers and others critical of the Government; arbitrary arrest and selective enforcement of the law for political purposes; limitations on freedom of speech and religion, including a problematic new law on religion; societal intolerance and discrimination against ethnic and religious minorities; the presence of large numbers of internally displaced persons; violence against women and children; and trafficking in persons.

The Government's increased efforts in addressing human rights violations brought notable improvements. The Belgrade District Court, through its specialized organ, continued to make progress in several war crimes and organized crimes cases despite some political pressure and threats from criminal groups. The Government also uncovered several international trafficking rings, protected victims of trafficking, and steadily prosecuted traffickers. The Government's reaction to the Montenegro referendum on independence, and the subsequent dissolution of the state union, was peaceful. National minorities reported fewer incidents of attacks than in recent years.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom from:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in previous years, there were no reports that the Government or its agents committed arbitrary or unlawful killings.

The trial of Kikinda police officer Sasa Mijin was under way at the end of the year. Authorities charged Mijin with fatally beating a Kikinda resident in October 2005.

The Belgrade special court for organized crime encountered several difficulties during the trial of three dozen suspects, including former secret police commander Milorad Ulemek and his deputy Zvezdan Jovanovic-Zveki, in the 2003 assassination of Prime Minister Zoran Djindjic. On June 3, key witness Zoran Vukojevic was murdered. Presiding Judge Marko Kljajevic submitted his resignation September 1, citing personal reasons. Media and human rights organizations speculated that political pressure may have sparked his departure. A new judge was appointed in September, and the trial continued at year's end.

In June the Supreme Court upheld the Belgrade special court's ruling in the case of Ulemek and others indicted for the 2000 killing of former Serbian President Ivan Stambolic. In July 2005 the Belgrade special court for organized crime sentenced Ulemek and three persons under his command to 40 years in prison, two others to 15 years in prison, and one person to four years in prison.

The Government continued its investigation into the disappearance and subsequent killing of Yili, Mehmet, and Agron Bytyqi, three U.S. citizen brothers who were executed in 1999. The bodies of the three were discovered in 2001 in a mass

grave in rural Petrovo Selo, near a Serbian police facility. The bodies were found with their hands bound and gunshot wounds to their heads. On August 23, the special war crimes court issued its first indictments in the case against Sreten Popovic and Milos Stojanovic, two former members of a special police unit. The indictments were based on charges of unlawful detention of the Bytyqi brothers. The trial for Popovic and Stojanovic began November 11. No murder charges were filed against any suspects, although the Government investigation remained ongoing.

Domestic courts and the ICTY continued to try cases arising from crimes committed during the 1991–99 conflicts in Croatia, Bosnia and Herzegovina, and Kosovo (see sections 1.e. and 4).

There was no further development in the deaths of several military conscripts in 2005. These conscripts died while on guard duty in remote areas and their families challenged the military's determination that the deaths were suicides. On October 5, human rights organizations and families of the conscripts marked the two-year anniversary of the deaths of Dragan Jakovljevic and Drazen Milovanovic in Topcider, Belgrade, noting that the case remained unresolved. The families initiated a civil suit against the Government, which was pending at year's end.

On September 10, Ruzdija Djurovic, a city council candidate from the List for Sandzak party, was killed during elections in Novi Pazar. Police arrested Estan Gegic and Ismet Derdemet, and were searching for a third suspect, Sead Papic; the case remained in the investigative stage at year's end. While the suspects were members of the rival Sandzak Democratic Party, party leader Rasim Ljajic decried the incident and denied any involvement. Due to security concerns, he declared a boycott of the assembly election and withdrew his party from the assembly.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The Government made modest progress in cooperating with neighboring countries, the International Commission on Missing Persons, and other international organizations to identify missing persons from the Kosovo conflict. On June 30, the Government repatriated to Kosovo 829 sets of remains found in mass graves in Serbia. Following this return, all bodies uncovered to date in Serbia had been returned to Kosovo. However, progress remained slow in locating additional gravesites and in sharing information with the public. In September, the International Committee of the Red Cross (ICRC), which has chaired the Working Group on Missing Persons since 2004, halted further working group meetings, citing a lack of commitment from authorities in both Serbia and Kosovo. According to the ICRC, 2,284 missing persons cases remained unsolved.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, police at times beat detainees and harassed persons, usually during arrest or initial detention for petty crimes.

On March 15, the Helsinki Committee for Human Rights in Serbia (HCS) reported that police beat 28-year-old Kikinda resident Mihalj Koloncaj. Koloncaj sustained critical injuries, which resulted in the removal of his spleen. Authorities suspended several policemen from the Kikinda police station on charges of misconduct and initiated criminal proceedings.

The Youth Initiative for Human Rights (YIHR) reported that, on several occasions between May and September, Subotica police inspector Tomislav Lendvai and three unknown associates beat, tortured, and sexually assaulted two citizens of Subotica, while also invoking ethnic slurs and threatening their families. The two victims, Erne Ceh and Marinko Varnjas, were of mixed ethnic descent. An investigation was underway year's end, and inspector Lendvai was suspended from his post.

The Humanitarian Law Center (HLC) reported that, on June 15, Mileta Novakovic, a member of the gendarmerie special unit, ordered his unit to use force on rowdy fans during a basketball game. According to the Ministry of Interior, 27 people, including 9 officers, were injured, and 30 people were arrested. The Ministry of Interior defended the action as lawful, but later admitted that some officers had exceeded their authority in injuring the fans. Novakovic was transferred to a post outside of Belgrade, but no other disciplinary action was taken.

In the February 2005 case reported by HLC in which police allegedly abused a 17-year-old girl while in custody at a Belgrade police station, the victim gave her testimony to an investigative judge in October, and the investigation continued at year's end. The suspects in the case were Belgrade officers Jovica Pecaranin and Nebojsa Milenkovic.

In the June 2005 case reported by HCS in which traffic police in a village near Nis allegedly harassed and beat a family in their home and subsequently at a police station, the family declined to press charges for fear of reprisals.



Neither the victim nor the police pursued any charges in the case of Aleksandar Petrovic, a Belgrade man who was allegedly beaten by police in his apartment in July 2005. HLC issued a press release following the alleged attack but did not file a criminal complaint. The attackers in this case remained unknown.

There was no information on whether further action was taken on the July 2005 case of a Leskovac police officer who allegedly beat a lawyer for the Leskovac Committee for Human Rights.

*Prison and Detention Center Conditions.*—Prison conditions varied greatly between facilities, and there were reports that some guards abused prisoners.

In some prisons, inmates complained of dirty and inhumane conditions. Several times during the year, prisoners carried out hunger strikes to protest the poor conditions of the facilities. The quality of food varied from poor to minimally acceptable, and health care was often inadequate. Guards were inadequately trained in the proper handling of prisoners. Juveniles were supposed to be held separately from adults; however, this did not always occur in practice.

The Government permitted the ICRC and local independent human rights monitors, including HCS, to visit prisons and to speak with prisoners without the presence of a warden.

In January HCS released a report of its findings after visits to eight detention facilities in May 2005. The report found that facilities lacked appropriate procedures to deal with allegations of ill-treatment by prisoners against prison authorities. The report also cited other problems, including corruption, overcrowding, lack of natural light and fresh air, poor toilet facilities, and dirty food preparation areas in some of the prisons visited.

In May the Council of Europe Committee for the Prevention of Torture (CPT) published a report on its September 2004 visit to Serbia and Montenegro. During the visit CPT received numerous allegations of physical ill-treatment of prisoners and detainees, and recommended that the Government increase professional training, more diligently investigate allegations of abuse, and severely sanction perpetrators of abuse against inmates. The CPT also found that violence among prisoners was a serious problem. The CPT complained of the use of chains and padlocks to restrain patients in the Belgrade prison hospital; in response, authorities reportedly discontinued this practice. The CPT further recommended that authorities increase medical staffing levels at the prison hospital.

In November prison riots broke out over unfulfilled demands for the parliament to pass an amnesty law. In Pozarevac, approximately 30 inmates climbed onto a roof and threatened to jump; in Nis, inmates barricaded themselves in their cells. Hundreds of riot police brought the protests under control, but 55 inmates were injured during the operation. Justice Minister Zoran Stojkovic said the police action was necessary to restore order and to prevent the inmates from hurting themselves.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions, with some exceptions.

Police in Nis detained and interrogated four human rights activists from YIHR for more than four hours on July 12 and for more than three hours on July 13. The police called this an “information meeting,” and accused them of drawing graffiti depicting ICTY indictee Ratko Mladic during a demonstration two days earlier. The police released the activists without charges.

*Role of the Police and Security Apparatus.*—The approximately 43,000 police officers in Serbia are part of the Ministry of the Interior. The police are divided into 33 regional secretariats that report to the republic government. During the year the Serbian government took over control of the armed forces after the dissolution of the state union of Serbia and Montenegro.

The effectiveness of the police was uneven and generally limited. While most officers were Serbs, the force included Bosniaks (Bosnian Muslims), ethnic Hungarians, a small number of ethnic Albanians, and other ethnic minorities. The multiethnic police force in southern Serbia was composed primarily of ethnic Albanians and Serbs.

Corruption and impunity in the police force were problems, and there were only limited institutional means of overseeing and controlling police behavior. The interior ministry inspector general’s office, created in 2003, had increasingly limited authority, and the office had no autonomy to investigate and redress abuses. While the office recommended numerous disciplinary proceedings against interior ministry employees since its establishment, it had no means of following up on proceedings, and some secretariats completely ignored its recommendations.

Since 2005 the inspector general's office initiated disciplinary measures against 5,722 members of the police for transgressions, and charges were brought against 587 members of the police force.

During the year the Government, together with the Organization for Security and Cooperation in Europe (OSCE) and other foreign governments, trained police, security, and border officials on combating terrorism, corruption, money laundering and trafficking.

*Arrest and Detention.*—Arrests were generally based on warrants, although police were authorized to make arrests without a warrant in limited circumstances, including if there was a well-founded suspicion that a person had committed a capital crime. The law requires an investigating judge to approve any detention over 48 hours, and authorities respected this requirement in practice. Bail was allowed but rarely used; detainees facing charges that carried possible sentences of less than five years were often released on their own recognizance.

The law provides that the police must inform arrested persons immediately of their rights. Unlike in previous years, no abuses of this provision were reported.

The law provides access for detainees to counsel, at government expense if necessary, and this right was generally respected in practice. Family members were normally allowed to visit detainees. Suspects can be detained for up to six months without being charged.

The law prohibits police use of force, threats, deception, and coercion to obtain evidence, as well as use in court of evidence acquired by such means; however, police sometimes used these means to obtain statements.

Authorities were accused of using arbitrary arrest and selective enforcement of the law for political purposes. Some political analysts speculated that the arrest of commercial court President Goran Kljajevic was an example of selective prosecution, in order to put additional pressure on his brother, Marko Kljajevic, who resigned as presiding judge in the Djindjic trial soon after the arrest (see sections 1.a. and 3). Some analysts also argued that the timing of the Government's indictment for corruption and money laundering against tycoon Bogoljub Karic was also politically motivated (see section 3).

The law limits the length of pretrial detention from indictment to the conclusion of a trial to two years for most cases, but allows detention for up to four years for crimes that carry up to the maximum penalty (40 years in prison). The law sets two years as the maximum detention permitted after an appellate court vacates the judgment of a trial court. Nonetheless, prolonged pretrial detention was a problem. The law prohibits excessive delays by authorities in filing formal charges against suspects and in opening investigations; however, such delays continued regularly. Due to the inefficiency of the courts, cases often took an excessively long time to come to trial, and once started, trials often took an excessively long time to complete (see section 1.e.).

The law allows persons detained in connection with serious crimes to be held for up to six months before charges must be filed. Authorities frequently held such persons for the full six-month period before filing charges.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the courts remained susceptible to corruption and political influence. The newly enacted constitution drew criticism for its provisions on the judiciary that make the appointment of judges and prosecutors subject to political screening. Corruption in the judiciary remained a problem. There were reports that government officials attempted to undermine politically sensitive prosecutions, including by applying pressure on prosecutors and judges.

During the year former Supreme Court judge Slavoljub Vuckovic, arrested in September 2005, stood trial on charges of accepting a bribe in the Jotka organized crime case; on July 7, the court sentenced him to eight years in prison. Vuckovic appealed the verdict, and his appeal remained pending at year's end.

During the year the trial of former deputy public prosecutor Milan Sarajlic resumed. Sarajlic had been charged with accepting payments from the Zemun organized crime clan in 2004; the trial was suspended in 2004 due to Sarajlic's poor health. The trial remained ongoing at year's end.

The private sector considered corruption in the commercial courts to be widespread. In addition land transfers often were extremely difficult, leading many in the private sector to allege administrative corruption.

The courts were highly inefficient, and cases could take years to be resolved.

The Serbian judicial system consists of municipal courts, district courts, a Supreme Court, and a Constitutional Court. In addition, the law provides for special courts for war crimes and organized crime; these were operational during the year within the Belgrade District Court. The Constitutional Court rules on the constitu-

tionality of laws and regulations. While the law provides for an administrative appeals court and a second instance appeals court to reduce the Supreme Court's caseload, the National Assembly postponed the establishment of the courts until 2007.

Since 2005, a special branch in each district court maintained responsibility for military cases.

*Trial Procedures.*—Trials are generally public, but they are closed during testimony of a state-protected witness. There are no juries. The law provides that defendants are presumed innocent; have the right to have an attorney represent them at public expense, if needed; and to be present at their trials. Defendants have the right to access government evidence and question witnesses. Both the defense and the prosecution have the right to appeal a verdict. These rights were generally respected in practice.

The special war crimes court continued trying war crimes cases. On May 18, the Supreme Court upheld the Belgrade district court's July 2005 verdict in the Sjeverin war crimes case involving the torture and killing of 16 Muslims in 1992. The court confirmed the original conviction and sentencing of Dragutin Dragicevic, Oliver Krsmanovic, and ICTY indictee Milan Lukic to 20 years in prison, and Djordje Sevic to 15 years in prison.

On July 5, the Belgrade special war crimes court began the main hearing in the case of five Scorpions members indicted for involvement in the 1995 execution of six Bosnian Muslim civilians from Srebrenica. The case was ongoing at year's end.

On September 18, the special war crimes court convicted Anton Lekaj of war crimes and sentenced him to 13 years in prison for the 1999 murder and torture of Roma in Kosovo during a wedding procession.

The Supreme Court upheld the special war crimes court's March 2004 conviction of Aleksandar Cvjetan, sentenced to 20 years in prison for the 1999 killing of 14 ethnic Albanians in Podujevo, Kosovo.

The special war crimes court also continued the trial for the Zvornik case involving the 1992 eviction and killing of Bosnian Muslims.

There were new developments in the Ovcara case (also known as the Vukovar massacre). On December 14, the Supreme Court ordered a retrial of 14 former members of Serb militias who had been convicted in December 2005 for murder, torture, and inhumane treatment of more than 200 Croatian prisoners of war in 1991. Many in the international and NGO community criticized this decision as politically motivated, noting that every major war crimes conviction (e.g., Podujevo, Sjeverin, Ovcara) in a first-instance court had been overturned by the Supreme Court upon first review.

In April the Belgrade district court dismissed the case of Dejan Demirovic after his extradition from Canada. Demirovic had been charged and tried in absentia for the Podujevo killings; however, the court found insufficient evidence to support his conviction.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The country has an independent and impartial judiciary in civil matters where citizens can bring lawsuits seeking damages for, or cessation of, a human rights violation. The remedies generally involved monetary awards.

*Property Restitution.*—During the year a government commission began preparing a register of claims for private property seized since 1945, but it made no progress on enacting a private property restitution law or returning property. The Government enacted a law on restitution of communal property, but took no significant action to register claims or return communal property.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, the Government interfered with privacy and correspondence. While the law requires the interior ministry to obtain a court order before monitoring potential criminal activity and police to obtain a warrant before entering property except to save people or possessions, police occasionally did not respect these provisions in practice.

Most observers believed that authorities selectively monitored communications, eavesdropped on conversations, read mail and e-mail, and tapped telephones. Human rights leaders frequently reported that their communications were being monitored.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, there were reports of government interference in these freedoms and carried out reprisals against persons who criticized the Government. In general,

independent media organizations were active and expressed a wide range of views; however, some media organizations experienced threats or reprisals for publishing views critical of the Government. Many reporters lacked professionalism in citing sources and achieving accuracy.

The media sector was mostly independent and privately owned. The oldest nationwide daily, *Politika*, was co-owned by a German company and the Government, but it was operated by several shareholding companies. During the year this daily took on an increasingly pro-government slant to its reporting and editorial policy. Other major newspapers include *Blic*, *Glas Javnosti*, *Vecernje Novosti*, *Kurir*, and *Danas*.

Government-controlled Radio-Television Serbia (RTS) was a major presence, operating three television channels as well as a radio service. The Government had considerable influence, although not formal control, over other major television stations, including TV *Politika* and TV Novi Sad, as well as Radio Belgrade's three stations. In addition, many television stations relied on the state-owned news agency Tanjug for news information. While RTS's coverage was generally objective, there occasionally appeared to be a bias toward the Government.

On October 11, controversial amendments to the broadcast law went into effect despite opposition from media groups and the OSCE. The law grants the Government the power to approve the budget of the independent broadcast council, gives this council broad authority to strip radio and television stations of their licenses without right of appeal, and sets higher fees for broadcasters.

Media organizations, particularly the radio station B92, were victims of vandalism, bomb threats, and intimidation for coverage of views unpopular with the Government. The South East European Media Organization (SEEMO) reported a number of such incidents during the year. On July 25, Jahja Fehratovic, editor of the weekly *Glas Sandjaka*, received anonymous death threats over the phone. On August 13, Nikola Rumenic, correspondent for the weekly *Svet*, was physically assaulted and injured by two unidentified persons outside the Hotel Jugoslavija in Belgrade. On August 17, Dragan Zaric, journalist for Radio Stari Milanovac, was attacked by a knife-wielding masked man while moderating a radio program. On August 18, Slavica Jovanovic, a journalist from Macvanski Prnjavor, received a telephone death threat. Local police reportedly refused to allow Jovanovic to file an official complaint until the Journalists' Association of Serbia (US intervened on her behalf.

On April 26, police shut down the republic's first private television station, BK Television, following a decision by the Government's broadcasting agency to temporarily suspend BK Television's license. The attorney for BK Television described the forceful entrance and shutdown of the station as illegal. The U.S. and the Association of Independent Electronic Media (ANEM) described the move as arbitrary and constituting a threat to democracy and media freedom.

On July 13, SEEMO reported that Jelena Antic, correspondent for the daily *Dnevnik*, was blocked by security officers from attending a press conference at the Ruma city hall, allegedly on the orders of municipality President Srdjan Nikolic.

Libel is a criminal offense; those convicted of libel face imprisonment or fines of \$552 to \$13,800 (460 euros to 11,500 euros).

On August 10, the municipal court in Prokuplje sentenced RTV Kursumlija senior editor Slavko Savic to four months' imprisonment for libel. The court found Savic guilty of broadcasting text messages written and sent in by viewers alleging that Slavko Ilic, a municipal official, had stolen a bottle of brandy from a store. ANEM and the Committee to Protect Journalists condemned the verdict as a violation of freedom of speech.

Journalists sometimes practiced self-censorship due to possible libel suits and fear of offending public opinion, particularly on subjects relating to wars in the former Yugoslavia, on the Montenegrin referendum for independence, and on the UN-led negotiations on the future status of Kosovo. Human rights activists charged that they were subjects of smear campaigns in pro-government publications and tabloids for expressing critical views of the Government.

*Internet Freedom.*—There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic email. However, there were reports that the Government selectively monitored Internet communications.

*Academic Freedom and Cultural Events.*—The Government generally respected academic freedom; although there were some reports of censorship of cultural events.

In September police stopped an outdoor theater performance in Novi Sad when a Serbian Orthodox bishop complained that the actors were wearing priests' robes,

and called the performance “the work of the devil.” A group of neo-Nazis from Zrenjanin disrupted the performance the next night.

On November 28, the Ministry of Foreign Affairs issued a request to organizers of a film festival that the film “Summer Palace” be “removed from the festival program bearing in mind our good bilateral relations [with China].” The Chinese government had opposed the screening of this film, which featured footage of the 1989 events in Tiananmen Square. The festival organizers removed the film from the program. However, on December 1, Foreign Minister Vuk Draskovic suspended Danica Bajic, the MFA employee who issued the request, saying that Bajic acted outside of her authority.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government usually respected it in practice. Unlike in previous years, there were no reports that authorities impeded public protests.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice; however, the Serbian government adopted a discriminatory law on religion and maintained a discriminatory property tax.

While there is no state religion, the majority Serbian Orthodox Church received some preferential treatment. For example, the military continued to offer only Serbian Orthodox services, although it allowed members of other faiths to attend religious services outside their posts. There were also complaints that the Serbian government continued to fund construction of a large Serbian Orthodox Church. The Serbian government subsidized salaries of Serbian Orthodox clergy in regions outside Serbia.

In April the Government adopted a problematic law on religion.

It recognizes seven “traditional” religious communities: the Serbian Orthodox Church, the Roman Catholic Church, the Slovak Evangelical Church, the Reformed Christian Church, the Evangelical Christian Church, the Islamic community, and the Jewish community. The law requires all other religious groups to reregister with the Ministry of Religion, which has the discretion to decide whether to grant approval. Many of these minority groups had been recognized officially as religions in Serbia for over 50 years, and were present in the republic for as long as 150 years.

The registration requirements, deemed invasive by the Council of Europe and the OSCE, include submitting names, identity numbers, and signatures of members; showing proof that the group meets the threshold of 0.001 percent of adult citizens of Serbia (roughly 65 persons); providing a description of the group’s religious texts and a summary of its religious teachings, ceremonies, religious goals, and basic activities; and information on its sources of funding.

Serbian tax law exempts property owned by the seven recognized traditional religious groups, although a challenge to the law was pending in the Constitutional Court at the end of the reporting period. The complaint was filed on July 21 on behalf of the Union of Protestant-Evangelical Churches in Serbia.

Non-Serbian Orthodox religious organizations continued to report difficulty obtaining permission from local authorities in Serbia to build new worship facilities. The Belgrade Islamic community reported continued difficulties in acquiring land and government approval for an Islamic cemetery in the city. In August Minister of Religion Milan Radulovic stated that the Montenegrin Orthodox Church could not build churches in Serbia.

Serbian law requires students in primary and secondary schools either to attend classes of one of the seven traditional religious communities or, alternatively, to take a class in civic education. Leaders of religious groups excluded from the program continued to express their dissatisfaction at the Government’s narrow definition of religion.

The Government enacted a law on restitution of communal property in Serbia, including religious sites seized since 1945, but took no significant action to register claims or return church property.

*Societal Abuses and Discrimination.*—Minority religious communities reported continuing problems with vandalism of buildings, cemeteries, and other religious sites, although the number of such incidents declined from previous years. There were a few cases of verbal and physical attacks against religious minorities. The police response was often inadequate, and civil society groups criticized the lack of commitment by the Government to addressing problems of discrimination.

Unknown attackers broke stained glass windows of Catholic churches in Smederevo, Kragujevac, and Bor several times during the year. The Seventh-day Adventists reported that vandalism and arson attacks on their churches were too frequent to count. Vandals damaged tombstones in the Slovak Evangelical-Lutheran

graveyard in Dobanovci and in the Catholic graveyard in Temerin. In all of these cases, police were unable to identify the attackers.

On February 15, a man in Mladenovac locked two members of Jehovah's Witnesses inside a building, destroyed their literature, and tried to drag them into a cellar. One of them escaped and called the police, who rescued the other and arrested the man. On February 20, in the Zemun district of Belgrade, a member of Jehovah's Witnesses was beaten on the head by a third party while sharing his beliefs with a family. Police arrested the attacker, and the family testified as witnesses in the court case.

On June 17, a Hare Krishna devotee from Jagodina, Zivota Milanovic, was attacked in the doorway of his home. Jagodina hospital treated him for knife wounds and a cross carved on his head. Milanovic had been attacked previously in July 2005; authorities made no arrests for either attack.

In October the Nis mosque was attacked and vandalized for the fourth time. Local police arrested four suspects, but refused a request to post a permanent police presence in front of the mosque to prevent future attacks.

In March the district court in Sabac began hearing a case against four men who tried to blackmail a member of Jehovah's Witnesses in Loznica in 2004. On May 8, frustrated by officials' failure to take action after an arson attack in 1999, the Jehovah's Witnesses filed suit against the Government.

On November 9, a Novi Sad court found members of the nationalist, far-right hate group National Front guilty of inciting ethnic, racial, and religious hatred and intolerance for disrupting an anti-Fascist seminar at Novi Sad University in 2004, harassing and slapping participants. The organization's leader, Goran Davidovic, was sentenced to one year in prison, and member Miodrag Stefanovic was sentenced to six months. Two other members were sentenced to three and four months in prison, while 11 others received suspended sentences of four months for the criminal act of endangering the safety of others.

During the span of three days from December 16 to 19, unidentified attackers threw Molotov cocktails at the offices of the Evangelical church in Kraljevo, and threw stones at the Baptist church and the Holy Spirit Catholic church in Novi Sad. President Tadic publicly condemned the attacks and called on authorities to find the perpetrators; the investigations were ongoing at year's end.

The Jewish community had between 2,000 and 3,000 persons. Jewish leaders in Serbia reported continued incidents of anti-Semitism, including anti-Semitic graffiti, vandalism, small circulation anti-Semitic books, and Internet postings. HCS reported in November that anti-Semitism had grown in intensity in recent years. HCS noted that in recent years, Serbia's publishing sector published various anti-Semitic books, with titles such as *Jewish Ritual Murder*, *The Jewish Conspiracy*, and *Why I Admire Adolf Hitler*. According to Jewish community members, the release of such publications often led to an increase in hate mail and other expressions of anti-Semitism. Several nationalist, far-right organizations identified themselves with anti-Semitic rhetoric, displaying swastikas and using hate speech. The National Front was one of the most active of these groups during the past few years, mixing anti-Semitic rhetoric with anti-Western messages. HCS noted in November that the Government's response to such hate speech was often inadequate.

On February 12, graffiti appeared on a monument in Nis saying "Holocaust—the Jewish lie that governs the world," along with nationalistic slogans such as "Serbia for the Serbs."

In late August a group of skinheads reportedly wearing Nazi symbols beat two Israeli tourists. One victim reported that the group was chanting "Auschwitz, Auschwitz." At year's end, no one had been charged in connection with this beating.

In 2005 the Federation of Jewish Communities in Serbia reported receiving increased levels of hate mail saying that, "Jews should leave Serbia." In addition, a list of prominent Serbian Jews was posted on the website of a neo-Nazi organization alongside messages posted by site visitors calling for them to be killed.

Teaching of the Holocaust is incorporated into the Serbian school curriculum, and the role of the Serbian government during that period is also discussed. However, there was a tendency among some commentators to minimize and reinterpret the role of Serbian leaders during the Holocaust, casting them as victims of foreign occupiers when in fact many leaders of that time collaborated with the Nazis and began campaigns against the Jewish population even before the Nazis invaded Yugoslavia.

While government leaders publicly condemned incidents of anti-Semitism, there was no significant government effort in 2006 to prevent such intolerance and hate speech.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—According to official figures of the Office of the UN High Commissioner for Refugees (UNHCR), approximately 207,000 IDPs resided in Serbia, mainly Serbs, Roma, and Bosniaks who left Kosovo as a result of the events of 1999. Approximately 6,700 IDPs remained in collective centers. Although the Government closed several of the collective centers that were least habitable, many IDPs remained in minimally habitable facilities that were constructed as temporary accommodations, rather than for long-term occupancy.

The Government continued to pay salaries to IDPs who were in the Kosovar government and state-owned enterprises before June 1999. By law, to obtain permanent resident status in Serbia, IDPs from Kosovo must deregister from their previous address in Kosovo. Without registering at a permanent address in Serbia, IDPs were unable to acquire local identification documents and are thus unable to obtain access to health insurance, social welfare, and public schools.

During the year the Government signed and parliament ratified 15 bilateral readmission agreements to accept the return of failed asylum seekers, unsuccessful migrants, and persons without legal residency (primarily, Roma). Estimates of the number of unsuccessful asylum seekers and illegal immigrants from Serbia residing in the countries covered under the agreements ranged from 30,000 to 200,000, with an additional 120,000 asylum seekers originally from Kosovo. The Government agreed to accept the forced returnees without stipulating a timetable for their return. The ICRC, piloting a project to assist repatriated returnees, opened an office in the Belgrade airport, but the office closed after about three months due to lack of funding.

The UNHCR estimated that there were 40,000 to 45,000 displaced Roma living in Serbia proper; half of those were not registered due to lack of documents. Many Kosovar Roma were perceived to be Serb collaborators during the conflict in Kosovo and could not safely return there. Living conditions for Roma in Serbia were extremely poor. Local municipalities often were reluctant to accommodate them, hoping that, if they failed to provide shelter, the Roma would leave the community (see section 5). If Roma did settle, it was often in official collective centers with minimum amenities or, more often, in makeshift camps in or near major cities or towns.

There were sporadic incidents of attacks and vandalism against IDPs, particularly members of Romani communities (see section 5).

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, despite the fact that Serbia is a signatory to both. The Government has not passed legislation or established a system for providing protection to refugees. The law does not protect individuals from forcible return to a country where they have a credible fear of persecution, and there was no information available on whether authorities, in fact, turned such individuals away at borders.

UNHCR maintained an office at the airport to receive third-country asylum seekers, including those who entered the country via other ports of entry. UNHCR conducted refugee status determinations in accordance with the UN Convention and the organization's mandate. By tacit agreement, the Government tolerated UNHCR status determinations, neither expelling individuals whom UNHCR determined to be refugees, nor according them any opportunity for integration. UNHCR opened 42 cases for third-country nationals over the course of the year. Of these, 25 Iraqis received temporary UNHCR protection, without full refugee status determinations. The UNHCR rejected 12 applicants and closed five cases without completing the determination (in most instances because the applicants departed Serbia). Fifty-five individuals remained under UNHCR protection at year's end.

UNHCR, with consent of the Government, completed construction of an asylum center for receiving and sheltering asylum seekers, but the facility was not in use at year's end.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. Under the 1992 Decree on Refugees, the Government provided temporary protection to individuals from former republics of the Socialist Federal Republic of Yugoslavia (SFRY) who may not qualify as refugees under the 1951 Convention and its 1967 Protocol. The Government and UNHCR estimated that 104,000 refugees from Croatia and Bosnia and Herzegovina resided in Serbia.

The Government, with UNHCR support, closed several collective centers, in a few cases transferring individuals in need of special care to other appropriate institutions. Approximately 3,600 refugees remained in 125 collective centers, either official or unrecognized, in the country at year's end.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

In a May 21 referendum in Montenegro, 55.5 percent of voters supported independence from the state union of Serbia and Montenegro. International monitors deemed the referendum in line with OSCE and Council of Europe commitments and other international standards for democratic electoral process, and the Serbian government accepted the results. Following the referendum, Serbian authorities began working on the dissolution of the state union and reassigning state union responsibilities to the republic level.

*Elections and Political Participation.*—At year's end, political parties were preparing for parliamentary elections to be held in January 2007.

The country held a referendum on a constitution on October 28–29. Several human rights groups criticized the parliament for passing the draft without adequate public debate, and some called for a boycott of the referendum. Many also criticized the substance of the document in several areas: it claims Kosovo as a part of the country's territory, although Kosovo Albanians were excluded from voting in the referendum; it does not clarify or enhance Vojvodina's regional autonomy; and it leaves the appointment of judges and prosecutors subject to political screening.

According to the election commission, turnout at the referendum was 54.91 percent, and 53.04 percent of voters supported the new constitution. Turnout was particularly low in Vojvodina (45.9 percent), and the Center for Free Elections and Democracy estimated ethnic Hungarian turnout was only 14 percent. Several human rights groups charged that there were irregularities in the referendum results, including lax control of voting lists and inconsistent identification checks.

Parliament approved the constitution and it entered into legal effect on November 13.

An OSCE and Council of Europe election observation mission reported that the June 2004 Serbian republic Presidential elections were peaceful and conducted essentially in line with international standards. Problems noted by the mission included lack of a central voter register, lack of facilities for eligible voters living in Montenegro, and evidence of some degree of disenfranchisement in the Romani community. Voting took place in Kosovo, where 97,000 voters were registered; however, restrictions on movement hindered the ability of ethnic Serbs to vote, while the ethnic Albanian population, with very few exceptions, did not participate in the election, even in areas where some were on the voter lists.

There were 24 women in the 250-seat parliament and a female deputy prime minister. There were no women in the 16-member cabinet. In September the Government amended the law on elections of members of parliament to require parties' election lists to include at least 30 percent women.

There were 11 members of minorities in the 250-seat parliament and no members of minorities in the 16-member cabinet.

The constitution and law exempts ethnically based parties from the 5 percent threshold required for a political party to enter parliament. Roma continued their historical pattern of low voter turnout. Local ethnic Albanian leaders in southern Serbia boycotted national elections notwithstanding their active involvement in local governance.

*Government Corruption and Transparency.*—There was a widespread public perception of government corruption at all levels. Recent polls indicated that a majority of citizens believed that government corruption was a major problem.

Government authorities were inconsistent in their approach to official corruption. Investigations often appeared to be politically motivated, and there were numerous examples of authorities failing to act in response to detailed reports of suspected corruption involving a wide range of officials. Media reporting of corruption was often sensationalist.

On January 11, police arrested Dejan Simic, former vice governor of the National Bank of Serbia, and Vladimir Zagradjanin, director of the Socialist Party of Serbia (SPS), and charged them with involvement in bribery. Simic allegedly accepted a suitcase containing the equivalent of \$125,000 cash in his apartment in exchange for agreeing to register the Credit Export Bank.



In February Serbian police issued a warrant for Bogoljub Karic, head of the Power of Serbia Movement party, after he failed to appear in court for questioning. Karic faced charges of tax evasion, mismanagement of millions of dollars, and money laundering while he was owner of the telecommunications company Mobtel. Some political commentators speculated that, while the charges against Karic appeared justified, the timing of this crackdown on Karic's business dealings may have been politically motivated. The warrant came shortly after Karic's party formed a new parliamentary caucus that many believed would shake the delicate balance of the governing coalition and spark a parliamentary crisis.

On April 15, police arrested nine persons suspected of operating a lucrative scam in which the commercial court would declare enterprises bankrupt, and the Postal Savings Bank would then provide cheap loans to favored businessmen to buy the enterprise's assets at a below-market price. Several public officials were among the nine arrested, including Goran Kljajevic, President of the commercial court in Belgrade; the directors of the Postal Savings Bank and Kreditna Eksportna Banka; businessmen; and an official from the interior ministry. The suspects remained in pre-trial detention at year's end.

On October 7, police arrested deputy public prosecutor Milorad Cvijovic under suspicion of unauthorized appropriation of a court document from the archives of the state prosecutor's office in 2005 in order to influence proceedings in a specific commercial case.

The trial of former minister of defense Prvoslav Davinic, charged with facilitating apartment leases for his bodyguards, was under way at year's end.

The Government's implementation of the November 2004 access to information law continued to be slow, and the Government generally did not provide access in practice. The law provides for public access to information of "legitimate public importance" (with many exceptions) and establishes an independent commissioner, selected by the Serbian parliament, to handle appeals when government agencies reject requests for information. According to a September 2005 report by Transparency International, about 60 percent of local institutions, and approximately one-third of national institutions, were failing to fulfill their obligations under the access to information law. NGOs reported that their requests for information from the Government frequently went unanswered.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. However, these groups were often subjects of harassment, threats, and libel suits for expressing views critical of the Government. Prominent human rights groups included HCS, HLC, the Lawyers' Committee for Human Rights (YUCOM), the Fund for an Open Society, YIHR, and the Belgrade Center for Human Rights.

Some NGO workers were threatened and attacked, primarily through media campaigns demonizing them and publication of personal information, such as their ethnic backgrounds and addresses. On September 3, HLC Director Natasa Kandic was exiting TV B92's studio when witnesses heard several shots. Police determined that the sounds were caused by firecrackers, but human rights groups asserted they were meant to intimidate Kandic. Several publications, including Politika, NIN, and Kurir, attacked Kandic as well as YUCOM director Biljana Kovacevic-Vuco and HCS Director Sonja Biserko for their outspoken views on Kosovo and Serbian responsibility for war crimes of the 1990s.

In March HCS issued a report on the targeting of human rights defenders in Serbia. While praising some positive legal developments, the report criticized the Government's failure to denounce more forcefully verbal and physical attacks against human rights defenders, as well as continued media campaigns aimed at discrediting local human rights advocates. This report followed a November 2005 report by Amnesty International, which found that NGOs had been subjected to repeated and apparently systematic intimidation. The report also found that prominent human rights advocates, including Natasa Kandic, Biljana Kovacevic-Vuco, Sonja Biserko, and Stasa Zajovic of the Women in Black antiwar organization, were targets of a media campaign aimed at discrediting human rights defenders.

In 2005 the Government announced that it would establish a new ombudsman's office in Belgrade; however, it failed to do so by the legislated deadline of March 2006. The city of Kragujevac's ombudsman, Milan Petkovic, announced his resignation in May, citing political pressure and harassment from city assembly officials. Vojvodina Province had an ombudsman, who operated independently during the year.

During the year the Government made little progress in cooperating with the ICTY to apprehend and bring to justice the six remaining fugitives indicted by ICTY. Two of ICTY's most wanted war crimes suspects with links to Serbia, Ratko Mladic and Radovan Karadzic, remained at large. In July, the Government announced a six-point action plan for ICTY cooperation and appointed special war crimes prosecutor Vladimir Vukcevic and the head of Serbia's National Council for Co-operation with ICTY, Rasim Ljajic, to oversee the plan's implementation. In October, following a visit to Belgrade, ICTY Chief Prosecutor Carla del Ponte stated publicly that government authorities had made little or no progress in implementing the action plan.

While the constitution prohibits the extradition of any person with Serbian citizenship, and this prohibition was applied in practice, the law allows for an exception in cases of extradition of citizens to the ICTY. During the year there were no such extraditions conducted.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status; however, discrimination against women and ethnic minorities as well as trafficking in persons and violence against women and children were problems.

*Women.*—Violence against women was a problem, and high levels of domestic violence persisted. The Serbian Victimology Society reported in July that one-third of women have been victims of physical violence, and half of women have been victims of psychological violence.

Domestic violence is a crime punishable by a prison sentence of six months to 10 years, depending on the seriousness of the offense, and a minimum of 10 years if death results. Such cases were difficult to prosecute due to lack of witnesses and evidence, as well as unwillingness of witnesses or victims to come forward. In a World Health Organization study of Serbian women released during the year, two-thirds of physically abused women reported that they did not seek help because they thought such abuse was normal or not serious. The few official agencies dedicated to coping with family violence had inadequate resources.

In 2003 there were approximately 6,000 reported cases of domestic violence in Serbia. According to the Magistrates Association of Serbia (MAS), however, domestic violence was significantly underreported, and the problem was widespread and usually long-lasting. Violence frequently became a way of life in a country where contributing factors such as financial dependence, cramped living quarters (multi-family living arrangements were common), and the lack of support from extended family were prevalent. During the year, MAS participated in a series of seminars and training sessions for magistrates to adjudicate domestic violence cases.

Rape, including spousal rape, is punishable by one year to the legal maximum sentence (40 years' imprisonment) for a simple case, a minimum of three years for an aggravated case, and a minimum of five years if death results or the victim is a minor. Only a small proportion of rapes were reported because victims feared that they would not be protected, that their attackers would take revenge, or that they would be humiliated in court. Few spousal rape victims filed complaints with authorities. Women's groups reported that sentences were often too lenient.

The Center for Autonomous Women's Rights in Belgrade offered a rape and spousal abuse hotline, and sponsored a number of self-help groups. The center also offered assistance to refugee women (mostly Serb), many of whom experienced extreme abuse or rape during the conflicts in the former Yugoslavia. The Counseling Center Against Family Violence operated a domestic violence shelter partly funded by the Government.

Prostitution is illegal, although being a client of a prostitute is not a criminal offense.

Trafficking in women for the purpose of sexual exploitation remained a problem (see section 5, Trafficking).

Sexual harassment was a common problem, but public awareness of it remained low and few complaints were filed during the year. The law provides that sexual harassment is a crime punishable by up to six months' imprisonment for a simple case and up to one year's imprisonment for abuse of a subordinate or dependent.

Women have the same legal rights as men, including under family law, property law, and in the judicial system and these rights were generally enforced in practice. The Government has a council for gender equality, which worked during the year with NGOs in raising public awareness of gender equality issues. The Vojvodina government also has a secretariat for labor, employment, and gender equality. The OSCE mission to Serbia helped to establish bodies in charge of gender equality in more than 30 municipalities.

Traditional views of gender roles, particularly in rural areas, resulted in discrimination against women. In remote rural areas, particularly among some minority communities, women could not effectively exercise their right to control property. In rural areas and some minority communities, it was common for husbands to direct the voting of wives.

The social status of women was generally considered inferior to that of men, and women were not well represented in commerce. Women were legally entitled to equal pay for equal work; however, according to the International Helsinki Federation for Human Rights, women's average wage was 11 percent lower than that of men.

*Children.*—The Government was committed to the rights and welfare of children. The educational system provided nine years of free, mandatory schooling. However, ethnic prejudice, cultural norms, and economic distress discouraged some children, particularly Roma, from attending school. One government survey found that approximately 99.8 percent of children attended school; however, the Government acknowledged that the survey missed many transient Roma.

Romani education remained a problem. Many Romani children did not attend primary school, either for family reasons, because they were judged by school administrators to be unqualified, or because of societal prejudice. Due to the lack of primary schooling, many Romani children did not learn to speak Serbian. Some Romani children were placed mistakenly in schools for children with emotional disabilities because the Romani language and cultural norms made it difficult for them to succeed on standardized tests in Serbian. The UNHCR, with government support, conducted health education programs for Roma and pre-school programs for Romani children.

Free medical care was available in government clinics, including free medicines from a limited list of covered drugs. Boys and girls had equal access to medical care.

Child abuse was a problem. While teachers were instructed to report suspected child abuse cases, they often did not do so. Police generally responded to complaints, and prosecutions of child abuse cases occurred during the year. Psychological and legal assistance was available for victims, and there was an incest trauma center.

Child marriage was a problem in some communities, particularly among Roma and in rural areas of southern and eastern Serbia. In the Romani community, boys and girls generally married between the ages of 14 and 18, with 16 as the average, and boys generally married a few years later than girls. Child marriage was most common among Muslim Roma, most of whom came from Kosovo and were living in other parts of the country as IDPs.

Trafficking of children for the purpose of sexual exploitation remained a problem (see section 5, Trafficking). Some Romani children were trafficked within the Romani community and to Roma abroad for exploitation in begging and theft rings.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons through and, to a lesser extent, to and from the country (excluding Kosovo) remained a problem.

Serbia was a transit point, and to a lesser extent a point of origin and destination, for trafficking in women and minors for the purpose of sexual exploitation. Serbia was primarily a transit point for internationally trafficked women going to other Balkan countries and Western Europe. Eastern European countries were the primary source countries for persons trafficked to and through Serbia. NGOs reported an increase in minor victims and male victims.

While Serbia was not traditionally a major source for trafficked women, the number of Serbian victims increased compared to foreign nationals. In March the Ministry of Labor, Employment and Social Policy and the NGO Children's Rights Center released results of a survey that showed Roma children, children from poor, rural communities and foster families were at the highest risk for child labor abuse, including begging, theft, prostitution, dealing narcotics and hard physical labor.

Traffickers recruited victims through enticements including advertisements for escorts, marriage offers, and offers of employment. Some women went to work as prostitutes knowingly and only later became trafficking victims. In many cases international organized crime networks recruited, transported, sold, and controlled victims. Authorities reported increased use of the Internet as a method of recruiting victims.

The new criminal code, which took effect January 1, differentiates between trafficking and smuggling. The penalty for trafficking in persons is two to 10 years in prison; for trafficking minors, the penalty is a minimum of three years; if the act of trafficking resulted in death, the penalty is a minimum of 10 years; if it involved serious physical injury, the penalty is three to 15 years; if there were multiple acts of trafficking or if perpetrated by an organized group, the penalty is a minimum of five years.

Authorities uncovered several international trafficking rings, including those with connections to China, Turkey, Italy, Albania, and Bulgaria. The Government's prosecution of some trafficking cases became more effective, particularly in cases of organized crime. On March 2, the Supreme Court ruled on the high-profile "Zarubica" case, sentencing Stanko Savanovic to five years in prison, Milivoje Zarubica to four and a half years, Milovan Miletic to three years, Zvezdan Stankovic to two years, and three others to eight to ten months. The verdict reflected increased sentences from the 2004 ruling and ordered the defendants to cover the trial costs. While some major trafficking cases proceeded quickly, others languished in Serbian courts.

During the year authorities filed 34 criminal charges against 77 persons for trafficking. Antitrafficking groups worked with 56 trafficking victims and received 1,775 telephone calls on an assistance hotline for victims.

Government antitrafficking efforts were led by an antitrafficking coordinator who was the chief of the border police and incorporated government agencies, NGOs, and international organizations. The Government assisted in international investigations of human trafficking and participated in regional antitrafficking operations.

The Government offered temporary resident visas and shelter to victims who agreed to testify against their traffickers, provided victim and witness protection, and did not prosecute victims.

The Government's agency for coordination of protection to victims worked to ensure that trafficking victims were correctly identified and referred to assistance providers. Separate shelters for domestic and foreign trafficking victims operated during the year. The NGO Astra operated a hotline for trafficking victims. NGOs and volunteers provided legal, medical, psychological, and other assistance to victims. In August the NGO Atina launched a reintegration program for victims of sexual exploitation.

The International Organization for Migration (IOM) managed repatriation of foreign victims and assisted in the reintegration of local victims. The IOM also ran a regional clearing center for information on trafficking victims. There were numerous training programs, including training for hotline volunteers, shelters, social welfare officers, and police.

Government and NGO public awareness efforts to combat trafficking included conferences on trafficking, documentary films and public service announcements shown across Serbia, and school outreach programs. NGOs continued to organize and fund the majority of Serbia's public information campaigns.

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government generally enforced the law. There were no reports of discrimination against persons with physical or mental disabilities; however, facilities for their education and care were nonexistent or inadequate, and the Government did not address the problem. A high unemployment rate and lack of accommodations made it difficult for persons with disabilities to obtain employment.

The law mandates access for persons with disabilities to new public buildings, and the Government generally enforced this provision in practice.

During the year, several government and municipal authorities took steps to increase access to public facilities for persons with disabilities. In July the Belgrade public transport system adopted a policy to allow guide dogs on all public transportation.

Unemployment remained a serious problem for persons with disabilities. A study released by the Center for Development of Inclusion and the Center for Study of Alternatives found that 87 percent of persons with disabilities were unemployed, while 70 percent lived in poverty. The study also found that a greater percentage of women with disabilities were dependent on public assistance compared to men with disabilities.

*National/Racial/Ethnic Minorities.*—Minorities constituted 25 to 30 percent of Serbia's population and included Hungarians, Bosniaks, Roma, Slovaks, Romanians, Vlachs, Bulgarians, Croats, Albanians, and others.

Although not widespread, there continued to be incidents of vandalism and some physical attacks against minorities. The number of incidents against ethnic Hungarians in Vojvodina decreased compared with 2004 and 2005, and minority leaders there reported that the situation was calm. Vojvodina and Serbian government officials continued implementation of a 10-point strategy, agreed upon in 2005, for improving ethnic relations in the province, including education programs, public awareness campaigns, and greater representation of minorities in the police and judiciary.

Many voters in Vojvodina objected to the new constitution, and some Vojvodina leaders called for a boycott on the referendum. While the constitution ostensibly gives Vojvodina a larger portion of its tax revenue than the province previously received, it also further limits its autonomy. Only 48 percent of the Vojvodina electorate voted in the referendum on the constitution, and only 14 percent of ethnic Hungarians participated.

Ethnic Albanian leaders of the southern municipalities of Presevo, Bujanovac, and Medvedja continued to complain about the under-representation of ethnic Albanians in government structures, and lobbied for greater political autonomy for predominantly ethnic Albanian areas. In October leaders of the Party for Democratic Action, one of the largest ethnic Albanian political parties, called on members to boycott the constitutional referendum.

In August the Supreme Court ruled in favor of Nedzat Beljuli, an ethnic Albanian who had alleged that the Ministry of Economy and Privatization had disqualified his 2004 bid on a public company on ethnic grounds.

Roma continued to be targets of numerous incidents of police violence, verbal and physical harassment from ordinary citizens, and societal discrimination. The UN Development Program's social vulnerability report, released in July, found that the Romani population continued to live in conditions of extreme poverty with limited access to education and healthcare. The report noted that the situation of Roma in the country remained largely unchanged since aid efforts began.

On February 24, a dozen men attacked the Romani settlement of Beograd Mahala in Nis, breaking windows, throwing stones, and shouting, "Gypsies, you are dead." Police arrested nine people but released them without charges since they were minors. The Minority Rights Center filed criminal charges against the perpetrators for inciting ethnic, racial and religious hatred and intolerance.

In June the Minority Rights Center filed criminal charges against police officers Toncika Jeres, Goran Kukuska, and Mirko Kecman in the Municipal Court Novi Knezevac for abusing a Roma man, Mladen Mikluc on several occasions between May 15 and June 2. Mikluc said the officers refused to come to his aid when he tried to report that a man (Stevica Brzak) was beating him with a baseball bat; when Mikluc went to the police station, the officers and Brzak beat him again.

On November 15, two underage suspects allegedly harassed an 18-year-old Roma youth, pushed him off a public bus and then beat him. Police charged the two suspects with inciting ethnic, racial, and religious hatred and intolerance.

The HLC reported that on August 31, Kosta Brzak, Slobodan Pantelic, and several unidentified persons physically and verbally assaulted three Romani men (Seljatim, Besim, and Ljumni Kolovati) at a Novi Sad flea market. At year's end misdemeanor criminal charges were pending against Brzak and Pantelic.

On July 7, the Belgrade district court upheld a February 28 municipal court judgment ordering the Government to pay approximately \$8,100 (485,000 dinars) compensation to Masimo Marinkovic, a 30-year-old Romani man who was shot by Vladimir Bonifacic, an off-duty employee of the Ministry of Interior in 1998. The municipal court held the Government responsible in the case because Bonifacic was a government employee who had used his service weapon while off duty.

On March 8, the UN Committee on the Elimination of Racial Discrimination (CERD) adopted a decision regarding a 2000 incident in which a Romani man was denied entry to a Belgrade discotheque. CERD found that the Government failed to adequately investigate the petitioner's claim and recommended that the Government provide compensation to the petitioner and take measures to ensure that the police, public prosecutors, and courts properly investigate future complaints of racial discrimination.

Many Roma, including IDPs from Kosovo, lived illegally in squatter settlements that lacked basic services such as schools, medical care, water, and sewage facilities. Some settlements were located on valuable industrial or commercial sites where private owners wanted to resume control; others were on the premises of state-owned enterprises due to be privatized. During the year Belgrade authorities continued to suspend demolition of one settlement on privatized land until they could locate alternative housing for Roma living there.

During the year the City of Belgrade abandoned plans to construct an apartment complex for Roma in New Belgrade due to protests by residents near the prospective site. Residents of Block 45 in New Belgrade blocked traffic for several days and shouted slogans such as "we don't want the Gypsies."

Rivalries between Bosniak political parties in the predominantly Bosniak city of Novi Pazar led to at least one outbreak of low level violence during the year. On April 7, Minister for Local Administration Zoran Loncar dissolved Novi Pazar's democratically elected assembly, sparking fights and some reported assaults.

To address concerns of minorities, the Government operated a hotline for minorities and others concerned about human rights problems. The Government also sponsored school programs to educate children about minority cultures and to promote tolerance.

*Other Societal Abuses and Discrimination.*—Violence and discrimination against homosexuals was a problem. Some NGOs reported that homosexuals were denied equal opportunities in education and employment. A survey by the Youth Initiatives for Human Rights indicated that lesbians, gays, bisexuals, and transgender persons experienced widespread threats, hate speech, verbal assault, and physical violence.

Although the broadcasting law prohibits discrimination on the grounds of sexual orientation, the media carried slurs against homosexuals. On February 26, a high ranking official of the SPS called homosexuality a “social pathology” and “something especially decadent,” and indicated that gays and lesbians should not be allowed in the diplomatic service.

In a poll released during the year by lesbian rights organization Labris, 65 percent of homosexual respondents claimed they had experienced violence due to their sexual orientation. Only ten percent of respondents had reported this violence to the police.

The new criminal code, which entered into force on January 1, included a provision equalizing the age of consent for all types of sexual contact. The previous law maintained a higher age of consent for homosexual sex (18) than for heterosexual sex (14). Under the new law, the age of consent for all types of sexual contact is 14. Activists had complained that the old law unfairly discriminated against the homosexual community.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law and constitution provide the right for workers, except military and police personnel, to join or form unions of their choosing, subject to restrictions, including approval by the Ministry of Labor and a statement from the employer that the union leader is a full-time employee, which reportedly was tantamount to an employer approval requirement. A state-affiliated trade union federation dominated organized labor, due to preference for unions belonging to it by the managements of the state-owned industries that dominated the economy. Smaller federations of independent trade unions competed with the government-affiliated federation, but were successful in doing so primarily in the relatively small proportion of the formal nonagricultural economy that is not state-owned. In the state-owned sector, 60 to 70 percent of workers belonged to unions. In the private sector, only four to six percent were unionized, and in agriculture approximately three percent.

The law does not prohibit antiunion discrimination, but it was not a significant problem during the year.

*b. The Right To Organize and Bargain Collectively.*—The law and constitution allow unions to conduct their activities without interference, and the Government protected this right in practice. The law protects the right to organize and bargain collectively, and it was exercised freely in practice. The new labor law implemented in March 2005 requires collective bargaining agreements for any company with more than 10 employees. However, in order to negotiate with an employer, a union must have 15 percent of company employees as members. In order to negotiate with the Government, a union must have 10 percent of all workforce employees as members. Wage arrears were reported to be substantial and widespread. Approximately 27 percent of the workforce was covered by collective bargaining agreements.

The law and constitution provide for the right to strike except by persons providing essential services such as education, electric power, and postal service. These employees constitute approximately 50 percent of the workforce and must announce planned strikes at least 15 days in advance and ensure that a “minimum level of work” is provided. Workers exercised the right to strike.

Serbia continued to lack a general collective agreement since the previous agreement expired in September 2005. Two representative trade unions (Independence and the Confederation of the Autonomous Trade Unions of Serbia) held over three months of negotiations over a new agreement with members of the Union of Employers. An agreement was reached but never enacted because the Union of Employers’ managing board refused to sign it. In the absence of a general collective agreement, branch and local agreements can be signed based on provisions in the labor law. In the event that there is no union representation at a company, the employer is obligated to set minimum labor standards based on the labor law.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law and constitution prohibit forced and compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws protecting children from exploitation in the workforce. The minimum age for employment is 15, and written parental or guardian permission is needed for employees under 18 years of age. The Labor Law stipulates very specific conditions in which young workers can work and caps the number of work hours at 35 hours per week.

In villages and farming communities, younger children commonly worked in family businesses. Children, particularly Roma, also worked in a variety of unofficial retail jobs, typically washing car windows or selling small items such as newspapers. Romani children were often forced by their families into manual labor, compelled to beg, or trafficked abroad to work in begging or theft rings.

The Labor Inspectorate of the Ministry of Labor, Employment, and Social Issues checked for child labor during its inspections; however, the ministry stated it found no violations during the year. The absence of such violations was most likely the result of limited monitoring capabilities by inspectors. No reliable data existed on the extent of child labor due to the lack of a mechanism to monitor the problem. The ministry also included prevention of child labor in its regular child and family protection programs.

*e. Acceptable Conditions of Work.*—The minimum wage for the period July-December was set by the Social Economic Council at approximately \$150 (8,820 dinars) per month. The minimum wage did not provide a decent standard of living for a worker and family. In companies with a trade union presence, there was generally effective enforcement of the minimum wage. This was not the case in smaller private companies, and workers were often afraid of losing their jobs because many of them were not legally registered. The Labor Inspectorate is responsible for enforcing the minimum wage.

According to figures released in September, the average salary was approximately \$370 (22,259 dinars). The average worker in Serbia earned approximately \$18 (1,060 dinars) per day or \$2.20 (132.5 dinars) per hour. The average salary was not adequate for a worker and family to live comfortably.

The standard workweek of 40 hours was generally followed in state-owned enterprises but not in private companies. The law provides that an employee may not work overtime for more than four hours a day or for more than 240 hours in a calendar year. For an 8-hour workday, one 30-minute break is required. At least 12 hours of break are required between shifts during a workweek, and at least 24 hours of break are required over a weekend.

Collective agreements were the primarily means of providing premium pay for overtime. However, the labor law requires that the premium for overtime work should be at least 26 percent of the salary base, as defined by the relevant collective agreement. Trade unions within a company are the primary agents for enforcing overtime pay; however, the labor inspectorate also has enforcement responsibilities. The inspectorate had mixed results enforcing labor regulation due to a variety of factors, including politics and corruption.

It is mandatory for companies to establish a safety and security unit to implement safety and security regulations; however, in practice these units often focused on rudimentary aspects of safety, such as purchasing soaps and detergents, rather than on providing safety equipment for workers. Workers did not have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment.

## KOSOVO

Kosovo has a population of approximately 2.2 million and is administered by the UN Interim Administrative Mission in Kosovo (UNMIK) pursuant to UN Security Council (US) Resolution 1244 of 1999. UNMIK is led by a special representative of the UN Secretary General in Kosovo (SRSG). UNMIK promulgated regulations that addressed the civil and legal responsibilities of governmental entities and private individuals and ratified laws passed by the Kosovo Assembly. The UNMIK-promulgated Constitutional Framework for Provisional Self-government in Kosovo defines the provisional institutions of self-government (PISG). Multiparty elections in October 2004 for seats in the Kosovo Assembly generally reflected the will of the voters. UNMIK international civilian authorities and a UN-authorized North Atlantic Treaty Organization (NATO) peacekeeping force for Kosovo (KFOR) generally maintained effective control over security forces; however, there were occasional reports

that local elements of the security forces acted independently of their respective authority. During the year, negotiations aimed at settling Kosovo's future status were held under the auspices of the UN Office of the Special Envoy for Kosovo. No decision on Kosovo's status had been reached by year's end.

UNMIK and the PISG generally respected the human rights of residents; however, there were problems in some areas, particularly relating to minority populations. The most serious of these were cases of politically and ethnically motivated killings; death and injuries from unexploded ordnance or landmines; lengthy pre-trial detention and lack of judicial due process; corruption and government interference in the judiciary; societal antipathy against Serbs and the Serbian Orthodox Church; lack of progress in returning internally displaced persons to their homes; corruption in the PISG; violence and discrimination against women; trafficking in persons, particularly girls and women for sexual exploitation; societal violence, abuse, and discrimination against minority communities; societal discrimination against persons with disabilities; abuse and one killing of homosexuals; and child labor in the informal sector. Unexploded ordnance from the 1998–1999 conflict continued to be a concern and caused several deaths or injuries.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that international authorities UNMIK, the PISG, KFOR, or their agents committed unlawful or arbitrary killings; however, local security forces organized under the authority of the PISG committed at least one unlawful or arbitrary killing during the year.

On January 2, Kosovo Protection Service (KPS) special forces officer Albert Markaj killed detainee Besnik Kastrati inside the Pec/Peja police station. The killing was linked to a blood feud between the families of Markaj and Kastrati. In October Markaj was convicted of murder and sentenced to 10 years in prison.

On December 2, Hetem Sadri Rexhaj was killed in police custody in Pec/Peja. No further details were available at year's end, although a KPS professional standards unit investigation was underway.

During the year landmines or unexploded ordnance from the 1998–1999 conflict killed one person and injured ten, compared with two fatalities and three injuries in 2005. Despite some progress on cleanup, unexploded ordnance remained a threat to civilians.

During the year there were at least two killings that may have involved a political motive. On May 2, unknown persons killed Mark Oroshi, the man suspected of killing attorney and Istok/Istog Democratic League of Kosovo (LDK) political activist Shaban Manaj in 2001. Oroshi was released due to lack of evidence. According to police he had been a target for some time. Earlier in the year, Oroshi was injured in a failed assassination attempt. A KPS investigation continued at year's end.

On June 20, a 68-year-old Kosovo Serb, Dragan Popovic, was shot and killed in his home in the ethnically mixed Klina/Kline municipality. Popovic left Kosovo during the 1998–1999 conflict and had returned to Klina/Kline in 2005. Despite some allegations that this killing involved an ethnic motive, no such evidence had emerged and no suspects were apprehended by year's end.

Unlike in previous years, there were no apparently politically motivated killings of police officers.

There were reports of attacks and threats against Kosovo Albanian political and institutional figures (see section 3).

There were no developments in the investigation into the January 2005 killing of UNMIK police officer Omar Ali, who died when a bomb was detonated under his official vehicle.

On March 17, a court dismissed for lack of evidence the case against Tasim Osaj for the April 2005 killing of Enver Haradinaj, brother of former prime minister and Alliance for the Future of Kosovo (AAK) President Ramush Haradinaj. Osaj voluntarily surrendered in July 2005.

The investigation into the August 2005 apparently ethnically motivated killings of Kosovo Serbs Ivan Dejanovic and Aleksander Stankovic in Strpce, which also injured two passengers in their car, was closed on August 7 due to insufficient evidence.

There were no developments in the possibly politically motivated killing of ethnic Turk and Turk Democratic Party of Kosovo member Ibish Cakalli in October 2005. Investigations remained ongoing at year's end.

There were no developments in the following apparently politically motivated killings of Kosovo Albanians in 2005: the January 2005 killing of Sadik Musaj, a witness at the "Dukagjini group" trial; the April 2005 killing of Muhamet Sallaj, a



former Kosovo Liberation Army (KLA) member; the June 2005 drive-by shooting of journalist Bardhyl Ajeti of the Albanian language daily Bota Sot; the July 2005 drive-by killing of Muhamet Xhemajili, former commander of the Liberation Army of Presevo, Medvedje and Bujanovac, an armed Kosovo Albanian group previously active in Serbia's Presevo Valley; the September 2005 car bombing of Kosovo Protection Corps (KPC) and former KLA member Naser Ramaj and his brother Jeton; the October 2005 killing of Hasan Rrustemi, a witness in the war crimes trial of former KLA (and former KPC) Commander Selim Krasniqi.

There were no developments in Kosovo Albanian minor AK's appeal of his June 2005 aggravated murder conviction for the June 2004 killing of 17-year-old Kosovo Serb Dimitrije Popovic and serious injury of another Kosovo Serb teenager in a drive-by shooting in Gracanica.

On September 26, the murder trial of Shkumbin Mehmeti, Florim Ejupi, Xhavit Kosumi, and Faik Shaqiri began before international judges. The four were charged in April 2005 with the killing of a KPS officer and an UNMIK police officer in an ambush on the Podujevo/Podujeve road after the March 2004 riots. Ejupi was also indicted earlier on charges that he and accomplices planned and executed the 2001 Merdare bus bombing near Podujevo/Podujeve that killed 11 Kosovo Serbs and injured 40. A hearing in the latter case remained pending.

There were no developments in the 2004 killing of Avni Elezaj, a former KLA fighter and bodyguard of former prime minister and AAK President Ramush Haradinaj.

On October 18, a special KPS unit apprehended Faton Hajrizi, accused of killing a Russian KFOR soldier in Klina in 2002. Hajrizi had escaped from the Pec/Peja investigative prison during trial in August 2005. He remained in custody at year's end.

On August 4, an international panel of the Prizren District Court found Sali Veseli guilty of criminal association and complicity in aggravated murder for the apparently politically motivated 2000 killing of the director of the Prizren Department of Environment, former KLA member Ekrem Rerxha, known as "Commander Drini," and sentenced him to 15 years' imprisonment. The Supreme Court rejected Veseli's appeal on September 1. The court acquitted codefendant Abit Haziraj of the actual assassination for lack of evidence; the gunman was never identified. Charges against codefendant Xhemali Beqiraj were dropped.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, there were still thousands of persons missing from the 1999 conflict whose remains had not been identified or whereabouts determined.

According to the International Committee for the Red Cross (ICRC), 2,139 persons remained unaccounted for at year's end, compared with 2,464 at the beginning of the year. Of those still unaccounted for, the ICRC reported that approximately 70 percent were Kosovo Albanians and 30 percent were Kosovo Serbs and other minorities.

During the year the UNMIK Office of Missing Persons and Forensics (OMPF) continued to identify the remains of missing persons in Kosovo. Since its establishment in 2002, the office performed 505 field operations and exhumations, 59 of which took place during the year. The remains of over 3,800 missing persons had been recovered and OMPF focused on establishing the identities of the 1,440 sets of human remains discovered in Kosovo and approximately 900 received from Serbia since 2002.

During the year OMPF continued to hold 582 unidentified bodies in the Pristina morgue, of which 414 were exhumed in Kosovo and 168 were transferred unidentified from Serbia. OMPF received 398 positive DNA reports during the year, representing 291 different individuals. OMPF also submitted 262 bone samples for DNA testing to the International Commission on Missing Persons (ICMP), which returned 1,635 results. By year's end, OMPF had completed forensic inspections of all cases transferred from Serbia proper during the year (remains were transferred on March 31 and June 30) and had conducted 425 autopsies.

At year's end OMPF also continued exhumations; it recovered and autopsied 51 bodies from 34 sites. On October 13, OMPF transferred to the Serbian government the remains of 28 Serbs and other ethnic minorities killed in 1998 and discovered in a mass grave in Volljak, Klina/Kline municipality, in 2005.

On June 30, the Serbian government transferred the last sets of identified remains of Kosovo Albanian victims of the 1999 conflict found in mass graves in Serbia. These remains were returned to families for burial. Families of the missing continued to request that the Serbian government provide access to records that might indicate locations of additional mass graves or places where Kosovo Albanian bodies may have been incinerated.

A working group of Kosovo and Serbian officials on missing persons, chaired by the ICRC, met twice during the year under the auspices of the SRSG. Although a special subgroup on forensics was formed in September 2005 and met several times in the first half of the year, it had not yet identified the hundreds of remains still stored in the Orahovac/Rahovec morgue.

Of the 711 cases resolved in 2005, 174 human remains were identified and transferred to the families by August: 45 from Serbia to Kosovo, 112 within Kosovo, and 28 from Kosovo to Serbia. During the year 323 human remains were identified and returned to families: 102 from Serbia to Kosovo, 60 from Kosovo to Serbia, and 161 within Kosovo. The bodies identified during the year included 253 Kosovo Albanians and 70 members of other ethnic groups.

In 2004 the Prizren prosecutor's office announced arrest warrants for two former Kosovo Serb policemen, Goran Janjusevic and Slavisa Milkovic, for committing war crimes against the civilian population in the Prizren region, including the kidnapping and killing of Ardian Zyrmagiu during the 1999 conflict. Both suspects remained at large at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitutional framework and criminal procedure code prohibit such practices; however, there were reports that the PISG engaged in such practices. There were no reports that UNMIK, which is the sovereign authority, or KFOR, which has limited arrest and detention authority, engaged in such practices.

According to media reports, the KPS used force to disperse demonstrations and beat demonstrators while making arrests on a least four occasions during the year. The Self-Determination Movement, a group that opposed the continued UN presence and practiced aggressive and confrontational tactics in advocating immediate and unconditional independence for Kosovo, organized protests during the year, several of which became violent. On May 5, the KPS arrested 22 movement members demonstrating against UNMIK, and the media reported that the KPS beat detainees. An unknown number of demonstrators refused medical treatment at the police station; nine KPS officers were injured in the incident, one seriously. An internal KPS investigation found that the KPS did not use excessive force, and none of demonstrators filed official complaints against the police. On June 9, police again reportedly beat protesters while arresting 91 movement members demonstrating against UNMIK; there was one report that a protestor required surgery to treat his injuries. Police violence was also reported on June 28, when police arrested 85 Self-Determination Movement activists at the Kosovo-Serbia administrative boundary line crossing at Merdare, and 31 movement members in Mitrovica, who were protesting the Serbian prime minister's visit to Kosovo. The Kosovo Assembly and the Government criticized the reported police abuse of Assembly member Emrush Xhemajli, who was arrested in Merdare. Similar KPS beatings of protesters were reported during the movement's August 23 demonstrations at the Kosovo Assembly and UNMIK headquarters. Eight of the 22 were detained for 72 hours.

At a November 28 protest, demonstrators reportedly threw rocks and paint-filled bottles at buildings housing UNMIK and government offices. UNMIK police responded with tear gas but did not intervene further, instead videotaping the incident and later arresting eight people. All were subsequently released. No injuries were reported, and at year's end no serious charges had been brought against the activists.

In an October 2005 letter to the SRSG concerning October 2005 Self-Determination Movement arrests, the Ombudsperson cited eyewitness reports that "many" activists had experienced "severe ill-treatment" during their arrest and statements by persons who had been arrested that the mistreatment continued after they had been taken into custody. The KPS Professional Standards Unit initiated three investigations, one of which was dismissed as unfounded. The other two investigations resulted in discipline against KPS officers involved, each of whom was suspended for 10 days without pay, given mandatory remedial training, and given letters of discipline in their personnel files.

There were developments in the case of six Kosovo Albanian KPC officers arrested for alleged involvement in war crimes committed against Kosovo Albanian civilians in the Drenovac Detention Camp in Prizren between June and October 1998. On July 27, the international investigating judge dropped the charges against Isuf Gashi and Xhavit Elshani. On August 10, the Gjilan District Court acquitted Islam Gashi and convicted former KPC commander general Selim Krasniqi, colonel Bedri Zyberaj, and Agron Krasniqi of war crimes and sentenced each of them to seven years in prison. When Zyberaj and Selim Krasniqi were provisionally released pending their appeals, Kosovo Prime Minister Agim Ceku visited Selim Krasniqi, called the release "a good thing for Kosovo," and declared, "I never stopped believing in their innocence." Both the Belgrade-based Humanitarian Law Center-Kosovo

Branch (HLC) and the Kosovo-based Council for the Defense of Human Rights of Freedoms (CDHRF) criticized the Prime Minister's statement. Later in August, the prosecutor won a Supreme Court appeal of the provisional release, and an order was issued for the rearrest of the men soon thereafter. Zymberaj was apprehended on October 25. At year's end, Selim Krasniqi remained at large.

During the year authorities brought a number of persons to court for crimes related to the March 2004 interethnic riots (see section 5).

*Prison and Detention Center Conditions.*—Prisons and detention centers reportedly met international standards, and UNMIK permitted ICRC visits and monitoring by the Ombudsperson; however, there were allegations of abuses, including sexual abuse, and mistreatment of prisoners during the year. The Government denied prison access to at least one local nongovernmental organization (NGO) during the year.

The Dubrava prison and five detention centers operated during the year, and the construction of a new prison facility continued in Lipljan/Lipjan to alleviate crowding.

UNMIK police corrections officers managed prisons and detention centers, but increasingly transferred responsibilities to the Kosovo Correctional Service (KCS), under the authority of the PISG.

On February 1, the UNMIK Department of Justice Penal Management Division appointed a Kosovo Albanian as KCS commissioner. UNMIK transferred control of Lipljan/Lipjan Prison and all five detention centers to the KCS on February 17. The KCS managed daily operations at the Dubrava prison, with the exception of the 32-prisoner "high risk" section, which remained under international supervision. UNMIK retained authority to take full control of the prison system during emergencies.

The CDHRF reported receiving complaints from prisoners and their families charging abuse and excessive solitary confinement in prison. Authorities did not conduct investigations into these allegations. On June 7, several prisoners went on strike at Dubrava prison, protesting the lack of supplies at the prison canteen. According to CDHRF, prison authorities violated many of the rights granted prisoners by the provisional criminal code, the antidiscrimination law, the juvenile justice code, the education law, and international law.

While the law provides for women and juveniles to be held separately from men, the CDHRF reported that women and juveniles in the Lipljan/Lipjan prison were being held only yards away from men serving sentences for lesser crimes and were harassed by them.

UNMIK reported bringing 60 disciplinary proceedings against members of the 1,650-strong KCS during the year, compared with 35 in 2005. The 17 proceedings that were concluded by October resulted in six dismissals, nine written warnings, and one demotion. Behavior resulting in discipline included administrative violations such as repeated tardiness and fraud (see section 3).

In July the CDHRF was provided full access to monitor KPS police stations. The ICRC visited Kosovo's prisons, although it did not issue any public findings on its visits. In a December policy reversal, the minister of justice decided to allow CDHRF access to the prisons for the first time since 2003, although no such visits took place by year's end. In December, journalists were also allowed to visit both Lipljan/Lipjan and Dubrava prisons for the first time since the 1999 conflict. According to the journalists who visited Dubrava prison, the prisoners with whom they spoke praised prison conditions in the Justice Minister's presence but criticized them in his absence. Dubrava prison held 809 inmates at year's end, below its total capacity of 1,100.

In October the HLC filed suit in Prizren District Court on behalf of Sasa Grkovic, who alleged severe mistreatment while in detention in 2001–2002 before and during his trial on charges of mass murder and torture of civilians. He was acquitted and released after 457 days of imprisonment. There were no developments in the case by year's end.

In January the Council of Europe (COE) noted that it was unclear whether a NATO/KFOR detention facility in Kosovo was open for inspection by its Committee for the Prevention of Torture (CPT). In July the COE and NATO reached agreement to give the CPT full access to NATO/KFOR facilities. In December CPT visited KFOR headquarters to discuss future visits to detention facilities, but no such visits had taken place by year's end.

*d. Arbitrary Arrest or Detention.*—The constitutional framework and criminal procedure code prohibit arbitrary arrest and detention, and UNMIK, KFOR, and the PISG generally observed these prohibitions in practice.

*Role of the Police and Security Apparatus.*—Local security forces included the KPC, a civilian emergency response organization, and the KPS, a local police force which functions under the authority of the SRSG and supervision of UNMIK police. A December 2005 UNMIK regulation established the Ministry of Internal Affairs, which under the constitutional framework is responsible for law enforcement. In March Fatmir Rexhepi was appointed minister and in April KPS became an executive agency under the ministry. UNMIK maintains executive authority over the police, but continued to transfer police authority and functions to the KPS.

An international commissioner of police directed both UNMIK police and the KPS, although in August UNMIK appointed a Kosovo Albanian as deputy commissioner and four Kosovo Albanians as assistant commissioners. Members of ethnic minorities comprised approximately 16 percent of the KPS's 7,200 officers at year's end; 10 percent of KPS officers were Kosovo Serbs. Thirteen percent of KPS officers were female.

Executive authority over the KPS is a reserved power of the SRSG. Day-to-day police operations have been transferred to the KPS in five of the six regions of Kosovo. In those regions, the KPS is responsible for all police services and routine activity. Specialized units on war crimes and ethnically motivated crimes were still primarily staffed by international UN police officers and largely operated independently of the KPS due to the sensitivity of those functions. Units on criminal intelligence and organized crime, including trafficking, were jointly operated. Both the international police and the judiciary have broad discretion to intervene in any particular criminal matter. As a practical matter, most policing duties and responsibilities were in the hands of KPS.

Susceptibility to corruption and government influence remained a problem in the security forces.

On June 28, the PISG Ministry of Internal Affairs and the OSCE Mission in Kosovo inaugurated the Police Inspectorate of Kosovo, a body designed to promote police efficiency and effectiveness, hold police accountable for their actions, and investigate and punish misconduct. The first 20 inspectors reported for duty on July 4, and 24 additional positions were advertised in December. During the year, inspectors began the first phase of their mandate: the audit and inspection of KPS management performance. They focused on efficiency and effectiveness, inspecting six of the 14 functional areas at each regional police headquarters and the central headquarters in Pristina and presenting reports on each. A general report on the inspectorate's 2006 activities was not yet available at year's end.

An UNMIK office of oversight investigated corruption in UNMIK and the criminal justice system. The judicial system generally held the security forces to the same level of accountability as it held the general population.

During the year the KPS professional standards unit, run by UNMIK police, completed 98 disciplinary investigations of KPS officers for participating in or failing to prevent violence in the March 2004 riots. The standards unit determined 53 allegations to be unfounded, suspended 35 officers without pay, referred seven to administrative discipline at the station level, demoted two officers, and fired one.

*Arrest and Detention.*—Police generally made arrests openly using a warrant issued by a judge or prosecutor; however, in some cases, persons were arrested secretly by masked or undercover police officers. By law, arrests must be based on prosecutor orders and arrestees must be brought before a judge within 72 hours. Unlike in previous years, the majority of the year's arrests were carried out by the KPS rather than by UNMIK. According to the CDHRF, the KPS did not abuse the 72-hour rule and generally charged arrestees within six hours or released them. Arrestees have the right to be informed of the reason for their arrest in a language they understand; to remain silent and not answer any questions except those concerning their identity; to obtain free assistance of an interpreter; to obtain defense counsel and to have defense counsel provided if they cannot afford to pay for legal assistance; to receive medical treatment including psychiatric treatment; and to notify a family member. UNMIK police and the KPS generally respected these rights in practice. The law permits bail, confiscation of travel documents, house arrest, and other measures as an alternative to detention on remand, but these were applied in only a handful of cases.

Under extraordinary circumstances, KFOR can arrest and detain individuals without a warrant. The KFOR commander can extend the detention of individuals in 30-day increments without charging them with a crime before a court, provided they were not released by a court. There were no reports that KFOR arrested persons without a warrant during the year.

UNMIK police and the KPS may hold individuals for up to 72 hours without a court order. The court may hold individuals in pretrial detention for 30 days from the day of arrest, but this can be extended by the courts up to a total of 18 months.

The law allows for house arrest, an appeal for detention on remand, and expanded use of bail as alternatives to pretrial detention.

Lengthy detentions, both before and during judicial proceedings, remained a problem. In October 820 persons were being detained on remand, compared to 432 detained serving sentences. The law provides that the judge may impose this extraordinary measure only when ordinary measures, such as house arrest, are insufficient to secure the defendant's presence during the criminal proceedings and enable proper administration of the criminal proceedings. In practice judges used detention on remand routinely, without showing any evidentiary justification.

*e. Denial of Fair Public Trial.*—The constitutional framework provides for an independent judiciary; however, the local judiciary was at times biased and subject to outside influence and did not always provide due process. There were credible reports of corruption in the local judiciary, and the court system was inefficient.

On March 24, a Pec/Peja municipal court panel of three international judges found former judge Gani Kelmendi and a codefendant, Florim Zekaj, guilty of extortion. Florim Zekaj was also found guilty of attempted obstruction of justice. Both were sentenced to three years in prison. The court also prohibited Kelmendi from serving as a judge for five years after his sentence is completed. Kelmendi served as judge in the Municipal Court of Istok/Istog.

Legal authority is held by UNMIK under U.S. Resolution 1244. UNMIK police and justice authorities held executive responsibility for the judicial system but worked with local judges and prosecutors; during the year UNMIK transferred some reserved competencies to the Ministry of Justice, the Ministry of Internal Affairs, and the Kosovo Judicial Council that was established in December 2005. The Serbian government continued to operate an unsanctioned parallel judicial system in Kosovo Serb enclaves and in majority Serb municipalities.

The court system includes a Supreme Court, five district courts including a commercial court, 25 municipal courts, 25 minor offense courts, and an appellate court for minor offenses. In October there were 14 UNMIK-appointed international judges and 11 international prosecutors. The PISG included a central public prosecutor's office, five district prosecutors, and seven municipal prosecutors.

While the law provides that a panel of two professional and three lay judges try serious cases, an UNMIK regulation authorizes international prosecutors to try cases of a sensitive ethnic or political nature, including before a panel of three international judges. International prosecutors initiated 101 cases during the year, and international judges tried five of them, resulting in four convictions.

UNMIK's Judicial Inspection Unit (JIU) monitored judicial performance and made recommendations on discipline and training. The unit has a mandate to audit and evaluate the Kosovo justice system, make recommendations to the Department of Justice for the resolution of systemic problems, conduct investigations into allegations of judicial and prosecutorial misconduct, and present cases of misconduct in disciplinary hearings before the Kosovo Judicial Council. The JIU had processed a total of 1,488 complaints since 2001, including 448 during the year. Of those 448, JIU rejected 221 cases and completed 100 of the 227 investigations it opened. In the majority of investigations (89), JIU found no misconduct. The unit referred six cases to the Judicial Council, which heard three by year's end, dismissing one judge and recommending three for disciplinary action.

A May 2006 Human Rights Watch report on the March 2004 riots cases criticized local and international authorities for failing to hold perpetrators accountable for their crimes. The report pointed to a lack of effective oversight by UNMIK over the judiciary and a failure to adequately develop and support the rule of law in Kosovo, calling impunity, particularly for crimes with a political or ethnic dimension, "rampant."

*Trial Procedures.*—Trials are public, and the law provides for the right of defendants to be present at their trials, to confront witnesses, to see evidence, and to have legal representation, at public expense if necessary; however, these procedures were rarely used in practice. Defendants are presumed innocent until proven guilty and have the right of appeal. Trials are heard by panels consisting of professional and lay judges; there are no jury trials.

The UNMIK-established judicial integration section continued to address judicial system problems that affected minorities. In addition, the Ministry of Justice operated 11 court liaison offices, two of which were created during the year, to assist minority communities in Kosovo Serb-majority areas by accompanying members of minorities to courts, filing documents with courts on their behalf, and providing information and legal assistance to refugees and internally displaced persons (IDPs). In response to past criticism by legal experts and human rights observers of a lack of fairness in criminal trials involving ethnic minorities, international judges and

prosecutors, rather than Kosovo Albanians, tried and prosecuted cases involving Kosovo Serbs.

The KPS established a special investigation team to handle cases related to the March 2004 riots. The team covered the territory of Kosovo and was responsible for preparing dossiers on investigations, which were conducted in cooperation with UNMIK police and international prosecutors. According to the Kosovo Judicial Council, by year's end the 326 charges filed by municipal and district prosecutors for criminal offenses in connection with the riots had resulted in 200 indictments, 48 dismissals, 35 cases transferred from municipal to minor offenses court, and 43 cases suspended, terminated, or otherwise unsolved. Of the 200 indictments, municipal and district prosecutors won convictions in 134 cases, and courts acquitted eight and dismissed 28; 30 cases were pending at year's end (see section 1.a.). International prosecutors and judges handled the most sensitive cases. Of the 31 cases handled by international prosecutors and judges, courts convicted 26 individuals and acquitted one, and four were awaiting trial at year's end.

Kosovo's justice system and the International Criminal Tribunal for the Former Yugoslavia (ICTY) continued to identify and punish perpetrators of war crimes from the 1999 conflict; however, many cases remained unresolved. Supreme Court appeals continued in local courts to adjudicate cases of alleged war crimes and genocide arising from the 1999 conflict. The war crimes case against former KLA (and former KPC) commander Selim Krasniqi concluded during the year (see section 1.c.).

*Political Prisoners and Detainees.*—There were no reports that KFOR, UNMIK, the KPS, or the PISG held political prisoners or detainees during the year.

*Civil Judicial Procedures and Remedies.*—According to an April OSCE report, interference by municipal authorities and the UNMIK Department of Justice hampered judicial independence in civil matters. The OSCE cited instances in which municipal authorities plainly obstructed court proceedings, pressured judges in cases to which authorities were party, and influenced third parties to prevent courts from exercising their authority. OSCE also reported that the justice department instructed judges not to process claims for compensation for property damages caused by KFOR, UNMIK, or the municipalities. The Department of Justice claimed that it did not pursue such compensation claims because the logistical challenges of such claims were insurmountable. It also claimed that an influx of property-related claims would hinder the courts' work, increase its already large backlog of cases, and require special planning and coordination, since it would be necessary to provide security escorts to a large number of Kosovo Serb claimants.

There were no reports of difficulty in enforcing court orders resulting from civil litigation. However, according to one survey, only 14 percent of the pending cases to affect a civil order resulted from civil litigation; 69 percent of such cases dealt with debt collection by utility companies.

*Property Restitution.*—The Kosovo Property Agency was created in March under the PISG as the successor to the UNMIK Housing and Property Directorate. While the directorate only handled claims to residential properties, the new agency is responsible for the resolution of residential, commercial, and agricultural property claims from the Kosovo conflict. By year's end the Kosovo Property Agency had received 7,891 claims: 6,991 for agricultural property, 486 for commercial property, and 506 for residential property. Kosovo Serbs in the northern part of Mitrovica continued to occupy Kosovo Albanian properties, while Kosovo Albanians in the southern part occupied and denied Kosovo Serbs access to their property. The Housing and Property Directorate reported that, by December 31, it had decided a total of 29,159 claims, including all of the 1,250 property claims in northern Mitrovica, Leposaviq/Leposavic, Zubin Potok, and Zvecan. In over half of these cases, the KPA resolved claims by allowing squatters to remain in place with owner permission and directorate administration of the property.

The Kosovo Property Agency administered 5,340 properties, 3,497 of which were held with the permission of claimants whose rights were adjudicated by either the Kosovo Property Agency or the former Housing and Property Directorate. The Kosovo Property Agency administered the remaining 1,843 properties where ownership had not been established. In September the agency began the first phase of a rental program for the residential properties under its administration, providing a mechanism for displaced owners to receive some compensation.

The backlog of property-related claims in municipal courts grew from 17,000 in 2005 to over 47,000 at year's end; these were almost exclusively monetary claims by Kosovo Serbs for war-related damage. A study commissioned by the European Agency for Reconstruction estimated that 11,000 additional claims involving agricultural and commercial property awaited adjudication at the end of 2005. There was no indication that this number decreased during the year.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—UNMIK regulations and the constitutional framework prohibit such actions, and UNMIK, KFOR, and the PISG generally respected these prohibitions in practice. KFOR forces assisted UNMIK civilian police and the KPS in conducting searches for high-risk suspects and independently searched private property for weapons without court orders, based on U.S. Resolution 1244's peacekeeping authority.

## *Section 2. Respect for Civil Liberties*

*a. Freedom of Speech and Press.*—UNMIK regulations and the constitutional framework provide for freedom of speech and of the press, and UNMIK, KFOR, and the PISG generally respected these rights in practice; however, there were allegations that the KPS interfered with freedom of speech and press, and the courts ordered the seizure and sale of the assets of a daily newspaper for not paying its fines, including those for “unbalanced coverage” of the 2004 elections. UNMIK regulations prohibit hate speech and speech that incites ethnic violence, as well as newspaper articles that might encourage criminal activity or violence.

Individuals generally could criticize authorities publicly or privately without reprisal.

During the year the number of daily newspapers reached 10, with nine publishing at year's end. On November 24, authorities closed the Pristina branch of Bota Sot and the newspaper's printing press for failing to pay taxes accumulated since 2000. Three newspapers published weekly and covered current events, and dozens of other periodicals that primarily covered entertainment published throughout the year regularly or irregularly.

According to the Association of Professional Journalists of Kosovo, media outlets' financial difficulties left their editorial independence and journalistic professionalism vulnerable to outside influence and pressure. Some newspapers were financially self-sufficient or operated through aid donations and thus were able to develop editorial policies independent of business and political interests. However other newspapers relied on funding from businesses and political interest groups, who provided such money in exchange for positive coverage. During the year, there were no reports that the PISG or UNMIK pressured or influenced the independent print media.

Print media were self-regulated by a press code of conduct adopted by the Press Council of Kosovo, an organization comprised of print editors and publishers. The council's complaint board may impose fines for breaches of the code of conduct, including penalties of up to \$2,620 (2,000 euros) for serious violations such as hate speech and defamation. During the year the council adjudicated 10 of the 20 complaints filed, but did not impose any fines.

Kosovo had 115 licensed independent broadcast outlets (93 radio and 22 television stations), which were active and expressed a wide variety of views.

International media were allowed to operate freely.

Journalists reported that pressure from powerful politicians resulted in indirect forms of censorship; they refrained from critical investigative reporting out of fear for their personal security. Journalists were occasionally offered financial benefits in exchange for positive reporting or for abandoning an investigation. According to editors, government agencies withdrew regular advertising from newspapers that had published critical coverage of them.

On January 20, the Kosovo Assembly passed a law bringing Kosovo's popular public broadcasting company Radio Television Kosovo (RTK), formerly overseen by UNMIK, under the immediate authority of the assembly. While RTK previously received operating funds out of fees collected by the Kosovo Energy Corporation, the new law placed RTK's budget under the direct control of the Ministry of Finance, a change that observers believed could jeopardize its editorial independence. RTK reported being frequently pressured by the PISG. The new RTK law also provides for regulation of RTK program content and requires that at least 15 percent of RTK program time, including prime time, be dedicated to nonmajority communities in their respective languages on a proportionate basis.

On August 29, the Independent Media Commission replaced UNMIK's temporary media commissioner. The commission is a permanent body overseen by a seven-member governing council that includes two international members. The commission implemented UNMIK regulations and enforced codes of conduct governing broadcast media.

During the year there were several incidents of violence or harassment directed at the media.

On July 18, a security guard at Bota Sot noticed a hand grenade on a sidewalk near the premises of the newspaper. Police responded and a KFOR demining unit performed a controlled explosion of the device.

The RTK received bomb threats during the year, via both telephone and e-mail. Early in the year, the station received a number of threats from a person accusing it of being a mouthpiece for UNMIK and "working for Serbs." On March 17, RTK received an e-mail from an organization calling itself the "Meteoras," threatening to destroy RTK with a bomb at 3:00 p.m. the following day. The e-mail asked RTK to evacuate the building at that time. The threat proved to be false.

On August 23, RTK received another e-mail threat from a group calling itself "Islamic Jihad," related to RTK's publication of Danish cartoons depicting the Prophet Muhammad several months earlier.

On September 14, a KPS officer allegedly assaulted daily Lajm Ekskluzive journalist Enis Velu in the Kosovo Assembly building. The subsequent case against the officer was dismissed as unfounded.

On October 15, two men physically attacked daily Lajm Ekskluzive reporter Bujar Desku over his reporting on the illegal construction of a Mobtel cellular telephone antenna in a village outside Pristina and subsequently made further telephone threats to him as well. In September Infopress reporter Burim Qela received death threats by telephone for reporting on the same issue.

On January 13, the KPS and journalists held a public debate on violence against journalists. Fatos Bytyci, head of the Association of Professional Journalists of Kosovo said that although the violence, which had been increasing, did not seem to be a matter of policy, the police commissioner was not doing enough to prevent it. Since that debate, journalists had occasional altercations with the KPS, but as of October there had been only three such incidents reported to the association, compared to 16 during the same period in 2005.

There were no developments in the investigation of the June 2005 killing of Bota Sot editor Bardhyl Ajeti. A KPS investigation continued at year's end.

In September an internal investigation by the KPS Professional Standards Unit cleared a KPS officer of alleged involvement in the March 2005 assault of RTK reporters Behxhet Begu and Bardh Bekteshi. The two had allegedly parked their car in a restricted hospital/emergency no-parking zone on municipal property in Vucitrn/Vushtrri.

According to election regulations, during political campaigns media must ensure fair and equitable news coverage and access to discussion and debate for all parties; campaign-related reporting must be fair and impartial; and debates must have politically diverse guests and audiences and impartial moderators. In April an international judge ordered daily Bota Sot's assets to be seized and sold to pay a \$85,150 (65,000 euros) fine imposed by court order in December 2005 for unbalanced coverage of the 2004 elections, and an \$10,480 (8,000 euros) fine for a February 2005 failure to ensure accuracy in reporting. A Bota Sot bank account containing \$68,120 (52,000 euros) was frozen pending payment of the fine.

On November 24, the Kosovo tax administration closed Bota Sot for alleged non-payment of \$524,000 (400,000 euros) in taxes; the law allows the tax administration to seize and sell the papers assets after 60 days. At year's end no assets had been seized but the paper was not operating.

*Internet Freedom.*—There were no UNMIK, KFOR, or PISG restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

In a November poll, 19 percent of Kosovars reported that they used the Internet daily.

*Academic Freedom and Cultural Events.*—There were no UNMIK, KFOR, or PISG restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—UNMIK regulations and the constitutional framework provide for freedom of assembly, and UNMIK, KFOR, and the PISG generally respected this right in practice. An UNMIK regulation required that demonstration organizers give 48 hours advance notice for police coordination.

According to media reports, the KPS used force to disperse demonstrations and beat demonstrators while making arrests on at least four occasions during the year (see section 1.c.).

*Freedom of Association.*—UNMIK regulations and the constitutional framework provide for freedom of association, and UNMIK, KFOR, and the PISG generally respected this right in practice.

The OSCE Mission in Kosovo routinely registered political parties under UNMIK auspices, and the Ministry of Public Services registered NGOs.



*c. Freedom of Religion.*—UNMIK regulations and the constitutional framework provide for freedom of religion, and UNMIK and the PISG generally respected this right in practice.

There are no specific licensing regulations for religious groups; however, religious organizations must register as NGOs with UNMIK and the Ministry of Public Services in order to purchase property or receive funding from UNMIK or other international organizations. Religious groups complained that NGO status did not adequately reflect their religious character, and the Protestant Evangelical Church refused to register as an NGO.

In July the assembly passed the Law on Religious Freedom, which the SRSG promulgated in August. The law affirms the right to freedom of expression, conscience and religion to all residents of Kosovo regardless of their religious convictions. It provides for the separation of religious communities from public authorities and for equal rights and obligations to all religious communities, and stipulates that there is no official religion in Kosovo.

Religious identity and ethnicity were closely related. Kosovo Serbs identified with the Serbian Orthodox Church, which influenced their cultural, historical, political, and religious views (see section 5). While significant parts of the Kosovo Albanian community continued to view the Serbian Orthodox Church as a symbol of Serbian nationalism, relations between leaders of the Kosovo Albanian community and the Serbian Orthodox Church improved during the year as PISG officials and political figures met on several occasions with church clergy. In May central and local government officials participated in a landmark interfaith conference held at the Serbian Orthodox Patriarchate in Pec/Peja.

Pursuant to a 2002 law requiring public education institutions to refrain from religious instruction or other activities promoting any specific religion, the Ministry of Education prohibited the wearing of headscarves. The ministry continued to enforce this prohibition, particularly at schools with obligatory uniforms, despite a 2004 opinion issued by the Ombudsperson that the rule should apply only to teachers and school officials, not students. Following mediation by the Ombudsperson, a primary school student dismissed from class in April 2005 for wearing a veil completed her education through correspondence classes and received her diploma during the year.

The Ombudsperson Institution reported that it had received no new complaints of violations of religious rights during the year. In 2005 a male student filed a complaint with the Ombudsperson alleging that he was expelled from school for having a beard; school officials told the Ombudsperson that the student was not expelled but only prevented from returning to class while he wore a beard.

Protestant groups continued to report that they experienced discrimination in media access, particularly by public television station RTK. The Protestant Evangelical Church in Kosovo, Fellowship of the Lord's People, reported that the Decani/Decan municipality, citing negative reaction from local citizens, denied it permission to build a church facility on land the church purchased previously. The church reported that the Ministry of Environment and Spatial Planning upheld the decision in February, and at year's end the case remained pending before the Kosovo Supreme Court.

The Islamic community continued to assert that UNMIK's denial of a radio frequency for an Islamic radio station and the national library's closure of its prayer room constituted violations of religious freedom.

*Societal Abuses and Discrimination.*—During the year there were multiple reports of attacks against Serbian Orthodox clergy and parishioners and vandalism of Serbian Orthodox Churches and church property. During the year the Joint Reconstruction Implementation Commission, composed of the PISG, Serbian Orthodox Church, and international agencies, continued to make progress in restoring churches damaged or destroyed during the March 2004 riots.

On May 6, unknown attackers shot at a car driven by Serbian Orthodox priest Srđan Stankovic in the Zvečan municipality. UNMIK charged a Kosovo Serb KPS officer in connection with the incident. The case was turned over to an international prosecutor and remained pending at year's end.

There were reported incidents of rock-throwing and other assaults against Serb buses and Serbian Orthodox clergy as they traveled outside of their monasteries, and monks and nuns at some monasteries reportedly did not use areas of the monasteries' properties out of concern for their safety.

Security concerns continued to affect the Serb community and its freedom to worship, particularly after the March 2004 riots. Some Kosovo Serbs asserted that they were not able to travel freely to practice their faith. For example, the Decani monastery experienced a decline in attendance at religious services after KFOR stopped

escorting nonclergy parishioners to religious sites in April 2005. Clergy transit vans were also reportedly pelted with stones when traveling through Kosovo.

During the year there were numerous cases of vandalism directed against Serbian Orthodox Church property. For example, on March 15, six tombstones were damaged in a Serbian Orthodox cemetery and a church window was broken in Urosevac/Ferizaj municipality. Three Kosovo Albanian teenagers confessed to the crime. As minors, they faced criminal charges under the Juvenile Justice Code, which permits imprisonment of minors only for criminal acts that carry a penalty of five years or more under the Criminal Code. Because the crime with which they were charged—damaging graves—is punishable by up to one year of imprisonment, the prosecutor sought to impose educational measures on the defendants as permitted under the Juvenile Justice Code. Two of the defendants experienced 15 days of pretrial detention; the three awaited trial at year's end.

On June 9, a landmine was discovered in a Serbian Orthodox cemetery in the predominantly Kosovo Serb village of Staro Gracko, Lipljan/Lipjan municipality. On June 20, church officials reported the disappearances of four crosses from the roof of the Serbian Orthodox Church in Obilic/Obiliq. Three juveniles were arrested, and the crosses were recovered. On August 6, thieves broke into the Serbian Orthodox church in Babin Most, Obilic/Obiliq municipality, stealing several icons and damaging the interior of the church. No suspects were apprehended.

In July 2005 a man attacked a pastor serving in Decani/Decan with the Assemblies of God Protestant Evangelical Church of Kosovo. The pastor underwent surgery for his injuries. The attacker was arrested, fined approximately \$400 (300 euros), and released. Protestants reported the attack, which occurred with members of the KPS present, was possibly motivated by a controversy over church-owned land on which the Protestants have been prevented from building.

Protestants reported harassment and discrimination, including verbal attacks, a lack of Protestant programming on RTK, and incidents of school officials calling in parents of pupils to deter their children from converting to Protestantism. They reported that in July 2005, people in Malisevo/Malisheve municipality, incited by the Islamic community, reacted violently against the showing of the movie "Jesus," although the Protestants had received permission from the municipality, the KPS, and village leadership to screen the film. KPS arrested 20 protesters, some of whom were armed, and helped church members to safety.

Approximately 40 individuals from two families in Prizren had some Jewish roots, but there were no synagogues or Jewish institutions in Kosovo other than a small cemetery in Pristina. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.*—UNMIK regulations and the constitutional framework provide for freedom of movement; however, interethnic tensions and real and perceived security concerns restricted freedom of movement. During the year UNMIK, KFOR, and the PISG generally improved protection of these rights for minority communities.

Sporadic incidents of violence and intimidation targeting minorities continued to limit freedom of movement for Kosovo Albanians in northern Kosovo. The PISG and UNMIK enhanced efforts to facilitate minority travel throughout Kosovo, but real and perceived risks deterred many minorities from traveling outside of their neighborhood.

There were numerous attacks during the year on buses carrying Serbs and other ethnic minorities. For example, on January 3, a KPS-escorted biweekly bus transporting Serbs from Orahovac/Rahovec was stoned in Malishevo/Malisheve. On January 5, a bus traveling from Dragas/Dragash to Belgrade was attacked by a rocket-propelled grenade. Buses carrying Serb returnees from Klina/Kline and Istok/Istog to Mitrovica were stoned by Kosovo Albanian youth in Runik, Srbica/Skenderaj municipality, on several occasions. On August 30, a bus driver reported that a group of Kosovo Albanians stoned his bus while transporting Kosovo Serb children through southern Mitrovica, breaking one window. The stoning of buses was also reported on October 26 in Runik/Rudnik and November 20 in Obilic. No injuries were reported in any of these incidents.

To reduce the risk of attack by making Kosovo Serb and Kosovo Albanian vehicles indistinguishable, UNMIK continued to offer Kosovo license plates at no fee to Kosovo Serbs who had already registered their vehicles in Serbia. However, Kosovo Serbs were reluctant to use the UNMIK-issued plates because doing so limited their ability to travel to Serbia, which did not recognize the UNMIK plates.

There were also incidents targeting infrastructure used by minorities. On June 2, explosives were found under a bridge connecting two Kosovo Serb returnee villages in Klina/Kline municipality. On December 8, an explosion on railroad tracks in

Mihaliq village, Vucitrn/Vushtrri municipality temporarily halted rail service between Kosovo Serb communities in southern Kosovo and areas north of the Ibar River. No suspects were apprehended in either incident.

On September 11, an explosion destroyed the recently reconstructed but yet uninhabited home of a Kosovo Serb returnee and damaged another nearby home in Klina/Kline municipality. The perpetrators were not apprehended.

On August 31, UNMIK and the Ministry of Transportation and Communication signed a memorandum of understanding governing the transfer of competency to provide humanitarian train and bus services to minority communities in Kosovo; since that date the ministry operated the buses. The public transportation strategy developed as part of the transfer provided for the direct participation of an affected community in any decision to change humanitarian transportation services.

UNMIK regulated movement in and out of Kosovo. UNMIK regulations provide that the central civil registry may issue travel documents to any person registered as a habitual resident of Kosovo, and the registry routinely issued such documents in practice. The PISG held managerial and operational responsibility for the registry, while UNMIK retained its overall authority, including for the issuance of UNMIK travel documents and the security of the central registration database.

The law prohibits forced exile, and authorities did not use it.

*Internally Displaced Persons (IDPs).*—According to the Office of the UN High Commissioner for Refugees (UNHCR), some 207,000 persons from Kosovo remained displaced in Serbia and 16,500 in Montenegro as a consequence of the 1999 conflict. Of the 4,100 persons displaced by the March 2004 riots, some 1,300 remained displaced. There were 19,500 persons displaced within Kosovo, almost half of whom were Kosovo Albanians. Few IDPs returned during the year due to uncertainty over Kosovo's future political status, lack of employment opportunities, security concerns, and property disputes. While some international agencies, NGOs, and the PISG continued to organize small-scale return projects, observers criticized the newly created PISG Ministry of Communities and Returns for internal irregularities and delay in the disbursement of PISG funding for return projects. Amidst these criticisms and investigations, returns minister Slavisa Petkovic resigned shortly before year's end. Aside from successes in Klina/Kline and Istok/Istog, municipalities hired staff and devised municipal return strategies with minimal results. On August 3, Pec/Peja municipality decided not to reconstruct any homes in its territory without a statement from the displaced homeowner indicating readiness and intention to return.

On June 6, the Governments of Kosovo and Serbia signed a protocol for cooperation in returning displaced people to Kosovo, including to places other than their primary residence. Discussions on implementation of this agreement continued at year's end.

At the end of December, UNHCR reported that 1,608 members of minority communities returned to Kosovo during the year, including Kosovo Albanians who returned to areas where they are a minority. Overall minority returns since 2000 stood at 16,117 at year's end. A slightly smaller number of Kosovo Serbs returned compared to 2005, when more Roma, Ashkali, Egyptians, and Goranis returned. Kosovo Serbs comprised approximately 31 percent of returnees during the year, compared with 35 percent in 2005. Roma (including Ashkali and Egyptians) continued to return in slightly greater numbers, comprising 54 percent of the overall number of returns. In Mitrovica, Kosovo Serbs in the north of the city and Kosovo Albanians in the south continued to illegally occupy each others' properties, hindering potential returns.

By year's end, the PISG had reconstructed over 97 percent of the homes damaged or destroyed in the March 2004 riots. On December 15, for example, repairs and reconstruction were completed in Svinjare. However, a number of the individuals displaced by the riots still did not return due to both a real and perceived lack of security, unemployment, and residents' complaints about the quality of reconstruction. The prospect for returns varied according to region and ethnic group.

Camp Osterode, a relocation facility in northern Kosovo designed to eventually accommodate approximately 531 Roma, Ashkali, and Egyptian IDPs, opened in March, and 114 households comprising 454 persons moved there from lead-polluted camps during the year. Forty-one households with 172 individuals remained at the polluted Cesmin Lug camp, refusing to move. All persons from Kablar Barracks and Zitkovac camps moved to Osterode, and all existing structures at those two camps were demolished to prevent movement back to lead-polluted areas. On August 30, the World Health Organization (WHO) began treating relocated Roma, Ashkali, and Egyptian children for lead poisoning at the camp.

In 2005 UNMIK also began a concurrent donor funding campaign to rebuild the original Romani settlement in southern Mitrovica, destroyed in 1999 by Kosovo Albanians. In February, the European Roma Rights Center filed a petition with the

European Court of Human Rights (ECHR) in Strasbourg alleging UNMIK violations of Roma rights and requesting immediate action to remove the Roma from the lead-contaminated camps and provide medical treatment. The ECHR subsequently rejected the petition.

Limited funding slowed the return project, but reconstruction of the neighborhood began in May. By year's end, two 12-unit apartment buildings were completed and construction had begun on two more. Another 36 houses (54 housing units) were also nearly complete. The committee for selecting future occupants of the 48 apartments received 93 applications; 31 from Serbia, 27 from Camp Osterode, 18 from Leposaviq/Leposavic municipality, 13 from Montenegro, two from Camp Cesmin Lug, and two from private locations in Mitrovica. The committee selected the occupants. At year's end, the 48 chosen heads of household were waiting to sign a 99-year lease, which was in the process of revision and approval by the UNMIK legal adviser's office.

*Protection of Refugees.*—Kosovo is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. However, Kosovo provides asylum and refugee status under an UNMIK regulation on the movement of persons into and out of Kosovo, whose provisions are compatible with the Convention and Protocol. During the year, UNMIK granted refugee status to two persons.

In practice, UNMIK provided protection against refoulement, the return of persons to a country where they feared persecution. UNMIK cooperated with the UNHCR and other humanitarian organizations in assisting refugees.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

UNMIK regulations and the constitutional framework provide residents with the right to change their government peacefully, and they exercised this right in practice through periodic elections on the basis of universal suffrage.

Kosovo continued to be administered under the civil authority of UNMIK. UNMIK and its chief administrator, the SRSG, established an international civil administration in 1999 following the NATO military campaign that forced the withdrawal of Serbian forces. In 2001 UNMIK promulgated the constitutional framework for the PISG. Under the constitutional framework, a 120-member Kosovo Assembly selects a President, a prime minister, and other ministers and PISG officials. Kosovo's leaders continued to criticize UNMIK for the slow pace of transfer of powers to the PISG, and UNMIK retained a number of competencies under UN Security Council Resolution 1244, including security and relations with foreign governments. In October 2005, a UN report noted that without clarity on future political status, the PISG was unable to take further steps to improve its effectiveness.

*Elections and Political Participation.*—International and domestic observers determined that the October 2004 Kosovo Assembly elections generally reflected the will of the voters, although less than five percent of Kosovo Serbs participated, largely due to Serbian government pressure to boycott. On June 16, the SRSG postponed municipal elections due in November until either June 2007 or six months after the decision on Kosovo's final status, whichever is earlier.

Kosovo has a multiparty system dominated by four Kosovo Albanian parties with several minority parties and coalitions.

Under UNMIK regulations, individuals may nominate themselves as candidates to their parties, which must hold open and transparent internal elections to select candidate lists. Unlike at its 2004 convention, the largest party and senior ruling coalition partner, the LDK, abided by this requirement when it elected a new President at its December 9 party convention. Party affiliation played an important role in access to government services and social and employment opportunities. Traditional social arrangements and clan loyalties also played an important, although unofficial, role in political organizations.

There were numerous reports of politically motivated attacks and threats against Kosovo Albanian political and institutional figures during the year.

In January an unknown person assaulted Ferizaj LDK branch presidency member Ismajl Nazifi, a key witness for Ferizaj Municipal Assembly President Faik Grainca in his lawsuit against former deputy prime minister Adem Salihaj. A KPS investigation continued at year's end.

On July 24, a Kosovo daily newspaper published a threat against the Kosovo negotiating team by the self-proclaimed "Karadaku fighter comrades," warning "that the signing of the current plan on decentralization would be the most fatal signature they have ever given against themselves and the interests of their nation." A KPS investigation continued at year's end.

On September 15, a bomb exploded near the Gnjilane/Gjilan apartment of Kosovo Interior Minister Fatmir Rexhepi, destroying his wife's car. An investigation was ongoing at year's end.

In the four months prior to the December LDK party internal elections, there were 10 explosions, most involving politically relevant targets. Property damage was reported, but no injuries. At the December 9 party convention, several people suffered minor injuries during a fight between those supporting President Sejdiu and those supporting Nexhat Daci.

There were 36 women in the 120-seat Kosovo Assembly. Women must occupy every third spot on each political party's candidate list. There were no female members of the eight-member assembly presidency and only one female minister and one female deputy minister. Women represented 28 percent of the elected municipal representatives. In September 2005, 34 female Kosovo Assembly members established an informal women's caucus with an eight-person, multiethnic board.

There were 22 ethnic minority members in the 120-seat Kosovo Assembly, including 10 Kosovo Serbs and 12 members of other groups, including ethnic Turks, Bosniaks, Gorani, Roma, Ashkali, and Egyptians. There were two minority PISG ministers—one Kosovo Serb and one Bosniak—and three minority deputy ministers. The seat of one Serb minister was kept vacant, as the designated Serb party refused to take the position. One Bosniak and one Kosovo Turk held a rotating seat on the Kosovo Assembly presidency; the boycott by one of the Kosovo Serb parties left empty the eight seats set aside for Kosovo Serbs. At year's end, Kosovo Serbs in the largest Kosovo Serb political party had not claimed their set-aside cabinet posts and continued to boycott assembly votes, although they did participate in committees; members of Slavisa Petkovic's Serb Democratic Party of Kosovo and Metohija took up two of the set-aside seats and led the Ministry of Returns. The constitutional framework requires that the assembly reserve 10 seats for Kosovo Serbs and 10 for members of other ethnic groups, but ethnic minorities were underrepresented at the municipal level where no such provisions govern.

*Government Corruption and Transparency.*—There was a widespread public perception of corruption in both the PISG and UNMIK. A lack of effective judicial oversight and general weakness in the rule of law contributed to corruption in the PISG. As part of its mandate, UNMIK continued to adjudicate many sensitive cases related to corruption and interethnic crimes. During the year 24 people were arrested and one convicted on corruption charges.

On February 28, unknown persons assaulted the independent international auditor general, leaving her with cuts and bruises two months after her arrival in Kosovo and only two days after the release of a critical audit on the Pristina municipality. A KPS investigation continued at year's end.

After assuming office in March, Prime Minister Agim Ceku requested that an independent international auditor undertake an audit of every ministry and municipality. By year's end, the auditor general had issued reports on five municipalities and reports on asset management in six ministries, most of which were critical of government administration, fiscal management, and procurement practices. In October following allegations of corruption and pursuant to a search warrant issued by an international judge, the office of the Ministry of Communities and Returns was searched. In November Prime Minister Ceku dismissed Minister Slavisa Petkovic, a Kosovo Serb, and at year's end prosecutors were continuing to review the reports.

On June 24, the KPS Financial and Corruption Crime Investigation Unit in Pristina arrested Ahmet Alishani, senior advisor to the former assembly speaker Nexhat Daci, on suspicion of fraud and bribery. Alishani was released, then re-arrested in November in connection with the audit of the Kosovo Assembly.

During the year Kosovo Assembly President Kole Berisha ordered an audit on management of the assembly under his predecessor, Nexhat Daci. The audit, presented to assembly members on October 6, reported numerous wrongdoings and mismanagement by the assembly administration, misuse of public funds, and procurement irregularities during Daci's tenure as assembly President. In October Berisha suspended four staff members, and on November 3, the Assembly established an investigation committee on the matter. The committee's investigation was ongoing at year's end. By year's end, three suspects were arrested, including two Assembly officials, and the criminal investigation led by UNMIK's Department of Justice continued. No charges had been brought against Daci himself.

On November 3, an international prosecutor indicted former Director of the Post and Telecommunications of Kosovo Leme Xhema, former divisional manager at Kosovo Trust Agency Roger Reynolds, former director of Norway Invest Mustafa Neziri, and former managing director and chairman of Norway Invest Ronnen Sorensen, in connection with the alleged misuse of \$390,000 (300,000 euros).

On November 29, two finance officers at Dubrava Prison were arrested on charges of abusing their official position and falsifying documents. The two were released on the condition that they not approach witnesses in the case or any employee of the Dubrava Prison finance office. An international staff member who had left the mission was also being investigated. The investigation was ongoing at year's end.

No law provides for access to official UNMIK documents. In 2003 UNMIK promulgated a law on the access to official PISG documents, but the law did not include penalties for failure to comply, and in practice PISG institutions rarely granted access during the year. Institutions failed even to respond to nearly 85 percent (690 of 820) of requests made during the year, according to a Youth Initiative for Human Rights study, and those who did respond most often responded by refusing to provide the requested documents. Furthermore, only six of 318 requests made in the Serbian language were replied to in Serbian as required by law. Although most replies came within the required 15-day window, journalists complained that allowing 15 days effectively meant they could never obtain official documents in time to meet their own publishing deadlines.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. UNMIK, KFOR, and the PISG were occasionally cooperative and responsive to their views.

Authorities did not provide NGOs access to public documents (see section 3) and prohibited one NGO, which formerly visited prisons to report on conditions, from conducting such visits until late December (see section 1.c.).

NGOs complained about the lack of a tax exemption on some items imported into Kosovo; some religious NGOs reported discrimination based on their religious affiliation.

An Ombudsperson Institution was responsible for investigating allegations of government abuses of international human rights laws. While the Ombudsperson office actively issued intervention letters, reports, and recommendations, its recommendations were not always followed by the PISG, local courts, or the KPS. Cases investigated by the office concerned property rights, abuse of official authority, administrative acts or omissions by public authorities, lack of proper investigations into criminal acts, issues involving the length of court proceedings and the execution of court decisions, employment-related disputes, and impunity. The former deputy Ombudsperson Hilmi Jashari served as acting head of the Ombudsperson Institution during the year, following the end of the international Ombudsperson's mandate in December 2005. In February the Ombudsperson's mandate was changed to exclude UNMIK from its purview; a new Human Rights Advisory Panel within UNMIK was established in April and charged with UNMIK oversight.

UNMIK, KFOR, and the PISG generally cooperated with the ICTY. In March 2005 the ICTY indicted then-prime minister Ramush Haradinaj and codefendants Idriz Balaj and Lahi Brahimaj regarding war crimes committed between March and September 1998. In a pretrial conference on October 13, the prosecutor amended the indictment, dropping two counts and adding one. The prosecutor also applied to make further amendments, which the court allowed. At year's end, the final indictment had yet to be submitted or approved.

Societal attitudes occasionally interfered with ICTY investigations. A visit on May 25 by an ICTY criminal defense team to a massacre site in Krusha e Vogel, Prizren municipality, sparked violence by villagers, who claimed they saw two former Serb residents in the convoy. The resulting melee resulted in the injury of over 30 people, including three police officers. The PISG and UNMIK officials criticized the villagers' failure to respect the rule of law, adding that any future visits would be better coordinated and announced in advance. Two activist groups, the Self-Determination Movement and the National Movement for the Liberation of Kosovo, supported the villagers' actions and criticized UNMIK police.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

UNMIK and PISG regulations specifically prohibit discrimination on the basis of race, gender, ethnic origin, disability, or language; however, violence and discrimination against women, persons with disabilities, and ethnic minorities persisted.

*Women.*—Domestic violence against women, including spousal abuse, remained a serious and persistent problem. UNMIK regulations prohibit domestic violence and convictions carry prison terms of six months to five years. When victims did press charges, KPS domestic violence units conducted investigations and transferred cases to prosecutors. According to UNMIK, family loyalties and close-knit communities

and the backlog of cases in both civil and criminal courts added to a low rate of prosecution.

The Center for Protection of Women and Children provided assistance to 81 victims of domestic and sexual violence from April through December, including legal services in 44 cases. The Ministry of Justice Victim Advocate and Assistance Unit was involved in 701 domestic violence cases. The judicial system processed 135 protection orders and opened 213 cases, 116 of which resulted in convictions. Sentences ranged from judicial reprimands to imprisonment. Traditional social attitudes towards women in the male-dominated society contributed to the high level of domestic abuse and low number of reported cases.

There were no governmental agencies dedicated solely to dealing with family violence. Six shelters assisted victims of domestic violence and trafficking, including one run by an international NGO and designed for minors and two that admitted victims of both domestic violence and trafficking. The KPS reported that 66 victims of domestic violence received shelter during the year. Several domestic and international NGOs pursued activities to assist women; however, they were constrained by a tradition of silence concerning domestic violence, sexual abuse, and rape.

During the year, a 24-hour anonymous hotline for reporting domestic abuse operated in Pristina, Gjiilan/Gnjilane, Peje/Pec, Prizren, and Mitrovica. Since 2004 the hotline has assisted 2,573 cases. Victims of domestic violence accounted for 77 percent of the calls and 4 percent of calls were from trafficking victims. The hotline informed callers about their rights, available shelters, and related information.

The KPS training school offered special courses on domestic violence and rape in its curriculum. There were no reports that KPS responded inappropriately to rape or domestic abuse allegations.

UNMIK regulations criminalize rape; however, spousal rape is not specifically addressed. Under the Provisional Criminal Code, rape is punishable by one to 10 years in prison; statutory rape (sexual intercourse with a girl under 14) is punishable by one to five years in prison.

Rape was significantly underreported due to the cultural stigma attached to victims and their families. According to the Ministry of Justice, victim advocates provided services to victims in approximately 82 cases of rape during the year.

The law prohibits prostitution, but prostitution remained prevalent. The UNMIK police trafficking and prostitution investigation unit investigated cases of prostitution and suspected trafficking in persons.

Trafficking in women for the purpose of sexual exploitation was a serious problem (see section 5, Trafficking).

There was no specific law against sexual harassment, which was a common problem. Social awareness of sexual harassment remained low, and few cases were reported.

Women have the same legal rights as men but traditionally have a lower social status, which affected their treatment within the legal system. Despite a lack of legal impediments, relatively few women obtained upper-level management positions in commerce, the KPS, or government. While the number of women with jobs continued to increase, female unemployment remained high at around 70 percent, 10 to 20 percent higher than the rate for men.

Traditional social attitudes toward women resulted in discrimination. In some rural areas, women often had little ability to make decisions involving their children or to exercise control over property. While women and men have an equal legal right to inherit property, family property customarily passes only to men. Ethnic Albanian widows, particularly in rural areas, risked losing custody of their children due to a custom calling for children and property to pass to the deceased father's family, while the widow returns to her birth family.

On May 5, the President of the Skenderaj Education Committee recommended that married women should not be allowed to attend secondary school, explaining that since "they are wives," they should take care of their husbands. The municipal assembly unanimously approved the recommendation.

In October KPS arrested four people, including the parents, for attempting to force a 13-year-old girl to marry an already-married, much older man with four children. The girl was removed to a shelter.

To combat discrimination against women, in 2005 UNMIK integrated anti-discrimination, antitrafficking, and human rights coursework into the legal curriculum at the University of Pristina.

*Children.*—UNMIK and the PISG were generally committed to the welfare and rights of children.

According to a 2004 UN Children's Fund (UNICEF) report, an estimated 40 percent of the population of Kosovo is under the age of 18, and 33 percent of the population is under 15. Kosovo has a very low rate of preschool attendance, with less

than 10 percent of children aged two to five attending. According to the NGO Save the Children, a preschool education law promulgated in March failed to make the preprimary year (for children ages five to six) compulsory or ensure budget allocations to preprimary education. UNMIK regulations require children between the ages of six and 15 to enroll in public school. Primary education is free. UNICEF estimated that 33 percent of the children who enroll in primary school drop out by grade eight and, of those who finish primary school, only 57 percent enroll in secondary education. Some children were forced to leave school early to enter the workforce (see section 6.d.).

According to 2005 statistics, 97.5 percent of Kosovo Albanian and 99 percent of Kosovo Serb children were enrolled in primary school, while only 77 percent of children between the ages of seven and 14 from non-Serb minority communities (Roma, Ashkali, Egyptian, Turkish, Bosniak, Gorani, and others) were in school. UNICEF reported that the lack of facilities for minority education in parts of Kosovo made it difficult for some IDPs to return to their homes.

According to UNICEF, while 52 percent of all children who completed primary education continued to secondary school, only 43 percent of female students continued. The rate of secondary school completion was also lower for Kosovo Albanian girls than for Kosovo Albanian boys or Kosovo Serb girls.

UNMIK regulations require equal conditions for school children and provide the right to native-language public education through secondary level for minority students. Schools teaching in Serbian, Bosnian, and Turkish operated during the year. Both Kosovo Serb and Kosovo Albanian children attended schools with inadequate facilities that lacked basic equipment. A few schools housed both Kosovo Serb and Kosovo Albanian pupils, who studied different curricula and rotated class schedules.

Romani, Ashkali, and Egyptian children attended mixed schools with Kosovo Albanian children but reportedly faced intimidation in some majority Albanian areas. Romani children tended to be disadvantaged by poverty, leading many to start work both at home and in the streets at an early age to contribute to family income. Romani children were also disadvantaged by having to learn another language to attend school since many spoke Romani at home. Some Bosniak children in predominantly Bosniak areas were occasionally able to obtain primary education in their language, but those few outside such areas received instruction in the Albanian language.

The Government provided medical care, and boys and girls had equal access to it. However, the medical care available was generally of a low standard.

A study by UNICEF and the Ministry of Education on the prevalence of violence in schools found that violence against children was condoned. Corporal punishment was an accepted practice in homes and schools. Those who lived far from school reported that they were afraid to travel the distance because of the threat of peer violence. Children reported that persons close to them were perpetrators of violence; that boys were more at risk of physical violence; and girls were more at risk of verbal abuse. Of children ages six to 11, 75 percent perceived the street as the most violent place, 27 percent said the school was the scene of violent events, and 12 percent mentioned the home. Thirty-seven percent of older children considered violence against children in schools to be a widespread phenomenon.

High unemployment and family dislocation resulted in abandonment of newborns. The Ministry of Labor and Social Welfare reported that 1,200 children were either orphaned or abandoned since the end of the 1999 conflict, although the abandonment rate was decreasing, and only 56 children were abandoned between January and October. The children were housed in various residential placements including extended family care, foster care, and community-based homes. However, because domestic adoptions and foster family programs did not keep pace with the rate of abandonment, authorities sometimes housed infants and children in group homes with few caregivers. Children with disabilities were often hidden away without proper care, particularly in rural areas.

During the year the Ministry of Labor and Social Welfare operated 31 social welfare centers that assisted 1,188 orphans, 1,695 delinquent children, 66 abused children, 66 abandoned children, and 388 children with behavioral problems. The ministry also managed foster homes and coordinated with NGOs to place children in temporary shelters. According to the Center for Social Work, 19 abandoned disabled children, ranging from three to 18 years of age, were living in two government-funded community homes under 24-hour care.

Child marriage was reported to occur, especially among the ethnic Romani, Ashkali, Egyptian, and Albanian communities, although UNMIK did not compile statistics on the problem.

Children were trafficked for the purpose of sexual exploitation (see section 5, Trafficking).



Child labor was a serious problem (see section 6.d.).

*Trafficking in Persons.*—UNMIK regulations criminalize trafficking in persons; however, trafficking of women and children remained a serious problem.

Kosovo was a source, transit, and destination point for trafficked persons, and internal trafficking was a growing problem. Victims were women and children trafficked internally or from Eastern Europe, the Balkans, and the former Soviet Union into Kosovo, primarily for sexual exploitation but also for domestic servitude or forced labor in bars and restaurants. Victims were also trafficked through Kosovo to Macedonia, Albania, and countries in Western Europe. During the year, 24 of the 64 persons who were identified as victims of trafficking were repatriated or returned to their community.

According to the KPS and the International Organization for Migration (IOM), trafficking in persons was an increasing problem, and the majority of victims were trafficked from Moldova. IOM records indicate that Moldovan females accounted for 43 percent of trafficking victims, followed by females from Romania (17 percent), Kosovo (16 percent), Ukraine (11 percent), Albania (6 percent), Bulgaria (5 percent) and other countries (3 percent). The KPS reported similar statistics, but their records indicated that 31 percent of the victims were from Kosovo and trafficked internally, putting internally trafficked victims just behind Moldovan victims. The KPS also reported great difficulty in identifying trafficking victims due to their reluctance to come forward and report the crimes to the police. Cultural taboos and the threat of social discrimination caused most internally trafficked victims to remain silent about their experiences. Another difficulty was the inability of the KPS to recruit Kosovo Serb officers for the antitrafficking unit, preventing undercover operations from taking place in northern Kosovo and in Kosovo Serb enclaves.

Trafficking victims worked primarily in the sex industry, mostly in brothels and nightclubs but increasingly in private residences. None reported that they were aware they would be working in the sex industry when they left their homes. Trafficking victims reported that they were regularly subjected to beatings and rape, denied access to health care, and had their travel and identity documents confiscated. Victims were often found in poor health and psychological condition.

UNMIK reported that traffickers often worked as part of a coordinated effort between Kosovo Serb and Kosovo Albanian organized crime elements, and some women were trafficked from or through Serbia into Kosovo. Bar and brothel owners purchased victims from organized crime rings.

Methods of trafficking increased in sophistication. In reaction to an aggressive eradication campaign by local and international authorities, traffickers shifted the commercial sex trade out of public bars and clubs and into private homes, where operations were more difficult to detect. Traffickers increasingly used financial incentives to encourage victims to refuse assistance.

The IOM reported that, of the 538 mainly international victims it has assisted since 1999, 73 percent fell prey to traffickers after accepting a bogus job offer abroad, 4.1 percent claimed to have been kidnapped, and 3.7 percent were promised marriage. In 83 percent of cases, recruiting was through personal common contacts; the recruiter was an acquaintance of the victim in 29 percent of the cases and a friend or family friend in approximately 15 percent. Recruiters were most often female.

Under the Provisional Criminal Code, trafficking is punishable by two to 20 years' imprisonment. Engaging or attempting to engage in trafficking is punishable by two to 12 years' imprisonment, or up to 15 years if the victim is a minor; organizing a group to engage in trafficking is punishable by five to 20 years' imprisonment; facilitating trafficking through negligence is punishable by six months' to five years' imprisonment. A client engaging in sex with a trafficking victim may be sentenced for up to five years, while sex with a trafficked minor carries penalties of up to 10 years' imprisonment. Voluntary prostitution is punished as a minor offense; prostitutes can be punished, but not clients, unless the police can prove that a client knowingly used the services of a trafficking victim. Prostitution constitutes grounds for deportation.

UNMIK and the KPS Section for Investigations of Trafficking in Human Beings worked together on trafficking until May, when the trafficking competency was transferred to the KPS. During the year UNMIK and KPS conducted 157 surveillances and 90 operations, including 38 undercover operations. They also checked 1,303 premises suspected of being used for trafficking in persons and prostitution and closed 22 business establishments used for trafficking. During the year UNMIK and KPS arrested 36 people for trafficking, 21 for pimping, 12 for prostitution, and 28 on trafficking-related charges such as illegal weapons possession and counterfeiting. They also identified 64 trafficking victims, 51 of whom received needed assistance, including safe accommodation, counseling, and professional training for re-

turn and social reintegration. At least one shelter provided medical care pursuant to its agreements with health care providers. The prosecutor's office filed 15 cases of trafficking in persons; 29 additional cases from previous years remained open. Fourteen of these 44 cases were completed, resulting in 12 convictions of 18 defendants.

Factors that contributed to a low number of prosecutions included the increasing sophistication of organized crime efforts to avoid direct links between the victims and senior crime figures, the lack of a witness protection program (although means were employed to provide anonymity during trial testimony), reluctance of victims to cooperate with authorities, inadequate training for judicial personnel, and failure of police to adapt to new techniques employed by traffickers.

UNMIK regulations provide a defense for trafficking victims against criminal charges of prostitution and illegal border crossing. In the past, local judges sometimes incorrectly sentenced trafficking victims to prison or wrongly issued deportation orders against women convicted of prostitution or lack of documents. Unlike in previous years, there were no reports of these practices occurring during the year.

UNMIK, the KPS, the border police, the OSCE, the Office of Good Governance, prosecutors, judges, and the ministries of health, education, public services, and labor and social welfare shared responsibility for combating trafficking. NGOs and international organizations, particularly the IOM, handled protection and prevention-related antitrafficking activities. The PISG, in cooperation with NGOs, international organizations, and foreign governments, continued to implement the Kosovo Action Plan to Combat Trafficking in Human Beings, which was launched in May 2005. Activities included a prevention campaign during part of the year, as well as the launch of an antitrafficking Web site and campaigns against trafficking in children and young girls. Authorities also initiated a network of young human rights and antitrafficking "ambassadors." After receiving training, these "ambassadors" began touring Kosovo and hosting debates on human rights and trafficking issues.

The IOM assisted 54 victims of trafficking during the year, 30 of whom were from Kosovo. More than half of the victims from Kosovo were minors (17 cases), and 29 were internally trafficked. The current reporting period was the first year in which IOM assisted more local than foreign trafficking victims. Of the victims from outside Kosovo that the IOM has assisted since 1999, over 50 percent were from Moldova, 20 percent from Romania, 13 percent from Ukraine, and the rest from Bulgaria, Albania, Russia, Serbia, Montenegro, Slovakia, and Nigeria. The majority of these victims were between the ages of 18 and 24 years. IOM figures indicated that 77 percent of Kosovo victims were internally trafficked, while approximately 10 percent were trafficked to Macedonia, and 5 percent each to Albania and Italy.

The overall number of trafficking cases involving minors increased from 2005. While none of the foreign victims of trafficking IOM assisted during the year were minors, about 57 percent of the local victims IOM assisted were minors. Children and young girls from rural areas made up 54 percent of trafficking victims. Children and young girls from backgrounds with a high level of poverty, unemployment, and illiteracy were particularly at risk of being trafficked. The IOM reported that 11 percent of local victims were not enrolled in school; 35 percent had only finished primary school (fifth grade); 47 percent had finished elementary school (ninth grade); 6 percent had completed secondary education (high school); and 1 percent had gone to university.

There was anecdotal evidence during the year that a complex set of financial relationships and kinship ties existed between political leaders and organized crime networks that had financial interests in trafficking. Unlike in previous years, there were no reports that the same lawyer represented an accused trafficker as well as the victim.

In May the antitrafficking competency was transferred from UNMIK Police to the KPS. The number of bar/restaurant checks increased dramatically following the KPS assumption of authority, and the number of premises closed increased slightly.

There were a number of arrests and police actions against traffickers during the year. For example, in August Kosovo daily *Koha Ditore* reported the killing of a trafficking victim who had been arrested in a Gnjilane/Gjilan motel and deported to Albania on June 26. According to the KPS, the woman did not admit to being a trafficking victim and was deported because she had entered Kosovo illegally. The Albanian interior ministry reported that the victim's boyfriend, Urim Jahja, killed her in her apartment in the Albanian village of Shengjin on August 22 because of an alleged debt. The Albanian investigation revealed that the victim was deceived by another Albanian woman who found her a dishwashing job in Tirana and later moved her to a cafe in Kosovo. The woman kept the victim's wages, which she justi-

fied as repayment for finding her the job. She also refused to allow the victim to contact her mother for three to four months. Jahja later committed suicide.

On October 5, KPS officers raided a nightclub in suburban Pristina and arrested five local men and two Moldovan women on suspicion of trafficking. Police recovered six other Moldovan women as possible trafficking victims. The following day, the KPS ordered the six women arrested for hiding the act of human trafficking and recruiting other females for prostitution in cooperation with the nightclub's owners and workers. According to the KPS, the prosecutors later dropped the charges and released the women, who have since gone back to work at the nightclub. One of the men was released a month later due to a lack of evidence. Of the four men awaiting trial on trafficking charges, two remained in pretrial detention at year's end.

On October 9, KPS arrested two Kosovo Albanian males on the Pristina-Urosevac/Ferizaj road for trafficking two female Kosovo Albanian minors. KPS later arrested and detained four women in connection with the crime. A warrant was issued for the arrest of a third man, who was believed to be outside of Kosovo. Trials of those arrested were underway in the Pristina District Court at year's end.

International and local NGOs were the main source of assistance to trafficking victims. Local NGOs, such as the Center for Protection of Victims and Prevention of Trafficking in Humans and the Center for Protection of Women and Children, operated shelters that provided medical care and psychological counseling services to trafficking victims in cooperation with UNMIK, the OSCE, and the IOM. The NGO Hope and Homes for Children operated a shelter for child victims of trafficking, and the Ministry of Labor and Social Welfare, in cooperation with UNMIK and the OSCE, ran a semi-independent group housing unit for minors who were victims of trafficking and domestic violence. Some domestic violence shelters, such as Liria in Gnjilane/Gjilan, offered short-term shelter and referral services to low security risk victims. A Ministry of Justice-run interim facility also provided temporary shelter to victims while they considered whether to be repatriated or to testify against traffickers. Police often referred suspected trafficking victims to the IOM through OSCE regional officers.

*Persons With Disabilities.*—Several UNMIK regulations prohibit discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services; however, there was considerable discrimination in practice, and the rights of persons with disabilities were not a PISG priority.

According to the local disability rights NGO HandiKos, the laws relating to persons with disabilities were not adequately implemented. As a result, children with disabilities were often excluded from educational opportunities, were not professionally evaluated, and lacked sufficient health and social services. There were no special legal protections for children with disabilities, as the Council on Economy and Finances claimed that it did not have sufficient funding to support such programs. There was no law defining the status of persons with disabilities, nor was there provision for their training or employment. There were no guardianship laws with appropriate due process protections, and the regulations did not recognize the placement of individuals with mental disabilities in institutions as a legal issue separate from the issue of involuntary treatment. The law mandates access to official buildings; however, it was not enforced in practice.

According to the NGO Mental Disability Rights International (MDRI), patients with mental disabilities continued to be detained in isolated conditions with no legal basis, since there is no law to regulate the process of committing persons to psychiatric or social care facilities or to protect rights within institutions. On occasion individuals in need of mental health treatment were convicted of fabricated or petty crimes and sent to prisons that lacked resources for adequate treatment.

On April 26, the Prime Minister established the National Council on Disabled People (NCDP) as an advisory organization to government authorities and the Kosovo Assembly. The NCDP has two co-chairs: the Prime Minister and NGO HandiKos director Halit Ferizi. During the year they established an NCDP secretariat to draft legal instruments, but by year's end the NCDP had not yet become fully operational.

By year's end, neither UNMIK nor the PISG had filed criminal charges or taken other legal action in response to a 2002 report by MDRI that found extensive evidence of physical abuse, sexual assault, neglect, and arbitrary detention by staff and patients in mental health care facilities at the Shtimje Institute, the Pristina Elderly Home, and the Pristina University Hospital.

The ministries of education, health, social welfare, and public services were responsible for protecting the rights of persons with disabilities.

According to the WHO, there were an estimated 14,000 persons with mental disabilities. In December 2004 MDRI reported that institutional care of persons with

mental disabilities left them isolated, arbitrarily detained, and vulnerable to physical violence and sexual abuse (see section 1.c.). In 2005 the PISG expanded options for independent living by such persons and spent \$157,000 to \$262,000 (120,000 to 200,000 euros) each on 14 integration homes endorsed by MDRI. According to a September draft WHO report, there were not enough facilities to provide care for persons with mental disabilities, and employment opportunities for persons with mental disabilities were limited. The CDHRF reported that prisoners with mental disabilities were often kept in prison facilities because of a lack of available mental health treatment.

*National/Racial/Ethnic Minorities.*—Official and societal discrimination persisted against Kosovo's ethnic Serb, Roma, Ashkali, and Egyptian communities with respect to employment, social services, language use, freedom of movement, the right to return, and other basic rights, although reports of such discrimination declined compared to 2005. Members of the Bosniak and Gorani communities also complained of discrimination. During the year violence and other crimes directed at minorities and their property lessened but remained a problem. Minority employment in the PISG continued to be low and was generally confined to lower levels of the Government; members of minorities occupied 11 percent of government jobs despite a PISG target of more than 16 percent.

As of October, 61 cases of interethnic crime were reported; 51 involved Serbs as victims or suspects. At year's end, 24 cases remained under investigation by police and 37 cases were referred to the courts. According to UNMIK, incidents targeting minorities were generally underreported due to distrust of the KPS and the legal system, much of which stemmed from the low rate of successful criminal investigations, prosecutions, and convictions.

Violence against Kosovo Serbs was usually investigated by the international police unit, a unit composed of UN international police officers within the KPS that reports directly to the police commissioner, who is also an international staff member.

There were multiple reports of violence against Kosovo Serbs during the year. For example, on March 28, two Kosovo Albanian youths stabbed a Kosovo Serb youth near the main bridge in northern Mitrovica. Two people were arrested, but charges were later dropped when the victim declined to press charges. The international police unit investigation continued at year's end.

On June 8, unknown persons fired gunshots at the homes of Kosovo Serb returnees in Llug village in Istok/Istog. The Kosovo Albanian mayor condemned the incident and the Kosovo Albanian deputy mayor visited the families. The KPS arrested one person, and the case was in progress in at year's end.

On August 26, 16-year-old Kosovo Albanian male "AD" reportedly threw an explosive device at the entrance of the Dolce Vita Cafe in northern Mitrovica, injuring nine people (including seven Kosovo Serbs, one Bosniak and one British national). AD was arrested, arraigned, and provisionally released due to a medical condition. The international prosecutor filed an indictment in the case on December 15, and AD remained under house arrest at year's end.

On December 8, KPS and media reported an explosion on the Frenku Bridge in Mahiliq village, in Vucitrn/Vushtrri municipality. The explosion damaged railroad tracks, disrupting rail traffic on a line frequently used by Kosovo Serbs, who claimed that it was one of the safest ways for them to travel between Serb enclaves south of the Ibar and Serb majority areas in northern Kosovo. No injuries were reported.

During the year there were no developments in the following cases: the February 2005 bombing of Kosovo Serb leader Oliver Ivanovic's official vehicle; the July 2005 incident in which an unidentified person threw a hand grenade into the Zubin Potok offices of Slavisa Petkovic's Serbian Democratic Party for Kosovo and Metohija, the only Kosovo Serb party that participated in Kosovo institutions; and the September 2005 incident in which four Kosovo Serb youths were shot (and two subsequently died) while driving in Strpce/Shterpce. International police unit investigations continued at year's end.

There were cases of Kosovo Albanians destroying private property belonging to Kosovo Serbs; some cases of violence against Serbs may have been attempts to force them to sell their property. An UNMIK regulation prevents the wholesale buy-out of many Kosovo Serb communities in an effort to prevent the intimidation of minority property owners in certain areas; however, it was rarely enforced. There were reports that Kosovo Serbs had difficulty accessing their property, which was sometimes occupied or used by Kosovo Albanians. In some cases, Kosovo Serb property was reportedly sold by persons falsely claiming to be their attorneys and presenting forged documents in court; in situations where the rightful owners did not live in Kosovo, such fraud went undiscovered for months.

On June 6, in response to several unsolved crimes against Kosovo Serbs, Kosovo Serb National Council leader Marko Jaksic told media that the northern municipalities of Zvecan, Mitrovica, Zubin Potok, and Leposavic/Leposaviq had unanimously decided to suspend their relations with PISG. The crimes included the May 6 incident wherein Serbian Orthodox priest Srdjan Stankovic was shot at while driving in his car (he was not injured), for which UNMIK police suspect a 29-year-old Serb member of KPS; the May 11 wounding of Jovan Milosevic and Jablan Jevtic during an armed robbery gas station burglary in north Mitrovica; and the June 1 killing of Kosovo Serb Miljan Veskovic in Zvecan. Despite subsequent evidence, arrests, and clear statements by UNMIK and KPS officials that these crimes were not ethnically motivated, these three northern municipalities had not resumed relations with the PISG by year's end.

UNMIK police analyzed 1,408 Kosovo Serb convoys escorted by the KPS from January to early May. There were six incidents of stone throwing at the convoys, and police made five arrests in those cases.

There were new developments in the cases of several persons detained on suspicion of organizing or leading the March 2004 riots. In March 2005 the investigation of Vucitrn/Vushtrri KLA war veterans association chairman Salih Salihu was discontinued due to insufficient evidence. In March 2005 KPC reserve commander Naser Shatri was convicted of participation in a crowd that committed violence and given a six-month suspended sentence. In April 2005 Pec/Peja KLA war veterans association chairman Nexhmi Lajci was convicted of unauthorized ownership, control, and possession or use of weapons and fined \$393 (300 euros). The investigation of Gnjilane/Gjilan KLA war veterans association chairman Shaqir Shaqiri remained ongoing at year's end.

In August the KPS arrested five Kosovo Albanians from the Kosovo Polje/Fushe Kosove and Obilic/Obiliq municipalities, charging them with organizing and participating in the March 2004 riots. On August 25, the court sentenced the men to 30 days' detention, and the investigation continued. The five were also accused of burning several buildings during the riots.

On November 27, the trial began in the case of Esmin Hamza and "AK" in connection with arsons in Prizren during the March 2004 riots. The two Kosovo Albanian defendants were allegedly members of the mob and were charged with inciting inter-ethnic hatred and causing damage to property. The trial panel was composed of two international judges and one local judge. The defendants were not in custody, and the trial was ongoing at year's end.

On December 14, police arrested Zlyhaje Avdullahu, a.k.a. "Kiki," for crimes committed in Kosovo Polje/Fushe Kosova during the March 2004 riots. Avdullahu was allegedly part of a Kosovo Albanian mob that broke into, looted, and burned Kosovo Serb homes and attacked Kosovo Serbs in Kosovo Polje/Fushe Kosova. On December 17, an international judge conducted a pretrial detention hearing against the defendant, authorizing her detention through the end of the year.

As of October, the PISG had reconstructed more than 97 percent (871 of 897) of the houses damaged or destroyed in March 2004, and church reconstruction was ongoing (see section 2.c.). According to the Ministry of Culture, of the 26 houses not yet reconstructed, 23 remained unfinished due to security concerns in north Mitrovica, and the owners of the other three refused to have their homes reconstructed. On May 11, following complaints about the quality of the reconstruction, the Government established a five-member complaint review commission, but no decisions had been made as of October.

There were reports of politically motivated violence against non-Serb minorities during the year. On August 22, a small group of Kosovo Albanians assaulted former resident and Kosovo Montenegrin IDP Vuko Danilovic in front of several IDP children he had accompanied back to Kosovo so they could participate in a multiethnic summer camp at Decani Monastery. The KPS later arrested a Kosovo Albanian youth, but he was released when the victim could not identify him. The KPS investigation continued at year's end.

On October 2, the home of a Gorani representative of Belgrade's Coordination Center for Kosovo and Metohija was seriously damaged by a bomb blast. KPS arrested one person and the investigation continued at year's end.

Roma lived in dire poverty, and anti-Roma bias was a hallmark of Kosovo society. In 1999 Kosovo Albanians, viewing Roma as Serb collaborators, burned the Romani settlement in southern Mitrovica. As a result the settlement's approximately 8,000 former residents continued to live in camps for displaced persons in northern Mitrovica. During the year most of the Romani IDPs living in lead-contaminated camps were moved to alternative facilities and were being treated for lead poisoning (see section 2.d.).

Roma were subject to pervasive social and economic discrimination; often lacked access to basic hygiene, medical care, and education; and were heavily dependent on humanitarian aid for survival. Although there were some successful efforts to resettle Roma, Ashkali, and Egyptians in the homes they occupied prior to the 1999 conflict in Vucitrn/Vushtrri, security concerns remained.

Bosniak leaders complained that thousands of their community members had left Kosovo because of discrimination and the lack of economic opportunities.

The PISG and UNMIK took some steps during the year to improve conditions for ethnic minorities. In September the Kosovo Assembly passed a language law, making Serbian the second official language in Kosovo and setting a 5 percent threshold for making a language spoken by an ethnic minority official in a municipality. The law provides that Turkish will continue to be the third official language in Prizren regardless of the percentage of the Turkish population in the municipality.

*Other Societal Abuses and Discrimination.*—The law prohibits discrimination based on sexual orientation; however, the law was not applied during the year.

Traditional societal attitudes about homosexuality intimidated most gays and lesbians into concealing their sexual orientation. Gays and lesbians generally felt insecure, with many reporting threats to their personal safety. The print media previously reinforced these attitudes by publishing without retraction negative articles about homosexuality that characterized gays and lesbians as mentally ill and prone to sexually assaulting children. Individual homosexuals also reported job discrimination. At least one political party, the Islamic-oriented Justice Party, included a condemnation of homosexuality in its political platform.

In December 2005 local media reported that KPS officers and a treating physician verbally abused and mistreated two young gay men after an unknown assailant had attacked them with a knife near Pristina. The KPS briefly suspended two officers without pay pending investigation. The officers subsequently received minor reprimands and were reinstated. In January, police commissioner Kai Vittrup transferred KPS spokesperson Refki Morina out of the KPS press office following the December incident, after Morina stated, incorrectly, that homosexuality was punishable under the criminal code.

On January 6, an unknown person attacked two members of the Center for Social Emancipation, an advocacy group for the gay community. Upon learning they were homosexual, the KPS reportedly treated the victims as criminals and failed to arrest the perpetrator. KPS took the victims to the Pristina University Hospital, where the treating doctor reportedly called them “sick people.”

On March 25, a group of seven men physically assaulted and verbally abused a 30-year-old man for being a homosexual. Although he reported the incident to the KPS, which in turn submitted it to the Serious Crimes Unit, the victim ultimately decided to drop the charges due to pressure from the main attacker’s family. The district court prosecutor continued with the prosecution, and the court eventually convicted two perpetrators and sentenced them to six months in prison.

On March 28 in Pristina, unknown persons severely beat two men whom they observed engaging in homosexual sex. One of the men later died at the hospital of his injuries. The Center for Social Emancipation, a local NGO promoting lesbian, gay, bisexual, and transgender rights, criticized police for treating the case as a robbery rather than as a hate crime. An investigation was continuing at year’s end.

On September 26, Ferid Agani, a psychiatrist and Kosovo Assembly member from the Justice Party, wrote an article in a local newspaper in which he referred to homosexuality as a “serious psychiatric disorder” that went against “human nature.” Two local human rights organizations, the Youth Initiative for Human Rights and the Center for Social Emancipation, called on Agani and the newspaper to issue a public apology; neither did so.

#### *Section 6. Worker Rights*

*a. Right of Association.*—UNMIK regulations allow workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice.

The only significant union, the Association of Independent Trade Unions of Kosovo (BSPK), claimed over 120,000 members; only 50,000 of its members (approximately 10 percent of the workforce) were employed. UNMIK regulations prohibit antiunion discrimination; however, some union officials reported discrimination in practice. The BSPK reported that only a small number of companies respected the regulation preventing antiunion discrimination and claimed that worker rights were abused in every sector, including international organizations, where staff did not have security insurance or pensions.

*b. The Right To Organize and Bargain Collectively.*—UNMIK regulations allow unions to conduct their activities without interference, and UNMIK protected this right in practice. UNMIK regulations also provide for the right to organize and bargain collectively without interference, and the Government did not restrict this right in practice; however, collective bargaining took place on only one occasion. UNMIK regulations do not recognize the right to strike; however, strikes were not prohibited in practice, and strikes occurred during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—UNMIK regulations prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—UNMIK regulations and policies prohibit exploitation of children in the workplace, including a prohibition of forced or compulsory labor; however, UNMIK and the PISG rarely challenged these practices when they occurred.

UNMIK regulations set the minimum age for employment at age 16 and at age 18 for any work likely to jeopardize the health, safety, or morals of a young person, but they permit children to work at age 15, provided it is not harmful or prejudicial to school attendance.

In villages and farming communities, younger children typically worked to assist their families. Urban children often worked in a variety of unofficial retail jobs, such as washing car windows or selling newspapers, cigarettes, and phone cards on the street; the numbers of such children grew relative to 2005, although statistics were not kept by either UNMIK or the PISG. According to the Ministry of Labor and Social Welfare, the PISG still lacked plans to tackle this common form of informal child labor. Some children were also engaged in physical labor, such as transporting goods. The CDHRF reported observing serious labor violations during the year, including child labor.

Trafficking of children was also a serious problem, primarily for sexual exploitation (see section 5).

The Ministry for Labor and Social Welfare, in cooperation with UNMIK, coordinated child protection policies, and the ministry's department of social welfare had responsibility for ensuring the protection of children; however, the ministry acted in an advisory rather than enforcement role, and conducted very few inspections during the year.

*e. Acceptable Conditions of Work.*—Although UNMIK regulations provide for a minimum wage, one has not been adopted. While many international agencies and NGOs paid adequate wages, the average full-time monthly public sector wage of \$198 (151 euros) and the average private sector wage of \$272 (208 euros) were inadequate to provide a decent standard of living for a worker and family. Public sector salaries remained subject to an IMF-ordered freeze and had not risen since 2003.

UNMIK regulations provide for a standard 40-hour work week; require rest periods; limit the number of regular hours worked to 12 hours per day, overtime to 20 hours per week and 40 hours per month; require payment of a premium for overtime work; and prohibit excessive compulsory overtime. Employers often failed to implement these regulations due to the high underemployment and unemployment in Kosovo.

The CDHRF reported observing serious labor violations during the year, including lack of a standard work week and compulsory and unpaid overtime; employees did not report such violations due to fear of reprisals. According to CDHRF, many private sector employees worked long hours as at-will employees without employment contracts, regular pay, or pension contributions paid on their behalf. Employees reported being fired without cause and in violation of existing laws and being denied holidays. CDHRF reported that sexual abuse occurred on the job but went unreported due to fear of expulsion and/or physical retaliation. According to CDHRF, workers in the public sector commonly faced similar mistreatment.

A labor inspectorate within the Ministry of Labor and Social Welfare is responsible for enforcing labor standards. However, the inspectorate primarily advised employers, and although four fines were issued during the year for violation of the standards, they were not paid pending litigation.

The labor inspectorate was responsible for enforcing health and safety standards but lacked trained staff and did not do so effectively. The law does not permit employees to remove themselves from dangerous workplaces without jeopardizing their continued employment.

[1] The report on Serbia is divided into two sections; the first addresses the human rights situations in Serbia and the second addresses the situation in Kosovo.

For purposes of this report, Kosovo's population of 2.2 million is not included as part of Serbia's population.

## SLOVAK REPUBLIC

The Slovak Republic, with a population of approximately 5.4 million, is a multiparty parliamentary democracy led by a prime minister and a 150-member Narodna Rada (National Council). The head of government, Prime Minister Robert Fico of the Smer (Direction-Social Democracy) Party, was elected for a four-year term in June. President Ivan Gasparovic serves as head of state and was elected for a five-year term in 2004. Both elections were free and fair. Six political parties, three of which comprise the governing coalition, sit in the National Council. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Notable human rights problems included lengthy pretrial detention; restrictions on freedom of religion; corruption in the judiciary, local government, and the health sector; violence against women and children; trafficking in persons; and societal discrimination and violence against Roma. The overall human rights situation did not significantly change during the year; however, a report was released that noted mistreatment of persons, particularly Roma, by police that occurred in recent years.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

In the case of seven police officers charged with inhuman and degrading treatment in connection with the 2001 death of a Romani man in police custody, a new regional court judge reviewed the proceedings when the original judge in the case departed for another position in May 2005. The trial had not begun by year's end. The accused, who were dismissed from the police force, were not in detention.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and the law prohibit torture and other cruel, inhuman, and degrading treatment or punishment, and the Government generally respected these provisions in practice.

In February-March 2005, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the country, inspecting police stations, prisons, social services homes and, for the first time, psychiatric establishments. The CPT's report on the visit, which was publicly released on February 2, noted that the committee received a significant amount of information indicating mistreatment of detainees by law enforcement agencies. The types of mistreatment alleged consisted mainly of slaps, punches and kicks, or blows with hard objects such as batons. Some persons claimed they had been struck with pistol butts, flashlights, or plastic bottles filled with water. In a notable proportion of these cases the victims were Roma.

In one example, a prisoner alleged that, at the time of his apprehension in 2004, police in Kosice punched him in the face and struck him on the back with a flashlight after he obeyed a police order to stand with his hands pressed against a wall. He also alleged he was beaten during his transport to the police station and thereafter. The prisoner's medical file at the Kosice Prison, recording his examination four days later, noted that he displayed "a hematoma above the left scapula the size of the whole shoulder blade and hematoma under the lower right eyelid."

Published at the same time as the CPT's report, the Government response noted that an internal investigation into the complaint was dismissed as unsubstantiated and the detainee did not file an appeal upon notification of the dismissal. In its response to the report, the Government listed extensive internal control procedures as safeguards against mistreatment and in investigating such allegations. The response disagreed with CPT observations that, in practice, not all safeguards were implemented in all cases.

Nongovernmental organization (NGO) sources and members of the Romani community cited a continuing, though lessening, trend of mistreatment of Romani suspects by police officers during arrest and while in police custody. The CPT report noted that a significant proportion of cases of alleged police mistreatment examined



involved Roma. The Government refuted the committee's assertion with the explanation that, "to prevent discrimination," authorities did not ascertain the ethnic origin of alleged victims of police abuse. While the law prevents the recording of an individual's ethnicity in official documents, observers with experience in Romani issues agreed that it was disingenuous of the Government to imply that police officers were unaware of the ethnicity of a suspect at the time of arrest or during subsequent detainment.

During the year police implemented a pilot project to provide special training on Romani culture and language to 118 police officers who worked in districts covering Romani communities in the Kosice and Presov regions. Additionally, the Bratislava branch of post-secondary schooling for police offered an elective course in Romani language and culture.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards; however, overcrowding continued to be a problem. Six out of 10 prisoners worked in prisons; the average wage was \$0.57 (16.97 korunas) per hour, based on a national standard set by the director general of the Prison and Justice Police Corps.

The Government permitted visits by independent human rights observers.

The February 2 CPT report indicated widespread overcrowding in prisons and pretrial detention (remand) centers, noting an overall occupancy rate of 102 percent with the larger burden falling on the pretrial detention centers. Since the time of the CPT visit, the Government enacted legislative changes to address prison conditions, in force since January. As a result, the overcrowding situation improved, although a prison official acknowledged that more time and funding will be required to implement all of the necessary modifications. During the year the number of prisoners and detainees totaled 8,249, a decrease from the 9,500 at the time of the CPT visit. The change in legislation mandated that institutional capacity be measured at four square meters of cell space per prisoner for women and juveniles, a CPT-recommended increase from the previous three-and-a-half square meters, although this lower area remained the standard for male prisoners. Overall usage of prison and pretrial detention center capacity was 79 percent during the year, although one of the 18 facilities continued to have a usage rate over 100 percent capacity.

The CPT made a number of recommendations, to which the Government responded in a published report. According to the Government's published response, the Government implemented some CPT recommendations but deemed others unnecessary. Regarding allegations of police mistreatment, the Government acknowledged that "isolated incidents of human failure" have occurred, but denied any generalized trends of mistreatment and of all the specific cases cited by the CPT.

*d. Arbitrary Arrest or Detention.*—The constitution and the law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police has sole responsibility for internal and border security and reports to the Ministry of Interior. The head of the police force reports directly to the minister of interior, who has the authority to recall any member of the police. Human rights observers charged that police investigators were occasionally reluctant to take the testimony of witnesses, particularly Roma, women, and the homeless. They also contended that, on occasion, police failed to promptly and thoroughly investigate cases involving Roma.

Instances of police corruption and misconduct were reported, primarily in the form of extorting bribes during traffic stops. Headed by a director who reports directly to the minister of interior, the Bureau for the Inspection Service of the Police Corps at police headquarters is responsible for investigating police abuses. Cases may be initiated by, among others, the inspection service, the Police Corps, the police antiorganized crime unit, and individual citizens. In November police arrested two active police officers, at least one of whom served in a commando unit, and a former police officer on charges of murder. The investigation was pending at year's end. In 2005 charges were brought against 195 police officers, fewer than the previous year. The most common charge was abuse of power. Other charges included battery, assault and battery, and illegal intrusion into private homes.

There were some indications that impunity was a problem. In its February 2 report, the CPT reviewed official actions in two cases of alleged police abuse. The cases involved the 2004 death of Radoslav Puky, whose body was found in a Trebisov canal 10 days after he disappeared during a police operation in the area, and "J.H.," a 17-year-old male who alleged that police beat and injured him after he was taken into custody in Trebisov in 2004. In the Puky case, the report noted that investigators looking into police actions made no attempt to examine a five- to eight-day discrepancy between the first and second expert opinions on the probable date of Puky's death, took only perfunctory action to investigate the report that po-

lice beat Puky before he disappeared, and did not interview any of the officers that participated in the police operation. In its review of the allegations by J.H., the CPT identified inaction by police, prosecutors, and judicial authorities with regards to allegations and medical evidence that indicated possible police mistreatment or the failure of police officers to respect J.H.'s legal rights. The Government response to the CPT observations noted that several investigations into the Puky case resulted in the same conclusion of drowning without the involvement of another person and the final complaint filed on behalf of Puky's family members was dismissed in July 2005. The Government asserted that in its review of the J.H. case procedures were appropriately followed, including during the investigation of his allegation of mistreatment.

During the year a local NGO concluded its program to train police officers in human rights. The program included a train-the-trainers component, giving police training facilities the capability to provide training in-house. An instructor at a police training facility verified that human rights training remained on the curriculum.

*Arrest and Detention.*—The constitution and the law stipulate that a person can only be taken into custody for explicit reasons and must be immediately informed of the reasons for detainment. A written court warrant is required for arrest. The court must grant a hearing to a person accused of a crime within 48 hours (or a maximum of 72 hours for "serious cases," defined as violent crimes, treason, or other crimes in which the expected charges could bring a minimum sentence of at least eight years) and either release or remand the individual. Detainees have the right to consult with an attorney immediately and must be notified of this right. The Government provides free counsel to indigent detainees. If remanded by a court, the accused is entitled to an additional hearing within 48 hours, at which time the judge must either release the accused or issue a written order placing the accused in custody. The authorities respected these provisions in practice.

Attorney visits were allowed as frequently as necessary. The law allows monthly family visits upon request. There was a bail system in place that functioned effectively.

Effective January, a new law on criminal court procedures mandates that the total time of detention (pretrial plus trial) can not exceed 12 months in the case of minor offenses, 24 months for regular crimes, 36 months for severe crimes, and four years for crimes in which the expected sentence is more than 25 years and that pretrial detention can not account for more than one-half of that total. In cases with extenuating circumstances, the Supreme Court may extend pretrial detention to four years. According to 2005 statistics, the average length of pretrial detention was 127 days at the district court level and 227 days at the regional court level. These figures represent an increase in the average length of pretrial detention at the district court level and decrease in length at the regional level. Pretrial detainees accounted for approximately one-third of the total prison population.

Delays in court procedures and investigations frequently led to lengthy pretrial detentions. During the year judges released four defendants involved in two criminal murder cases from detention because of maximum pretrial detention regulations, even as the cases continued in the courts.

Implemented on January 1, a new criminal procedures law introduced the possibility of plea bargaining. Judges and the prosecutor's office noted that plea bargaining, which precludes the appeal process, started to reduce the backlog of court cases. The number of criminal cases that concluded with plea bargaining was low in the first six months, but increased rapidly in the second half of the year. Of the 27,470 cases submitted to court, 2,914 cases were completed with plea bargains.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, problems with corruption and inefficiency in the judiciary continued, despite a series of reforms implemented in 2005 and 2006 by the Ministry of Justice to decrease corruption and improve efficiency within the court system.

There are eight regional courts. The Supreme Court, consisting of 70 active judges, is the highest court of appeals. The Constitutional Court, with 13 judges serving 12-year terms, is independent of the Ministry of Justice and rules on cases regarding the constitution and international treaties, considers cases in which constitutional provisions are in conflict, and hears complaints about violations of basic rights and freedoms. At year's end, three Constitutional Court seats remained vacant. The Judicial Council, a constitutionally recognized independent body of lawyers and judges, made decisions regarding disciplinary actions, administrative issues, and appointments of judges.

In September 2005 a special court for corruption cases opened and within approximately one year issued 57 verdicts. In addition to cases of official corruption, the

court hears cases related to high-ranking government and political figures and organized crime. The court's decisions may be appealed to the Supreme Court.

Cases are generally first heard in the district courts; appeals are made to the eight regional courts. The Constitutional Court hears cases involving constitutional or human rights issues; the Supreme Court is the court of last resort in all legal cases.

During the year the disciplinary court took action against 18 judges, none of which were initiated by the Minister of Justice. In 2005 the disciplinary court, on the initiation of the ministry, took action against five judges suspected of corruption and in 2004 disciplined 25 judges, nine of whom were removed from the bench and two resigned. Other possible penalties included a reduction in salary and reassignment to lower courts. A computerized system for random case assignment functioned at almost every level of the courts to increase transparency. Transparency International reported in 2004 that 59 percent of citizens viewed the courts as corrupt. In a similar study during the year, 47 percent of the public considered the courts corrupt.

*Trial Procedures.*—Persons charged with criminal offenses are entitled to fair and open public trials and have the right to be informed of the charges against them. However, NGO observers stated that in practice corruption among judges infringed on a person's right to a fair trial. Defendants enjoy a presumption of innocence, have the right to refuse self-incrimination, and may appeal adverse judgments. They are also presumed innocent during the appeals process, meaning that a person found guilty by a court does not serve their imposed sentence nor pay any fine until the final decision on appeal is reached. The law does not provide for jury trials. A panel of three judges is obligatory in criminal cases and in civil cases at the regional court and Supreme Court levels. Defendants have the right to be present, consult in a timely manner with an attorney at government expense, have access to government-held evidence, confront witnesses against them, and present witnesses and evidence on their own behalf.

Military courts hear cases concerning civilians suspected of war treason and provide the same rights as the regular court system.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Citizens have unrestricted access to an independent judiciary to bring lawsuits in civil matters including human rights violations. Courts that hear civil cases are subject to the same delays as criminal courts and are also perceived as being corrupt. Administrative remedies are available in certain cases. The National Center for Human Rights has the authority to provide mediation for cases of discrimination and to act as legal representation for claimants in court.

From January through September, the ombudsman's office determined that, of the thousands of complaints received, 117 delays in court proceedings constituted violations of the rights of the claimants. The majority of those violations involved delays of five or more years.

In September the European Court for Human Rights (ECHR) awarded a woman \$7,470 (5,700 euros) for significant delays in her civil court case.

*Property Restitution.*—The 2003 law on property restitution provides citizens a second opportunity to apply for the return of land confiscated by the state between 1948 and 1990. Under this law 48,173 cases were filed. Through June 11, 197 of these claims had been resolved and the lands returned; in 4,747 other cases, the land was unavailable or impossible to return, and financial reimbursement was made instead. These figures represent a doubling in the number of resolved claims over the course of a year. A lack of historical documentation prolonged the process and prevented many cases from being resolved.

In August the Constitutional Court ruled that the law providing for the transfer to the state of land without an identifiable owner is against the right to own property as guaranteed in the constitution. This decision negates a deadline specified in the law, with the effect that there is no time limit for claimants to file for return of their property, for which ownership records were destroyed or obfuscated during the Communist era.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and the law prohibit such actions, and the Government generally respected these prohibitions in practice.

Police must present a warrant before conducting a search or within 24 hours afterwards. Unlike in previous years, there were no documented cases of police entering Romani homes without search warrants, although observers believed such practices continued to occur.

In 2005 provisions of a law went into effect, requiring that sterilizations be performed only at the request of the patient and only after 30 days had passed since the initial request. The law was prompted by NGO charges in previous years that doctors performed coerced or forced sterilization on Romani women.

No victims of sterilization without informed consent received financial redress for the sterilization itself, although the Government acknowledged in a 2003 report that the procedures had taken place. In September 2005 the general prosecutor's office announced that no criminal charges would be filed. The Government stated that any woman who believed she was a victim of forced sterilization had the right to sue. According to the Government, one court case against the hospital in Gelnica concluded in 2003 with a finding that unlawful sterilization did not occur. While exact numbers were not available, a handful of civil suits, filed with the help of a local NGO, were ongoing at year's end.

On December 13, the Constitutional Court ruled that regional-level prosecutors had violated the constitution and European Convention on Human Rights by improperly closing the investigation of a claim by three Romani women that they had been sterilized without informed consent. While the Constitutional Court did not rule on whether sterilization without informed consent had occurred, it awarded the claimants \$1,850 (50,000 korunas) each due to procedural violations committed by prosecutors during the case. The court instructed the prosecution to reopen its investigation into the alleged sterilizations, and further proceedings were pending at year's end.

In 2004 with the help of NGOs, eight Romani women who suspected they had been sterilized without their knowledge filed a case with the ECHR when hospitals allegedly denied them access to their own medical records. Four of the women subsequently received access to their medical files and at least one discovered she had been sterilized during a caesarean section. The remaining four women continued to be denied access to their medical records despite a government decree ordering hospitals to give women access to these records; the case was ongoing at year's end.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and of the press, and the Government generally respected these rights in practice.

The law prohibits the defamation of nationalities, punishable by up to three years in prison, and denying the Holocaust, which carries a sentence of six months' to three years' imprisonment. During the year police investigated 163 cases under the four articles in the criminal code that cover propagating an ideology that suppresses the right of others, public display of emblems or other signs or slogans supporting movements which suppress the basic rights of others including denial of the Holocaust, defamation of an ethnicity or race, and agitation is support of ethnic or racial hatred. Additionally, police investigated 25 cases of racially motivated violence or injury. Of these 188 investigations, 107 were prosecuted. There was no information available on the number of persons convicted and imprisoned during the year under these provisions.

The independent media were active and expressed a wide variety of views without restriction. The Constitutional Court continued to examine the constitutional merits of the law governing the state-funded news agency, which was allegedly subject to political influence and noncompetitive practices; the case was ongoing at year's end.

In February the court ruled in favor of a former Supreme Court chairman in a civil libel case. The court ordered a daily newspaper to apologize and pay damages of \$100,000 (three million korunas) to the former judge for news stories and cartoons concerning the salary bonuses for judges and lack of use of the random electronic system to assign court cases to judges. The newspaper indicated that it would appeal the decision. The Slovak Syndicate of Journalists stated that the decision set a dangerous precedent which could deter the independence of the media. In July the plaintiff in the case became the minister of justice. In 2004 the former prime minister filed libel suits against the daily newspaper Pravda for \$166,000 (five million korunas) and a second suit against newspaper SME for libel. Both cases were ongoing at year's end.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mails; however, police monitored Internet sites hosting hate speech and attempted to arrest or fine the authors. The law defines hate speech as speech that publicly threatens an individual or group based on nationality, ethnicity, race, skin color, or that publicly incites the restriction of rights and freedoms of such an individual or group. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Based on 2005 data from the International Telecommunications Union,

46 percent of the population uses the Internet. Internet access was generally available across the country.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and the law provide for freedom of assembly, and the Government generally respected this right in practice.

In September police broke up a neo-Nazi rally in Turecka, temporarily detaining 17 persons and then later charging six with propagating an ideology that suppresses the rights of others and riotous conduct. The investigation was ongoing at year's end.

*Freedom of Association.*—The constitution and the law provide for freedom of association and the Government generally respected this right in practice. However, the law requires organizations to pay a nominal registration fee, and stipulates that those registering as foundations have “substantial” financial resources of approximately \$6,000 (180,000 korunas) to operate. During the year no organization was denied registration or faced any other limitations on its operations.

*c. Freedom of Religion.*—The constitution and the law provide for freedom of religion, and the Government generally respected this right in practice.

Religious groups must have 20,000 permanent resident supporters in order to register with the Government. Registered groups received state subsidies for clergy and office expenses and the right to visit and proselytize in prisons and hospitals. Unregistered religious groups are prohibited from conducting legal marriage ceremonies. There were 16 registered religious groups, with a 17th receiving registration approval in October. Catholicism was the dominant religion due to the number of adherents and so received larger subsidies; however, there is no official state religion.

On September 22, during a petition drive to gather signatures, local police in Trnava told 12 members of the Church of Jesus Christ of Latter-day Saints (LDS Church) to stop collecting signatures and leave the city. The signature collectors departed peacefully and did not file an official complaint. Trnava city officials stated that the police instruction stemmed from citizens' complaints of harassment. Members of the LDS Church did not experience police or any other official intimidation in the approximately 30 other cities where they conducted their petition drive. There were isolated incidents of locals protesting against the signature collectors, which included shoving.

On September 26, the LDS Church presented a petition with over 20,000 supporting signatures to the Ministry of Culture in order to register as a religious group. On October 18, the Government officially recognized the LDS Church. Church leaders stated that they did not face any obstacles once the registration application was submitted.

In previous years leaders of a number of minority religious communities—in particular Muslims, smaller Protestant churches, the Hare Krishna community, and the Church of Scientology—complained that the large membership requirement effectively barred them from obtaining official status, although these smaller religions experienced no restrictions on assembly and worship.

The Government monitored but did not interfere with the peaceful practices of religious sects.

A 2004 law requires public elementary school students to take either a religion or an ethics class. Critics of the law claimed students may be denied the choice in poorer rural schools or socially pressured to choose religious classes. The law also allows government-funded religious schools to remove material inconsistent with church beliefs from the curricula.

In 2005 a law permitted religious organizations to claim property taken between May 8, 1945 (November 2, 1938 for the Jewish community) and January 1, 1990, and established April 30, 2006 as the filing deadline. With the exception of the Reformed Christian Church, religious groups had few remaining claims for unreturned property. Several religious institutions noted that they could not provide precise data on the few claims outstanding since many of their branches operated more-or-less independently. The Reformed Christian Church had outstanding claims for approximately 70 church premises (church schools, teachers' facilities, etc.) that were owned by individual parishes and nationalized by the Communist government after 1948.

*Societal Abuses and Discrimination.*—Jewish community leaders and 2001 census data estimated that the Jewish community numbered approximately 3,000 persons. Anti-Semitism persisted among organized neo-Nazi groups, estimated to have 500 active members and from 3,000 to 5,000 sympathizers.

In April vandals desecrated a monument to Jewish Holocaust victims in Rimavska Sobota with posters showing Hitler's picture, a red eagle holding a swastika, and racist text. An investigation turned up no suspects as of year's end. In June police charged a 21-year-old man for disorderly conduct in connection with the vandalism of the monument. He was convicted and sentenced to one year in prison, plus two years' probation.

In August unknown perpetrators overturned gravestones in a Jewish cemetery in Ruzomberok. That same month, vandals painted swastikas on graves at a Jewish cemetery in Rajec. In these cases, police opened investigations but did not find the culprits. As of year's end, both investigations were shelved.

In January 2005 juveniles vandalized 19 tombstones in a Jewish cemetery in Ruzomberok. A court trial for the juvenile suspects was pending at year's end.

The law prohibits the defamation of nationalities and denying the Holocaust. In 2005 a publication by the cultural organization Matica Slovenska questioned the scope and nature of the Holocaust, suggesting that the deportation of the country's Jewish population to concentration camps was simply part of a "resettlement program."

The Ministry of Interior actively pursued violent extremist groups, and police monitored Internet web pages hosting hate speech and attempted to arrest or fine the authors.

The Government continued implementing its action plan to fight discrimination, racism, xenophobia, and anti-Semitism. During the year the Government organized educational programs on minority and human rights issues. High school and university curricula promoted tolerance, and students could also compete in annual essay contests that focused on human rights issues. The Jewish community expressed concern that some media coverage in the country exhibited anti-Semitic undertones.

On December 27, the archbishop of the Roman Catholic diocese of Bratislava-Trnava stated during a television interview that he respected Father Jozef Tiso, the World War II-era leader of the Slovak fascist state which deported tens of thousands of Slovak Jews, Roma, and others to their deaths in German concentration camps. He added that the country enjoyed a period of well-being during Tiso's leadership. Jewish and Romani groups strongly criticized the statements.

On August 4, a memorial to Romani victims of the Holocaust (Porrajmos) was inaugurated in Dunajska Streda. Government officials, including the Prime Minister, and media were well represented at the inaugural ceremony.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and the law provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government had an established system for providing some protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution. However, the Government did not routinely grant refugee status or asylum.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol. The law provides for temporary protection, classified as "tolerated residence," which is granted if asylum is denied and the individual is not eligible for deportation to his or her country of origin due to administrative problems or fear for the person's safety. In December the National Council passed a law that widens the categories for which an asylum seeker can claim protection. The amended law allows for asylum to be granted in cases where the individual would otherwise face the death penalty or cruel or humiliating treatment if denied asylum.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

During the year four refugees received citizenship. According to national migration office statistics, 2,871 new cases were opened, eight persons received asylum, 861 were denied refugee status, and 1,940 cases were terminated. As in 2005 the number of persons seeking asylum in the country continued on a significant downward trend, according to the UNHCR.

In March the UNHCR investigated alleged claims of mistreatment in asylum centers based on reports from an Austrian organization that aids refugees. The major-

ity of the allegations were found to be untrue, with exceptions such as a dog bite suffered by an asylum seeker.

On April 13, several dozen asylum seekers went on a brief hunger strike at the refugee center in Medvedov. The UNHCR monitored the situation. In June the Ministry of Interior launched a project to improve care for asylum seekers in the areas of social, legal, and psychological support and to increase leisure activities.

In 2004 the director of one of the country's alien detention facilities in Adamov was arrested on suspicion of illegal migrant smuggling. He was released and transferred to a different assignment pending the completion of the investigation, which was ongoing at year's end. Interpol participated in the investigation.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and the law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—On June 17, citizens voted six political parties into the National Council in free and fair elections. Three of the six parties then formed the governing coalition. The party of the new Prime Minister Robert Fico received 29 percent of the national vote. A political party must receive at least five percent of the ballots cast to enter the National Council. In the June elections, voters had the option to mark a preferential vote for an individual candidate on a political party list, in addition to voting for a party.

While election observers reported instances of vote buying in the eastern part of the country, they noted that it had no impact on the final election results for the National Council. Vote buying appeared to be organized at the local level and aimed at Romani voters.

There were 29 women in the 150-seat National Council, 36 women on the 70-seat Supreme Court, and one woman in the 16-member cabinet.

The law prohibits collecting information on ethnicity, and it was not possible to determine the number of members of minorities in government. No member of the cabinet claimed minority status. The party of the Hungarian coalition holds 20 seats in the National Council. Some ethnic Romani individuals and parties were successful at winning representation at the local level; however, Roma were consistently underrepresented in government service, and no Roma were in the National Council. There was no unified Romani minority party, and several Romani activists reported that this hampered political participation. NGOs provided political campaign training to several Romani candidates running in the December local elections.

*Government Corruption and Transparency.*—Corruption in the legislative and executive branches was reported and publicly perceived as a problem. The health care, judiciary, and education sectors were perceived to be the most corrupt. During the year the country received a score of 4.7 (on a scale of 10) on Transparency International's index of public perceptions of corruption, an improvement from 4.3 in 2005. The score indicated a perception that the country has a serious corruption problem. The Government and police cooperated on several related arrests during the year. Several NGOs and government officials noted that, in the first half of the year before the change of government administration, more corruption cases came to light because individuals were more willing to report bribery cases to the police.

In December police released the results of the investigation of the fatal car crash in June in eastern Slovakia of the director of the Institute for National Memory, which had custody of and published the official records of the secret police from the country's wartime fascist and subsequent communist governments. Observers noted that the investigation, which concluded that the director was solely at fault, lacked completeness and transparency and did not fully explore the possibility that the crash was not accidental.

During the year the Special Court issued numerous sentences against health care workers for taking bribes. Health care is socialized and primarily run by state institutions.

In January the Special Court sentenced the mayor of Velky Meder to two years and eight months in prison and fined him \$9,500 (300,000 korunas); the equivalent of the bribe he received in April 2005. The mayor appealed the verdict to the Supreme Court. He remained free, and the law provides that he does not have to pay the fine until his final appeal is exhausted. On December 2, the town of Velky Meder re-elected him as mayor.

In February a gynecologist was sentenced to 15 months in jail and a \$950 (30,000 korunas) fine for attempting to bribe a family \$160 (5,000 korunas) to deliver a baby and \$64 (2,000 korunas) for continuing care of the mother.

In March the Special Court sentenced Ladislav Gal, the former director of a regional land office to seven years in prison and a \$5,000 (150,000 korunas) fine for bribery, a case that was initiated in May 2005. In December the Supreme Court upheld the sentence, the highest imposed on a state official for bribery.

In December 2005 the anticorruption unit of the national police charged three former officials of the national agency for the support of small and medium enterprise with fraud following their transfer of nearly \$48 million (1.5 billion korunas) to a private company. The company returned the money to the Government after the media exposed the transfer. In June the police passed the file of one of the accused to the prosecutor's office in preparation for trial.

In August 2005 the minister of economy stepped down because of allegations of misconduct based on a promissory note worth \$3.3 million (100 million korunas) that he signed while in office. No charges were brought against him.

The special court trial of the mayor of Bratislava-Raca for corruption was postponed because the accused was unable to appear in person; the trial was ongoing at year's end. Bribery charges were initially filed in 2004.

A September trial date for the bribery case of the deputy mayor of Kosice was postponed because the accused was unable to appear in person. In December 2005 the special prosecutor for corruption submitted official charges against the deputy mayor, who was first charged in 2004. He was held for eight months in pretrial detention before being released, at which point he appealed his lengthy detention to the ECHR. He has since resumed the position of deputy mayor.

In May 2005 a member of the National Council charged in 2003 with accepting bribes was found guilty of corruption and sentenced by a district court to one year in prison. He immediately appealed to the regional court. While he did not resign from his elected positions in the National Council and regional parliament, his political party did not place him on its candidate list for the national elections in June nor the regional elections in November 2005, thus removing him from office. His appeal process was ongoing at year's end.

The law provides public access to government information; however, NGOs cited a need for greater public awareness of the responsibility of government to provide information. A few local government offices denied information requests without justification or left them unanswered. During the year the ombudsman's office reported two cases of violation of the freedom of information as guaranteed by the constitution.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

On June 9, the Slovak National Party (SNS), which was not in the National Council or government at the time, called for the banning of the NGO Civic Association for a "Nicer Zilina." The SNS chairman was mayor of the town of Zilina for 16 years. On June 17, SNS was voted into the National Council and joined the governing coalition a few weeks later. Since becoming a part of the National Council and government, SNS has not repeated its public call to ban the NGO.

In June a group of NGOs, including ones that are concerned with human rights issues, sent an open letter to several European Union commissioners asking them to rectify the problem of excessive administrative delays in receiving promised grants from the Government, including the distribution of EU funds. In some cases, the promised funds were more than a year overdue, causing financial difficulties for some NGOs. Since the new government took office in July, an NGO representative noted that small amounts of the backlogged funds had been distributed but remarked that the administrative delays remained for a significant portion of the funds. International NGOs generally continued to operate and interact positively with the Government on substantive issues.

Domestic NGOs experienced generally positive interaction with the Government until September, when the Government announced a proposed change in the funding mechanism for NGOs. NGOs publicly criticized the change, which would no longer allow tax payers to designate up to 2 percent of their annual taxes to the central government to be directed to nonprofit organizations. In December a compromise solution was reached and approved by the National Council to keep the current funding mechanism for another year, then to limit the types of NGOs that receive funds through the mechanism. Relations between domestic NGOs and the Government showed signs of returning to the status quo ante at year's end.



Members of the NGO community noted improved communication during the year with the public defender of rights, commonly known as the ombudsman, as staffing increased in that office. The ombudsman has cooperation agreements with several NGOs. The ombudsman provides legal advice to citizens regarding their rights with respect to public administration bodies, but cannot represent citizens in their claims. The majority of verified violations of legal rights received by the ombudsman concerned delays in court or administrative proceedings. In February the National Council granted authority to the ombudsman to forward claims directly to the Constitutional Court.

NGOs generally operated without harassment, although the organization People Against Racism continued to receive occasional threats from skinhead groups.

Intergovernmental international organizations have expressed generally good cooperation with government entities.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and the law prohibit discrimination based upon race, gender, disability, language, or social status; the Government effectively enforced these prohibitions in practice. However, violence against women and children, trafficking in persons, and discrimination against minority groups were problems.

*Women.*—Violence against women continued to be a problem. The law prohibits domestic violence; however, it was pervasive, and activists claimed that the Government did not enforce the law effectively. During the year there were 609 incidents of domestic violence reported involving a total of 453 female victims and 58 male victims, some of whom were involved in more than one incident. Of these cases 357 went to prosecution. The law provides stricter sentences for violence directed toward members of the same household, and allows for continued criminal prosecution even when a spouse drops charges. Domestic violence was punishable by two to 12 years of imprisonment, depending on the nature of the crime.

Domestic violence was often underreported because of the social stigma associated with being a victim, and statistics did not adequately reflect the extent of the problem. Official statistics showed a decrease in the number of reported cases compared to the previous year, which had 694 cases.

During the year police provided a training course to its officers on domestic violence within the framework of a community policing seminar. The training was complemented by printed reference material. Citing the lengthy court procedures and increasing caseloads that prevented cases from being prosecuted efficiently, victims' advocates demanded a better network of services for abused women, including government-funded treatment centers. In August 2005 the Government adopted an action plan to address some of these problems. The Government and NGOs had shelters and counseling available to victims of domestic abuse.

The law prohibits rape, including spousal rape. Although the Government enforced the law effectively, rape was a problem. The sentence for rape is two to eight years in prison and can be increased to five to 12 years, depending on the age of the victim and whether brutal force was used. The sentence may be further increased to 10 to 15 years if the victim died as a result of the rape. During the year the police investigated 174 cases of rape, which specialists considered was underreported, and 103 cases were prosecuted. Rape victims also have access to the shelters and counseling offered by NGOs and government-funded programs.

After incidents of coerced sterilization were reported in 2003, the Government implemented several reforms, including amending the laws to require that sterilizations be performed only at the request of a patient and only 30 days after such request is made. Alleged victims were able to pursue claims for damages in civil courts, and NGOs took several cases to the ECHR (see section 1.f.).

Prostitution is legal; however, the law prohibits related activities such as operating brothels, knowingly spreading sexually transmitted diseases, or trafficking in women for the purpose of sexual exploitation. It was unclear to what extent prostitution occurred. There were reports that women were trafficked into the country for prostitution (see section 5, Trafficking).

The law does not prohibit sexual harassment, and there were no statistics available to measure the frequency or severity of its occurrence. The Government took no action during the year to combat sexual harassment.

Women and men are equal under the law, including family law, property law, and in the judicial system; however, discrimination against women remained a problem in practice. The equal opportunity office in the Ministry of Labor, Social Affairs, and Family worked in an advisory capacity to ensure the legal rights of women. Women, particularly those aged 35 to 39, typically earned 25–30 percent less than men. Experts believed that the wage difference was due to large numbers of women working

in low-paid occupations, such as the education or social services sectors. NGOs continued to push for increased opportunities for the political participation of women.

*Children.*—The Government was committed to children's rights and welfare; the Ministry of Labor, Social Affairs, and Family and the Ministry of Education oversaw implementation of the Government's programs for children. Education was universal and free through the postsecondary level and was compulsory for 10 years, or until the age of 16. The UN Children's Fund (UNICEF) reported that the rate for primary and secondary school attendance was approximately 85 percent.

Most ethnic Slovak and Hungarian children attended school on a regular basis, but Romani children exhibited a lower attendance rate. Although Romani children comprised nearly one-fourth of the total number of children under the age of 16, they were disproportionately enrolled in schools for the mentally handicapped, despite diagnostic scores that were often within the normal range of intellectual capacity. In certain remedial schools in the eastern part of the country, registered students were nearly 100 percent Roma. In general, the completion of education from a special school did not give Romani children the necessary knowledge nor the eligibility to continue on to university and other higher education institutions, which do not accept special school certificates as entry criteria.

Since 2005, as part of an experimental project initiated by the League of Human Rights Activists, approximately 150 Romani children from special schools for children with mental disabilities received extra training to help the children prepare to enter regular classes. Over the course of the project 20 students were integrated into regular schools.

Government-provided healthcare for children was adequate and equal for both girls and boys.

Child abuse remained an underreported problem. One NGO expressed concern that the family law passed in March 2005 did not afford children the same rights and protections as it did their parents. The legislation provides for programs and training to reduce the instance of child abuse; the Government also implemented a publicity campaign to raise awareness of the issue.

A number of children's foundations operated several programs for abused or disabled children. UNICEF continued to operate a hotline for children; during the first half of the year, it opened 4,519 cases based on the 20,542 calls it received. Three hundred of the calls were from abused children or children with disabilities.

Child prostitution is prohibited. Community workers reported it was a problem in Romani settlements with the worst living conditions.

There were approximately 7,000 children in institutional care, and Roma constituted the majority of this population. Most government orphanages were long-term care facilities rather than short-term residences. Activists claimed that orphans had difficulty integrating into society at age 18 and were at increased risk of falling victim to trafficking.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked from, within, and through the country.

The International Organization for Migration (IOM) estimated that between 100 and 200 persons are trafficked annually from or through the country, mainly for the purpose of sexual exploitation. The IOM reported expanded usage of victims' assistance programs during the year, most likely due to increased awareness of these programs. Most of the victims trafficked through the country came from the former Soviet republics (particularly Moldova and Ukraine) and Balkan countries. Victims were typically trafficked through the Czech Republic or Austria to Western Europe and Japan. Victims were typically between the ages of 18 and 25, from various social backgrounds, but particularly from areas with high unemployment. Some experts alleged that Romani women and persons raised in state institutions, because of their socioeconomic situation and less freedom of mobility, were more vulnerable to being trafficked by organized criminal gangs. Romani women were reportedly more at risk of being trafficked by known and trusted people from their communities. Another high-risk group included men and women looking, sometimes illegally, for seasonal work abroad and were ill-informed of the potential dangers.

Traffickers lured women with offers of employment, often relying on personal connections with women. Activists who worked with the few victims forced to work while transiting the country reported that most were placed as prostitutes or as exotic dancers in nightclubs. Such activity was concentrated on the border with Austria and close to Ukraine and along trucking routes with a prevalence of nightclubs. Traffickers closely monitored victims, withheld their documents, and used violence to ensure their compliance. Some victims allegedly were threatened with violence or even death if they attempted to escape.

Under the law, traffickers may be sentenced to three to 10 years in prison. The sentence may be increased to eight to 15 years if bodily harm resulted, if the trafficker gained extensive profit, or if the offense was committed as a member of a group operating in several countries. If the offender is a member of a crime syndicate, the sentence is increased to between 12 and 15 years. Victims may also file civil suits against traffickers.

During the year police investigated 19 cases of trafficking, resulting in charges against six suspects. Courts convicted and sentenced 24 traffickers, eight of whom were involved in child trafficking. In 2005 courts convicted and sentenced four traffickers.

In January a court in the town of Martin sentenced eight traffickers with prison terms from three to eight years for trafficking 12 women to the Czech Republic, where they were forced into prostitution. The traffickers were arrested in 2003.

In 2003 police arrested seven members of a trafficking gang who had sent at least 60 women to Germany, Poland, Switzerland, and France over an eight-year period, with the suspected involvement of a low-level government employee. The case was awaiting trial at year's end.

In January the Government approved the country's first National Action Plan to Combat Trafficking in Persons. The action plan consists of 19 initiatives, designates lead ministries, and assigns deadlines. The first national coordinator to combat trafficking in persons was appointed in October 2005 but left the post after the change in government. Momentum stalled for several months midyear while the seat for the national coordinator remained vacant. In October new State Secretary of the Ministry of Interior Jozef Bucek was appointed by the Government as the new national coordinator, raising the political profile of the issue. An existing interministerial working group to combat trafficking, formed in 2005, was redirected to focus solely on prevention issues. A new expert group, whose members carry more political weight than the working group, was formed to analyze and implement wider-ranging strategies. During the year the Government started cooperation with the UN Office on Drugs and Crime on a project aimed at strengthening the legislative, investigative, prosecutorial, and technical capability to combat trafficking while providing protection and support to victims. The Government agencies responsible for combating trafficking include the national coordinator to combat trafficking in persons; the police antitrafficking unit; the ministries of interior, finance, justice, and education; the prosecutor's office; the border police; and the equal opportunity office at the Ministry of Labor, Social Affairs, and Family; and the plenipotentiary for Romani communities.

The police participated in international investigations on a limited basis. There were no requests for the extradition of human traffickers during the year.

Corruption among border officials, police, and asylum officials allegedly hampered efforts to combat trafficking.

The Government did not detain, prosecute, fine, or deport persons identified as trafficking victims. Although no formal screening or referral process was in place for most of the year, the law required police to provide a list of victim's assistance programs to suspected victims. Toward the end of the year, the Ministry of Interior reached an agreement with an NGO, Dotyk, to provide secure, private lodgings and other services for trafficking victims on a case-by-case basis. The Government has cooperated with additional NGOs on victims' assistance. NGOs reported increased cooperation and communication with police investigators. The Ministry of Education continued to support discussion groups and distributed handbooks in schools about legally working abroad. There was no shelter dedicated exclusively to trafficking victims.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. In practice, however, experts reported that access to buildings and higher education remained a problem. There were reports that persons with severe physical handicaps received less than the minimum wage in some instances.

NGOs reported that a better network of organizations was needed to improve psychiatric care of patients with mental disorders and to monitor human rights violations against them.

Cage beds continued to be used in psychiatric institutions and hospitals, which fall under the purview of the Ministry of Health. The law prohibits both physical and nonphysical restraints in social care homes, which are managed by the Ministry of Labor, Social Affairs, and Family.

According to NGOs, a lack of funds prevented full implementation of the law to provide assistance to handicapped students. Regulations ensuring access to premises and services for physically handicapped persons, for example, wheelchair access in

buildings and Web sites enabled for use by the blind, were not fully implemented across the country, although the situation was improving.

A working group, the Council for Citizens with Disabilities, served as a governmental advisory body regarding persons with disabilities. The minister of labor, social affairs, and family chaired the council. Several NGOs conducted public education campaigns on mental illness and worked cooperatively with the health ministry on the national health program. The Government sponsored a contest for the local government most accessible to persons with disabilities. Persons with disabilities were able to vote and participate in civic affairs. However, they continued to experience problems with access to information and education caused by physical barriers limiting their ability to enter educational facilities.

*National/Racial/Ethnic Minorities.*—Widespread discrimination against Roma continued in the areas of employment, education, housing, and health services. Roma constituted the second largest ethnic minority, reported by the 2001 census to number 90,000, although experts estimated the population to be between 350,000 and 400,000. The discrepancy was attributed to Roma identifying themselves as Hungarian or Slovak.

During the year the CPT reported on police mistreatment of Roma (see section 1.c.).

There were several reports that Roma suffered discrimination with respect to health care. In November 2005 the Ministry of Health began to train 40 health care assistants who speak Romani as part of a pilot program to improve Roma access to health services. This program continued during the year.

In previous years the Government reported that usury, the illegal charging of high interest rates on small loans, was one of the main causes of the deepening poverty of Roma in settlements. While it is believed that usury continued, statistics fell markedly during the year. Police investigated four usury cases, two of which moved forward to prosecution.

Skinhead violence against Roma continued to be a serious problem. The NGO People Against Racism reported that although police were increasingly responsive in their efforts to monitor and control the skinhead movement, the problem persisted. The organization also reported receiving e-mail and telephone threats from skinheads.

Throughout the year police charged numerous individuals with attacks against Roma motivated by racial hatred. In April several youths attacked two Romani women and the brother of the women who attempted to stop the attack in Spisska Stara Ves. Police arrested six suspects, completed the investigation, and the case moved to prosecution.

In September three masked attackers broke into the home of a Romani family in Sered and beat several family members. The police arrested the attackers and stated that racial and ethnic intolerance motivated the attack. The accused were released from pretrial detention, while the police continued the investigation to build the case. The investigation was ongoing at year's end.

In September neo-Nazis attacked several Roma at a train station in Humenne, seriously injuring two of the persons. After the attack, the perpetrators shouted "siege heil." Police arrested three suspects, aged 16 to 18, on charges of assault and riotous conduct but the prosecutor's office rejected an additional charge of propagation of an ideology that suppresses the rights of others. The case was still being investigated at year's end.

During the summer of 2005 three attacks on Romani families in Sered occurred. The police initially charged one suspect with causing bodily harm. Prosecution was dropped during the year because, according to the police, key witnesses changed their testimony and the case was no longer prosecutable.

The trial of three Zahorska Ves men arrested for allegedly breaking into and setting fire to Romani residences on three occasions in 2004 was ongoing at year's end. Two of the men were also charged with assault. The Government punitively revoked the license of the private security firm that employed several of the alleged attackers.

Activists frequently alleged that employers refused to hire Roma, whose unemployment rate exceeded 95 percent in many settlements.

Many NGOs reported that segregation of Romani students in schools continued (see section 5, Children).

NGOs alleged that Roma were more likely to encounter housing discrimination. On a few occasions during the year, local authorities and groups forced evictions of Romani inhabitants or blocked construction permits or the purchase of land. Many Romani settlements lacked formal infrastructure, access to clean water, and proper sewage systems.

In March the mayor of Puchov attempted to force several Romani families to relocate to the nearby town of Nimnica by purchasing a house for them there. The plan was enacted without the consent of the town of Nimnica. The Romani families faced eviction from their housing in Puchov for failure to pay rent. The relocation of the Romani families has not taken place, as the town of Nimnica caused delays in the preparation of the house.

In August the mayor and town council of the village of Vysny Kazimir prohibited Roma from swimming in the local public pond. After the plenipotentiary for Romani communities and several NGOs voiced their concern, the town rescinded the prohibition and passed a resolution to fine anyone who caused damage to the pond.

In August in the village of Letanovce, an unknown person left a death threat instructing the local mayor to stop construction at the site of a future housing complex for apartments to be occupied by Roma.

In June 2005 the mayor of Presov announced the construction of a wall or fence to separate Roma from non-Romani citizens in the Stara Tehelna neighborhood; the plan received media criticism and sparked international concern before the city decided to reevaluate the plan. The plenipotentiary for Romani communities negotiated with community leaders, eventually reaching an agreement to focus on other projects.

In a sign of greater political recognition of the problems faced by Roma, all six political parties that were elected to the National Council in June included plans in their party platforms to address issues faced by the Romani communities. This represented an improvement over the 2002 elections when several parties failed to mention Romani issues in their platforms. The new government's program plan, approved by the National Council in early August, addressed concerns of the Romani community. Romani activists issued a press release in August noting their positive discussions with the new deputy prime minister for human rights and minorities.

In August the district court of Michalovce issued an ambiguous decision in one of the first civil court cases based on the new antidiscrimination law of 2004. The court ruled that three Roma who were refused service at a cafe in Michalovce in April 2005 had been discriminated against, but not because of their ethnicity. No damages were awarded. NGOs and the National Center for Human Rights cite only approximately three to five discrimination cases which have gone to trial. One NGO activist remarked that no court has yet ruled unambiguously in a discrimination case in favor of the claimants. The National Center for Human Rights has mediated several discrimination cases and provided official legal opinions in dozens more.

A few mayors were reported to use hate speech against Roma during the year, although none were prosecuted. During the year a number of politicians at the national and regional level used disparaging language about the Roma during closed-door meetings.

Tensions between ethnic Hungarians and ethnic Slovaks rose after the nationalist SNS became a member of government in July. Prior to and since being elected to a National Council seat in June, SNS Chairman Jan Slota made several public statements that were derogatory towards ethnic Hungarians. The SNS and the party of the Hungarian coalition accused each other of propagating hate or the disintegration of the country. All of the criminal investigations stemming from these accusations have concluded with a finding that no laws were broken.

Public hate speech against ethnic Hungarians increased after the new government took office. There were allegations of attacks against ethnic Hungarians for speaking Hungarian. By year's end, ethnic tensions and allegations of attacks had lessened.

On August 7, police were alerted to an Internet video clip which showed several masked people shouting statements in Slovak inciting violence against Hungarians while burning the Hungarian flag and holding up a Slovak flag. By August 8, the video had been removed from the foreign-based Internet site where it had been posted. No arrests had been made by year's end.

On August 26, police arrested three men for waving banners with the phrase "death to Hungarians" at a soccer match in Banska Bystrica. Police charged the men, who remained in custody as of year end, with agitation to ethnic or racial hatred. One of them received an additional charge of propagation of an ideology which suppresses the rights of others.

A nationalist organization known as Slovenska Pospolitost (Slovak Community) continued to hold events designed to intimidate minority groups. Dressed in uniforms similar to those of the Hlinka Guards (the country's fascist wartime civic guard responsible, among other things, for the country's concentration camps), the group's members held marches and rallies to commemorate the wartime fascist state and to spread messages of intolerance against ethnic and religious minorities. In March the Supreme Court stripped the group of its political party status on the

basis that it promoted a nondemocratic form of government that suppressed the rights and freedoms of others. The group then registered as an NGO.

In April police arrested two extremists with ties to two foreign groups, the World Church of the Creator and the National Alliance, for violent crimes.

In May police charged seven neo-Nazis in Kosice with possession of illegal weapons and propagating an ideology that suppresses the rights of others. The case had been moved to the prosecutor's office but a trial had not yet started at year's end.

On August 29, police detained more than 10 members of the Slovenska Pospolitost that tried to disrupt the commemoration of the Slovak National Uprising, an event the Prime Minister attended. In September the regional prosecutor's office determined that no crime had been committed and dismissed the case.

The Government's plenipotentiary for Romani communities maintained five regional offices to supervise the implementation of governmental policy on Romani issues, support infrastructure development, and cooperate with municipalities and villages to improve interaction between Roma and non-Roma. The Ministry of Labor, Social Affairs, and Family funded Roma Terrain Social Workers, which assigned specially-trained social workers to Romani settlements to provide assistance such as helping Roma to fill out paperwork and building awareness of the importance of education and preventative healthcare.

The Government continued to implement its action plan against xenophobia and intolerance. A special police unit monitored extremist activities, and a commission consisting of NGOs, police, and government officials advised the police on minority issues.

The Slovak National Center for Human Rights reported that 217 complaints of discrimination were filed during 2005. The most frequent claim (cited in 54 of the 217 cases) regarded discrimination in labor-related issues, including access to work. One NGO criticized the length of time it took for the center to issue required legal opinions on claims of discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form and join unions, except in the armed forces, and workers exercised this right in practice. Approximately 17 percent of the work force was unionized.

In October and December 2005 the police labor union held two protests against low wages and benefits. There was widespread criticism when the minister of interior demoted the officer heading the labor union.

*b. The Right To Organize and Bargain Collectively.*—The law provides for unions to conduct their activities without interference, and the Government generally protected this right in practice.

The law provides for the right to organize and bargain collectively, and workers exercised these rights in practice.

The law provides for the legal right to strike, except for civil servants in essential services and members of the military, in two instances: when collective bargaining fails to reach an agreement, or to support other striking employees' demands (solidarity strike). The unions generally exercised these rights in practice without restrictions. Strikes must be announced in advance. The law prohibits dismissing workers legally participating in strikes; however, strikers are not ensured protection if a strike is considered illegal or unofficial.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for the protection of children from exploitation in the workplace, and the Government effectively implemented and enforced these policies.

The minimum age for employment is 15, although children under 15 may perform light work in cultural or artistic performances, sports events, or advertising activities if it does not affect their health, safety, or schooling. The National Labor Inspectorate and Public Health Office must approve, determine the maximum hours for, and set conditions for child labor under age 15. Children under age 16 may not work more than 30 hours per week, and children aged 16 to 17 are limited to 37.5 hours per week. Children under age 18 are not allowed to work underground, work overtime, or perform work that is inappropriate for their age or health.

District inspection units received and investigated child labor complaints. If a unit determined that a child labor law or regulation had been broken, it turned the case over to the national inspection unit of the Ministry of Labor, Social Affairs and Family.

Child labor, primarily in the form of begging, was a problem in some communities; there were also isolated reports of forced prostitution (see section 5).

*e. Acceptable Conditions of Work.*—As of October 1, the minimum wage increased to \$253 (7,600 korunas) per month. The minimum wage provided a decent standard of living for a worker and family in rural areas of the country but not in urban areas. The law mandates a maximum workweek of 48 hours (including overtime), with 30 minute breaks after six hours of work (after four hours for employees younger than 18), and rest periods of at least 12 hours between shifts. The trade unions; the Ministry of Labor, Social Affairs, and Family; and local employment offices monitored observance of these laws, and authorities effectively enforced them.

The law establishes health and safety standards that the office of labor safety generally enforced. Workers have the right to refuse to work in situations that endanger their health and safety and may file complaints against employers in such situations; whether they did so in practice was not clear. Employees working under conditions endangering their health and safety for a certain period of time are entitled to be paid “relaxation” leave in addition to their standard leave.

## SLOVENIA

Slovenia is a parliamentary democracy and constitutional republic of approximately two million persons. Power is shared between a directly elected President (head of state), a prime minister (head of government), and a bicameral parliament, composed of the National Assembly (lower house) and the National Council (upper house). In 2004 the country held free and fair multiparty elections for seats in the National Assembly. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Trial delays, indirect government influence on the media, cursory procedure for review of asylum applications, violence against women, trafficking in women and girls, discrimination and violence against Roma and homosexuals, and discrimination against former Yugoslav residents without legal status were problems.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; on rare occasion police used excessive force such as kicks, punches, and shoves during arrest. Societal violence against individuals based on their sexual orientation was reported (see section 5).

On November 2, the European Court of Human Rights (ECHR) ruled that the country failed to conduct an effective investigation into allegations that police mistreated an individual during an incident that took place in 1995.

On November 25, three individuals participating in a protest against the return of a Roma family to their home in Ambrus were injured, though it is unclear how the injuries occurred. Police launched an investigation of the incident that is ongoing.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. A delegation of the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment made its third periodic visit to the country from January 31 to February 8. A full report from the visit has not yet been publicly released.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Police are centrally organized under the supervision of the police and security bureau of the Ministry of Interior. The bureau oversees the drafting of basic guidelines, security policy, and regulations governing the work of the police and exercises special inspectorial authority in monitoring police performance, with an emphasis on the protection of human rights and fundamental freedoms. The general police administration, headed by the general di-

rector of the police, has overall responsibility for the execution of police duties and oversees activities at the national level. Regional police duties fall under the jurisdiction of police administration units, whose directors report to the general director. Local policing is provided by individual police stations, whose commanders report to the director of the relevant police administration. The police provided effective law enforcement.

During the year the independent commission for the prevention of corruption referred five credible reports of police corruption and one credible report of prosecutor corruption to the police and the state prosecutor for further investigation.

The law provides for a method to investigate police abuses. Initial complaints are reviewed by the commander of the local police unit, who provides information to the complainant about the established facts and the powers of the police. If the complainant disagrees, the complaint is assigned to a three-person, government committee to decide if it is founded. The committee includes one member from the Ministry of Interior and two members selected by civil society organizations. Initial complaints that allege a criminal offense bypass the first review and are immediately sent to the Ministry of Interior. The committee relies on an appointed investigator from the Ministry of the Interior or the police to conduct an investigation of the complaint. It is not empowered to conduct independent investigations and is not required to forward its findings to the prosecutor's office.

*Arrest and Detention.*—Persons taken into police custody were generally apprehended openly with evidential warrants issued by either a prosecutor or judge. Persons can be detained for 48 hours before charges are brought. Authorities must also advise detainees in writing within 48 hours of the reasons for their arrest. Upon arrest, detainees have the right to contact legal counsel of their choice, and authorities generally respected this right in practice. The Government provides indigent detainees with free counsel, and detainees were generally allowed prompt access to family members. The law also provides safeguards against self-incrimination.

In 2004 police officers in Koper arbitrarily arrested and detained an individual without informing her of her rights or the charges. The detainee claimed that police treated her inappropriately. A complaint was filed with the Koper police in 2005 and an investigation was completed.

Once charges are brought, pretrial detention may last for up to four months, depending on the severity of the criminal act, and must be certified by an investigative judge. Once trial procedures have begun, the total period of detention may be extended for up to two years. Persons detained more than two years while awaiting trial or while their trial is ongoing must be released pending conclusion of their trial (see section 1.e.). Lengthy pretrial detention was not a widespread problem, and defendants generally were released on bail, except in the most serious criminal cases.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice. Court backlogs sometimes resulted in lengthy delays in trials. During the year the ECHR issued over 100 judgments against the Government citing violations of the Convention for the Protection of Human Rights and Fundamental Freedoms due to excessive court delays and the denial of effective remedy. On November 22, the parliament passed changes to the Judicial Services Act and the Courts Act intended to ease restrictions on judges and the cases they can hear. As part of its ongoing project to eliminate backlogs, the Ministry of Justice hired 70 additional judges and court clerks during the year. The number of backlogged cases dropped by 25,069 cases (or 4.8 percent) from a total backlog of approximately 522,000 to a backlog of 497,000 cases in the first half of the year.

The judicial system consists of district courts, regional courts, courts of appeals, an administrative court, and the Supreme Court. The local and district courts serve as courts of first instance, whose decisions may be appealed to the courts of appeal. The Supreme Court hears appeals of rulings by the courts of appeal. A labor court and an administrative court hear cases within their substantive areas of jurisdiction. A nine-member constitutional court rules on the constitutionality of legislation, treaties, and international agreements and is the highest level of appeal for administrative procedures. Judges, elected by the National Assembly upon the nomination of the judicial council, are constitutionally independent. The judicial council is composed of six sitting judges elected by their peers and five Presidential nominees elected by parliament.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are generally public and are conducted by jury; however, judges may decide to close trials to the public when the defendant is a juvenile or details of the personal life of the accused may be disclosed. Defendants have the right to be present during the trial and to



consult with their attorney in a timely manner. An attorney is provided at public expense only if the defendant faces serious criminal charges. Defendants may confront witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and have a right of appeal.

The judicial system was overburdened and lacked administrative support; as a result, the judicial process frequently was protracted. In many cases during the year, criminal trials lasted from two to five years.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent and impartial judiciary in civil matters. As with criminal matters, court backlogs sometimes resulted in lengthy trials.

*Property Restitution.*—The Government has brought the vast majority (93.5 percent) of property restitution cases to conclusion (37,027 cases have been resolved of 39,606 filed) with approximately 2,000 more cases resolved this year. However, administrative and judicial processes continued to slow resolution of the 2,579 remaining cases, including cases brought by foreigners and cases involving Jewish communal and heirless properties. During the year the Ministry of Justice's department for restitution and national reconciliation issued and awarded a tender to compile an inventory of Jewish private properties nationalized or confiscated after World War II. The project was ongoing at year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were reports of indirect government influence on the media.

Individuals could criticize the Government publicly or privately without reprisal, and the Government did not attempt to impede criticism.

The independent media were active and expressed a variety of views without significant restriction. The major print media were supported through private investment and advertising; however, the Government owned substantial stock in many companies that were shareholders in the major media houses. Public Broadcaster Radio Television Slovenia operated two national television channels and two regional channels funded from household subscriber fees and commercial revenue. There was one national commercial channel and four regional channels.

On July 22, several journalists reported that police used undue force against them, including pushing and shoving, while covering a demonstration at the detention center for foreigners, including illegal immigrants and asylum seekers, near Postojna. The complaints had no apparent effect on the media's reporting on the demonstration.

On August 7, the higher court of Maribor upheld the 2005 acquittal of five persons accused of participating in the 2001 attempted murder of investigative journalist Miro Petek.

There were reports that indirect political and economic pressures and partial government ownership of media companies influenced journalists and the media. Managers reportedly protected their own interests and the interests of those in government with whom they were affiliated. There were reports that self-censorship was practiced in some media outlets.

A 2005 law regarding national radio and television came into effect establishing a programming council of 29 members that directly oversees the public radio and television network. Parliament appointed 21 of the members after receiving nominations from political parties, civil society groups, and individuals. Three members were elected by the employees of national radio and television, two members were appointed by the President after being nominated by registered religious groups, one member each was appointed by both the Italian and Hungarian minority groups, and one member was appointed by the Slovenian Academy of Arts and Sciences. The parliament appointed five members, the Government appointed four members, and the employees of national radio and television elected two members to the 11 member supervisory board. In May the National Assembly adopted amendments to the Act on Media. New provisions included a media pluralization fund and an expanded right to corrections.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet access was widely available and nearly one-half of citizens used the Internet at least once per month.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice. The law prohibits a group from registering if the group's activities "promote the illegal destruction of the constitutional order; promote the execution of criminal acts; encourage national, racial, religious and other intolerance; spread national, racial, religious and other hatred and intolerance; or encourage violence and war."

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

Religious communities must register with the Government's office for religious communities if they wish to be legal entities, and registration entitles such groups to value-added tax rebates. Approximately 42 religious communities registered with the Government, most of them Christian denominations. During the year the office registered applications from the Muslim community and the Church of New Life. No applications were outstanding at year's end.

While there are no governmental restrictions on the Muslim community's freedom of worship, services were commonly held in private homes for lack of a larger venue. In September long stalled plans for building a mosque on city-owned land that was subject to a denationalization claim by the Catholic Church were dropped when the city council delayed a vote on a budgetary appropriation to provide compensation to the church and clear the land for sale to the Muslim community. Several city councilors received death threats before the September meeting when they publicly supported the project to build a mosque in Ljubljana. In December new city leadership introduced plans for another location for the mosque on city-owned land close to the city center; both city and Muslim community officials approved the site. The Ljubljana City Council was expected to discuss the issue in January 2007 and local officials said that after public discussion and zoning changes, the site could be ready for sale by June 2007.

*Societal Abuses and Discrimination.*—The Jewish community in the country was very small. Jewish community representatives reported some prejudice, ignorance, and false stereotypes of Jews propagated within society. Reportedly, negative images of Jews were common in private commentary and citizens generally did not consider Jews to be a native population, despite their uninterrupted presence in the country for many centuries. There were no reports of anti-Semitic violence or overt discrimination.

The Government promoted antibias and tolerance education in the primary and secondary school curricula and the Holocaust is a mandatory topic in the contemporary history curriculum. On September 3, for the first time, the country marked the European Day of Jewish Culture with programs and events organized by the Jewish community with the support of local government officials.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution and law provide for these rights, and the Government generally respected them in practice. The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. During the year the Government received 579 requests for refugee status or asylum and granted refugee status or asylum in nine cases.

During the year the Government did not provide temporary protection to persons who may not have qualified as refugees under the 1951 Convention or the 1967 Protocol.

The Government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

On February 6, the National Assembly passed a law amending the Government's asylum procedures. The law empowers border police to perform an initial screen of asylum seekers and to possibly find some applications "manifestly unfounded." The expedited procedures could prevent the applications of some asylum seekers from receiving a thorough review. The new law restricts refugees' ability to work in the country for one year. On December 7, the Constitutional Court ruled that asylum seekers should be allowed to change their asylum application if there were considerable changes in their circumstances. The court gave parliament one month to correct the discrepancy in law.

The law provides asylum seekers with the right to appeal decisions on their applications, but many asylum seekers were not informed of this right. The independent ombudsman for human rights and several nongovernmental organizations (NGOs) reported that the Government put excessive restrictions on refugees' freedom of movement by requiring asylum seekers to sign a statement renouncing their claim to asylum if they left the premises of the asylum center.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In 2004 the country held free and fair elections for seats in the National Assembly.

There were 14 women in the 90-seat National Assembly and three women in the 40-seat National Council. There were two women in the 17-member cabinet.

There were two members of minorities in the 90-seat National Assembly and none in the 40-seat National Council or in the cabinet. The constitution provides the "autochthonous" (indigenous) Italian and Hungarian minorities the right, as a community, to have at least one representative in the parliament. However, the law does not provide any other minority group, autochthonous or otherwise, the right to be represented as a community in parliament.

In October the country held free and fair elections for mayoral offices and seats in municipal councils that were the first elections that included legally mandated gender participation quotas.

Twenty distinct Romani communities, each designated autochthonous at the local level, are entitled to a seat on their local municipal councils. At year's end one municipality-Grosuplje—was not in compliance with this law. Although both the Government office of nationalities and the Romani community submitted proposals to freeze the municipality's budget until it complies with the law, at year's end no action had been taken to do so.

A July 11 amendment to the general elections law created a quota program to promote more balanced participation of women and men in the political system. The law requires 20 percent of each political party's list to be women and for one of the top three candidates on each list to be of the opposite sex of the other two. The quota for women will rise to 30 percent for elections in 2010 and 40 percent in 2014; a similar quota system will be in place for the 2008 and 2012 national elections.

*Government Corruption and Transparency.*—Corruption was perceived by the public to be a widespread problem. The independent commission for the prevention of corruption received 263 cases of suspected corruption and found 140 out of the 158 cases that were assessed during the year to be credible reports of possible corruption. The remaining cases have not yet been assessed.

The commission played an active role in educating the public and civil servants about corruption; however, it claimed it had neither adequate staff nor funding to fulfill its mandate and assess all cases of suspected corruption that it received during the year. On February 10 the National Assembly approved the law on incompatibility of official position and profitable activity, which terminated the independent commission for the prevention of corruption and replaced it with a parliamentary anticorruption commission. The law was set to enter into force in May, but the constitutional court stayed the provisions abolishing the commission on April 26. The law remains in review at the end of the year.

The commission continued to perform its charter duties, including: implementing the resolution on the prevention of corruption; developing plans for ensuring integrity in the public and private sectors and ensuring their implementation; establishing basic rules relating to conflicts of interest for those holding public office; supervision of government rules regarding the receipt of gifts; supervision of the financial situation of officials and contracting authorities under the regulations on public procurement with business entities where an official or family member is involved; monitoring and analyzing statistical information related to corruption; and cooper-

ating with public authorities to draft and coordinate regulations relating to the prevention of corruption.

During the year the commission forwarded 64 suspected cases of corruption to police and the prosecutors, and 83 cases to other state institutions.

The law provides for free public access to all government information, and the Government provided access for citizens and noncitizens alike, including foreign media. The Government may deny public access only to classified information, personal data protected by privacy laws, and other narrowly defined exceptions.

The office of the Government information commissioner reported that while the overall number of complaints went down, the number of complaints related to non-responsiveness of state institutions increased. During the year the office received 385 complaints about non-responsiveness of state institutions, and 102 complaints under the Law on Access to Public Information, and publicly called on government ministries to cooperate more transparently.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these provisions in practice. However, violence against women and children, trafficking in persons, and discrimination against homosexuals and Roma were problems.

*Women.*—Although no accurate statistics were available, violence against women, including spousal abuse, occurred and was generally underreported. Although domestic violence was not specifically prohibited under the law, it could be prosecuted under statutes criminalizing assault and providing for penalties of up to 10 year's imprisonment in the case of aggravated and grievous bodily harm. SOS Phone, an NGO that provided anonymous emergency counseling and services to domestic violence victims, received approximately 5,000 calls during the year. SOS Phone estimated that 25 percent of women had experienced domestic violence. In 2005 the United Nations Human Rights Committee announced its concern about the high rate of domestic violence and the lack of specific legal provisions and government programs to address the problem. The Government partially funded 11 shelters or safe houses for battered women, (nine run by NGOs and two run by government organizations), which offered 171 total beds. Some victims of domestic violence also sought assistance at maternity homes and social work centers, although staff at these locations were not always specifically trained to work with victims of violence. When police received reports of spousal abuse or violence, they generally intervened and prosecuted offenders. The NGOs SOS Phone and Kljuc provided hotlines. The police academy offered training on domestic violence. The Council of Europe 2006 Report "Combating Violence Against Women" praised the country for training nursing staff in all hospitals to screen patients for domestic violence.

Rape, including spousal rape, is illegal; however, it was a problem. Spousal rape, in particular, was rarely reported. Amnesty International (AI) and SOS Phone estimated that one in seven women was raped during her lifetime but that only 5 percent sought assistance or counseling. Police actively investigated reports of rape and prosecuted offenders. The penalty for rape was one to 10 years in prison. During the year there were 46 criminal acts of rape, 51 criminal acts of sexual violence, 14 criminal acts of sexual abuse of the weak, and 157 criminal acts of sexual attack on a minor (under the age of 15). Police conducted several public awareness campaigns to familiarize society with the problems of rape and domestic violence.

Prostitution is illegal, but the Government did not actively enforce this prohibition. Antitrafficking authorities and NGOs informally estimated that as many as 80 bars and clubs across the country could be engaged in facilitating or promoting prostitution.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

The law explicitly prohibits sexual harassment in the civil service; however, it does not explicitly prohibit sexual harassment for the overall workforce. Incidents could be prosecuted through a criminal code prohibiting violation of sexual integrity through abuse of office and there were 16 reported criminal acts during the year. Sexual harassment remained a widespread problem.

The law provides for equal rights for women, and there was no official discrimination against women in family law, property law, or the judicial system. The office of equal opportunities protects the legal rights of women. Although both sexes had the same average period of unemployment, women frequently held lower paying jobs. On average, women's earnings were 90 percent of those of men.

*Children.*—The Government was committed to protecting children's rights and welfare.

The Government provides compulsory, free, and universal education for children through grade nine and up to four additional years of free, voluntary secondary school education. The Ministry of Education reported an attendance rate of nearly 100 percent of school-age children, with most children completing secondary school. The Government provided universal health care for all citizens, including children.

A November 16 report from AI noted that Roma children are enrolled in 40 nursery schools throughout the country but that school attendance varies widely by region, (39 percent of Roma children attend school in the southeastern Dolenjska region and 70 percent attend school in the northeastern Prekmurje region). Poverty, discrimination, and language problems continue to be the main barriers to the participation of Roma children in education programs. AI reported that the Roma literacy rate is 10 percent. A number of Roma reported that their children attended segregated classes and were selected by authorities in disproportionate numbers to attend classes for students with special needs. In 2004 the Government provided funding for a regional program to desegregate and expand Romani education by training Romani educational facilitators and creating special enrichment programs in public kindergartens. Other school districts hired Romani facilitators at their own initiative and expense. A March 29 report from the Council of Europe commissioner for human rights reported that de facto segregation continued to exist in the Brsljin school district in Novo Mesto. An evaluation of Brsljin's program was currently underway by education authorities.

The Government has not developed a bilingual curriculum for Roma on the grounds that there is not a standardized Romani language. However, the Government was currently funding research into codification of the language. Romani facilitators were working in some schools.

Child abuse was a problem. During the year there were 301 criminal acts of sexual abuse of a child under the age of 15. The law provides special protection for children from exploitation and mistreatment, and the Government generally enforced the law in practice. The law criminalizes the sale, purchase, and propagation of child pornography.

Child marriage occurred within the Romani community; however, it was not a widespread problem.

Trafficking in girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and through the country.

The country was primarily a point of transit, and secondarily a source and destination country for women and teenage girls trafficked from Southeastern, Eastern, and Central Europe to Western Europe. Trafficking in persons through the country was a problem. Victims were trafficked primarily for purposes of sexual exploitation. Those at particular risk of being trafficked were teenage girls and young women who lived in impoverished areas with high unemployment.

Organized criminal groups, nightclub owners, and local pimps were primarily responsible for trafficking. A 2003 study by the International Organization for Migration reported that traffickers lured victims from Eastern Europe and the Balkan countries through advertisements promising high wages, offers of marriage, offers of employment as entertainers and dancers, and offers of employment without indication that it would involve the sex industry. Harsh economic conditions in some women's home countries also made them vulnerable to enter prostitution; many of these women lacked awareness of what trafficking was and they were unaware of the risk that they might become trafficking victims or be subjected to severe working conditions.

Penalties for trafficking range from one to 10 years imprisonment. Authorities can also prosecute persons for rape, pimping, procurement of sexual acts, inducement to prostitution, sexual assault, slavery, and other related offenses.

The Government demonstrated significant progress in its efforts to apprehend, investigate, and prosecute traffickers using a 2004 law criminalizing trafficking. Police investigated three cases of human trafficking, 17 cases of forced prostitution, and found 20 victims of forced prostitution and nine victims of human trafficking. During the year there were three reported criminal acts of trafficking. There were five

trafficking convictions this year from crimes committed in previous years. Regional police directorates had departments that investigated trafficking and organized crime.

The Government actively cooperated with NGOs and Interpol in project "Red Routes" by sharing information about traffickers and patterns of illegal migration. Police training was conducted during the year to improve officers' awareness of trafficking laws. One prosecutor in each regional state prosecution office was dedicated to trafficking cases.

In November 2005 parliament adopted a law on the protection of witnesses in order to prosecute trafficking cases more effectively. In general authorities did not treat trafficking victims as criminals; however, they usually were voluntarily returned to their home country either immediately upon presenting themselves to authorities or following their testimony in court. In 2005 the UNHCR reported that asylum caseworkers paid insufficient attention to identifying victims of human trafficking.

The Government's national coordinator for trafficking in persons served as the head of the interagency working group on trafficking in persons, which is responsible for the Government's long-term national strategy to combat trafficking. The working group, which included representatives of ministries, NGOs, international organizations, and the media, established, among other things, standard operating procedures for first responders to ensure that victims receive information about the options and assistance available to them. The group met more than six times during the year and in June established an action plan against trafficking for 2007.

In June the NGO Karitas won a one-year contract from the Ministry of Labor to provide secure shelter and assistance to trafficking victims. Karitas hired two new employees including a professional social worker, set up a safe house, and established three locations for short-term emergency housing. Karitas assisted three victims of trafficking this year with food, shelter, counseling, translation services, and transportation.

Kljuc, previously the country's sole NGO providing support to trafficking victims, continued to work on trafficking issues including programs for prevention, education, detection, and prosecution, as well as on the long term reintegration of trafficking victims.

The project against trafficking and sex- and gender-based violence continued to provide information and assistance to the asylum seekers at greatest risk of being trafficked, especially single women and children separated from their parents. Key elements of the project included information about where potential victims could access assistance, access to specialized assistance and protection for victims identified in the asylum procedures, and access to asylum procedures for identified trafficking victims. All at-risk asylum seekers receive a book containing trafficking information and assistance contacts throughout Europe. The project was jointly administered by the asylum section of the MOI, two local NGOs (Kljuc and Slovenksa Filantropija), and the UNHCR.

The Government, in cooperation with an NGO, continued the programs "Vijolica" and "Caps," which provided trafficking awareness classes for elementary and secondary school students.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other government services, and the Government generally enforced these provisions in practice. The law mandates access to buildings for persons with disabilities, and modifications of public and private structures to ease access by these persons continued, although at a slow pace. However, most buildings were not accessible in practice. The Ministry for Labor, Family, and Social Affairs has primary responsibility for protecting the rights of persons with disabilities and in February the ministry established a working group to implement national guidelines for improving access to buildings, information, and communications for persons with disabilities. On July 11, the national assembly passed a law mandating that at least one polling station in every district must be accessible for the disabled. The change was observed during local elections in October.

*National/Racial/Ethnic Minorities.*—According to the 2002 census, minorities made up approximately 17 percent of the population and included approximately 39,000 Serbs, 36,000 Croats, 22,000 Bosniaks (Bosnian Muslims), 10,000 Muslims, 6,000 Hungarians, 6,000 Albanians, 4,000 Macedonians, 3,000 Montenegrins, 3,000 Roma, and 2,000 Italians. Observers noted that Roma frequently do not report their nationality accurately to census takers, and AI estimated that the true number of Roma was 7,000 to 12,000.

The law provides special rights and protections to autochthonous Italian and Hungarian minorities, including the right to use their own national symbols and have bilingual education and the right for each to be represented as a community in parliament (see section 3). The Romani minority does not have comparable special rights and protections. On November 23, parliament passed a law on the protection of the Roma community that outlined how the Government will regulate the status of the Roma community and fulfills the requirements of the constitution. The law focuses on the integration of the Roma community, in particular in the areas of education and employment, as well as efforts to legalize Roma settlements. It also calls for the formation of a Roma Council, made up of representatives from different Roma communities, which will serve as the chief partner of the Government on Roma integration issues. Government officials reported progress on Roma integration since the adoption of a National Action Plan for the education of Roma in 2004 and an Action Program for employment of Roma 2003–2006. The education plan's priorities include early inclusion and integration of Romani children into pre-school education; introduction of Roma assistants in kindergartens; Slovenian language lessons for Romani pupils; introduction of Romani language; teaching of Romani culture, history and identity; employment of Roma assistants; review of school placement procedures; and establishing a network of schools with Romani pupils for the exchange of experience and good practice. The employment plan's priorities include inclusion of young, unemployed Roma in primary and vocational schools; the inclusion of adult Roma in subsidized jobs programs; job creation through public works; and the employment of Roma advisers at employment service offices.

In a 2003 report, the committee on the elimination of racial discrimination expressed concern that discriminatory attitudes and practices against the Roma persisted and that the distinction between "indigenous" Roma and "new" Roma could give rise to new discrimination. Ethnic Serbs, Croats, Bosnians, Kosovar Albanians, and Roma from Kosovo and Albania were considered "new" minorities; they were not protected by the special constitutional provisions for autochthonous minorities and faced some governmental and societal discrimination with respect to employment, housing, and education.

A 2005 report by the UN Human Rights Committee and a November report from AI noted that the Roma continue to suffer prejudice and discrimination, in particular with access to health services, education, and employment.

Many Roma lived in settlements apart from other communities that lacked basic utilities such as electricity, running water, sanitation, and access to transportation. A November 28 report from the European Monitoring Centre on Racism and Xenophobia noted the problem of Roma exclusion in the housing market in all countries with sizable Romani populations. A Council of Europe report stated that local authorities have addressed the situation of Roma settlements poorly. According to government officials, 70 percent of the approximately 100 Roma settlements are illegal. The Roma also reported discrimination in employment, which complicated their housing situation. A March 29 report from the Council of Europe commissioner for human rights noted that the unemployment rate among Roma was 90 percent.

On September 8, the Novo Mesto District Court sentenced two men to 30 years in prison for the murder of two individuals at the Dobruska vas Roma community in June 2005. The two threw a bomb from their car that killed two women. A third individual was sentenced to 10 years and 10 months in prison for acting as a driver in similar incident at the Brezje settlement in May 2005 that did not result in any deaths. Two other suspects were acquitted due to lack of evidence.

On October 28, a Romani family living near the village of Ambrus left their homestead with assistance from government officials amidst intense pressure from the local community. Approximately 30 people were temporarily relocated to a former army barracks in Postojna, which the Government improved to meet basic living standards. The Government condemned the family's home in Ambrus because of illegal construction and demolished it on December 21. On December 24, the Romani family was relocated to a temporary location near Ljubljana. At year's end the Government was working with the family and local communities to find a suitable location to permanently relocate the family.

In late October and November, local citizens in and around the village of Ambrus staged demonstrations in opposition to the return of the Romani family. On November 25, over 100 police were sent to handle protests and the media reported that three protesters were hurt during the demonstration. Protesters on several occasions blocked roads near the former Roma family homestead with people, vehicles, and trees in an attempt to keep the family from returning to their home. Members of the Romani family were threatened with violence numerous times. Similar demonstrations occurred in at least one other location in the country.

Regularization of status for non-Slovenian former Yugoslav citizens remained an issue. Approximately 18,000 persons, mostly Yugoslav citizens residing in the country at the time of independence, did not apply for citizenship in 1991–92 and subsequently found their records were “erased” from the population register in February 1992. The deletion of these records has been characterized by some as an administrative decision and by others as an ethnically motivated act. In 2003 the constitutional court ruled unconstitutional portions of a law governing the legal status of former Yugoslav citizens because the law neither recognizes the full period in which these “erased” persons resided in the country nor provides them the opportunity to apply for permanent residency. On February 21, a group representing “erased” citizens staged an act of civil disobedience in front of the National Assembly to protest the Government’s failure to implement the constitutional court’s 2003 ruling. On November 29, the same group visited the European parliament to protest the Government’s lack of action. At year’s end the Government had not completed legislation to resolve the court’s concerns.

*Other Societal Abuses and Discrimination.*—The law prohibits discrimination based on sexual orientation; however, such societal discrimination was widespread, and isolated cases of violence against homosexuals occurred. A 2004 poll conducted by the Peace Institute of members of the gay and lesbian community found that 53 percent of respondents had experienced verbal, sexual, or physical harassment because of their sexual orientation.

On June 30, multiple assailants attacked activists of Lingsium, an advocacy group for homosexuals, who had set up a stand and were distributing leaflets in Maribor saying, “Action for tolerance: gays and lesbians wish you a good day.” Members of the Maribor city council published a statement condemning the attack.

On July 1, the sixth annual gay pride parade in Ljubljana took place without incident with the support of local government officials. However, on the evening of July 1, multiple assailants attacked two individuals in the vicinity of the Ljubljana train station and were reported to have shouted anti-gay comments. The police investigation was ongoing at year’s end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and they did so in practice. All workers, except police and military personnel, are eligible to form and join labor organizations. Approximately 35 percent of the workforce was unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to bargain collectively, and it was freely practiced; however, the law requires that 10 percent of the workers in an industry sector be union members before collective bargaining can be applied to the sector as a whole. All workers were covered by either a general collective bargaining agreement or a collective bargaining agreement that focused on a specific business segment.

The law provides for the right to strike, and workers exercised this right in practice. The law prohibits retaliation against strikers, and the Government effectively enforced this provision in practice. The law restricts strikes by some public sector employees, primarily the police and members of the military services, and provides for arbitration to ensure due process and protect these workers’ rights.

There are no special laws or exemptions from regular labor laws in the country’s sole export processing zone at Koper. The other two export processing zones in Maribor and Nova Gorica were eliminated in 2005.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace and to set forth acceptable working conditions; the Government effectively implemented and enforced these laws and policies in practice.

The minimum age for employment is 15; however, rural younger children often worked during the harvest season and on other farm chores. The law limits working hours and sets occupational health and safety standards for children; the Government effectively enforced these provisions in practice. Urban employers generally respected the age limits.

Trafficking in children for sexual exploitation was a problem (see section 5).



The Ministry of Labor, Family, and Social Affairs is responsible for monitoring labor practices and has inspection authority; police are responsible for investigating violations of the law. Enforcement practices were generally effective.

*e. Acceptable Conditions of Work.*—The national monthly minimum wage of approximately \$662 U.S. (125,052 tolar) provided a decent standard of living for a worker and family. The law limits the workweek to 40 hours and provides for minimum annual leave of 20 days and a mandatory rest period of at least one day per week. Premium pay for overtime was regulated by collective agreements and was not standardized, and maximum overtime was limited to 8 hours per week, 20 hours per month, and 180 hours per year. The Ministry of Labor, Family, and Social Affairs is responsible for monitoring labor practices and has inspection authority; police are responsible for investigating violations of the law. The laws were enforced effectively.

Special commissions under the ministries of health and labor, family, and social affairs set and enforced standards for occupational health and safety. Workers had the right to remove themselves from dangerous work situations without jeopardy to their continued employment; however, it was not clear to what extent they could do so in practice.

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## SPAIN

The Kingdom of Spain, with a population of approximately 44.4 million, is a parliamentary democracy headed by a constitutional monarch. The country has a bicameral parliament, and the head of the largest political party or coalition is usually named President. The 2004 national election was free and fair. The Spanish Socialist Workers Party won the multiparty election, and Jose Luis Rodriguez Zapatero became President. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. There was one report that security forces abused a suspect, and other reports indicated that some guards at migrant detention facilities mistreated detained migrants; Jewish groups reported isolated acts of vandalism; Muslim groups reported some societal discrimination; there were reports that authorities at times expelled illegal immigrants without adequate screening for potential asylees; domestic violence, trafficking in persons, prejudice—and at times violence—against minorities were societal problems. The Basque terrorist group Basque Fatherland and Liberty (ETA) declared a “permanent ceasefire” on March 22; however, an ETA bombing at the Madrid airport on December 30 killed at least two persons.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

There were legal developments related to some killings or alleged killings in previous years. In June the prosecutor asked for a 10-year prison sentence for civil guard commander Jose Manuel Rivas, and eight years in prison for each of seven other civil guards, accused of killing Juan Martinez Galdeano in July 2005. Galdeano died in civil guard custody in Roquetas (Almeria). The Ministry of Interior's investigation led to charges that the guards beat Galdeano to death, used banned weapons, obstructed the investigation, and provided false testimony. The trial had not begun by year's end.

In April the prosecutor asked for a conviction on charges of negligent homicide and a two-year jail sentence for a regional Catalanian police officer who shot and killed a Moroccan national, Farid Ben Daoud, during an operation against drug traffickers in 2004. While an investigation concluded that the killing was unintentional, prosecutors concluded that the officer had been negligent in securing his sidearm. The trial began in October.

The terrorist group ETA, whose declared goal is to establish an independent Basque state, continued its terrorist campaign of bombings during the first two and a half months of the year. ETA publicly claimed responsibility for these attacks. However, in March ETA declared a “permanent ceasefire” and sought negotiations with the Government on Basque independence and legalization for Batasuna, its political wing. The Government made both cessation of and renunciation of violence

a precondition for negotiation. However, on December 30, ETA terrorists detonated a massive car bomb inside a parking garage at Madrid's international airport, destroying the five-level garage and causing the death of two persons and significant loss of property. The Government responded on December 31 by severing negotiations. Batasuna representatives declined to condemn the attacks and blamed the Government for failing to advance peace negotiations.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and laws prohibit such practices, and the Government generally respected this prohibition.

In September the civil guard questioned 18 police officers about their alleged implication in the June 23 beating of a Guatemalan citizen in the police headquarters of Torrevieja (Alicante). A judge subsequently charged 13 of the officers, along with two local government officials, with the beating. Authorities produced mobile telephone recordings allegedly implicating both the police and members of the local government in an attempt to cover up the abuse. At year's end the case had not gone to trial.

Following a wide-ranging 2005 visit, the commissioner for human rights of the Council of Europe (COE/CHR) reported that he and his team did not find evidence of any ill treatment of prisoners. Many other observers generally agreed that police abuses were infrequent. However, a report by the European Commission against Racism and Intolerance (ECRI) released on February 21, reported that nongovernmental organizations (NGOs) continued to receive reports from noncitizens, Roma, and citizens of immigrant origin asserting that they were victims of misconduct, including insulting and abusive speech, mistreatment, and violence by the various security forces. The report indicated that victims rarely filed complaints, and there appeared to be little investigation of the incidents.

There were reports that a few members of the security forces abused and mistreated detained illegal immigrants. Media reported that some authorities in detention facilities traded food and other special favors for sex and money from migrant detainees. A government investigation was ongoing at year's end (see section 2.d.).

The NGO SOS Racismo denounced abuses of immigrants by some Catalan police officials. There were complaints by immigrants of mistreatment by police who were checking them for identification. One example was that of an immigrant from the Maghreb region who, after being attacked by four unknown persons and being badly injured, sought police assistance. Instead of helping him, police handcuffed him and left him inside a police car for more than 30 minutes before getting him medical attention.

On December 30, ETA terrorists broke a ceasefire by detonating a bomb at the Madrid airport, killing two persons and wounding many others. ETA kidnapped a French citizen whose vehicle they stole for use in the attack. Prior to the March 9 "permanent ceasefire" declaration, there were 12 terrorist acts, including attacks in the provinces of Cantabria, Alava, Guipuzcoa, Vizcaya, Zaragoza, Huesca, and Navarra. None of the injuries from these attacks was serious.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards; the Government permitted visits by independent human rights observers.

Prisons were overcrowded. At year's end there were 64,066 inmates in the country's 77 prisons with an inmate per cell ratio of approximately 1.6. At the end of 2005, the Government approved construction of 11 new prison facilities to be completed by 2012; four were under construction by year's end.

As of year's end, the delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had not made public a formal report on its 2005 visit to a number of the country's prisons. In their informal report, they reiterated earlier recommendations that authorities give detainees quicker access to lawyers, reduce the length of incommunicado detention, and provide detainees with access to their personal doctors rather than government doctors. The Government replied that incommunicado detention was only used under strict judicial supervision and that most detainees had prompt access to their lawyers.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Police forces include the national police and civil guard, both under the authority of the central government, as well as municipal police and police forces under the authority of Catalonia and the Basque country regional governments. All police forces operated effectively with isolated reports of corruption. However, the ECRI reported a problem with police impunity in

a report made public on February 21 (see section 1.c.). The constitution provides for an ombudsman who investigates claims of police abuse (see section 4). Police internal investigators have 15 days to respond to inquiries from the ombudsman concerning police behavior, and the ombudsman's office issues findings on the results of investigations and may impose sanctions. The ombudsman may perform unannounced inspections of police facilities (see section 4). The national ombudsman's annual report for 2005, released in June, stated that it intervened after receiving complaints of delays in judicial procedures and instances of poor communication and coordination between police and judicial authorities. The national ombudsman filed 140 ex-officio judicial complaints, including in the Roquetas case and in every instance of death during incarceration (see section 1.a.). During 2005 the ombudsman network processed 3,999 complaints relating to matters of justice, defense and internal affairs. The national ombudsman also reported that the Ministry of Interior accepted its recommendation to suspend two national police officers pending a disciplinary investigation.

*Arrest and Detention.*—The law provides that Police may apprehend suspects with probable cause or with a warrant based on sufficient evidence as determined by a judge. With certain exceptions, police may not hold a suspect for more than 72 hours without a hearing. Police generally respected these procedures in practice. Detainees generally were promptly informed of the charges against them. The courts released defendants on bail unless they believed that the defendants might flee or be a threat to public safety. Police generally gave arrested persons prompt access to a lawyer of their choosing or, if they could not afford one, to a court-appointed attorney.

In certain rare instances involving acts of terrorism or rebellion, the law allows authorities to detain persons for up to five days prior to arraignment on the authorization of a judge. In these cases a judge also may order incommunicado detention for the entire duration of police custody (five days). The law stipulates that suspects held incommunicado have the right to an attorney, but not necessarily to their attorney of choice. The Spanish Bar Association, not the Government, selects an attorney for the detainee. Additionally, after incommunicado police custody and arraignment, a court or judge may order additional incommunicado pretrial imprisonment of up to 13 days. Human rights observers indicated that this power carried the potential for abuse. Authorities asserted that this form of detention was rare.

Lengthy pretrial detention occurred. At year's end the prison population was 64,066 of whom 15,154 were pretrial detainees. Under the law authorities may detain suspects for more than two years before putting them on trial unless a judge authorizes a further delay, which may extend to four years. In practice pretrial detention was usually less than one year.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The judicial structure consists of local, provincial, regional, and national courts with the Supreme Court at its apex. A Constitutional Court has the authority to return a case to the court in which it was adjudicated if it determines that constitutional rights were violated during the course of the proceedings. The national courts hear cases involving terrorism and drug trafficking. The European Court of Human Rights is the final arbiter in cases concerning human rights.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right.

Trials are public and there is a nine-person jury system. Defendants have the right to be represented by an attorney (at government expense for the indigent), to confront witnesses, to present witnesses on their behalf, and to have access to government-held evidence. Defendants enjoy the presumption of innocence and the right to appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—An independent and impartial judiciary exists for civil matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Individuals could criticize the Government publicly or privately without reprisal, and the Government did not attempt to impede criticism.

The law prohibits, subject to judicial oversight, the publishing of documents that the Government interprets as glorifying or supporting terrorism. There were no reports that persons were prosecuted for this offense during the year.

The independent media were active and generally expressed a wide variety of views without restriction; however, there was one report of attempted restriction on broadcast media in Catalonia. In January several NGOs criticized a December 2005 law enacted by the regional Catalanian parliament that gave the Catalanian Audio-visual Council authority to fine Catalanian media as much as \$393,000 (300,000 euros), or to shut them down, for transmitting "untruthful" information. There were no reports that this law was employed during the year.

On April 11, Holocaust denier Pedro Varela was arrested in his bookstore *Libreria Europa* in Barcelona. Police seized hundreds of books denying or minimizing the Holocaust. Authorities charged Varela with defending genocide and incitement to racial hatred and released him pending trial. The charges against him carry a penalty of up to five years' imprisonment. The trial had not begun at year's end.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet access was readily available from a number of providers. The Government did not require Internet service providers to restrict public access to any Web sites.

*Academic Freedom and Cultural Events.*—There were no official government restrictions on academic freedom or cultural events.

Languages or dialects other than Castilian Spanish are used in six of the country's 17 provinces. The constitution stipulates that citizens have the "duty to know" Castilian, which is the official language of the state; however, it provides that other languages may also be official under regional statutes and that "different language variations of the country are a cultural heritage which shall be protected."

In the autonomous province of Catalonia, Catalan and Castilian are both official languages and both may be used in official institutions as well as in schools. However, during the year both Spanish and Catalan ombudsmen received isolated complaints of alleged discrimination against the use of either Castilian or Catalan (see section 5).

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the Government generally respected this right in practice.

The constitution declares the country to be a secular state, and various laws provide that no religion should have the character of a state religion; however, Catholicism was the dominant religion and enjoyed the closest official relationship with the Government. The Catholic Church benefited from financing through the tax system in that taxpayers, regardless of denomination, could elect to dedicate a small percentage of their taxes to the Catholic Church. The Government also provided some direct funding to the Catholic Church, as well as funding for religion teachers in public schools, military and hospital chaplains, and other indirect assistance. The Jewish, Muslim and many Protestant communities had official status and received some tax benefits through agreements with the Government, but they enjoyed fewer privileges.

To receive status as a religion, an organization must be officially recognized by the Ministry of Justice. Groups not officially recognized as religions, including the Church of Scientology, were treated as cultural associations. The Church of Scientology filed its most recent application for official recognition with the Ministry of Justice in 2004. The ministry rejected the application in May 2005 on the grounds that the ministry did not have the authority to overturn a 1990 Supreme Court decision that denied the church registration.

On separate occasions leaders of the Muslim and Jewish communities complained about difficulties in securing permits and approvals to construct new places of worship. Specifically, efforts to construct a mosque in Seville were met with judicial hurdles that the Seville Mosque Foundation claimed were prompted by societal prejudice against Islam. Construction was on hold at year's end pending a judicial ruling on a complaint filed by Bermejales 2000, a neighborhood association that gathered 1500 signatures opposed to the construction of the mosque.

Planners of a Sephardic Jewish center in Barcelona criticized local and national government officials for withholding support for the project. Authorities replied that they did not oppose the project but were waiting for a feasible plan.

The law mandates public funding for teachers in Catholic, Islamic, Protestant, and Judaic studies in public schools when at least 10 students request them. Islamic leaders complained that the demand for Islamic instruction far outstripped the Government's capacity to provide it. In October Muslim leaders and government officials celebrated printing of the first 15,000 copies of a standardized textbook on Islam to be used in public schools.

In December the Islamic Junta of Spain appealed to Pope Benedict XVI to allow Muslim worshippers to pray at the Cordoba mezquita, a site of religious significance to both Catholics and Muslims, having been built as a mosque during the Muslim era and turned into a cathedral after Christian monarchs captured Cordoba in 1236. The Islamic Junta asked the Vatican to convert the mezquita into an ecumenical center where members of all faiths could worship. On December 28, the Archbishop of Cordoba declined this request.

*Societal Abuses and Discrimination.*—Muslims continued to experience some societal prejudice. On April 18, the Spanish Federation of Islamic Religious Entities (FEERI) and the Union of Islamic Communities in Spain (UCIDE) criticized what they called an increase in Islamophobia; however, a large majority of Muslims said in public opinion polls that they felt "well integrated" or "somewhat integrated."

The comments of FEERI and UCIDE were prompted by arson attacks on the Sibi Bel Abbas mosque, the second of two mosque bombings in the enclave city of Ceuta in North Africa. Authorities indicated that the burning of the Sibi Bel Abbas mosque may have been the work of radical Islamists in Ceuta who opposed the iconic nature of worship prevalent among Maghrebi Muslims; the two sanctuaries were both sacred burial sites of important Maghrebi leaders. Authorities had not charged anyone in connection with either attack by year's end, but their investigation was continuing.

On November 19, unknown persons vandalized the Colon Park mosque in Corboba, defacing it with graffiti of swastikas and other xenophobic symbols.

According to a report on the Muslim community produced by Metroscopia for the Ministry of Interior, 31 percent of Muslim respondents said they were completely adapted to Spanish life and customs, 49 percent were fairly well adapted, and 19 percent said they were not well adapted. Among respondents, 83 percent said they had not encountered any obstacles to the practice of their religion, while 13 percent said they had. Among the respondents, 57 percent believed Spanish society was tolerant of the Muslim religion, while 37 percent thought there was some prejudice.

According to another report on the Muslim community produced by Tais Comunicacion for the magazine 21RS, 38.7 percent of Muslims felt completely accepted, 50 percent felt somewhat accepted, 10.3 percent felt somewhat rejected, and 1 percent felt very rejected.

However, in December the European Observatory for Racism released a report describing the results of a June survey by the Pew Global Attitudes Project which found that only 29 percent of respondents in the country held a good opinion of Muslims; in response to a separate question, 83 percent of respondents associated "Muslim" with "fanaticism." In the opinion of 58 percent of the respondents, being a devout Muslim was incompatible with modern society, and 41 percent believed that at least some of the country's Muslims supported Islamic extremism. In the view of more than 80 percent of respondents, Islam did not respect women.

Jewish community leaders reported that while violence against persons in the 30,000 to 40,000 member Jewish community was rare, they were concerned about anti-Semitism expressed as vandalism against Jewish institutions. On July 25, the building housing the Jewish Information Center in Toledo was defaced with 12 swastikas. Synagogues in Barcelona were vandalized at various times during the year, especially during the July-August conflict involving Israel and the terrorist organization Hizballah in Lebanon. Also, in March 2005 Jewish synagogues in Barcelona were defaced with anti-Semitic graffiti. No suspects were arrested.

Jacobo Israel Garzon, President of the Federation of Jewish Communities in Spain, stated in a November 5 article in the International Herald Tribune that, despite increased interest in the country's Jewish heritage, "a new anti-Semitism is developing in Spain. It uses the Israeli-Palestinian conflict as its source, but it passes very quickly from anti-Israelism to anti-Semitism."

The European Jewish Congress, in a report on alleged anti-Semitism during the July-August conflict involving Israel and the terrorist organization Hizballah in Lebanon, cited an article that appeared in El Mundo linking Nazi Germany and Israel, accusing Israel of using the same arguments made by the Nazi leaders to

justify its “aggression.” The article continues, “now the victims of this period (the 1930s) have become the executioners.”

In November, at a soccer game between Deportivo La Coruna and Osasune, Osasune fans shouted anti-Semitic slurs at Dudu Awate, a Deportivo player from Israel (see section 5).

The 2005 annual country report on anti-Semitism by the Stephen Roth Institute, released during the year, found that “a relatively low level of anti-Semitic activity was recorded in Spain in 2005.”

On April 11, Holocaust denier Pedro Varela was arrested in his bookstore, Libreria Europa, in Barcelona. Police seized hundreds of books denying or minimizing the Holocaust. Authorities charged Varela with defense of genocide and incitement to racial hatred and released him pending trial. The charges against him carried a penalty of up to five years’ imprisonment. The trial had not begun at year’s end.

In March 2005 Barcelona police arrested a distributor of neo-Nazi music, Jordi R.P., for distributing music that promoted the Third Reich, anti-Semitism, and called for a racial war. He was awaiting trial at year’s end.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. The Government generally provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

During the year, authorities received 5,297 asylum requests. They gave refugee status to 168 applicants during the same period and gave other forms of protection to 188 others.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to approximately 111 persons in 2005.

The Government generally cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations, including the Spanish Committee for Assistance to Refugees, in assisting refugees and asylum seekers.

The country experienced its largest recorded influx of undocumented immigrants during the year. Among them were approximately 31,000 West Africans who arrived on boats in the Canary Islands. The authorities transferred approximately 20,000 immigrants from the Canary Islands to the Iberian Peninsula, and 8,000 more resided in the islands’ police stations and refugee centers.

At year’s end the Government had repatriated 97,715 irregular immigrants. A July report by Amnesty International (AI) expressed concern that the Government, faced with thousands of migrants that arrived in the Canary Islands, did not dedicate sufficient resources to identify bona fide refugees and expressed concern that screening was inadequate. While acknowledging that a majority of the migrants were economic, AI found that the Government had not always provided migrants with sufficient legal information or access to interpreters.

In October several NGOs, including CEAR, called on the Government to close the Center for the Internment of Aliens in Malaga, saying it experienced a “plague of irregularities,” including alleged instances of guards trading food and other favors for sex. On July 22, a judge in Malaga ordered three police officers detained, pending the results of an investigation by the Ministry of Interior, for sexually abusing interned migrants. Authorities also charged an attorney in the case, which detailed the alleged organization of sex parties by guards at the center, and the investigation was ongoing at year’s end (see section 1.c.).

Human rights observers criticized the Government’s deportation of non-Moroccan migrants directly to Morocco, their country of last transit, and the Government abandoned this practice during the year. During the year the Government concluded repatriation agreements with several West African countries in order to repatriate migrants directly to their countries of origin. In a report released in October, “The Southern Border 1995–2006: Ten years of human rights violations,” the NGO SOS Racismo asserted that Moroccan authorities had abandoned at least 81 such migrants in the desert along the Algerian border in 2005. The report cited 379 depor-

tations to Morocco that it claimed violated European law against deporting persons to a country where their lives may be in danger.

The Government provided funding and material assistance to help Moroccan and Mauritanian authorities improve their border security and their treatment of migrant populations.

*Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through regularly occurring, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In 2004 Jose Luis Rodriguez Zapatero of the Socialist Party became President in a free and fair national election. Governmental power was shared between the central government and 17 regional governments. Linguistic and cultural minorities had representation in, and participated in, both local and national political parties.

There were 125 women in the 350-seat Congress of Deputies (lower house) and 61 women in the 259-seat Senate (upper house). There were eight women in the 16-member Council of Ministers.

The Government did not keep statistics on the ethnic composition of the parliament, but linguistic and cultural minorities appeared to be well represented. The Catalan parliament included a member of Moroccan origin. There were Muslim political parties in the city enclaves of Ceuta and Melilla in North Africa. Roma had little representation in government. During the year the Government appointed the first Roma to a high-level position, as an advisor in the Women's Institute.

*Government Corruption and Transparency.*—There were several reports of government corruption during the year, primarily in local government. Many of the cases dealt with bribery of local officials by construction companies seeking to win favorable rezoning and construction contracts. In March, in one particularly serious incident, the national anticorruption attorney's office investigated and charged the mayor and much of the local government of Marbella with corruption and financial crimes. As the year progressed, details continued to come out of alleged extensive corruption in the Marbella government, including real estate graft, bribery, and embezzlement, which left the Government several hundred million dollars in debt. By year's end authorities had arrested more than 60 individuals connected to the scandal and the investigation was ongoing. The former chief of police of Marbella was arrested in December and accused of illegally selling over 400 stolen vehicles at a police auction. The suspected ringleader of the corruption, Juan Antonio Roca, was arrested in March and remained in custody at year's end.

The law mandates public access to government information, and the Government generally provided it.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The law provides for an ombudsman, called the "people's defender," whose duties included investigating complaints of human rights abuses by authorities. The ombudsman operates independently of any party or government ministry, is elected every five years by a three-fifths majority of the Congress of Deputies, and is immune from prosecution. The ombudsman has complete access to government institutions and to all documents other than those classified for national security reasons. Although his recommendations to government agencies were advisory, the ombudsman could refer cases to the courts on his own authority. Government agencies were generally responsive to the ombudsman's recommendations. Several autonomous communities had their own ombudsmen, and there were ombudsmen dedicated to the rights of specific groups, such as women, children, and persons with disabilities. The ombudsmen made hundreds of official recommendations during the year.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced it effectively; however, domestic violence, trafficking in persons, and discrimination against ethnic minorities and immigrants were problems.

*Women.*—The law prohibits violence against women, but domestic violence against women was widely acknowledged to be a societal problem. Despite the implementa-

tion of the 2005 Integral Law against Gender Violence, which toughened penalties on gender violence and increased the number of police officers and courts dedicated to gender violence, the Government reported that current or former husbands or partners killed 68 women during the year, an increase from 60 in 2005. According to a study released in December by the Ministry of Labor and Social Affairs, more than 600,000 women over the age of 18 (3.6 percent) were victims of gender-based abuse during the year. Through November women filed 57,454 complaints of abuse against their husbands, male partners, or ex-partners, 4.2 percent more than during the same period in 2005.

The law provides prison sentences of six months to a year for domestic violence, threats, or violations of restraining orders, with longer sentences in the event of serious injuries. During the year special gender courts received 148,448 complaints of domestic violence and issued 16,036 convictions. In the 12 months ending in June, gender courts tried 40,700 cases of gender violence with a conviction rate of 71.9 percent. In their first year of existence, the special courts issued 27,366 restraining orders against men.

Over 50 offices provided legal assistance to victims of domestic violence, and there were approximately 225 shelters for battered women. A 24-hour free national hotline advised battered women on where to find local assistance or shelter. In addition the security services strengthened their support for battered women. In December 2005 there were 1,102 specialized police officers who focused on protection of victims. At year's end that number had increased to 1,392.

In March the Government created the State Observatory for Violence Against Women to gather information on the problem, issue annual reports evaluating the efficiency of existing measures, and propose new ones if necessary.

A June AI report entitled *More Rights, the Same Obstacles* found that the implementation of the Government's domestic violence law was uneven—regions outside the capital generally provided fewer resources for battered women.

The law prohibits rape, including spousal rape, and the Government effectively enforced it. The Government reported 6,382 cases of sexual assault, harassment, and aggression through November.

In Catalonia the law requires that a doctor examine immigrants considered to be in danger of female genital mutilation (FGM) when they travel to and from their countries of origin. Parents whose children are determined to have been subjected to this practice risked losing custody of these children. In practice there were no medical examinations of immigrants, because there was no suspicion that FGM took place. Authorities and doctors warn immigrant parents of situations when they suspect something like this could occur.

Prostitution is not illegal, but forcing others into prostitution and organizing prostitution rings are crimes, and it is illegal for anyone to profit from the prostitution of another. Prostitution was reported to be a problem. Local governments, notably those of Madrid and Barcelona, continued efforts to discourage prostitution. During the year the Madrid city government focused its efforts on reducing demand by targeting potential sex solicitors with posters claiming, "because you pay, prostitution exists." The Madrid city government hosted a conference in November on "Human Rights and Prostitution" to build momentum to fight demand of the commercial sex trade. Other efforts to combat prostitution included advertising campaigns discouraging prostitution, restrictions on prostitution near schools, and police actions such as road closings to deter clients from seeking prostitutes. In April the joint Senate-Congress Commission for Women's Rights approved the creation of a study group to analyze voluntary prostitution and how to approach the problem. The commission had not delivered its findings at year's end.

Trafficking in women for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace; however, such harassment was reported to be a problem. According to a study released in April by the Women's Institute, a division of the Ministry of Labor and Social Affairs, 14.9 percent of women experienced some kind of sexual harassment during 2005, although only 9.9 percent identified themselves as victims of such harassment. The study found that four percent of women had suffered a serious incident of harassment and 2.2 percent had suffered a very serious incident. The institute reported 390 complaints of sexual harassment from January through November.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The Women's Institute worked to ensure the legal rights of women, combat economic discrimination, and integrate women into the mainstream of society and the economy. Discriminatory wage differentials continued to exist, and women held fewer senior management positions than men.



*Children.*—The Government was strongly committed to children's rights and welfare.

Education is compulsory until age 16 and free until age 18. There were no apparent differences in the treatment of girls and boys in education. According to UN Economic and Social Organization statistics for 2002 and 2003, 100 percent of primary school-aged children and 96 percent of secondary school-aged children were in school.

Access to the national health care system was equal for girls and boys.

The Ministry of Health and the Ministry of Labor and Social Affairs were responsible for the welfare of children. Several regional governments had an office of the children's defender, an ombudsman charged with defending children's rights.

In June the Congress of Deputies approved a revision of the law to establish tougher penalties for youth aged 14 to 17. The new law also permits underage witnesses and victims of crimes to testify via videoconference without having a visual confrontation with the defendant.

There were isolated reports of child abuse.

Child prostitution occurred.

Trafficking in teenage girls for the purpose of sexual exploitation was a problem (see section 5, Trafficking).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to and through the country.

The country was both a destination and transit point for persons trafficked for the purpose of sexual exploitation (most frequently involving forced prostitution and work in nude dancing clubs) and, to a lesser degree, forced labor (primarily in agriculture, construction, and domestic employment) (see section 6.d.). Trafficked women were usually 18 to 30 years of age, but some girls were as young as 16. Women were trafficked primarily from Latin America (Colombia and Ecuador), East European countries (Romania and Bulgaria), sub-Saharan Africa (Nigeria, Guinea, and Sierra Leone), and, to a lesser extent, North Africa. Asians, including Chinese, were trafficked to a much lesser degree and more often for labor rather than for sexual exploitation.

The traffickers were generally organized criminals based in the source countries.

Methods used by traffickers to maintain control of their victims included physical abuse, forced use of drugs, withholding of travel documents, and threats to the victim's family. NGOs reported an increase in instances when traffickers allowed their victims to keep a portion of the money they earned through prostitution in order to dampen the victims' desire to escape the trafficking network. In the case of women from Eastern Europe, severe violence and threats were the method most often employed by traffickers. Traffickers lured some victims from other regions with false promises of employment in service industries and agriculture but then forced them into prostitution upon their arrival. The media reported that criminal networks often lured their victims by using travel agencies and newspaper advertisements in their home countries that promised assured employment in Spain. In the case of Romanian organized networks, women were typically forced into prostitution and 90 percent of their earnings went to the criminal network. Men were often trafficked for employment in low-paying construction jobs. Clandestine clothing production and sales, and work in restaurants were typical employment for illegal Asian immigrants, who came to the country with false documents through trafficking networks.

The law prohibits trafficking in persons for labor and sexual exploitation. Penalties ranged from five to 10 years' imprisonment. The law also prohibits the exploitation of prostitutes through coercion or fraud and the exploitation of workers in general, with penalties ranging from five to 10 years' imprisonment. During 2005, 1,686 persons were convicted of crimes related to trafficking in persons for labor and sexual exploitation. From January through May, police dismantled 160 trafficking networks and arrested 889 persons for this activity, freeing 1,337 victims.

In November the National Police and Civil Guard disrupted a trafficking operation that was exploiting foreigners for manual labor. On November 13, police intercepted a cargo van driven by a Romanian citizen with 18 illegal migrants crowded into the cargo area. The migrants were believed to be destined for a citrus orchard in Huelva. Authorities arrested the Romanian driver of the van, the Spanish owner of the farm, and a Bulgarian fixer. The workers were to receive approximately \$26 (20 euros) a day with no labor contract.

During the year there was a considerable increase of trafficking to Catalonia of women from Romania, Bulgaria, Albania and from such African countries as Senegal and Mauritania. There were reports that approximately 1,500 women arrived from Romania by bus with fake documents and tourist visas.

The Ministry of Interior coordinates antitrafficking efforts and received support in its efforts from the Office of the President, the Ministry of Labor and Social Services, the Ministry of Justice, and the Ministry of Education. The national police has a special unit, the Immigration Networks and Falsified Documents Unit (UCRIF), which covers trafficking in persons. The UCRIF intelligence unit analyzed statistical data and trends, while coordinating efforts and sharing data with the civil guard and Interpol. Regional national police offices conducted quarterly reviews to set goals in combating trafficking and to assess success in meeting previous quarter goals. During the year 200 police and civil guard officers worked exclusively to combat trafficking of women and children.

The law permits trafficking victims to remain in the country if they agree to testify against the perpetrators. After legal proceedings conclude, victims are given the option of remaining in the country or returning to their countries of origin. Victims were encouraged to help police investigate trafficking cases and to testify against traffickers. There was no fixed period of time for victims to recover and reflect, in a safe environment, before being required to decide whether to cooperate with police investigation and prosecution of their traffickers.

The Government worked with, and funded, NGOs that provided assistance to trafficking victims. In addition regional and local governments provided assistance either directly or through NGOs. Representatives of the Government's violence education programs for female victims and an NGO partner on trafficking reported that 89 percent of the victims they assisted pressed criminal charges.

The Government contracted with Project Hope, an international order of nuns whose domestic branch focused solely on abused women, to provide protection, housing, and counseling to victims of trafficking or other abuse. Project Hope operated shelters in Madrid, provided assistance with medical and legal services, and acted as liaison with law enforcement for victims who chose to testify against traffickers. Project Hope received many referrals directly from police. The Catalan regional and municipal government contracted with Caritas for the same services.

Since March 2004 the Madrid city government has enforced its antiprostitution and antitrafficking campaigns by increasing the presence of police in targeted zones and by publicity designed to reduce the demand for commercial sex services (see section 5, Women).

The Government established an antitrafficking working group during the year under the auspices of the vice President. The task force tasked the interior, justice, labor, and foreign affairs ministries with responsibilities leading to the production of a national action plan to combat trafficking in persons. The plan was not released by year's end.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services, and the Government effectively enforced these provisions. A report by the Spanish Committee of Representatives of Handicapped Persons indicated that 64 percent of persons with disabilities felt discrimination against at some time in their lives.

The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice; however, levels of assistance and accessibility differed among regions. The Ministry of Labor and Social Affairs has the responsibility of protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were instances of societal violence and discrimination against members of racial minorities, and the Government undertook efforts to combat them. A report issued on February 21 by the ECRI, while recognizing the Government's efforts to combat these problems, encouraged more frequent use of provisions in the law that treat racism as an aggravating factor (i.e. hate crime) to impose tougher sentences. SOS Racismo also encouraged this course of action.

Neo-Nazis and skinheads harassed immigrants as well as racial and other minorities during the year. Although noting that the country did not have a far-right political party with electoral possibilities, the NGO SOS Racismo, in its annual report issued April 24, indicated that "violent actions of explicit racism" by ultrarightists, continued to occur and that far-right groups were appealing to greater numbers of youth, making use of the Internet to spread their beliefs. SOS Racismo denounced alleged abuses against immigrants by some Catalan police officials (see section 1.c.).

On September 3, in the Sabadell area of Catalonia, approximately 15 persons allegedly assaulted a Gambian citizen, Bakari D., in the street, breaking his ribs and puncturing his lung. His girlfriend, who witnessed the attack, said the assailants were shouting racial insults at the man during the assault. Catalan police were investigating the incident and had not pronounced it a hate crime at year's end.

In 2005 police detained approximately 126 neo-Nazis throughout the country, principally in Catalonia, Madrid, and Aragon.

Public opinion polls revealed that some citizens had negative stereotypes regarding minorities, including immigrants, who came primarily from Latin America, Morocco, and Eastern Europe and also from West Africa. On October 9, in a speech about immigration, Madrid city council member Pedro Calvo said that foreigners coming from South America acted violently "because the value placed on life there is less." The human rights groups SOS Racismo and the Commission for the Protection of Refugees (CEAR) characterized the statement as xenophobic. The Socialist Party called for Calvo's resignation, but the conservative Popular Party declined to discipline Calvo.

According to a July 12 report of the national NGO Fundacion Secretariado Gitano (FSG) Roma continued to face marginalization and discrimination in access to employment, housing, and education. The FSG cited 137 credible complaints of racial discrimination against Roma in 2005, including racially threatening graffiti and discrimination in employment, social services, education, and the purchase of real estate. The FSG welcomed the April 2005 royal decree establishing the State Council of the Romani People and a July 2005 law that outlawed discrimination in classrooms; however, the report cited public opinion polls indicating that one in four of the country's inhabitants did not want their children to take classes with Romani children. It also indicated that more than 40 percent of inhabitants expressed discomfort at having Romani neighbors. The Romani community, whose size was estimated by NGOs at several hundred thousand, experienced substantially higher rates of poverty and illiteracy than the general population. Roma also had higher rates of unemployment and underemployment. The central and local governments provided assistance to several NGOs that were dedicated to improving the condition of Roma.

On November 7, the FSG criticized a city councilman in Denia who attributed a recent crime wave in the town to the Roma population and called for their expulsion.

In June 2005 the Ministry of Education and Culture and the FSG signed a cooperative agreement that focused on improving the school attendance of Romani children and education for adults. In September the FSG announced the results of a study indicating that up to 80 percent of Romani children were not finishing their required secondary education.

During the year the national ombudsman received approximately 50 complaints related to alleged discrimination in Catalonia, where both Castilian and Catalan are official languages, against the teaching of the Castilian language. During the year the Catalan ombudsman received 10 complaints related to discrimination against the teaching or use of the Castilian language and 33 complaints about the failure to use the Catalan language in Catalan official institutions (these complaints were from persons who wished to be served in Catalan but were served in Castilian), although the law requires that civil servants dealing with the public be able to speak both languages. Critics on one side asserted that limiting education in Castilian reduced opportunities for Catalans who wish to live or work outside Catalonia or who simply wish to speak Castilian, and circumscribed the opportunities of Castilian speakers in Catalonia. Others, however, insist on their right to be served in the Catalan language.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers, except those in the military services, judges, magistrates, and prosecutors, to form and to join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. Approximately 15 percent of the workforce was unionized. The law prohibits discrimination by employers against trade union members and organizers; however, unions contended that employers practiced discrimination in many cases by refusing to renew the temporary contracts of workers engaging in union organizing.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining, including for all workers in the public sector except military personnel, and it was freely practiced. Public sector collective bargaining includes salaries and employment levels, but the Government retained the right to set these if negotiations failed. Collective bargaining agreements were widespread in both the public and private sectors; in the latter they covered 85 to 90 percent of workers. The law provides for the right to strike and workers exercised this right by conducting legal strikes. A strike in nonessential

services was legal if the union gave five days notice. Any striking union must respect minimum service requirements negotiated with the respective employer.

There are no special laws or exemptions from regular labor laws in the three special economic zones in the Canary Islands, Ceuta, and Melilla.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace. Child labor was generally not a problem. The statutory minimum age for the employment of children is 16. The law also prohibits the employment of persons under the age of 18 at night, for overtime work, or in sectors considered hazardous. The primary responsibility for enforcement lies with the Ministry of Labor and Social Affairs, and the minimum age was enforced effectively in major industries and in the service sector. It was more difficult to enforce the law on small farms and in family-owned businesses, where some child labor persisted. Legislation prohibiting child labor was enforced effectively in the special economic zones.

*e. Acceptable Conditions of Work.*—The minimum wage was approximately \$707 (540 euros) per month, which generally provided a decent standard of living for a worker and family; however, this was not the case in all areas of the country. The Ministry of Labor and Social Affairs effectively enforced the minimum wage.

The law provides for a 40-hour workweek, with an unbroken rest period of 36 hours after each 40 hours worked. By law overtime is restricted to 80 hours per year unless collective bargaining established a different level. Premium pay is required for overtime, up to a maximum of 80 hours per year.

The National Institute of Safety and Health in the Ministry of Labor and Social Affairs has technical responsibility for developing labor standards, but the inspectorate of labor had responsibility for enforcing the law through inspections and judicial action when infractions were found. Unions criticized the Government for devoting insufficient resources to inspection and enforcement. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, and authorities effectively enforced this right; however, employees with short-term labor contracts may not understand they have such protections.

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## SWEDEN

The Kingdom of Sweden is a constitutional monarchy with a multiparty, parliamentary form of government. Legislative authority is vested in the unicameral Riksdag (parliament). The population exceeds nine million. In national elections on September 17, voters elected a center-right coalition government led by the Moderate Party. The elections were free and fair. The King is the largely symbolic head of state. The Prime Minister is the head of the Government and exercises executive authority. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. Reported human rights problems included: isolated incidents of excessive police violence; prison overcrowding and lengthy pretrial detention; government surveillance and interference with the right to privacy; government interference with freedom of speech and the press; societal anti-Islamic and anti-Semitic discrimination; violence against women and children; trafficking in women and children; and societal discrimination against foreign-born residents, Roma, and homosexuals.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were isolated reports that police used excessive force.

During the year law enforcement authorities conducted 82 investigations of police officers and charged and convicted nine for crimes, including unlawful threat, causing bodily injury, and procurement and sexual molestation. The investigation of a September 2005 incident in which police were alleged to have used excessive force did not result in prosecutions due to lack of evidence.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, but problems of overcrowding and lengthy pretrial detention continued, particularly in the Stockholm region. Amnesty International released a report during the year citing overcrowding as a concern and noting reports of detainees sharing cells intended for single occupancy. The Council of Europe's Committee for the Prevention of Torture, in a 2004 report, stated that authorities should work to assure a proper balance between the needs of criminal investigations and the restrictions placed on pretrial detainees, such as limitations on visits, telephone calls, and association, and censorship of correspondence. According to the Sweden Helsinki Committee for Human Rights, excessive restrictions on detainees remained problems during the year.

The Government permitted visits by independent human rights observers, although no such visits were reported during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—There is a national-level police force divided into 12 districts, each of which reports to a national police board under the jurisdiction of the Ministry of Justice. The Swedish Security Service (SAPO), an intelligence agency with police duties, is an independent part of the national police board. The SAPO's activities include counterespionage, counterterrorism, internal threats to national security, protective security for companies and government agencies, and dignitary protection. There were no reports of corruption or of problems related to impunity.

*Arrest and Detention.*—The law requires warrants issued by duly authorized officials for arrests, and the Government generally respected this requirement in practice. Police must file charges within six hours against persons detained for disturbing the public order or considered dangerous, and within 12 hours against those detained on other grounds. Police may hold a person for questioning for six hours, although the period may be extended to 12 hours if necessary for the investigation. If the person is a suspect, police must decide whether to arrest or release the person. If the suspect is arrested, the prosecutor has 24 hours (or three days in exceptional circumstances) to request continued detention. An arrested suspect must be arraigned within 48 hours, and initial prosecution must begin within two weeks, unless extenuating circumstances exist; authorities generally respected these requirements. Detainees may request a lawyer of their choice; in criminal cases the Government is obligated to provide an attorney if the defendant cannot afford one. Detainees are afforded prompt access to lawyers and to family members. Although there is no system of bail, courts routinely release defendants pending trial unless they are considered dangerous.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system is composed of three levels: district courts, a court of appeals, and the Supreme Court. All cases are heard first in a district court regardless of the severity of the alleged crime. For some areas there are independent specialized courts, such as the labor court, that are usually the second and final instance for trial after the district court. Other specialized courts, for areas such as water and real estate, depend on the district courts; lawsuits in these courts may be appealed to the Supreme Court.

*Trial Procedures.*—All trials are public. Juries are used only in cases involving freedom of the press or freedom of speech. In other cases judges or court-appointed civilian representatives make determinations of guilt or innocence. The court system distinguishes between civil and criminal cases. Defendants have the right to be present at their trial and to consult with an attorney in a timely manner. In criminal cases, the Government is obligated to provide a defense attorney if the defendant cannot afford one. A "free evidence" system allows parties to present in court any evidence, regardless of how it has been acquired. Defendants enjoy a presumption of innocence and have a right of appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is no specific court for human rights violations. Instead, cases are tried in the general court system. As members of the European Union, citizens can appeal to the European Court of Human Rights in matters related to the state. A law that entered into force during the year allows individuals and environmental organizations to appeal in civil cases against the Government.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. In June the European Court of Human Rights found the country guilty of violating the rights (set forth in the European Convention of Human Rights) of four individuals; it ordered the Government to pay damages. The case involved the Government's refusal of the individuals' requests to view 30-year-old files the SAPO had gathered on them.

Human rights organizations, including the International Helsinki Federation for Human Rights, expressed concern over increased use of surveillance techniques by the police and insufficient protection of the individual's right to privacy. During the year courts issued 833, and denied 12, permits for wiretapping.

An ombudsman in the prosecutor's office is responsible for protecting citizens' rights in court cases that involve use of invasive measures, such as camera surveillance or wiretapping. The ombudsman participates in the court review of all wiretapping and surveillance requests.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press. While the Government generally respected these rights, it prohibited certain types of expression it deemed hate speech (incitement of racial hatred). The law on hate speech prohibits threats or expressions of contempt for a national, ethnic, or other such group of persons with allusion to race, color, national or ethnic origin, religious belief, or sexual orientation.

The independent media were active and expressed a wide variety of views without restriction.

In April the Gota Court of Appeal reversed the conviction and acquitted an individual who had been sentenced in November 2005 to a one-month jail sentence for violating the hate-speech law. He had been prosecuted as the legally responsible publisher of an article concerning homosexuality and another about immigration of Roma from Central Europe.

In connection with anti-Israel demonstrations in July in the city of Malmo, a prosecutor decided that the use of swastikas in conjunction with the equal sign and the star of David on billboards was not illegal. However, also in July, the city's chief prosecutor, Sven-Erik Alhem, requested a preliminary investigation into whether such use of the swastika and the star of David violated the hate-speech law. The investigation was dropped by prosecutorial discretion.

In February a police complaint was filed by Karlskrona municipality against the National Socialist Front for publishing a picture on their Web site where a banner displayed at a demonstration had a swastika on it. The police complaint did not result in a legal case. In a separate matter, in September the chancellor of justice requested that a residential search warrant be issued against one of the founding figures of the National Socialist Front because of his suspected involvement in the distribution of political campaign posters that were deemed to violate the hate-speech law. At the end of the year the chancellor of justice was still pursuing the matter.

In March the National School Authority supported a school in Kungälv municipality that had decided to fail students who did not endorse democratic principles in social studies classes. The decision related to a number of students who expressed racist and neo-Nazi ideas. The municipality based its decision on the national social studies curriculum, which requires students in class nine (approximate age 15) to "understand the common and fundamental democratic values that our society rests upon, and to demonstrate an ability to apply democratic working and decision methods." The National School Authority stated that knowledge and ability, rather than offensive views, should determine school grades. It supported the municipality, however, on the basis that the student behavior failed to meet the requirements of the democratic component of the curriculum.

*Internet Freedom.*—There were no government restrictions on access to the Internet, including e-mail; however, the Government monitored the Internet and in one instance intervened to curb the peaceful exchange of views.

In February domestic media gave prominent coverage to the shutting down of a right-wing political party Web site that published cartoons (from a Danish newspaper) lampooning the Muslim prophet Mohammed. The company owning the Inter-

net server hosting the site closed it less than 24 hours after being contacted by the Ministry of Foreign Affairs and the SAPO. The political party owning the site and numerous free-speech advocates from the media and academia held that the Government actions constituted a violation of the constitutionally guaranteed right to freedom of speech and of the press. The Government stated that, in light of violent Muslim reaction in other countries to the images, it simply cautioned the Internet server company that the cartoons could endanger the country's interests. The Government maintained that the company independently elected to shut down the site. Political analysts viewed this controversy as a contributing factor to the foreign minister's resignation in March.

According to the Swedish National Post and the Swedish National Post and Telecom Agency, approximately 80 percent of the population between 16 and 74 had Internet access.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the Government generally respected this right.

The Swedish Commission for State Grants to Religious Communities financed 40 religious groups during the year; a large majority were Christian churches, and the remainder included five Islamic organizations, the Jewish community, and the Buddhist Cooperation Council. During the year a Shia Muslim organization received state financing for the first time.

In March the National Police Board incorporated in the police diversity guidelines the right of officers to wear religious headwear. The armed forces already had such guidelines.

*Societal Abuses and Discrimination.*—The openly Nazi organization National Socialist Front Party (NSF) participated in the September elections on both the regional and national levels. The party gained 1,417 votes nationally, representing approximately 0.03 percent of the electorate. During the year the media reported that individuals associated with the NSF perpetrated discriminatory acts. The reports included one case of serious assault and cases of hate speech (linked to posters and NSF Web site content), unauthorized demonstrations, illegal distribution of posters, illegal possession of weapons, disorderly conduct, and threats against the Swedish Federation for Lesbian, Gay, Bisexual, and Transgender Rights.

Anti-Muslim incidents appeared to have increased during the past few years. In June the Swedish Integration Board released survey results that suggested significant distrust towards Muslims among the country's population. Six out of 10 respondents did not favor facilitating the practice of Islam in the country, and 36 percent of respondents wholly or partly opposed the construction of mosques. Less than a quarter of respondents favored permitting headscarves to be worn in public places, and only 12 percent supported permitting headscarves on identification card pictures. Sixty-one percent of respondents thought that Muslims viewed themselves first and foremost as Muslims, and only a very small proportion thought that Muslims considered themselves primarily Swedish.

A survey released in June by the Swedish Integration Board revealed that a majority of Muslim women wearing headscarves reported incidents of discrimination at least once during the previous two years.

In September and October 2005, unidentified individuals threw firebombs into the Islamic Center's mosque in the city of Malmö; an arson attack had extensively damaged the same mosque in 2003. There have been no arrests in these cases.

The Jewish community numbered approximately 18,500 to 20,000 persons. In 2005 the police registered 111 reports of anti-Semitic crimes, a 26 percent decrease from the previous year. Police classified 33 percent of the reported crimes as "crimes against persons" (including assault, threat, and harassment), 11 percent as "damage to property and graffiti," and 45 percent as "incitements to racial hatred."

In March the National Council for Crime Prevention and the Living History Forum released a survey on anti-Semitism, in which 5 percent of all respondents and 39 percent of those identifying themselves as Muslims indicated strongly anti-Semitic views. In June the Swedish Integration Board issued a report based on interviews with Jewish youth; several respondents considered that they suffered discrimination, and many said they preferred to keep their religious orientation private out of fear of discrimination.

The Living History Forum, a governmental body, conducts research on the country's role during the Holocaust and on its connections to Nazi Germany. The forum

also plays a leading role in the country's delegation to the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research (ITF). During the year the forum sponsored educational projects, lectures, seminars, and exhibitions throughout the country. The forum also maintained Holocaust awareness projects in neighboring Estonia under the ITF umbrella.

According to the antiracism nongovernmental organization (NGO) EXPO, anti-Semitic content increased on neo-Nazi Web sites in conjunction with the conflict involving Israel and Lebanon in July and August.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The constitution and law prohibit forced exile; the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol, and provided it to approximately 4,427 persons during the year. Authorities attributed this number, a significant increase from 2005, to temporary legislation.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. In a January visit, the UN's Special Rapporteur on the Right to Health expressed concern that undocumented persons and asylum seekers lacked adequate access to health care.

Applications for asylum could remain under consideration for long periods of time with applicants in uncertain status. The appeals process in the courts may extend cases for several years.

The Government returned asylum seekers from European Union (EU) countries or from countries with which it maintained reciprocal-return agreements. In most cases persons returned had passed through or had asylum determinations pending in other EU countries. In many cases authorities deported asylum seekers within 72 hours of arrival. Human rights organizations expressed concern that some asylum cases were adjudicated too quickly.

In April the Government established a new appeals system for asylum cases. The system allows asylum seekers to appeal Migration Board rulings to two special migration appeals courts. The Government additionally changed certain provisions of the Aliens Act that pertain to children deemed to be in particularly distressing circumstances, lightening the criteria against which their applications are judged. Under the new system, the Government appoints a legal guardian immediately upon the arrival of unaccompanied children seeking asylum.

The UN Committee Against Torture received 11 new cases against the Government during the year, most of which concerned denial of applications for political asylum and consequent repatriations to countries where victims allegedly faced a risk of torture. During the year the committee ruled on 12 cases and found that in one case the country had violated the rights of the petitioner, a Rwandan citizen who was denied political asylum.

In May 2005 the Government stopped the repatriation of an Azeri family at the request of the Committee against Torture. The Migration Board then granted residence in the country.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—Elections to the 349-member unicameral parliament are held every four years. In elections held September 17, voters turned the Social Democratic Party (SDP) out of power, electing a center-right coalition government led by the Moderate Party. The SDP had dominated the political system for seven decades, and its members occupied a disproportionately large number of publicly appointed positions. The Swedish Trade Union Confederation continued to provide significant financial and organizational support to the SDP.



There were 165 women in the 349-seat parliament and nine women in the 22-member cabinet.

The law prohibits the Government from holding information about the racial or ethnic background of its citizens; therefore, no official statistics on minority participation in the parliament are available. Media reports stated that 17 members of parliament were born in other countries, and there was one ethnic minority in the cabinet.

*Government Corruption and Transparency.*—There were isolated reports of corruption in government entities during the year. A bribery investigation against some suppliers and employees of the state-owned alcohol monopoly resulted in 15 convictions in June, with sentences that included fines and dismissal from employment. A court sentenced a midlevel official at the Ministry of Industry to 18 months in prison for fraud linked to a government project. Eight persons at the Aviation Authority received convictions and fines for bribery and fraud. A court convicted and fined six persons at the Swedish Car Testing Agency for bribery. The Swedish National Audit Office stated in a February report that there were substantial gaps in the control mechanisms against corruption within the state. The report called for corrective measures by the Government.

The constitution and law provide for public access to government information, and the Government generally respected this provision in practice. The public has the right of access to government documents unless they are subject to secrecy laws, according to which information may be withheld if its release poses a threat to national security or to individual or corporate privacy.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status. Violence against women and children, trafficking in persons, and discrimination against resident foreigners, Roma, and homosexuals were problems.

*Women.*—Violence against women remained a problem. In the first nine months of the year, the National Council for Crime Prevention (NCCP) reported 18,800 cases of assault against women. Approximately 50 homicide deaths of women and girls were reported during the year, most of them committed by men closely related to the victim. Authorities apprehended and prosecuted abusers. The typical sentence for abuse, including felony, was a prison term (three to 15 months on average) or psychiatric treatment.

The law provides victims with protection from contact with their abusers. When necessary, authorities helped women obtain new identities and homes. Both national and local governments helped fund volunteer groups that provided shelter and other assistance to abused women, and both private and public organizations ran shelters and operated hot lines.

Rape, including spousal rape, is illegal. The law stipulates higher sanctions for repeated crimes if the perpetrator had a close relationship to the victim. The NCCP reported 2,226 rapes of persons over age 14 as of September 30, compared with 1,912 for the same period in 2005.

At year's end authorities estimated that approximately 2,000 women had been exposed to honor-related violence (patriarchal violence often linked to cultural and religious convictions about female chastity and marriage) from family members. Honor-related violence involved exclusively immigrants from Muslim countries. The Government allocated extra funding to combat honor-related violence against young women and men (including homosexuals). As part of an ongoing project, the Government established a national center to study male violence against females. The funding also would support the establishment of additional women's shelters. The Government provided protected housing for young women vulnerable to honor-related violence from family members.

The law prohibits female genital mutilation (FGM), punishable by up to 10 years' imprisonment. There are nearly 30,000 women from countries where FGM is practiced. Authorities opened three investigations of FGM during the year. The first case, against the father of a 12-year-old girl, resulted in conviction and a four-year prison sentence. In a second case a woman was convicted and sentenced to three years' imprisonment for FGM on her daughter; she left the country before the sentence could be carried out. The other case was pending at year's end.

Prostitution is legal; however, the purchase of sexual services is illegal. Prostitutes were not arrested but their clients were. Since 1999 the Government has sought to curb prostitution by focusing on the demand rather than the supply side. In December an official from the National Board of Health and Welfare reported that street prostitution in Stockholm nearly disappeared immediately after the enactment of the 1999 law. However, it had since returned to approximately 70 percent of its pre-1999 levels.

Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment, and the Government generally enforced this law in practice. Employers who do not investigate and intervene against harassment at work may be obliged to pay damages to the victim.

Women enjoy the same rights as men, including rights under family law, property law, and in the judicial system, but some sectors of the labor market still showed significant gender disparities. During the year women's salaries averaged 85 percent of men's salaries, adjusting for age, education, and occupational differences.

The equal opportunity ombudsman (EOO), a public official, investigates complaints of gender discrimination in the labor market. Complaints may also be filed with the courts or with the employer. Labor unions generally mediated in cases filed with the employer. During the year the EOO's office registered 134 cases. Women filed approximately 80 percent of the cases; 35 percent of those cases concerned salaries. The number of discrimination complaints related to pregnancy fell to 22, compared with 35 in 2005.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. The Government provided compulsory, free, and universal education for children up to 16 years old. It provided free, but not compulsory, public school for children up to 18 years old. Nearly 100 percent of school-age children attended school. The highest level achieved by most children was completion of high school.

The Government also provided free medical care for all children up to the age of 16; boys and girls had equal access.

Child abuse was a problem. As of the end of November, the NCCP reported 6,192 cases of abuse of children under the age of 15. As of the end of November, police reported 848 cases of child rape and 654 cases of sexual abuse of children, compared with 537 reported cases of rape and 1,089 reported cases of child sexual abuse in 2005.

The law prohibits parents or other caretakers from abusing children mentally or physically in any way. Parents, teachers, and other adults are subject to prosecution if they physically punish a child, including slapping or spanking. Children have the right to report such abuses to the police. The usual sentence for such an offense is a fine combined with counseling and monitoring by social workers. Authorities may remove children from their homes and place them in foster care.

Trafficking of children was a problem (see section 5, Trafficking).

The Government allocated funds to private organizations concerned with children's rights. The NGO Children's Rights in Society offered counseling to troubled youngsters. The Government continued to be active internationally in efforts to prevent child abuse.

In an effort to improve its treatment of unaccompanied children seeking asylum, the Government shifted responsibility from the national to the municipal level, and increased funding to support municipalities for this purpose. Most social services are provided at the municipal and local levels.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, through, and within the country.

The country continued to be a transit point, and to a lesser extent a destination, for trafficked women and children. Law enforcement officials and analysts estimated the number of trafficked women at 500 per year, cautioning, however, that it was not possible to obtain precise numbers. Victims came primarily from the Baltic region, Eastern Europe, and Russia. Those transiting the country came primarily from the Baltic region, heading towards suspected destination countries of Denmark, Germany, Norway, Spain, and the United Kingdom. There were also occasional cases of trafficked women from South America and Thailand. Police reported that the youngest trafficking victims encountered were 16 years old. Most of these children were trafficked from Estonia, Russia, and Poland. None of the cases involved young boys.

Traffickers typically recruited victims in their countries of origin to work as cleaners, babysitters, or in similar employment abroad. Once in the country, traffickers isolated and intimidated victims, and forced them to work as prostitutes in hotels,

restaurants, massage parlors, or private apartments; some were locked up and their passports were confiscated by their captors.

The law prohibits the trafficking of persons for sexual purposes, provides for sentences of two to 10 years' imprisonment for persons convicted of trafficking, and criminalizes attempting to traffic, conspiracy to traffic, and the failure to report such crimes. Authorities actively prosecuted trafficking cases. During the year police reported 28 cases of trafficking for sexual purposes, nine of which led to convictions under the trafficking law in the first half of the year.

To prosecute traffickers, authorities continued to use primarily laws against procurement and an offense called "placing in distress," which can apply in cases where traffickers lure women from other countries under false pretenses. The laws on procurement and trafficking complement each other; however, the antitrafficking law requires that prosecutors prove traffickers used "improper means." Judges commonly ruled that improper means were absent in cases involving victims who consented to being trafficked. Although consent is irrelevant under the antitrafficking law, in practice judicial interpretation of the improper means criterion makes it difficult to obtain convictions. Prosecutors consequently continued to rely on the procurement laws for most convictions of traffickers. During the year there were 58 cases of procurement reported, many involving trafficking victims.

In June authorities convicted, and sentenced to two years in prison, a Chinese immigrant couple in Stockholm for human smuggling in connection with the disappearance of not less than 120 Chinese children who had requested political asylum in Sweden since autumn 2004. Authorities reported that the children were smuggled out of the country to other European countries, but were unaware of their final destinations. After that conviction an additional five Chinese children disappeared during the year.

The Government allocated funds to domestic and international NGOs to provide shelter to victims and aid in rehabilitation. Police and social services also provided funding. The law enables trafficking victims who cooperate with police investigations to receive temporary residence permits and thus to have access to the full range of social benefits. Victims who do not cooperate with police investigations are not eligible to receive temporary residence permits and are promptly deported.

The country has actively participated in a Nordic-Baltic task force against trafficking in human beings since its creation in 2002. In October 2005 it contributed \$1.25 million to a Nordic-Baltic task force project for the safe return and reintegration of victims of trafficking.

In June the Government appointed a special ambassador to combat trafficking in human beings, tasked with strengthening international antitrafficking efforts. The country declared antitrafficking a priority area during its year-long presidency of the Council of Baltic Sea States that began in July.

*Persons With Disabilities.*—The law prohibits employers from discriminating against persons with disabilities in hiring decisions and prohibits universities from discriminating against students with disabilities in making admissions decisions. No other specific law prohibits discrimination against persons with disabilities. There is an ombudsman for disability issues.

There were 522 reports of governmental discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Most of the cases involved lack of access to public buildings. Approximately 60 percent of the cases were filed in accordance with the reporting requirements under the Disability Act and were handled under mediation procedures rather than through formal court hearings. Four of these mediated cases remained pending at year's end.

Regulations for new buildings require full accessibility, but there is no such requirement for existing public buildings, except for certain public entities that are obliged to make their facilities accessible. Many buildings and some means of public transportation remained inaccessible.

In January a new national Authority for Coordination of Disability Policy began operation. The authority coordinates national policy on disability issues.

On April 1, a new law on children with disabilities came into force. This law provides protections against harassment in schools for children with disabilities.

*National/Racial/Ethnic Minorities.*—Approximately 12 percent of the population was foreign born, with the largest groups from Finland, the former Yugoslavia, Iraq, and Iran. Over 20 percent of the population had at least one foreign-born parent. In 2005 police registered 2,272 reports of xenophobic crimes, of which 11.3 percent were related to neo-Nazism/white power ideology. The Government investigated and prosecuted race-related crimes.

Estimates placed the number of active neo-Nazis, or white supremacists, at approximately 3,000. The NGO EXPO estimated that fewer than 1,000 individuals attended the annual neo-Nazi/white supremacist march that took place in Salem in December, constituting approximately a 30 percent decrease in attendance from the 2005 march. Neo-Nazi groups operated legally, but courts have held that it is illegal to wear xenophobic symbols or racist paraphernalia or to display signs and banners with provocative symbols at rallies, since the law prohibits incitement of hatred against ethnic groups (see section 2.a.).

The ombudsman for ethnic discrimination received reports of 876 cases in 2005, up from 794 in 2004.

A March report by the National Board of Health and Welfare indicated that increasing numbers of persons, particularly those who were foreign born, remained outside both the labor market and the social insurance systems. The board considered that ethnic segregation has increased, particularly in the large cities, since the 1990s.

In April the Swedish Integration Board presented its 2005 Integration Report, key findings of which noted significant differences in employment levels between native and foreign-born citizens. The report noted employment rates for foreign-born citizens averaged 17 percent lower than those for ethnic Swedes; the employment rate for foreign-born, young, non-European males was worse. It found the resultant income differentials were contributing factors to housing segregation and to poor grades in school.

Also in April the Government presented a 10-point program for improving integration. It budgeted approximately \$281 million (two billion crowns) for this two-year program. Key program areas include education, employment, and antidiscrimination.

In August the government-appointed investigator presented the final report of the inquiry on power, integration, and structural discrimination. The report criticized the Government's integration policy, and called for its replacement with one that promotes greater social cohesion. The report's author, Masoud Kamali, maintained that a system of privilege based on ethnicity now existed in the country. It called for a shift of government emphasis away from integrating immigrants and towards combating discrimination.

The law recognizes Sami (formerly known as Lapps), Swedish Finns, Tornedal-Finns, Roma, and Jews as national minorities. The Government supported and protected minority languages. In January, in response to a 2003 Council of Europe report that criticized government efforts to protect minority languages, a parliamentary committee presented findings that included suggestions to improve support for the Sami and Meankili languages. In February the Government presented a series of proposals to strengthen the Sami language. The Government also proposed expansion of Sami-controlled administrative areas, construction of additional Sami language centers, and the establishment of a government coordination secretariat for Sami and national minority policies. It stated that all Sami children must be given the opportunity to learn Sami.

In March the Government's national action plan for human rights included measures to improve the situation of the Romani population, which is estimated at 20,000 to 25,000. It directed the school authority to investigate the education situation of Romani children, many of whom drop out of school. In May, following reports by the antidiscrimination ombudsman of cases in which Romani children were taken into state custody on weak grounds, the Government instructed the Ministry of Justice to investigate the care of Romani children by the social authorities.

In June 2005 the International Helsinki Federation for Human Rights released a report, *The Situation of Roma in Selected Western European Countries*, which stated that Roma in the country suffered from discrimination and institutional racism. It found that Roma lived in segregated communities, had limited access to public and private housing markets, and authorities did not adapt public education to special needs of Romani children. The Living History Forum, a government authority, carried out a number of lectures and seminars on the situation of the Roma and highlighted their suffering in the Holocaust.

*Indigenous People.*—There are 17,000 to 20,000 Sami in the country. Long-standing tensions between Sami and the Government over land and natural resources persisted, as did tensions between Sami and private landowners over reindeer grazing rights. Courts repeatedly ruled that Sami must compensate private landowners for use of their land for winter pastures.

In May parliament enacted legislation that transferred numerous administrative authorities for reindeer herding issues from the Ministry of Agriculture and county governments to the Sami parliament, a 31-member, Sami-elected administrative au-

thority with decision-making powers in matters related to Sami culture, language, and schools. The Sami parliament acted as an advisory body to the Government.

In August the Government opened a permanent national Sami Information Center.

*Other Societal Abuses and Discrimination.*—Societal violence and discrimination against homosexuals was a problem. In 2005 police received reports of 563 crimes with homophobic motive, an 8 percent decrease from 2004. The ombudsman against discrimination on grounds of sexual orientation registered 45 reported cases during the year, compared with 47 cases in 2005. Additionally, the ombudsman's office initiated 11 new discrimination investigations, a decrease from 15 in 2005. In September the Government formed a working group to promote equal rights for homosexuals, bisexuals, and transsexuals. The group advises government offices on how to improve its handling of related matters.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law entitles workers to form and join unions of their choice, without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 80 percent of the workforce was unionized. The law prohibits antiunion discrimination.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining, and workers exercised this right in practice. Approximately 80 percent of the workforce was under collective bargaining agreements. The law provides for the right to strike, as well as for employers to organize and to conduct lockouts; workers and employers exercised these rights in practice. Public-sector employees also enjoy the right to strike, subject to limitations protecting the public's immediate health and security.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law and policies (including those on acceptable working conditions) protect children from exploitation in the workplace, and the Government effectively implemented these laws and policies in practice. The law permits full-time employment at age 16 under the supervision of local authorities. Employees under age 18 may work only during the daytime and under supervision. Children as young as 13 may work part-time or in light work with parental permission. Union representatives, police, and public prosecutors effectively enforced these restrictions.

*e. Acceptable Conditions of Work.*—There is no national minimum wage law. Wages are set by annual collective bargaining contracts. Nonunion establishments generally observed these contracts as well. Substantial benefits (e.g., housing, childcare) provided by social welfare entitlement programs assured even the lowest-paid workers and their families a decent standard of living. Foreign companies employing workers from their country of origin at wage levels below minimums stipulated in domestic collective-bargaining contracts created frictions in the labor market. For example, a 2005 incident in which Swedish workers blocked Latvian workers from access to a work site in Vaxholm resulted in a court case that was pending in the European Court at year's end. The Swedish union contended that the construction workers did not have collective bargaining agreements with a Swedish union.

The legal standard workweek is 40 hours or less. Both the law and collective bargaining agreements regulate overtime and rest periods. The maximum allowable overtime per year is 200 hours. The law requires a minimum period of 36 consecutive hours of rest, preferably on weekends, during a period of seven days. The law also provides employees with a minimum of five weeks' paid annual leave. The Government effectively enforced these standards.

The Work Environment Authority, a government-appointed board, issued occupational health and safety regulations, and trained union stewards and safety ombudsmen. Government inspectors monitored them. Safety ombudsmen have the authority to stop unsafe activity immediately and to call in an inspector. These rules were effectively enforced. Work places were generally safe and healthy. In law and practice, workers could remove themselves from situations that endangered their health or safety without jeopardizing their future employment.

## SWITZERLAND

The Swiss Confederation, with a population of 7.5 million, is a constitutional republic with a federal structure. Legislative authority is vested in the bicameral Federal Assembly, which was elected in free and fair elections in 2003. The Government is a coalition of the four major parties. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. There were reports from nongovernmental organizations (NGOs) that police at times used excessive force, primarily against minorities and asylum seekers. Lengthy pretrial detention, anti-Semitic and anti-Muslim incidents, violence against women, trafficking in persons, and discrimination against minorities were also human rights problems.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

On February 7, the European Court of Human Rights (ECHR) ruled that, while authorities in Ticino canton were not responsible for the death of a 28-year-old man in their custody in 1994, they had failed to investigate sufficiently the circumstances leading to the death.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, there were reports that police occasionally used excessive force.

In its annual report published in May, Amnesty International (AI) alleged ill-treatment, use of excessive force, and racist abuse by police officers. The UN special rapporteur on racism and related intolerance, Doudou Diene, claimed that there were many acts of racist and xenophobic violence by police against certain groups, particularly Africans, and to a lesser extent, persons from the Balkans (see section 5).

At the end of August, the Vaud cantonal appeals court upheld a February 17 verdict by a district court acquitting two police officers of negligent bodily harm in handling a protester during a 2003 demonstration near Lausanne against a Group of Eight meeting in nearby Evian, France.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards; however, prison overcrowding was a problem, particularly in the cantons of Geneva, Zurich, and Bern. A government report issued in February indicated that as of September 2005, one-third of the country's detention centers were at or above their designated capacity, and nine were overcrowded by 20 percent or more. In June 2005 the Council of Europe's Commissioner for Human Rights, in a report on a 2004 fact-finding mission, expressed concern about overcrowding and other shortcomings at detention facilities he had inspected; he called on local authorities to take appropriate action to resolve the problems. In early July a pretrial detainee in the Champ-Dollon prison in Geneva set fire to his cell, killing himself and another inmate. Champ-Dollon is overcrowded; at the time of the fatal incident the prison, designed for 270 detainees, held over 450. This event followed a protest by 120 detainees in May against conditions in the facility. In mid-November a 34-year-old Albanian inmate of the Poschwies prison near Zurich succumbed to the serious head injuries he had incurred in a brawl with his 27-year-old cellmate. The fellow countrymen had been sharing a cell since the beginning of the year, apparently without any difficulties. For economic reasons cells were converted to double occupancy in 2004.

The Government permitted access by independent local and international human rights groups to prisons.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The cantons are responsible for handling most criminal matters, and their procedures vary. The federal police office has a coordinating role but relied on the cantons for actual law enforcement. The federal attorney general in Bern oversees intercantonal and international crimes involving organized crime, offenses which are under federal jurisdiction. Corruption and impunity were not problems. Judges and prosecutors are under the administrative over-

sight of the cantonal security departments and the Federal Department of Justice and Police but act independently. Police were generally effective. Both internal affairs bureaus and courts were effective in investigating allegations of police abuses. Police training is a cantonal responsibility, but some police training took place nationally in cooperation with NGOs.

*Arrest and Detention.*—By law criminal suspects must be apprehended on the basis of warrants issued by a duly authorized official unless there is a specific and immediate danger to which the police must respond without waiting for a warrant. In most cases a suspect may not be held longer than 24 hours before being presented to a prosecutor or investigating magistrate, who must bring formal charges or order the detainee's release; however, asylum seekers and other foreigners without valid documents may be held up to 96 hours without an arrest warrant.

There was a functioning bail system, and courts grant release on personal recognition or bail unless the magistrate believes the person charged is dangerous or will not appear for trial. A suspect may be denied legal counsel at the time of detention but has the right to choose and contact an attorney before charges are brought. A 2004 court ruling established that suspects detained under federal law are not entitled to legal representation during their preliminary hearing with the federal police. Suspects may invoke entitlement to legal counsel at a later stage when they are first interviewed by the investigative magistrate. The state provides free legal assistance for indigents who are charged with crimes for which imprisonment would be a possible penalty. Access to family members may be restricted to prevent tampering with evidence, but law enforcement authorities are required to inform close relatives of the detention promptly.

AI and NGOs working with refugees complained that detained asylum seekers were often effectively denied proper legal representation in deportation cases because they lacked the financial means to obtain an attorney. Free legal assistance was only provided in cases of serious criminal offenses—the decision to deport an asylum seeker is an administrative procedure.

Lengthy pretrial detention was a problem. Although investigations were generally prompt, investigative pretrial detention could exceed the length of sentence actually received. Any lengthy pretrial detention is subject to review by higher judicial authorities. The Federal Tribunal has ruled that pretrial detention must not exceed the length of the expected sentence for the crime a suspect is charged with. During the year approximately one-third of all prisoners were in pretrial detention, and the average length of such detention was approximately 50 days.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

Local or cantonal courts are generally the courts of first instance. For criminal offenses that fall under the jurisdiction of federal authorities, the Federal Penal Court in Bellinzona is the court of first instance. Citizens have the right to appeal, ultimately to the Federal Tribunal (supreme court). Lower and appellate courts are local or cantonal, and therefore both their administrative structures and procedures vary from canton to canton.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials were generally expeditious and public. Trials involving minor offenses are generally heard by a single judge, more serious or complex cases by a panel of judges, and the most serious cases (including murder) by a jury. Defendants have the right to be present and to consult with an attorney in a timely manner, and an attorney is provided at public expense if defendants face serious criminal charges. Defendants have the right to confront or question witnesses and to present witnesses or evidence. Defendants enjoy a presumption of innocence and have the right to appeal, ultimately to the Federal Tribunal. These rights were generally respected in practice.

The military penal code (MPC) requires that war crimes or violations of the Geneva Convention be prosecuted only if the defendant has close ties with Switzerland. Normal civilian rules of evidence and procedure apply in military trials. The MPC allows the appeal of any case, ultimately to the military supreme court. In most cases the accused used defense attorneys assigned by the courts. Any licensed attorney may serve as a military defense counsel. Under military law the Government pays for defense costs. Civilians charged with revealing military secrets, such as classified military documents or classified military locations and installations, may be tried in military courts.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The law penalizes public incitement to racial hatred or discrimination, spreading racist ideology, and denying crimes against humanity. The law does not explicitly mention anti-Semitism, Holocaust denial, or other specific events; however, there have been convictions under this legislation for anti-Semitism and denying the Holocaust. Judicial authorities in Vaud launched an investigation against Dogu Perincek, a Turkish politician, after he publicly denied, while in Switzerland, that genocide occurred against the Armenians in what is now Turkey. No trial date was set by year's end.

At the end of April, the ECHR criticized the Government for violating freedom of expression in two separate 1997 cases involving journalists. In one case a domestic court fined a journalist for publishing excerpts from a confidential diplomatic document whose release resulted in the diplomat's resignation. In the other case, a journalist was fined for inducing a government official to release sensitive information. In July, in a precedent-setting move, authorities asked the Grand Chamber of the ECHR to review the ruling on the leaking of the diplomatic memo. The ECHR ruling rekindled the debate over a provision of the penal code that punishes with confinement or a fine any person who publishes confidential government documents or excerpts thereof without proper authorization.

In May a district court in the canton of Aargau sentenced the founder and former President of the extreme right-wing Nationally Oriented Swiss Party (PNOS) to 14 days in prison and a fine for racial discrimination. The party is generally hostile toward immigrants, religious minorities, and leftists. The former PNOS leader was accused of having published on the Internet a party program that violated the antiracism law. PNOS subsequently removed the program from its Web site. Earlier, in 2005, the Aargau district court sentenced four PNOS board members to fines of \$240 to \$400 (300 to 500 francs) for similar offenses.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet access was widely available and over two-thirds of the population used it regularly.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

There is no official state church; however, most cantons provide financial support from tax revenues to at least one of three traditional denominations—Roman Catholic, Old Catholic, or Protestant. Each of the 26 cantons has its own regulations regarding the relationship between church and state. Foreign missionaries must obtain a religious worker visa to work in the country. Such permits were generally granted routinely.

In 2004 the Federal Office of Migration (FOM) rejected the work permit applications for two Islamic clerics filed by the Islamic Center in Geneva, due to the extremist views of the center. In October 2005 the Justice Ministry's appeals body upheld the FOM decision, thus setting a precedent for rejecting a work permit application for a Muslim imam on grounds of ideology.

On May 10, the Federal Tribunal upheld the decision of authorities in the canton of Basel to reject the citizenship application of a Turkish national on the grounds that she lacked a desire to integrate into society. The woman, who worked as a voluntary religious teacher, had appealed the rejection, claiming that it was due to her profession of Islam and her corresponding living habits. The Federal Tribunal concluded that the negative decision of the Basel authorities was neither discriminatory nor a violation of religious freedom rights, but rather a manifestation of the legal precept that individuals who voluntarily isolate themselves from the population should be denied citizenship; cantonal authorities found that she restricted her con-



tacts to Muslims. At the same time, it held that the appeal raised delicate questions and therefore decided to cover the legal costs of the indigent woman in spite of the negative ruling.

Muslim organizations complained that it was nearly impossible to acquire zoning approval to build mosques or Muslim cemeteries, since authority for such approvals rested with individual counties and municipalities. In the canton of Solothurn a project to build a minaret stalled due to strong local opposition, and Muslim associations faced similar opposition to community building projects in Aargau and Bern. There were two minarets in the country, at the Geneva and Zurich mosques.

Religious instruction was a part of the curriculum in most public cantonal schools except in Geneva and Neuchatel. Most schools offered classes in Roman Catholic and Protestant doctrine, but some schools covered other religious groups living in the country. A number of cantons complemented or entirely supplanted traditional classes in Christian doctrine with nonconfessional teachings about religion and culture.

The law criminalizes racist or anti-Semitic expression, whether in public speech or in printed material.

The Department of the Interior's Federal Service for the Combating of Racism sponsored a variety of educational and awareness-building projects to combat racism, xenophobia, and anti-Semitism (see section 5).

*Societal Abuses and Discrimination.*—In the view of several observers, the climate for members of religious minorities and their institutions continued to deteriorate during the year. Physical violence was rare. Most manifestations of anti-Semitic and anti-Muslim feeling appeared to be fueled by extensive media coverage of the Israeli-Arab conflict, the Holocaust assets issue, and terrorist acts by Muslim extremists in foreign countries.

The Jewish population constitutes 0.24 percent of the country's population, or 17,900 persons. There were numerous anti-Semitic incidents during the year. During the night of March 31, unidentified vandals smashed several windows of the synagogue in Lausanne. The Geneva-based Intercommunity Center for Coordination against anti-Semitism and Defamation (CICAD) denounced the attack and expressed concern over the series of anti-Semitic incidents occurring in the French-speaking part of the country. There were no reports indicating whether authorities apprehended suspects in these cases.

On July 21, a demonstration in Bern of Lebanese and pro-Palestinian organizations against Israeli military action in the July-August conflict involving Israel and Lebanon featured at least one Israeli flag festooned with a swastika; at this demonstration, Daniel Vischer, a Green party member of the Federal parliament, called on the Government to end military procurement cooperation with Israel. On July 31, a similar demonstration took place in Geneva; Israeli flags with swastikas were again abundant, according to CICAD. Also on July 31, according to information from the Stephen Roth Institute, not independently confirmed, unknown persons painted virulent anti-Semitic graffiti on walls in Zurich. Throughout the summer, CICAD tracked an increase in anti-Semitic rhetoric in the letters-to-the-editors pages of some big-circulation Francophone newspapers.

In March 2005 there were two arson attacks in the city of Lugano in the southern canton of Ticino against the synagogue and a clothing store owned by a Jewish family. No one was hurt in either incident. In November 2005 a Ticino court gave a two-year prison sentence to a 58-year-old resident Italian national with a mental condition, who confessed to the attacks.

The law prohibits anti-Semitic incitement and historical revisionism, including Holocaust denial (see Section 2.a.).

Schools across the country honored Holocaust Remembrance Day, January 27, for victims of the Holocaust. Education authorities stated that the aim was to remember the Holocaust and other forms of genocide committed in the past century and raise awareness of inhumane ideologies. The country is a member of the International Task Force on Holocaust Education, Remembrance and Research.

Unease over the growing Muslim population, extremist views preached by a number of Muslim clerics, and the international controversy over the 2005 Danish newspaper cartoons of the prophet Mohammed intensified public debate over the role of Muslim believers in society.

Some employers prohibited the wearing of headscarves in the workplace. For example, the second largest retailer announced that its dress code did not provide for any headgear and that it would not allow the wearing of the Islamic headscarf.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The constitution provides for these rights, and the Government generally respected them in practice.

The constitution prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution, although some NGOs were critical of the procedures used to establish “safe countries.”

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and the 1967 Protocol and provided it to approximately 25,244 persons during the year.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Since 2004 asylum applicants have been required to present documentation verifying their identity, and since then authorities have been refusing to process the applications of asylum seekers who were unable to justify the lack of acceptable documents. Rejected asylum seekers generally were not removed from the country but instructed to leave voluntarily, except in cases where authorities incarcerated the rejected asylum seeker for a petty crime.

On September 24, however, the electorate approved, by large majorities in a national referendum, a revision of the asylum law and a new law on foreigners that impose stricter identification requirements on asylum seekers and tighten treatment of rejected asylum seekers while providing increased benefits to persons with temporary protective status.

The changes, mostly scheduled to take effect on January 1, 2007, provide that asylum seekers not presenting an official travel or identity document within 48 hours or credibly justifying their lack of documents or showing evidence of persecution are to be excluded from the asylum process. Authorities may detain uncooperative asylum seekers, subject to judicial review, for up to six months while adjudicating their applications. The new procedures provide that applicants whose requests have been rejected may also be detained, for up to three months, to ensure their departure, or up to 18 months if repatriation poses special obstacles. Minors between 15 and 18 years of age may be detained up to 12 months pending repatriation. The results of the referendum give applicants with temporary protection status easier access to the labor market and permit them to bring their families into the country, although there is a three-year waiting period.

International organizations and NGOs raised concerns that the new provisions would make the country’s asylum process too restrictive. These measures follow other restrictive steps taken in 2004 that had also been widely criticized by international organizations.

The FOM relied upon a list of approximately 40 “safe countries” from which it would generally not accept refugee applications. On December 8, the Government decided to add another six countries to this list. NGOs criticized the extension of the list because they believe the human rights records and the political situations in some of the newly listed countries were not sufficiently stable to justify automatic rejection.

NGOs alleged that police used excessive force against asylum seekers (see section 1.c.).

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In 2003 citizens chose a new Federal Assembly in free and fair elections.

There were 65 women in the 246-seat Federal Assembly and two women in the seven-seat Federal Council (cabinet). At the cantonal level, the proportion of female representatives in legislatures remained 24 percent. Women held approximately one-fifth of the seats in cantonal executive bodies.

There were no known ethnic minorities in the Government.

*Government Corruption and Transparency.*—There were isolated reports of government corruption during the year.

Government information was available freely to all persons living in the country, including foreign media. The constitution requires the Government to inform the public about its activities. On July 1, a new transparency law providing for public access to government documents came into force.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution generally prohibits discrimination on the basis of race, gender, disability, language, or social status; however, some laws discriminate against women. The Government generally enforced these prohibitions effectively. Violence against women and children, trafficking in persons, and discrimination against minorities were problems.

*Women.*—Violence against women was a problem. A 2003 international survey showed that almost 40 percent of women in the country had suffered some sort of physical or sexual assault in their lifetime, frequently at the hands of a former partner or an acquaintance; only one-third of the instances of physical violence and only 6 percent of sexual abuses were reported to the police. A government study released in October found that between 2000 and 2004, 74 percent of all homicides or attempted homicides against women qualified as acts of domestic violence; approximately 20 women are killed each year by their partners or former partners.

Domestic violence is a statutory offense. In June parliament amended existing legislation to permit a court to order an abusive spouse to leave the family home as a temporary measure and to make stalking a punishable offense. Victims of domestic violence could obtain help, counseling, and legal assistance from specialized government and NGO agencies or from nearly a dozen hot lines sponsored privately or by local, cantonal, and national authorities. In 2005, 1,435 women and 1,461 children spent a total of 62,336 nights in 17 women's shelters across the country, but a study conducted in the same year found that approximately the same number were turned away due to a lack of space. The interior ministry's Federal Office for Equality Between Women and Men has a special unit focusing on domestic violence. Most cantonal police forces had specially trained domestic violence units. A majority of cantons also had special administrative units coordinating the activities of law enforcement, prosecutorial, and victim assistance groups.

Rape, including spousal rape, is a statutory offense, and the Government effectively prosecuted those accused of such crimes. According to a 2003 survey, more than 5 percent of women polled had been raped. In 2005 police recorded 646 instances of rape, and there were 353 prosecutions and 100 convictions.

Forced marriage is illegal; however, NGOs believed the practice occurred, predominantly in underprivileged immigrant families, but did not know its extent. In May authorities in St. Gallen canton deported both the husband and father of a 21-year-old Turkish woman who had been forcibly married in Turkey. The woman reportedly received death threats when she refused to consummate the marriage after the husband followed her to Switzerland. Forced marriage may also be a reason to grant asylum. In October the Asylum Appeals Commission in a precedent case overturned a negative asylum decision against an Ethiopian woman who had fled to the country to escape from a forced marriage.

Female genital mutilation (FGM) is illegal, but there were anecdotal reports that the practice occurred. The UN Children's Fund (UNICEF) estimated that there were nearly 7,000 circumcised women and girls in the country as a result of immigration from areas where FGM is practiced. UNICEF has repeatedly campaigned to raise awareness of FGM and, in cooperation with local gynecologists, has drafted guidelines on medical care of circumcised women.

Prostitution is legal; however, street prostitution is illegal except in areas specifically for street prostitution that were designated by authorities in all major cities. Police figures from 1999, the latest nationwide data available, indicated that there were approximately 14,000 persons in prostitution. Information on individual cantons suggests that the number has increased since then.

Trafficking in women was a problem (see section 5, Trafficking).

Sexual harassment is illegal. The Equal Opportunity Law prohibits sexual harassment and facilitates access to legal remedies for those who claim discrimination or harassment in the workplace; however, special legal protection against the dismissal of a claimant is only temporary. Employers failing to take reasonable measures to

prevent sexual harassment are liable for damages equal to as much as six months' salary.

Under the constitution women enjoy the same rights as men, including in family law, property law, and in the judicial system; however, independent observers claimed that some laws, as interpreted by the courts, were discriminatory. For example, the Federal Tribunal ruled that the primary wage earner in a divorce must be left with sufficient income to remain above the poverty level. Since the primary wage earner in most marriages was the man, if the household income was too low to support both parties, the wife and children could be forced to resort to public assistance.

The Federal Office for Equality between Women and Men and the Federal Commission on Women worked to eliminate both direct and indirect gender discrimination. Many cantons and some large cities have equality offices to handle gender issues. More than half of the cantons had an office in charge of promoting equality.

Discrimination against women in the workplace is illegal, but women disproportionately held jobs with lower levels of responsibility, and women's level of seniority was lower than men's. Women were promoted less frequently than men, and were less likely to own or manage businesses.

Under the constitution women and men are entitled to equal pay for equal work, but women's gross salaries were on average more than 20 percent lower than men's. A government report issued in June estimated that 40 percent of the wage differential was due to gender discrimination. Women were also more likely to be unemployed than men. During the year the unemployment rate for women was 3.6 percent, compared to 3.1 percent for men.

*Children.*—The Government was strongly committed to children's rights and welfare, and it amply funded a system of public education and need-based subsidies of health insurance.

Education was compulsory, free, and universal for nine years, from ages six or seven through ages 15 or 16, depending on the canton. Virtually all children attended school. Almost 90 percent completed postsecondary education or professional vocational training, and approximately 45 percent continued to earn specialized or university degrees.

Child abuse was a problem. A 2005 study by the University of Fribourg based on a 2004 survey estimated that, nationwide, 13,000 children under the age of two and a half years are at times slapped in the face by their parents, and 1,700 are occasionally struck with objects. Statistics on the extent of sexual violence against children were unavailable, but experts estimated that 20 percent of girls and 10 percent of boys under the age of 18 had been victims. Most abuse took place in the family or the immediate social environment.

In 2005 the national cybercrime monitoring body, CYCOS, referred 272 instances of suspected child pornography on the Internet to law enforcement authorities. In virtually every case, the cantonal prosecuting office opened a criminal investigation, and such investigations usually lead to the confiscation of illegal material. The production, possession, distribution, or downloading from the Internet of hardcore pornography involving children is illegal and carries heavy fines or a maximum sentence of a year in prison. In September 2005 the Government initiated a three-year information campaign against child pornography on the Internet.

*Trafficking in Persons.*—The law prohibits sexual exploitation and trafficking in persons; however, there were reports that persons were trafficked to, through, and within the country and forced into prostitution or domestic servitude. On December 1, an amendment to the Penal Code extending the definition of human trafficking to include forced labor and organ snatching came into force. Trafficking in persons is punishable by a prison sentence of up to 20 years, and coercing a person into prostitution by up to 10 years. In 2005 the highest sentence prescribed to a convicted trafficker was 16 months in prison; however, the majority of convicted traffickers received suspended sentences.

Officials estimated the number of trafficking victims to be a few hundred a year. Federal police conjectured that between 1,500 and 3,000 victims of human trafficking were residing in the country during the year. According to authorities, most victims came from Central Europe (Hungary, Slovakia, and Romania), the former Soviet Union (Ukraine and Moldova), Lithuania, Latin America (Brazil and the Dominican Republic), Southeast Asia (Thailand and Cambodia), and, to a lesser extent, Africa. The country was primarily a country of destination, and secondarily of transit, for trafficked persons.

The great majority of trafficking victims were women and were trafficked primarily for purposes of sexual exploitation, although trafficking for domestic servitude also occurred. Traffickers were mainly individuals and small groups related

through ethnic, clan, or family ties, as well as, occasionally, organized criminals. Traffickers often forced victims into prostitution and in many cases subjected them to physical and sexual violence, threatened them or their families, encouraged drug addiction, withheld their documents, and incarcerated them. Many victims were forced to work in salons or clubs to pay for travel expenses and the production of fraudulent documents and found themselves dependent on the traffickers.

In 2005 courts convicted 23 persons of trafficking in persons and forcing others into prostitution. The Coordination Unit against Trafficking in Persons and Smuggling of Migrants, which is linked to the Federal Office of Police, coordinates and monitors all antitrafficking efforts, including a federal interagency task force. Authorities were active in international law enforcement activities and took the lead in coordinating several international trafficking investigations.

On September 24, citizens approved a new law on foreigners that formalizes the existing process of granting potential trafficking victims a stay of deportation proceedings to permit them to recover from their trauma and consider participation in judicial proceedings. The new law authorizes the Government to waive normal immigration requirements and grant residency permits to victims and witnesses who would be in danger if they returned home. It allows the federal government to assist victims logistically and financially in their voluntary return and their reintegration into the societies of their home countries.

The law entitles trafficking victims to safe shelter as well as medical, psychological, social, and legal assistance regardless of their residency status. During 2004, 84 trafficking victims received assistance from publicly funded victim assistance centers. The Government continued partial funding of Zurich's leading antitrafficking NGO. Zurich, in 2004, formalized its victim referral mechanism in a letter of intent between the NGO and local law enforcement officials. As a result of this formalized cooperation, the number of victims who received professional counseling and were willing to testify against their traffickers increased considerably. Other cantons have emulated the Zurich model.

The Government funded several antitrafficking information and education campaigns around the world. The Ministry of Foreign Affairs provided specialized training to its consular staff and distributed trafficking awareness information to visa applicants in local languages.

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services, and the prohibition was generally enforced. The law mandates access to public buildings and government services for persons with disabilities, and the Government generally enforced these provisions in practice. According to the NGO Egalite Handicap, most complaints of discrimination concerned labor issues, education, and access to public buildings.

The Federal Equal Opportunity Office for Persons with Disabilities promoted awareness of the law and respect for the rights of the disabled through counseling and financial support for projects to facilitate their integration in society and the labor market. In January the Government began a three-year pilot project to empower persons with severe disabilities to live on their own away from institutions. Approximately 400 participants, including some children, received grants to pay for a helper but remained free to decide who should assist them and how much care they needed.

*National/Racial/Ethnic Minorities.*—According to the federal police, in 2005 there were 111 public incidents involving right-wing skinheads, such as arson attacks, assaults, and hate concerts. Right-wing extremists organized more and increasingly well attended concerts and distributed compact discs with right-wing extremist music in an effort to recruit more members. Police estimated that after a lull of a few years, the number of right-wing extremists grew by some 200 to approximately 1,200. Police noted that acts of violence were mostly committed by youths and caused considerable harm and damage. In May a Thurgau appeals court sentenced six skinheads to prison terms between five and six and a half years for attempted homicide. In 2003 the six had beaten two youths so violently that one was permanently disabled.

There were a few reported cases during the year of violent confrontations between skinheads and young foreigners. According to statistics gathered by the Foundation against Racism and Anti-Semitism, there were 86 reported incidents directed against ethnic minorities during the year. These figures included verbal and written attacks, which were much more common than physical assaults. Investigations of such attacks were generally thorough and led, in most cases, to the prosecution of those responsible.

The extreme right-wing PNOS continued to be the subject of judicial action. In August a district judge in the canton of Bern fined the 22-year-old former President of the party's Bern chapter, \$ 1,000(1,200 francs) for racial "discrimination." In May a district court in the canton of Aargau sentenced the PNOS founder and former President to 14 days in prison and a fine for racial discrimination. He was accused of having published on the Internet a party program that violated the antiracism law. PNOS subsequently removed the program from its Web site. Earlier, in 2005, the Aargau district court sentenced four PNOS board members to fines of \$240 to \$400 (300 to 500 francs) for similar offenses. PNOS initially became a subject of serious public controversy in 2005, when two of its members were elected to serve in county-level political office in Bern and Solothurn cantons.

According to a survey published in June by the University of Geneva, more than half of the population believed that foreigners abused the welfare state and over 40 percent believed that foreigners lowered educational levels in schools and were responsible for higher unemployment. However, nearly 70 percent acknowledged the contributions of foreigners to the country's wellbeing, 90 percent rejected right-wing extremism, and 85 percent approved of the criminal prosecution of racist propaganda. A study by the University of Neuchâtel indicated that young adults whose immigrant parents came from outside the European Union faced discrimination in the job market. Young second-generation immigrants who were equally well qualified and with identical resumes as their peers, stood a significantly lower chance of finding employment. The UN special rapporteur on contemporary forms of racism, Doudou Diene, who visited the country for five days in January, concluded that the country had no strategy to combat xenophobia and related intolerance. On the contrary, in Diene's view, there was a tendency to play down racism or to use it in political debates for partisan gain. Government bodies such as the Federal Commission Against Racism lacked resources and personnel and the victims had few legal remedies. Diene found that dark skinned persons suffered most from racism, followed by people from the Balkans.

The Department of the Interior's Federal Service for the Combating of Racism sponsored a variety of educational and awareness-building projects to combat racism, xenophobia, and anti-Semitism (see section 2.c.).

In June the Government foundation, Future for Swiss Itinerants, reported that the habitat of the traveling Jenisch (a nomadic group of unknown origin and European ethnicity) was becoming scarce. Only one new permanent stopping place has been established since 2001, when the need for additional locations was pointed out, and the number of transit stopping places diminished from 51 to 44 over the same period. In an October report on the situation of traveling Jenisch, the Government acknowledged that the number of permanent and transit stopping places for travelers was insufficient.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law permits all workers, including foreigners, to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Approximately 25 percent of the workforce was unionized.

Trade union leaders criticized the absence in the country's labor legislation of a provision entitling an employee who is found to be unjustly dismissed to reinstatement. Present law provides that a worker found to have been dismissed illegally is entitled to maximum compensation of up to six month's worth of wages. The Swiss Trade Union Council complained to the International Labor Organization (ILO) that this penalty was insufficient to deter abusive dismissals of union activists and thus violates the relevant ILO convention that the country ratified. On November 15, the ILO called on the Government to take specific measures to ensure that trade union activists are adequately protected against abusive dismissals and that affected workers are reinstated. The Swiss Employer's Association rejected the ILO recommendation as exaggerated and likely to open the gates for abusive behavior by trade union activists.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the freedom to bargain collectively, and workers exercised this right. Approximately 50 percent of the work force was covered by collective bargaining agreements. The law provides for the right to strike, and workers exercised this right by conducting legal strikes. The Government may curtail the right of federal public servants to strike, but only for reasons of national security or safeguarding foreign policy interests. Public servants in some cantons and many municipalities are prohibited from going on strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace.

The minimum age for the full-time employment is 15 years. Children 13 and 14 years of age may be employed in light duties for not more than nine hours per week during the school year and 15 hours at other times. The employment of youths 15 and over is also restricted and cantonal inspectorates strictly regulated these provisions. Children are not permitted to work at night, on Sundays, or in hazardous or dangerous conditions. In June the Federal Assembly adopted an amendment to the labor law lowering the maximum age for the special protection of young workers from 20 to 18 years.

The economics ministry (SECO) monitors the implementation of child labor laws and policies, but actual enforcement is the responsibility of the cantonal labor inspectorates; government officials inspected companies to determine whether there were violations of the child labor laws.

*e. Acceptable Conditions of Work.*—There was no national minimum wage, which resulted in low wage structures for unskilled workers and skilled employees in the clothing, hospitality, and retail industries; however, a majority of the voluntary collective labor agreements contained clauses on minimum compensation, ranging from \$1,800 to \$3,400 (2,200 to 4,200 francs) per month for unskilled workers and from \$2,200 to \$4,200 (2,800 to 5,300 francs) per month for skilled employees.

The law sets a maximum 45-hour workweek for blue- and white-collar workers in industry, services, and retail trades, and a 50-hour workweek for all other workers. The law prescribes a rest period of 35 consecutive hours plus an additional half-day per week. Premium pay for overtime must be at least 25 percent; overtime is generally restricted to two hours per day. Annual overtime is limited by law to 170 hours for those working 45 hours a week and to 140 hours for those working 50 hours a week. The Government effectively enforced these regulations.

The law contains extensive provisions to protect worker health and safety. SECO and cantonal labor inspectorates effectively enforced the law. Workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, and the authorities effectively enforced this right.

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## TURKEY

Turkey, with a population of approximately 72.6 million, is a constitutional republic with a multiparty parliamentary system and a President with limited powers elected by the single-chamber parliament, the Turkish Grand National Assembly. In the 2002 parliamentary elections, considered generally free and fair, the Justice and Development Party (AKP) won the majority of seats and formed a one-party government. Civilian authorities generally maintained effective control of the security forces.

During the year the Government faced the major challenges of increasing the legal accountability of government security forces, reducing restrictions on free speech, and modernizing societal attitudes with respect to antiquated practices such as “honor killings” of women. Although an overhaul of the criminal code has helped reduce torture and improve due process for defendants, the Government struggled to achieve full implementation of new laws. The number of arrests and prosecutions of security forces who committed unlawful killings was low compared with the number of incidents, and convictions remained rare. Members of the security forces occasionally tortured, beat, and otherwise abused persons. Prison conditions remained poor, with problems of overcrowding and insufficient staff training. Law enforcement officials did not always provide detainees immediate access to attorneys as required by law. The executive branch at times undermined independence of the judiciary, and the overly close relationship of judges and prosecutors continued to hinder the right to a fair trial. Excessively long trials, lasting several years, were a problem. The Government limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the Penal Code prohibiting insults to the Government, the state, “Turkish identity,” or the institution and symbols of the republic. Non-Muslim religious groups continued to face restrictions on practicing their religion openly, owning property, and training leaders. Vio-

lence against women, including so-called honor killings and rape, continued to be a widespread problem. Child marriage was a problem. Police corruption at all levels contributed to trafficking in women and children to and within the country for the purpose of sexual exploitation.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces killed a number of persons during the year.

The Human Rights Foundation (HRF) reported that, in late March and early April, the police and military killed 14 persons, including five children, when they fired into crowds of demonstrators during rioting in the southeastern city of Diyarbakir (see section 2.b.).

According to the HRF, security forces caused three deaths when they raided houses during the first eight months of the year.

According to the HRF, police and Jandarma killed 9 persons during the year when they did not obey warnings by security forces to stop their vehicles.

In February 2005 demonstrators in Mersin Province claimed police shot and killed Umit Gonultas during a protest in support of Abdullah Ocalan, imprisoned leader of the terrorist Kurdistan Workers Party (PKK); however, interior ministry inspectors determined that police did not shoot Gonultas, and no court case was opened against the police. Prosecutors opened a case against nine members of the now-dissolved pro-Kurdish Democratic People's Party (DEHAP) for their role in a statement protesting the shooting. The DEHAP officials were charged with being members of an illegal organization; their trial was ongoing at year's end.

In July 2005 army private Murat Polat died from wounds he received when he was allegedly beaten by fellow soldiers at Adana military prison. Prosecutors indicted 29 soldiers for torture and severe torture in connection with this and several other cases, but concluded that jurisdiction lay in the military courts. When a military court concluded that it did not have jurisdiction, the case went to the military court of appeals, where it remained at year's end.

In November 2005 assailants threw a bomb into a store in Semdinli, Hakkari Province, killing Mehmet Zahir Korkmaz. Over the following days, demonstrators clashed with police in a number of violent protests against the alleged Jandarma role in the bombing; five protesters were killed and dozens injured in the disturbances. Prosecutors opened two cases in connection with the incident. In the first, the Van prosecutor charged two Jandarma officials, Ali Kaya and Ozcan Ildenizand, and an alleged informant, Veysel Ates. On June 19, the Van Heavy Penal Court Number 3 convicted the two noncommissioned officers and sentenced them to 39 years in prison. On November 10, the same court sentenced the informant to 39 years and 10 months in prison. The case was on appeal at year's end. In the second case, the Hakkari prosecutor charged another suspect, Army Sergeant Tanju Cavus. The trial was transferred for security reasons to the Malatya Heavy Penal Court, where it was ongoing at year's end.

In a connected case, the Van prosecutor charged the bookstore owner, alleging that he was a PKK member and participated in the bomb plot. The case continued at year's end.

In November 2005 the Diyarbakir prosecutor charged three suspects in connection with the July 2005 killing of Hikmet Fidan, a former DEHAP vice chairman. The indictment alleged that the defendants turned Fidan over to the PKK, whose leaders ordered Fidan's killing because he criticized the PKK. By midyear all lawyers representing the Fidan family withdrew from the case due to alleged pressure from the PKK. At year's end there were no new developments in the case.

The Hakkari court's acquittal of 12 defendants in November 2005, including former members of the security forces, who had been charged with extrajudicial killings, bombings, extortion, and other crimes was under appeal at year's end.

DNA analysis confirmed that the 11 corpses discovered near the town of Kulp, Diyarbakir Province, in late 2004, belonged to the villagers who disappeared after detention in 1993. The Kulp public prosecutor concluded that the military had jurisdiction and therefore transferred the case to a military prosecutor. The military began an investigation and asked relatives of the missing villagers to send their video footage of the mass grave. The investigation was ongoing at year's end.

The trial of four police officers charged with the 2004 unlawful killing of Ahmet Kaymaz and his son Ugur was ongoing at year's end. The brother of Ahmet Kaymaz publicly stated that the police carried out an extrajudicial execution. The HRF reported that the four defendants were reassigned and back on duty. Proceedings con-



tinued in the trial of three police officers charged in connection with the shooting of Siar Perincek in Adana in 2004.

The October 2005 conviction of Jandarma official Murat Sener on charges on using excessive force in the 2004 killing of Fevzi Can was under appeal at year's end.

According to the Government, one person died while in police custody. The death was recorded as a suicide.

According to the HRF, landmines and unattended explosives killed eight civilians and injured 38, including 28 children, during the year. Both security forces and the PKK used landmines.

According to the Government, 32 civilians, 93 members of the security forces, and 118 terrorists were killed in armed clashes through October. The Human Rights Association's (HRA) Diyarbakir office reported that 294 persons died in such clashes and 303 were injured during the year. Most of the clashes occurred in the southeast.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, members of the security forces continued to torture, beat, and otherwise abuse persons.

Incidents of torture and abuse declined during the year but remained a problem. There was a decline in the severe ill-treatment that prisoners encountered in prior years, but incidents of ill-treatment during police/gendarmerie custody continued, according to the Council of Europe's September 6 report on the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Courts rarely convicted security officials accused of torture and tended to issue light sentences when they did convict (see section 1.d.).

According to the HRF, there were 338 cases of torture or abuse reported at its five national treatment centers during the year. Of these, 227 cases involved torture or abuse inflicted during the year; the rest involved incidents that occurred previously. HRF stated that there were 10,449 credible reports of torture or abuse from 1990 to 2005. A number of human rights observers claimed that only a small percentage of detainees reported torture and abuse because they feared retaliation or believed that complaining was futile.

The CPT and domestic human rights observers reported that, because detention periods have been reduced to 24 hours, with prosecutorial discretion to extend the period to 48 hours, security officials for the most part eliminated more severe methods of torture and abuse, such as electric shocks, high-pressure cold water hoses, rape, beatings on the soles of the feet and genitalia, hanging by the arms, and burns. Instead, security officials mainly used methods that did not leave physical signs, including repeated slapping, exposure to cold, stripping and blindfolding, food and sleep deprivation, threats to detainees or family members, dripping water on the head, isolation, and mock executions.

Human rights activists, attorneys, and physicians who treated victims said that because of increased punishments for torture and abuse, police who engaged in these practices often did so outside of police detention centers to avoid detection.

Human rights activists maintained that those arrested for ordinary crimes were as likely to suffer torture and ill-treatment in detention as those arrested for political offenses such as speaking out against the Government, although they were less likely to report abuse. Observers believed that security officials usually tortured political detainees to intimidate them and send a warning to others with similar political views. Authorities allegedly tortured ordinary suspects to obtain confessions.

On December 28, the Justice Ministry initiated an investigation into allegations that wardens at the Sincan Children's and Youth Prison inmates beat four inmates between 19 and 21 years of age on the soles, a practice known as "falaka." Nadir Cinar, Ozgur Karakaya, Ilker Sahin, and Cenar Altunc, who were in jail for demonstrating in support of an attorney who was on a hunger strike, told their attorney on December 22 that the wardens were beating their feet with sticks and pipes and cursing at them. The Ankara chief prosecutor confirmed the marks on the youths' bodies and ordered the boys to be taken to the Forensic Medicine Institute. At year's end prosecutors were investigating the matter.

On October 24, Habip A and Mehmet K were detained by law enforcement officers in Konya for smuggling cigarettes. A group of masked police officers then beat Habip and extinguished cigarettes on his body, according to Habip's and Mehmet's original attorney. Habip filed an official complaint with the local prosecutor's office against the physician in charge at Konya Numune Hospital, who prepared a report that certified that Habip's wounds were due to an accident. The two complainants selected a new attorney, who had not yet filed a case at year's end. The complaint

had not been ruled on at year's end. The Government did not initiate an investigation into the incident.

A state hospital in Van province issued reports stating there were no signs of torture in the case of five men who had claimed they were tortured during detention in July 2005. The men's attorney then obtained a private health report that stated one of the men—Abdulakir Akgul—was tortured, but that there were no longer marks of torture on the four others. The attorney filed a criminal complaint against the state doctors and local Jandarma; the local prosecutor decided to not pursue the case. The lawyer appealed to the Van Regional Administrative Court, where the case remained at year's end. In February the Ordu public prosecutor's office issued a decision that it would not prosecute any police officers in connection with the allegation that Ordu police beat, squeezed the testicles of, and threatened three juveniles in October 2005.

In October 2005 broadcast media outlets aired footage of employees abusing children at the Malatya State Orphanage. Images included employees beating children, who were naked and sitting in a bathtub. Several of the children told police their caretakers had forced them to eat excrement. Physicians subsequently examined the children and reported finding evidence that 21 of 46 had been subject to torture, including severe beatings and hot water burns. Authorities charged nine officials—the provincial director for social services, the orphanage director, two civil servants, and five orphanage employees—with torture. None of the defendants have been relieved of their duties; however, the orphanage employees were transferred to another facility. Forty of the children were taken to an Istanbul facility for four months, and then returned to the Malatya Orphanage. The trial and investigation continued at year's end.

There was no updated information on the allegations that in December 2005 police tortured Orhan Kara, Velat Haci Ali, Idban Kaplan, Seref Inanc, and Nezir Ayan while in detention in Silopi, Sirnak Province.

There were no developments in the reported 2004 cases of torture of Mehmet Nurettin Basci, Mehmet Gazi Aydin, Sezai Karakus, or several persons detained by police during a raid of the Yeniden Ozlem publishing house.

Police harassed, beat, and abused demonstrators (see section 2.b.).

*Prison and Detention Center Conditions.*—Prison conditions generally improved but facilities remained inadequate. Underfunding, overcrowding, and insufficient staff training were problems.

According to the medical association, there were insufficient doctors, and psychologists were available only at some of the largest prisons. Several inmates claimed they were denied appropriate medical treatment for serious illness.

Despite the existence of separate juvenile facilities, at times juveniles and adults were held in adjacent wards with mutual access. Observers reported that detainees and convicts occasionally were held together. Occasionally inmates convicted for nonviolent, speech-related offenses were held in high-security prisons.

The Government permitted prison visits by representatives of some international organizations, such as the CPT; however, domestic nongovernmental organizations (NGOs) did not have access to prisons. Domestic human rights organizations and activists reported that Prison Monitoring Boards, composed of government officials and private individuals, were ineffective. The CPT visited in 2004 and conducted ongoing consultations with the Government.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government at times did not observe these prohibitions.

*Role of the Police and Security Apparatus.*—The Turkish National Police (TNP), under interior ministry control, is responsible for security in large urban areas. The Jandarma, paramilitary forces under joint interior ministry and military control, is responsible for policing rural areas. The Jandarma is also responsible for specific border sectors where smuggling is common; however, the military has overall responsibility for border control.

In June 2005 the Government established judicial police, who were to take direction from prosecutors during investigations; however, human rights groups reported that in practice the judicial police continued to report to the Ministry of Interior.

A civil defense force known as the village guards was less professional and disciplined than other security forces and was concentrated in the southeast. The village guards were accused repeatedly of drug trafficking, rape, corruption, theft, and other human rights abuses. Inadequate oversight and compensation contributed to this problem, and in many cases Jandarma allegedly protected village guards from prosecution. Although the security forces were generally considered effective, the village guards, Jandarma, and police special forces were viewed as those most responsible for abuses. Corruption and impunity from prosecution were serious problems.

Courts investigated many allegations of abuse and torture by security forces during the year; however, they rarely convicted or punished offenders (see section 1.e.). When courts did convict offenders, punishment generally was minimal and sentences were often suspended. Authorities typically allowed officers accused of abuse to remain on duty and, in occasional cases, promoted them during their trials, which often took years.

The TNP and Jandarma received specialized training in a number of areas, including human rights and counterterrorism. According to the Government, the armed forces emphasized human rights in training for officers and noncommissioned officers.

During the first nine months of the year, 715 administrative or judicial cases were opened against security personnel and other public officials on torture, maltreatment, or excessive use of force charges. The decision of “acquittal” or “no need to punish” was reached in all 85 maltreatment or torture cases. Out of 630 “excessive use of force” cases, 10 resulted in prison sentences, one resulted in a temporary suspension, 598 resulted in acquittal or no need to punish, and 21 remained ongoing.

*Arrest and Detention.*—Warrants issued by a prosecutor are required for arrests unless the suspect is caught in the commission of a crime. A suspect may be detained for 24 hours, with prosecutorial discretion to extend the period to 48 hours, excluding transportation time, before being arraigned by a judge. There is a functioning bail system. After arraignment, the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order detention if the court determines that the accused is likely to flee the jurisdiction or destroy evidence. The law provides that detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time. The law provides that indigent detainees be provided a public attorney at government expense.

Private attorneys and human rights monitors reported irregular implementation of these regulations, particularly with respect to attorney access. According to a number of local bar associations, attorney access for detainees improved during the year, but varied widely across the country. Numerous bar association representatives and human rights organizations reported that in urban areas most detainees consulted with attorneys soon after being detained, while in rural areas, particularly the southeast, there was a higher number of cases where defendants did not have immediate access to an attorney. The HRA observed an increase in the percentage of detainees consulting with attorneys but maintained that the numerous detainees did not exercise this right.

Human rights observers noted that in most cases where a defendant could not afford an attorney, one was provided; however, in terrorism-related cases an attorney was frequently not provided until after the suspect had been detained and interrogated by security forces. Provincial bar associations reported that they faced increasing difficulties providing such attorneys because the Government was behind on compensation payments for such work. The Izmir Bar Association reported that the Government owed it between \$5.6 and \$9.2 million (\$8–13 million lira).

HRA claimed police often intimidated detainees who asked for attorneys, for example by telling them a court would assume they were guilty if they consulted an attorney during detention. Detainees were generally allowed prompt access to family members; however, human rights organizations reported that since October, they have been hindered from helping families find out whether a relative has been detained because the Government began to refuse to release such information to the organizations.

During the year police routinely detained demonstrators (see section 2.b.). Police detained several members of the former DEHAP on various occasions (see section 3). Police continued to detain and harass members of human rights organizations and monitors (see section 4). Police continued to detain persons on suspicion of links to Turkish Hizballah.

Lengthy pretrial detention was a problem. The law provides detainees the right to request speedy arraignment and trial; however, judges have ordered that some suspects be detained indefinitely, at times for years. Approximately half of the prison inmates held during the year were convicts; the other half were either awaiting trial or held during trial proceedings.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judiciary was occasionally subject to outside influence. There were reports of judicial corruption.

The law prohibits the Government from issuing orders or recommendations concerning the exercise of judicial power; however, the Government and several high-ranking military officers on several occasions issued announcements or directives

about threats to the Government, which could be interpreted as general directions to the judiciary.

The High Council of Judges and Prosecutors was widely criticized for undermining the independence of the judiciary. The minister of justice serves as chairman of the seven-member high council, and the Justice Ministry undersecretary also serves on the council. The high council selects judges and prosecutors for the higher courts and is responsible for oversight of the lower courts. The high council is located in the Ministry of Justice and does not have its own budget. While the constitution provides for job security through tenure, the high council controls the careers of judges and prosecutors through appointments, transfers, promotions, reprimands, and other mechanisms. During the year the high council, allegedly under pressure from the military, prohibited Van prosecutor Ferhat Sarikaya from practicing law after he prepared an indictment in the Semdinli case (see section 1.a.). After the high council denied Sarikaya's request for review of the decision, he filed a formal objection. On November 9, the high council rejected the objection, effectively finalizing Sarikaya's expulsion from the profession.

The Ministry of Justice did not guarantee the independence of the judiciary in numerous freedom of expression cases, according to the Turkish Publishers' Association. Prosecutors and courts accepted certain classes of cases filed by ideologically motivated attorneys, such as those involving allegations of insulting Turkishness or Atatürk, but ignored complaints that regarded many categories of human rights (see section 2.a.).

The close connection between public prosecutors and judges gave the appearance of impropriety and unfairness in criminal cases. Prosecutors and judges study together before being assigned by the high council. Once appointed, they are housed together, frequently share the same office space, and often work in the same courtroom for over five years.

The judicial system is composed of general law courts; specialized heavy penal courts; military courts; the Constitutional Court, the nation's highest court; and three other high courts. The high court of appeals hears appeals for criminal cases, the council of state hears appeals of administrative cases or cases between government entities, and the audit court audits state institutions. Most cases were prosecuted in the general law courts, which include civil, administrative, and criminal courts. In 2004 parliament adopted legislation providing for the establishment of regional appeals courts to relieve the high court's caseload and allow the judiciary to operate more efficiently.

The Constitutional Court examines the constitutionality of laws, decrees, and parliamentary procedural rules and hears cases involving the prohibition of political parties. If impeached, ministers and prime ministers can be tried in the Constitutional Court. However, the court cannot consider "decrees with the force of law" issued under a state of emergency, martial law, in time of war, or in other situations as authorized by parliament. Military courts, with their own appeals system, hear cases involving military law for members of the armed forces. Military courts can also hear cases involving crimes committed by both civilians and military personnel.

Administrative and bureaucratic barriers impeded prosecutions and contributed to the low number of convictions of security force personnel for human rights abuses. Under the law, courts could not convict unless a defendant attended at least one trial session. Police defendants occasionally failed to attend hearings in order to avoid conviction; prosecuting attorneys claimed courts failed to make serious attempts to locate such defendants, even in cases where the defendants received salary or pension checks at their home address.

During courtroom proceedings criminal defendants faced numerous violations of their right to a fair trial, according to an Amnesty International (AI) September 6 report. The report found that courts frequently refused to hear defense witnesses, despite a new law allowing the defense to call its own witnesses; courts and prosecutors often refused to consider new exculpatory evidence; pretrial and trial periods frequently lasted for many years due in part to a severe backlog of cases; often courts did not allow defendants to take part in pretrial hearings; and frequently courts failed to provide defendants with qualified interpreters.

According to the September AI report, defendants in cases that were transferred from state security courts, abolished in June 2004, to heavy penal courts often faced the same judges and prosecutors who presided over their cases when they were before the state security courts. The report also found that these judges frequently failed to investigate or take into account allegations that confessions were brought about by torture, and allegations of long periods of "unofficial" detention with no access to legal counsel. The report noted that defendants in these cases were being sentenced on the basis of evidence extracted under torture or other ill-treatment.

*Trial Procedures.*—There is no jury system; a judge or a panel of judges decides all cases. Trials are public. The law requires bar associations to provide free counsel to indigents who request it from the court, and bar associations across the country did so in practice. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. Defendants or their attorneys can question witnesses for the prosecution and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right to appeal.

International human rights organizations and the European Union (EU) stated that the courtroom structure and rules of criminal procedure gave an unfair advantage to the prosecution. Prosecutors enter the courtroom through the same door as the judge; defense attorneys enter through a separate door. Prosecutors sit at an elevated desk that is at the same level as that of the judge; the defense sits at floor level. During the trial, the prosecutor may himself call any witness desired, whereas the defense must request that the judge call a witness. Judges decide whether to ask and how to phrase defense counsel's questions, but ask all of the prosecution's questions in the exact form presented.

The law provides for the right to a speedy trial; however, at times trials lasted for years (see section 1.d.). Proceedings against security officials often were delayed because officers did not submit statements promptly or attend trials. In several cases, such delays extended beyond the statute of limitations, causing the trial to end without a verdict.

The law prohibits the use of evidence obtained by torture in court; however, prosecutors in some instances failed to pursue torture allegations, and exclusion of evidence occurred only after a separate case on the legality of the evidence was resolved. In practice a trial based on a confession allegedly coerced under torture could proceed, and even conclude, before the court had examined the merits of the torture allegations.

Despite the May 2005 European Court of Human Rights (ECHR) ruling that imprisoned PKK leader Abdullah Ocalan did not receive a fair trial during the proceedings that led to his 1999 conviction, the Ankara Heavy Penal Court, on May 5, denied Ocalan's attorneys' retrial request. On appeal, the Istanbul Heavy Penal Court upheld the lower court's decision.

*Political Prisoners and Detainees.*—There were no reports of political detainees; however, the HRA estimated that there were several thousand political prisoners, including leftists, rightists, and Islamists. The Government claimed that alleged political prisoners were in fact charged with being members of, or assisting, terrorist organizations. According to the Government, 2,071 convicts were being held in prison on terrorism charges through October.

International humanitarian organizations were allowed access to "political" prisoners, provided they could obtain permission from the Ministry of Justice. While the CPT was generally granted such permission, other organizations were rarely granted such permission.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. The law provides that all citizens have the right to file a civil case for compensation for physical or psychological harm suffered.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these provisions in practice.

Security forces caused three deaths when they raided several houses during the first eight months of the year, according to the HRF.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government continued to limit these freedoms in occasional cases. The Government intimidated journalists into practicing self-censorship.

The Government, particularly the police and judiciary, limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the Penal Code prohibiting insults to the Government, the state, "Turkish identity," Atatürk, or the institutions and symbols of the republic. Other laws, such as the Antiterror Law and laws governing the press and elections, also restrict speech.

Individuals could not criticize the state or government publicly without fear of reprisal, and the Government continued to restrict expression by individuals sympathetic to some religious, political, and Kurdish nationalist or cultural viewpoints. Active debates on human rights and government policies continued, particularly on issues relating to the country's EU membership process, the role of the military,

Islam, political Islam, the question of Turks of Kurdish origin as “minorities,” and the history of the Turkish-Armenian conflict after World War I; however, persons who wrote or spoke out on such topics, particularly the Armenian issue, risked prosecution. The Turkish Publishers Association (TPA) reported that serious restrictions on freedom of expression continued despite legal reforms related to the country’s EU candidacy.

According to the Government, there were no journalists held on speech violations during the year; however, the Government reported that at year’s end there were 26 arrestees or convicts who claimed to be journalists. The Government reported that some could not demonstrate they were journalists and some were in prison for crimes not related to their work as journalists.

Democratic Society Party (DTP) Mayor of Batman Huseyin Kalkan faced up to 7 1/2 years under the Antiterror Law for his remarks in the Los Angeles Times on May 30. In the story, Kalkan stated, “Unless the status quo changes, Kurds will further approach northern Iraq and want to split up and merge with them.” He added, “The PKK wants to lay down arms but it is [tried to be] portrayed as a bandit. Eighty percent of the population in my town think like those in the mountains. Abdullah Ocalan is a public leader.” Upon reading the interview, two Turkish citizens filed an e-mail crime complaint with the Izmir Police. The Izmir prosecutor forwarded the case to Diyarbakir for prosecution. The case was pending at year’s end.

On February 22, a court acquitted Aynur Saydam of insulting Prime Minister Erdogan. Erdogan filed a lawsuit in October 2005 against Saydam for insulting him by holding up a banner during an appearance at Bahcesehir University. The banner featured a statement criticizing Erdogan’s support for a conference on the fate of the Armenians in the final days of the Ottoman Empire.

Trial proceedings in the case against six juveniles charged with attempting to burn the national flag during celebrations of Nevruz (the Kurdish New Year) in March 2005 continued at year’s end.

In December 2005 an Ankara court began the trial of 12 officials of the pro-Kurdish party Hak-Par for speaking Kurdish at a party convention and distributing Kurdish-language invitations to the convention. During the trial the prosecutor asked the judge to assist in opening a case to close down Hak-Par. The judge did not rule on that request by year’s end.

The appeal of the December 2005 conviction of DEHAP official Ahmet Dagtekin for illegal speech for using Kurdish language and symbolism during a 2004 campaign event was ongoing at year’s end.

Proceedings continued in the appeal of Genc Party leader Cem Uzan’s 2004 conviction for insulting Prime Minister Erdogan in a speech.

In October 2005 a Sanliurfa court sentenced local DEHAP official Resit Yardimci to a six-month prison term and fined him \$1,214 (1,640 lira) for greeting the audience in Kurdish during a 2003 party convention. The court of appeals rejected the lower court’s reasoning and remanded the case. The case continued in the lower court at year’s end.

The country has an active print media independent of state control. There are hundreds of private newspapers that span the political spectrum.

The Government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTUK), there were 229 local, 15 regional, and 16 national officially registered television stations and 1,062 local, 108 regional, and 30 national radio stations. Other television and radio stations broadcast without an official license. The wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Kurdish-language private channels. Most media were owned by large, private holding companies that had a wide range of outside business interests; the concentration of media ownership influenced the content of reporting and limited the scope of debate. Observers noted that media conglomerates increasingly used media as a tool to build pressure against government policies.

Prosecutors harassed writers, journalists, and political figures by bringing dozens of cases to court each year under various laws that restrict media freedom; however, judges dismissed many of these charges. Authorities, in a few instances, closed newspapers temporarily, issued fines, or confiscated newspapers for violating speech codes. Despite government restrictions, the media criticized government leaders and policies daily and in many cases adopted an adversarial role with respect to the Government.

Authorities continued to prosecute publishers and editors of newspapers for their discussion of sensitive subjects.

In October 2005 an Istanbul court convicted Hrant Dink, publisher of the Armenian community newspaper *Agos*, of denigrating Turkish identity in an article on Turkish-Armenian relations. The court sentenced Dink to a six-month prison term

but suspended the sentence. The court ruled for conviction although a panel of three legal experts the court appointed to review the article unanimously determined that it did not violate the law. On appeal, both the conviction and suspended sentence were upheld. In December 2005 an Istanbul prosecutor opened a separate case against Dink and three other Agos employees on the grounds that their criticism of the October 2005 court decision constituted an attempt to "influence the judiciary." The case continued at year's end. In September an Istanbul prosecutor charged Dink again, following a statement he made to the Reuters news agency, in which he reportedly said that the killing of Armenians during the Ottoman Empire constituted genocide. The case was ongoing at year's end.

In December 2005 an Istanbul prosecutor charged five newspaper columnists with insulting the judiciary and trying to influence the judicial process for their coverage of the court battle over the legality of holding an Istanbul conference on the 1915 massacre of Armenians in the Ottoman Empire. In April an Istanbul court dismissed charges against four of the journalists on the procedural ground that the relevant statute of limitations had passed since their respective articles were originally published. The trial of the fifth columnist, Murat Belge, was ongoing at year's end.

The December 2005 convictions of writer Zulkuf Kisanak for "denigrating the Republic of Turkey" and journalist Aziz Ozer on similar charges were under appeal at year's end.

The Government maintained significant restrictions on the use of Kurdish and other minority languages in radio and television broadcasts. RTUK regulations limited minority-language news broadcasts to 45 minutes per day; however, RTUK ended time restrictions for minority-language cultural shows or films. Previously such broadcasting was limited to 45 minutes per day and four hours per week for television broadcasting, and 60 minutes per day and five hours per week for radio. RTUK maintained that its regulations require non-Turkish radio programs be followed by the same program in Turkish and that non-Turkish television programs have Turkish subtitles. Start-up Kurdish broadcasters reported that these were onerous financial obligations that prevented their entry into the market. The state-owned TRT broadcasting company provided limited national programming in Kurdish and three other minority languages.

On April 19, the radio officials of Radyo Imaj were acquitted of making unauthorized broadcasts; the station resumed broadcasting in late November. Radyo Imaj officials claimed the station was closed for playing Kurdish music.

Trial proceedings continued at year's end in Istanbul in the 2004 case against journalist Mehmet Ali Birand and three attorneys for imprisoned PKK leader Abdullah Ocalan in connection with a CNN Turk broadcast, during which Birand interviewed the attorneys.

The TPA reported a decrease in recent years in the number of court decisions banning books; however, books, writers, and publishers were still prosecuted on grounds of defamation, denigration, obscenity, separatism, subversion, fundamentalism, and blasphemy. Printing houses are required to submit books and periodicals to prosecutors at the time the materials are published. According to the TPA, prosecutors investigated and in several cases pressed charges against printing houses for late submission of materials deemed problematic. As a result, the TPA reported, publishers often avoided works with controversial content. According to the TPA's June report, from 2000 to 2005, authorities opened court cases against 47 authors and 49 books and compilations involving 22 publishers. According to the Ministry of Interior, 290 books were banned and confiscated between 2000 and 2006. The TPA reported that the Government lifted the ban on 49 and kept it on 241.

On June 26, an Istanbul prosecutor charged Fatih Tas, the owner of Aram Publishing House, and two translators in connection with Aram's publishing a translation of the Noam Chomsky and Edward S. Herman book, *Manufacturing Consent: The Political Economy of Mass Media*, for "insulting Turkishness" and "inciting enmity and animosity among people." The trial began on October 17 and was ongoing at year's end.

The separate trial against Tas and two translators in 2005 for publishing a Turkish translation of the book, *Spoils of War: The Human Cost of America's Arms Trade*, which prosecutors alleged insulted the Turkish identity and Atatürk was ongoing at year's end.

In July an Istanbul prosecutor indicted novelist Elif Shafak for insulting Turkish identity in her novel *The Father and the Bastard*. In her novel, characters discuss the Armenian "genocide." At the September 21 trial, the court dismissed the case for lack of evidence. In its October 4 written verdict, the court concluded that comments by a character in a fictitious book were a form of free expression not subject to prosecution.

In September 2005 an Istanbul prosecutor charged novelist Orhan Pamuk with “insulting Turkish identity” in statements he made during a 2004 interview with a foreign publication. Pamuk was quoted as saying that one million Armenians and 30,000 Kurds had been killed in the country. After a domestic periodical published a translation of the interview, prosecutors charged Pamuk for violating New Turkish Penal Code Article 301, which went into effect in June 2005, three months prior to Pamuk’s statements. The court determined that it had to apply the law in effect when the act was committed, not Article 301. The old law required that the minister of justice approve prosecution of the case. On January 22, the Justice Ministry refused to issue an approval, saying that it had no authority to open a case against Pamuk under the new Penal Code. The following day, the trial court ruled that it could not continue the case, and charges were dropped.

An Istanbul prosecutor initiated two cases in May 2005 against Ragip Zarakolu, owner of Belge Publishing, for publishing translations of two books dealing with Turkish-Armenian relations. The indictment, brought pursuant to Penal Code Article 301, alleged that the publications were insulting to the state. Trials in both cases continued at year’s end.

Authorities occasionally censored media with pro-Kurdish or leftist content, particularly in the southeast, by confiscating materials or temporarily closing down the media source at issue. The TPA reported that the most serious problem during the year was a large increase in complaints filed by ideologically motivated attorneys, and then accepted by the courts, on grounds such as insulting Turkishness or the memory of Atatürk. During the year prosecutors initiated court proceedings against 77 journalists, 22 publishing houses, 41 writers, five translators, and 43 books. Twelve of these cases ended in acquittals, nine in convictions, four in “nonsuit,” and 18 were pending at year’s end. Prosecutors charged 65 persons during the year under Penal Code Article 301, which criminalizes insulting “Turkishness.”

According to TPA, the Governments, courts, and private litigants were together responsible for “abusing the civil law system” during the year through an increase in defamation cases. Courts sentenced defendants to pay financial compensation for defamation in cases filed by politicians, including Prime Minister Erdogan, journalists, and private businessmen.

Prime Minister Erdogan, through his attorneys, filed 59 cases on the grounds of defamation, of which 28 were pending at year’s end. Among the 31 cases decided, 21 rulings were in favor and 10 against Erdogan.

On May 3, an Ankara court convicted Ismail Yildiz, President of the Political, Economic, Social Research and Strategy Center, and ordered him to pay \$6,179 (8,860 lira) for insulting Prime Minister Erdogan, Finance Minister Unalitan, and Transportation Minister Yildirim. Yildiz published two articles critical of these officials on the Internet. Yildiz’s appeal was pending at year’s end.

Erdogan sued political cartoonist Mehmet Cagcag for his cartoon in the July 7 edition of *Leman* magazine that depicted Erdogan as a tick and had the subtitle “Tick Has Been Making Turkey Suffer.” The case continued at year’s end.

The Government arrested and deported Michael Dickinson, a British cartoonist and lecturer, after he depicted Prime Minister Erdogan as a foreign President’s dog in a political cartoon.

Turkish courts ruled on a number of cases that Prime Minister Erdogan filed in 2005. In May 2005 an Ankara court convicted Musa Kart of the daily *Cumhuriyet* for a cartoon portraying Erdogan as a cat. The court ordered Kart to pay \$3,800 (5,132 lira). On April 19, the court of appeals unanimously overturned the lower court decision. In October an Istanbul court fined Mehmet Fethi Dorduncu \$6,300 (9,000 lira) for insulting Erdogan and for insulting the Government, because he put a note in a museum welcome book that called Erdogan and the Government “servants, nonbelievers, thieves, and treacherous.” On December 8, an appellate court overturned a lower court decision that convicted *Yenicag* newspaper for allegedly insulting Erdogan by calling him “a bully” in a May 2005 article.

The satirical magazine *Penguen* responded to the lawsuits by publishing a front page with a series of drawings by different cartoonists depicting Erdogan as various animals. In March 2005 Erdogan filed a lawsuit against *Penguen* seeking \$28,000 (38,178 lira) in compensation; the court ruled in favor of the magazine. On April 3, the press reported that Erdogan appealed; the court of appeals has not acted on the case by year’s end.

During the summer the parliament placed further restrictions on the media by adopting amendments to the Antiterror Law. Under the amendments, editors at media organizations that disclose the identities of public personnel fighting terrorism may be fined, and a judge may order the closure for up to one month of a publication that “makes propaganda for terrorist organizations.” President Sezer challenged these amendments in the Constitutional Court, arguing that such re-



strictions violate the constitution. At year's end the challenged laws were stayed while the court case proceeded.

During the year there was an increase in the number of cases against the press under the Antiterror Law. The TPA and human rights groups reported that the law contains an overly broad definition of offenses that allows ideologically and politically motivated prosecutions. For example, according to the TPA, prosecutors opened 530 cases against pro-Kurdish daily *Ozgur Gundem* and its editors under the Antiterror Law. Of these, 104 resulted in convictions and 22 in acquittals. The owner of the newspaper was sentenced to a fine of \$125,000 (192,755 lira) and the editor was sentenced to a 15-year prison term and fined \$90,000 (134,000 lira). The Government closed the paper for two weeks during the year. During the year courts convicted editors and correspondents of the daily *Cumhuriyet*, including its owner, were convicted for a news article titled "Acquittal of Torture." Prosecutors charged journalists of the daily *Hurriyet* under the Antiterror Law for attempting to interview Kurdish guerillas.

*Internet Freedom.*—The Internet was widely available in the country. It is used in schools, libraries, private internet cafes and other public locations, and the Government encouraged its use. There were no government restrictions on Internet access; however, government authorities have on rare occasions accessed Internet user records to protect "national security, public order, health, and decency" or to prevent a crime. Police must obtain authorization from a judge or, in emergencies, the highest administrative authority before taking such action.

*Academic Freedom and Cultural Events.*—There generally were no government restrictions on academic freedom or cultural events; however, university authorities suspended one academic who publicly supported views contrary to the official state ideology, and there was some self-censorship on sensitive topics.

Gazi University professor of political philosophy and political economy Atila Yayla was suspended for failing to support official state ideology. During a November 18 panel in Izmir organized by the local branch of the ruling Justice and Development Party, Yayla explained that his "common civilization paradigm" required a civilized country to have private property; limited, responsible, and accountable government; freedom of expression; religious freedom; political opposition; freedom of association; and the rule of law. He also stated that, despite widespread official propaganda, the single-party era between 1925–1945, led mainly by Mustafa Kemal Atatürk, was not as progressive as it was claimed and was in some respects backward. Yayla also said that, with increasing EU exposure, Europeans would begin to ask, "why are the same man's pictures and statues everywhere?" Following these remarks, Gazi University suspended Yayla and launched an investigation into his remarks. The secretary general of the Turkish Youth Association, Osman Yilmaz, called on the Higher Education Board to dismiss Yayla from the academic profession, stating that Yayla had taken up "the campaign of lies and slander of U.S. and EU authorities against Atatürk and the Republic of Turkey." Yayla reported that, since the panel discussion, he has been declared as a "traitor who swore at and insulted Atatürk." The Izmir prosecutor began an investigation into the matter.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The law provides for freedom of assembly; however, the Government restricted this right in practice. Significant prior notification to authorities is required for a gathering, and authorities may restrict meetings to designated sites.

Police killed demonstrators during the year. For example, government security forces killed a number of persons during violent riots in the southeastern city of Diyarbakir, which emanated from large public funeral processions held for dead PKK members. The HRF reported that in late March and early April, during rioting, the police and military killed 14 persons, including five children.

The trial of nine DEHAP officials for being members of an illegal organization continued at year's end. The nine officials were charged after they alleged that police shot and killed Umit Gonultas during a protest in support of Abdullah Ocalan, imprisoned leader of the PKK. According to the HRA, there was no evidence that demonstrators used weapons during the altercation. No one has been prosecuted for the death of Gonultas.

No investigation was initiated by law enforcement into the 2005 death of Hasan Is, whose relatives and other witnesses claimed was shot and killed by police during an altercation at a funeral ceremony for PKK militants in Batman Province.

No further information was available regarding allegations that in October 2005 Istanbul police shot and killed Atilla Geemis during demonstrations in support of Abdullah Ocalan.

Police beat, abused, detained, or harassed some demonstrators.

On March 14, a local prosecutor opened a case against 54 police officers alleged to have used excessive force during a March 2005 International Women's Day demonstration in Istanbul. The case was ongoing at year's end.

On May 2 security forces arrested three Kurdish activists—Ibrahim Guclu, Zeynel Abidin Ozalp, and Ahmet Sedat Ogur—as they prepared to peacefully protest the recent killings of civilians by security forces in the southeast. The men were charged under the Antiterror Law for “making propaganda for the PKK.” Their trial continued at year's end.

Unlike the previous year, police did not interfere in Nevruz celebrations. There was no information regarding police detention of DEHAP officials and students in connection with 2005 Nevruz celebrations.

The six juveniles charged for allegedly burning the Turkish flag during Nevruz celebrations in Mersin in 2005 remained free while their trial continued at year's end.

During a September 2005 rally in support of PKK leader Abdullah Ocalan in Siirt province police detained 39 demonstrators; one of the demonstrators died. The public prosecutor dismissed the demonstrators' complaint that alleged the police beat and harassed them. Prosecutors later charged the demonstrators for chanting illegal slogans and performing an illegal march. The trial continued at year's end. Prosecutors charged Police Sergeant G.Y. in connection with the death of 35 year-old-demonstrator Abdullah Aydan. The court acquitted the sergeant in July.

The October 2005 ruling that ordered 20 defendants to pay fines of \$74 (100 lira) each for hanging placards with the letters found in Kurdish but not Turkish was under appeal at year's end.

Proceedings continued at year's end in the appeal of the 2004 conviction of HRF psychiatrist Alp Ayan and codefendants for holding an unauthorized demonstration.

*Freedom of Association.*—The law provides for freedom of association; however, there continued to be several restrictions on this right in practice.

Under the new law adopted in July 2004, associations need not notify authorities before founding an association, but still must provide such notification before interacting with international organizations, and/or receiving financial support from abroad, and provide detailed documents on such activities. Representatives of associations said this placed an undue burden on their operations.

Foreign associations wishing to conduct programs in the country are no longer required to receive separate permission from the interior ministry for each activity, but they are still required to submit detailed reports to the Government on each activity, despite the fact that local partners are required to report on the same projects.

According to the Third Sector Foundation of Turkey, an NGO advocacy organization, the criteria for NGOs to obtain public benefit status, entitling them to certain tax exemptions, are restrictive and complicated. Applications for public benefit status must be approved by the Council of Ministers. The law does not allow applicants to appeal if their petitions are rejected.

Unlike the previous year no organizations were closed by the Government or courts.

*c. Freedom of Religion.*—The constitution and law provides for freedom of religion, and the Government generally respected this right in practice; however, the Government imposed significant restrictions on Muslim and other religious groups.

The law establishes the country as a secular state and provides for freedom of belief, freedom of worship, and the private dissemination of religious ideas; however, other constitutional provisions regarding the integrity and existence of the secular state restrict these rights.

The Government oversees Muslim religious facilities and education through its Directorate of Religious Affairs (Diyanet), which is under the authority of the Prime Ministry. The Diyanet regulates the operation of the country's 77,500 registered mosques and employing local and provincial imams, who are civil servants. A few groups, particularly Alevis, claimed that the Diyanet reflected mainstream Sunni Islamic beliefs to the exclusion of other beliefs; however, the Government asserted that the Diyanet treated equally all who request services.

Academics estimated the Alevi population at 15 to 20 million, including ethnic Turks, Kurds, and Arabs. In general, Alevis follow a belief system that incorporates aspects of both Shi'a and Sunni Islam and draws on the traditions of other religions found in Anatolia as well. The Government considers Alevism a heterodox Muslim sect; however, some Alevis and absolutist Sunnis maintain that Alevis are not Muslims.

Alevi “cem houses” (places of gathering) have no legal status as places of worship. Alevis in the Kartal district of Istanbul continued to pursue a court case against a decision by local authorities to deny them permission to build a cem house.

In May authorities in the Sultanbeyli municipality of Istanbul reportedly banned the construction of a cem house on the grounds that the Pir Sultan Abdal Association, an Alevi group, had not acquired the necessary construction permits. Association officials said the local mayor and his staff had attended the groundbreaking ceremony and had promised not to interfere with the project; however, the municipality reportedly filed a case against the association after it proceeded with construction following the ban.

Mystical Sufi and other religious-social orders (tarikats) and lodges (cemaats) are officially prohibited; however, tarikats and cemaats remained active and widespread. Many prominent political and social leaders continued to associate with these religious-social orders, lodges, and other Islamic societies.

A separate government agency, the General Directorate for Foundations (GDF), regulates a few administratively critical activities of non-Muslim religious groups and their affiliated churches, monasteries, synagogues, and related religious property. There are 161 “minority foundations” recognized by the GDF, including Greek Orthodox foundations with approximately 70 sites, Armenian Orthodox foundations with approximately 50 sites, and Jewish foundations with 20 sites, as well as Syrian Christian, Chaldean, Bulgarian Orthodox, Georgian, and Maronite foundations. The GDF also regulates Muslim charitable religious foundations, including schools, hospitals, and orphanages.

Members of Jehovah’s Witnesses reported continuing official harassment of their worship services because they are not members of an officially recognized religion. Police arrested 25-year-old member Feti Demirtas and sent him to prison on nine occasions for conscientiously objecting to military service, as his religion requires. According to Jehovah’s Witness officials, such harassment which was not limited to Feti, included: arrests, court hearings, verbal abuse, kicks to the head and body, slaps in the face, choking, sleep deprivation, being handcuffed to doors and beds, being strip searched, and psychiatric evaluations.

In mid-2005 the Witnesses appealed an administrative court decision that prohibited them from worshipping in their hall in Akcay in Bursa province. On December 12, after the court had taken no action on the case, the Witnesses filed a demand to expedite a hearing. There was no decision on that motion at year’s end.

Jehovah’s Witnesses continued to engage in a legal battle over their efforts to form an association. On April 28, an Istanbul court rejected a lawsuit to cancel the Witnesses’ newly formed association. Pending the prosecutor’s subsequent appeal, the Witnesses may not conduct meetings as an association. On December 12, the Witnesses filed a request to expedite the case with the Court of Appeals. The request was pending at year’s end.

Religious affiliation is listed on national identity cards. A few religious groups, such as the Baha’i, are unable to state their religion on their cards because it is not included among the options; they have made their concerns known to the Government. In April parliament adopted legislation allowing persons to leave the religion section of their identity cards blank or change the religious designation by written application. However, the Government reportedly continued to restrict applicants’ choice of religion; members of the Baha’i community said government officials had told them that, despite the new law, they would still not be able to list their religion on the cards.

Secularists in the military, judiciary, and other branches of the bureaucracy continued to wage campaigns against what they labeled proponents of Islamic fundamentalism. These groups viewed religious fundamentalism as a threat to the secular state. The National Security Council categorized religious fundamentalism as a threat to public safety.

According to the human rights NGO Mazlum-Der and other groups, a few government ministries have dismissed or barred from promotion civil servants suspected of antistate or Islamist activities. Reports by Mazlum-Der, the media, and others indicated that the military periodically dismissed religiously observant Muslims from military service. Such dismissals were based on behavior that military officials believed identified these individuals as Islamic fundamentalists, which they were concerned could indicate disloyalty to the secular state.

According to Mazlum-Der, the military charged individuals with lack of discipline for activities that included performing Muslim prayers or being married to women who wore headscarves. According to the military, officers and NCOs were periodically dismissed for ignoring repeated warnings from superior officers and maintaining ties to what the military considered to be Islamic fundamentalist organizations. On November 30, the Government reported 37 military dismissals of which they

claimed two were associated with religious extremism. An additional 17 were reportedly expelled in August for unspecified disciplinary reasons.

The Government did not recognize the ecumenical status of the Greek Orthodox Patriarch, acknowledging him only as the head of the country's dwindling Greek Orthodox community. As a result the Government has long maintained that only citizens of the country could become patriarch, serve as members of the Greek Orthodox Holy Synod, and participate in patriarchal elections. Members of the Greek Orthodox community asserted that these restrictions threatened the survival of the patriarchate in Istanbul, because, with fewer than 2,500 Greek Orthodox persons remaining in the country, the community was becoming too small to maintain the institution.

The law restricts religious services to designated places of worship. Municipal codes mandate that only the Government can designate a place of worship; if a religious group has no legal standing in the country, it may not be eligible for a designated site. Non-Muslim religious services, particularly for groups that did not own property recognized by the GDF, often took place on diplomatic property or in private apartments. Police occasionally prohibited Christians from holding services in private apartments, and prosecutors sometimes opened cases against Christians for holding unauthorized gatherings.

In April Roman Catholic authorities reopened the Bebekli Church in Adana for Sunday services after municipal authorities discontinued the operating license of the wedding hall near by. Catholic leaders had closed the church in September 2005 because local authorities had failed to enforce zoning regulations requiring a 10-meter offset around the church building, and noise from an adjacent wedding hall had been interfering with church services.

In August the Istanbul Protestant Church finalized the legal procedure for officially registering its building as a "place of worship." This was the first time that the Government had not turned down a request for such status in the zoning plan.

Many local officials continued to impose standards, such as minimum space requirements, on churches while failing to apply them to mosques.

The Ecumenical Patriarchate in Istanbul continued to seek to reopen the Halki seminary on the island of Heybeli in the Sea of Marmara. The Government closed the seminary in 1971, when it nationalized all private institutions of higher learning. Under existing restrictions, religious communities other than Sunni Muslims cannot legally train new clergy in the country for eventual leadership. Coreligionists from outside the country have been permitted to assume leadership positions in a few cases, but in general all religious community leaders, including patriarchs and chief rabbis, must be citizens.

No law explicitly prohibits proselytizing or religious conversions; however, many prosecutors and police regarded proselytizing and religious activism with suspicion. Police occasionally prevented Christians from handing out religious literature. The Government reported 157 conversions including 92 to Islam and 63 from Islam to a different religion. Christians performing missionary work were occasionally beaten and insulted. Police officers may report students who meet with Christian missionaries to their families or to university authorities.

Several foreigners who are practicing Christians and have lived with their families in various cities for many years reported increasing governmental harassment during the year, including denial of residence and work permits that had been granted in previous years, monitoring by jandarma, and receiving threats to themselves and their families. These persons reported that they worshiped in their homes but did not proselytize by distributing bibles, going door-to-door, or undertaking similar activities.

Unlike the previous year the Diyanet did not distribute antimissionary books; however, at least one municipality did distribute such material.

Authorities continued to enforce a long-term ban on the wearing of headscarves at universities and by civil servants in public buildings. Women who wore headscarves and persons who actively showed support for those who defied the ban were disciplined or lost their jobs in the public sector as nurses and teachers. Students who wore head coverings were not permitted to register for classes, although some faculty members permitted students to wear head coverings in class.

In November 2005 the ECHR Grand Chamber upheld a 2004 ECHR ruling that the ban on Islamic headscarves in the country's universities was lawful.

In February the council of state ruled in favor of a decision by education authorities to revoke the promotion of an Ankara teacher to a nursery school principal position on the grounds that the teacher regularly wore an Islamic headscarf outside of school. Numerous journalists and religious rights advocates asserted that the court's decision effectively expanded the headscarf ban into the private sphere. The

court, however, maintained that the teacher had violated the principle of secularism in education by wearing the headscarf while traveling to and from school.

In May attorney Alparslan Arslan opened fire in the council of state court responsible for the February ruling, killing Judge Mustafa Yucel Ozbilgin and wounding four other judges. Arslan, who was apprehended at the scene, reportedly stated he was motivated by anger over the ruling. Thousands of protesters attending Ankara funeral ceremonies for Ozbilgin accused government leaders of inciting the attack by criticizing the headscarf ban and the council of state ruling. Protests in other cities were minor.

The law establishes eight years of compulsory secular education for students. Subsequently students may pursue study at imam hatip (Islamic preacher) high schools. Imam hatip schools are classified as vocational, and graduates of vocational schools faced an automatic reduction in their university entrance exam grades if they applied for university programs outside their field of high school specialization. This reduction effectively barred imam hatip graduates from enrolling in university programs other than theology. Most families that enrolled their children in imam hatip schools did so to expose them to more extensive religious education, not to train them as imams.

The constitution establishes compulsory religious and moral instruction in primary and secondary schools. Religious minorities are exempted. However, a few religious minorities—such as Protestants—faced difficulty obtaining exemptions, particularly if their identification cards did not list a religion other than Islam. The Government claimed that the religion courses cover the range of world religions; however, religious minorities asserted the courses reflect Sunni Islamic doctrine, which they maintained explains why non-Muslims are exempt.

Many Alevis alleged discrimination in the Government's failure to include any of their doctrines or beliefs in the religion courses. An Alevi parent in 2004 filed suit in the ECHR charging that the mandatory religion courses violate religious freedom; the case was ongoing at year's end.

In April an Istanbul court ruled in favor of an Alevi father who requested that his son be exempt from the religion courses at school; in May, however, a higher court overturned the lower court's ruling.

Officially recognized minorities may operate schools under the supervision of the Ministry of Education. Such schools are required to appoint a Muslim as deputy principal; reportedly these deputies had more authority than their nominal supervisors. The curriculum of these schools included Greek Orthodox, Armenian Orthodox, and Jewish instruction.

Only the Diyanet is authorized to provide religion courses outside of school, although clandestine private courses existed. Students who complete five years of primary school may enroll in Diyanet Qur'an classes on weekends and during summer vacation. Many Qur'an courses function unofficially. Only children 12 and older may legally register for official Qur'an courses, and Mazlum-Der reported that law enforcement authorities often raided illegal courses for younger children. According to Diyanet figures, there are nearly 5,000 official Qur'an courses throughout the country.

Numerous religious groups, particularly the Greek and Armenian Orthodox communities, have lost property to the Government and continued to fight ongoing efforts by the Government to expropriate properties. Many such properties were lost because the law allows the GDF to assume direct administration of properties that fall into disuse when the size of the local non-Muslim community drops significantly. The Government expropriated other properties that were held in the name of individual community members who emigrated or died without heirs. The GDF also took control of non-Muslim foundations after the size of the non-Muslim community in a particular district dropped below the level required to elect foundation board members.

The law allows the 161 minority foundations recognized by the GDF to acquire property, and the GDF has approved 364 applications by non-Muslim foundations to acquire legal ownership of properties. However, the law does not allow the foundations to reclaim hundreds of properties expropriated by the state over the years. Foundations have also been unable to acquire legal ownership of properties registered under names of third parties, including properties registered under the names of saints or archangels, during periods when foundations could not own property in their own name.

*Societal Abuses and Discrimination.*—Attacks on those practicing Christian faiths continued.

On January 8, five assailants severely beat Protestant church leader Kamil Kiroglu in Adana. One attacker wielded a knife and threatened to kill Kiroglu un-

less he renounced Christianity. The Government did not investigate the incident or make any arrests.

On February 5, an assailant shot and killed Catholic priest Andrea Santaro in a church in Trabzon. A witness said the gunman shouted "God is great" as he shot Santaro from behind. A 16-year-old was charged in the case, and on October 10, the defendant was sentenced to 18 years, 10 months in prison.

On July 2, a Catholic priest in Samsun was attacked and suffered knife wounds. Authorities announced that, prior to the attack, the assailant had filed complaints against the priest for "Christian propaganda." The assailant was arrested and the case was pending at year's end.

Members of the Syriac community reported that Syriacs who were forced to leave their southeastern villages during PKK-related violence in the 1980s and 1990s faced fewer problems when attempting to return to their villages. Previously, local villagers, particularly village guards, often occupied the homes of Syriacs who fled and refused to leave when Syriacs attempted to return.

In January 2005 a group of nationalists gathered outside the Dirilis Protestant Church in Istanbul and chanted slogans, vandalized the premises, and beat the landlord. The church has since shut down. There were no reports that a court case was opened against the perpetrators.

There was no information that court cases were opened in the following 2005 cases: the April incident in which unknown assailants broke the windows of the International Protestant Church of Ankara and threw two Molotov cocktails into the building; the May incident during which individuals painted a red swastika on the apartment door of a Protestant pastor in Izmit and left a threatening letter; the May incident in which a Christian couple in Kayseri received two e-mails from an unknown party threatening to kill them because of their religious faith; or the November incident in which assailants attempted to set fire to the St. Paul Cultural Center.

There were no reported threats against Tarsus Protestants during the year. The Government did not initiate any investigation or court case after the April 2005 incident during which Syriacs, who had recently returned from abroad to the southeastern village of Sari, discovered an explosive device in an orchard, or the June 2005 incident when a landmine exploded in the village of Harabele as a car carrying a Syriac bishop and two others passed by.

On September 3, retired imam Bayram Ali Ozturk was stabbed to death following morning prayer in a mosque in Istanbul. Ozturk's attacker, Mustafa Erdal, was killed by others in the mosque. Seven persons were arrested in connection with Erdal's killing but released by the court. According to press accounts on December 29, the prosecutor has appealed to the Istanbul heavy penal court, a higher court than the one that originally released the seven, to re-arrest three of those originally held. The appeal was pending. Ozturk was the primary candidate to succeed the head of the Nakshibendi tarikat (religious brotherhood).

Many Muslims, Christians, Jews, and Baha'is faced societal suspicion and mistrust. Jews and Christians from most denominations freely practiced their religions and reported little discrimination in daily life. However, religious minorities asserted that they were effectively blocked from careers in state institutions, a claim supported in a 2004 report by a government human rights body.

A variety of newspapers and television shows continued to feature anti-Christian and anti-Jewish messages, and anti-Semitic literature was common in bookstores.

Trial proceedings were ongoing at year's end in the appeal of Kerim Akbas, who was convicted in 2004 for television broadcasts inciting violence against Christians.

The Jewish community numbered approximately 23,000. Jewish community members reported a significant rise of anti-Semitic language in newspapers and websites, as well as increased societal antagonism and discrimination during the July-August conflict involving Israel and Lebanon.

Huseyin Tanriverdi, an AKP deputy, chairman of the Turkey-Palestinian Friendship group in the Parliament in his article in *Vakit*, identified "the ruthless and inhuman Israeli attacks in the Middle East" with Hitler's policies and said "Israel hits not only the Muslims but the whole humanity." Numerous other articles appeared in papers criticizing Israel's actions in religious tones. Mustafa Celik wrote in *Vakit* on August 2, that "Making friends with Zionist Jews and Israel is betraying the religion of God. Allah orders [that] the Jews and unfaithful are the . . . worst enemies of the faithful."

In the Turkish film, *Valley of the Wolves: Iraq*, a character portrays a Jewish doctor who cuts out the organs of Iraqis at the Abu Ghraib prison and sells them to wealthy clients in New York, London, and Tel Aviv. The film was a spinoff from the country's top-rated TV series of the same title.

At year's end court proceedings continued in the Istanbul trial of 73 suspects charged in connection with the November 2003 terrorist bombings of two synagogues, the British Consulate, and a bank.

Trial proceedings continued in the case of the 2004 bombing of an Istanbul Masonic lodge. It was widely believed in the country that Masons have Zionist and anti-Islamic tendencies; evidence gathered in the investigation indicated that anti-Semitism was at least a partial factor in the attack, which killed two persons and wounded seven.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, at times the Government limited them in practice. The law provides that a citizen's freedom to leave the country could be restricted only in the case of a national emergency, civic obligations (military service, for example), or criminal investigation or prosecution. The Government maintained a heavy security presence in the southeast, including numerous roadway checkpoints. Provincial authorities in the southeast, citing security concerns, denied some villagers access to their fields and high pastures for grazing.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—Various NGOs estimated that there were from one to three million IDPs in the country remaining from PKK conflict, which began in 1984 and continued at a high level through the 1990s. The Government reported that 378,000 residents migrated from the southeast during the conflict, with many others departing before the fighting. On December 7, Hacettepe University released the results of a study that was commissioned by the Government, which concluded that an estimated 953,680 to 1,301,200 persons were displaced by conflict in the southeast between 1986–2005. The study found that the main reason for the large discrepancy between government and NGO figures was that the Government only included people evacuated by the security forces from settlements, and not those who were forced to flee due to generalized violence or for a combination of security and economic reasons. The study also noted that internal displacement in the country is part of a broader rural-to-urban migration, exacerbated by the violence in the southeast, and has been affected by large-scale development projects, such as the South-Eastern Anatolia Project and natural disasters.

The law to compensate these IDPs allows persons who suffered material losses during the conflict with the PKK to apply for compensation; however, Human Rights Watch (HRW) reported in December that the law was being implemented in a way contrary to the Government's stated purpose and principles of fair and appropriate redress. According to HRW, rulings by provincial commissions charged with the law's implementation are woefully inadequate and actually hindered those IDPs who would like to return to their preconflict homes. Further, HRW found that IDPs have no realistic avenue of appeal. These findings mirror those of local NGOs and regional bar associations, who have maintained that the law includes unreasonable documentation requirements and awarded levels of compensation far below standards established by the ECHR. A representative from the interior ministry denied that the Government has implemented the law unfairly.

The interior ministry reported that the review commissions had received a total of 255,339 applications for compensation under the law through December. The commissions have processed 48,723, approving 25,628, rejecting 16,837, and ruling that compensation had already been provided in 6,258.

According to the Turkish Economic and Social Studies Foundation (TESEV), the law only compensates losses suffered after 1987, leaving out victims who suffered losses between 1984, when the clashes started, and 1987. TESEV reported that many victims who fled the region due to the deteriorating economic and security situation have been unable to receive compensation because they could not demonstrate a direct link between their losses and the actions of either the PKK or the security forces. HRW reached the same conclusion in its December reporting, in which it noted that the Government has unjustly refused to compensate those villagers in the southeast region displaced prior to 1987.

Village guards occupied homes abandoned by IDPs and have attacked or intimidated IDPs attempting to return to their homes with official permission. Voluntary and assisted resettlements were ongoing. In a few cases, persons could return to their old homes; in other cases, centralized villages have been constructed. The Government reported that 5,869 persons returned to their villages from December 2005 through December 2006.

Foreign governments and national and international human rights organizations continued to criticize the Government's program for assisting the return of IDPs as secretive and inadequate.

*Protection of Refugees.*—An administrative regulation provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government exercised its option under the convention of accepting obligations only with respect to refugees from Europe. The Government has not established a formal system or legislation for providing protection to refugees.

The Office of the UN High Commissioner for Refugees (UNHCR) reported that during the year the Government returned two recognized refugees to their country of origin. The Government also deported nine persons who contacted the UNHCR indicating their wish to apply for asylum, before the UNHCR had the opportunity to assess their refugee claims.

The Government offered non-European refugees temporary residence while they were waiting to be resettled in another country. The UNHCR conducted refugee status determination for applicants from non-European countries and facilitated the resettlement of those recognized as refugees.

Chechens, many of whom arrived in 2001, reported problems making asylum applications with the Government and renewing temporary residence permits.

Illegal immigrants detained when found near the country's eastern border areas were more likely to be questioned about their asylum status and referred for processing than those caught while transiting or attempting to leave the country. However, access to the national procedure for temporary asylum was hindered by the lack of reception facilities for groups of interdicted migrants, potentially including asylum seekers, and a lack of interpreters to assist security officials.

On January 27, the Government introduced amendments to the 1994 Asylum Regulation that eliminate a time limit for asylum seekers, as well as the requirement to present a valid identity document. On June 22, the Government issued an Implementation Directive that provided detailed guidance on the refugee status determination procedure and established a framework for the provision of assistance to asylum-seekers and refugees.

The UNHCR reported that it has been able to successfully intervene in most cases where asylum seekers arrived in the country after transiting through one or more other countries. In the past, the Government routinely rejected applications by such asylum seekers, claiming that they should have sought protection elsewhere.

Access by the UNHCR to persons in detention who wish to apply for asylum, as well as to persons trying to seek asylum while they are at the international areas of the country's airports, remained problematic.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The constitution and law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. However, the Government restricted the activities of a few political parties and leaders.

*Elections and Political Participation.*—The 2002 parliamentary elections were held under election laws that the Organization for Security and Cooperation in Europe (OSCE) found established a framework for democratic elections in line with international standards; however, the OSCE mission noted that several parties—notably the AKP, the winner of the elections—faced judicial action aimed at closing them down, and many candidates were also prohibited from running. The OSCE reported that, while there were a substantial number of cases of harassment reported by some political parties and by human rights groups, the elections were generally free and fair.

Political parties and candidates could freely declare their candidacy and stand for election. The high court of appeals chief prosecutor could only seek to close political parties for unconstitutional activities by bringing a case before the Constitutional Court.

DEHAP reconstituted itself as the DTP early in the year; nonetheless the Constitutional Court deliberations in the legal case seeking DEHAP's closure on charges of separatism were ongoing at year's end.

Court proceedings continued in the retrial of Leyla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak, former members of parliament whose April 2004 conviction on charges of being members of, or supporting, the PKK was overturned in 2004 by the high court of appeals.

During the year police raided dozens of DTP (formerly DEHAP) offices, particularly in the southeast, and detained hundreds of DTP officials and members.



Jandarma and police regularly harassed DTP members through verbal threats, arbitrary detentions at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to DTP. Although security forces released most detainees within a short period, many faced trials, usually for supporting an illegal organization or inciting separatism.

On June 10, Aydin Budak, the DTP mayor of Cizre, was sentenced to one year and three months in prison, for partaking in "separatist propaganda." He stated in a speech that was aired on Roj TV that the isolation of Abdullah Ocalan was something "provocative." Cizre's appeal of the verdict was pending at year's end.

On July 27, the Erzurum Second Heavy Penal Court convicted and sentenced DTP Erzurum Provincial Chairman Bedri Firat to two years in prison for allegedly issuing propaganda supporting the PKK in a speech during Nevruz celebrations, by stating that Kurds were subject to genocide and for praising Abdullah Ocalan. Firat's appeal of the verdict was pending at year's end.

Former DEHAP Chairman and current DTP Vice Chairman Tuncer Bakirhan, who had been the subject of over 60 investigations, had 25 court cases concerning freedom of expression pending against him at year's end.

The trial continued in the case of 12 officials from the pro-Kurdish party Hak-Par for distributing Kurdish-language invitations to a March 2005 convention and speaking Kurdish during that convention. The defendants maintained that speaking in Kurdish is legal under the constitution and the European Convention on Human Rights.

There were 24 women in the 550-seat parliament. There was one female minister in the 23-member cabinet.

Although the number was unknown, some minority groups were active in political affairs. Many members of parliament and senior government officials were Kurds.

*Government Corruption and Transparency.*—Government corruption remained a persistent problem.

On June 23, the Supreme Court dismissed corruption charges against former prime minister Mesut Yilmaz and former state minister Gunes Taner, for procedural, not substantive, reasons. The Supreme Court's action had the same effect as formal acquittal.

The ruling AKP established an ad hoc parliamentary committee to investigate corruption soon after coming to power in 2002. The corruption committee made a number of recommendations, including lifting parliamentary immunity and establishing a permanent parliamentary anticorruption committee, none of which have been adopted.

On February 7, an Ankara military court convicted former naval forces commander Ilhami Erdil, on corruption charges involving military tenders and expenditures for his official residence. The court sentenced Erdil to three years in prison, a \$35 dollar (50 lira) fine, and confiscated two of his Istanbul apartments. The court sentenced Deniz Halide Erdil and Sirin Melek Hekim to five months in prison for their alleged complicity in the matter, but later converted the sentence into a \$418 (600 lira) fine for each. Similarly, the court sentenced General Erdil's assistant Kayatunc to two years and 15 days in prison, but converted the punishment to a \$209 (300 lira) fine. The court acquitted General Erdil's wife Fusun Erdile.

Opposition party members criticized the ruling AKP for refusing to lift the immunity of AKP parliamentarians suspected of corruption and other abuses.

The law provides for public access to government information; however, the Government occasionally rejected applications on national security and other grounds, and there were no opportunities to appeal. HRF requests for information during the year were denied, and there was no opportunity to appeal. The Press Council reported that it received no complaints during the year from journalists regarding access to government information.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated in many regions but faced government obstruction and restrictive laws regarding their operations, particularly in the southeast. Government officials were generally not cooperative and responsive to their views.

The HRA had 34 branches nationwide and claimed a membership of approximately 14,000. The HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana and served as a clearing-house for human rights information. Other domestic NGOs included the Istanbul-based Helsinki Citizens Assembly, the Ankara-based Turkish Democracy Foundation, the Turkish Medical Association, human rights centers at a number of universities, and Mazlum-Der.

Human rights organizations and monitors, as well as lawyers and doctors involved in documenting human rights violations, continued to face detention, prosecution, intimidation, harassment, and formal closure orders for their legitimate activities. The HRA reported that prosecutors opened dozens of cases against HRA branches during the year. For example, on March 15, an Istanbul court sentenced HRA Istanbul branch chief Eren Keskin to 10 months in prison for insulting the military under Article 301 for comments he made during a 2002 speech in Germany. The court later reduced the punishment to a fine. On November 23, a Bingol court sentenced HRA members Kiraz Bicici and Ridvan Kizgin to five months for allegedly insulting the military and police in a July 2003 press conference. The court later reduced the punishment to a fine.

The Government generally cooperated with international governmental organizations such as the CPT, the UNHCR, and the International Organization for Migration (IOM); however, some international human rights workers reported that the Government purposefully harassed them or raised artificial bureaucratic obstacles to prevent their work.

Unlike the previous year, police did not harass or intimidate human rights activists in the southeast after they met with foreign diplomats.

On April 12, a HRW researcher conducting research in the southeast was detained by authorities and subsequently deported. The researcher, Jonathen Sugden, had been documenting abuses by police, jandarma, and the village guards. Authorities claimed that Sugden did not have valid authorization to be carrying out human rights work in the country; however, HRW stated that Sugden was present in the country on a three-month visa, which authorities had confirmed provided a legitimate basis for him to carry out such research.

There were government-sponsored human rights councils in all 81 provinces and 850 subprovinces to serve as a forum for human rights consultations among NGOs, professional organizations, and the Government. The councils investigated complaints and, when deemed appropriate, referred them to the prosecutor's office. However, many councils failed to hold regular meetings or effectively fulfill their duties. Human rights NGOs generally refused to participate on the councils, maintaining that the councils lacked authority and were not independent, in part because unelected governors and subgovernors served as chairmen.

A Human Rights Presidency (HRP) under the Prime Ministry monitored the implementation of legislation relating to human rights and coordinated the work of various government agencies in the field of human rights. The HRP did not have its own budget, and its resources were limited. The Human Rights Advisory Board, which falls under the HRP and was meant to serve as a link between government bodies and NGOs on human rights issues and provide advice to government institutions, did not meet during the year, despite a legal requirement that it convene at least three times per year. Human rights observers noted that the board became ineffective after its former chairman, Professor Ibrahim Kaboglu, and the former sub-commission chairman, Professor Baskin Oran, were charged in May 2005 with "inciting people to hatred" and "openly belittling judicial organs," due to passages in a 2004 report called "Minorities and Cultural Rights." Kaboglu, Oran, and numerous board members resigned in protest.

On May 10, the Ankara penal court acquitted Kaboglu and Oran, reasoning that there had been no crime under the Penal Code. The case was under appeal at year's end.

Other government human rights bodies include the High Human Rights Board, an interministerial committee responsible for making appointments to human rights posts; and a Human Rights Consultation Board (HRCB), which serves as a forum for the exchange of ideas between the Government and NGOs. NGOs found these bodies to be of limited effectiveness.

In March six NGOs—the Society of Forensic Medicine Specialists, the Pir Sultan Abdal Culture Association, the Turkish Medical Association, the Turkish Human Rights Institution Foundation, the Human Rights Foundation, and the Public Administration Institute for Turkey and the Middle East—announced that they were withdrawing from the HRCB because of government interference with the body.

The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections. Human rights organizations considered the committee to be ineffective.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, problems with implementing these laws existed.

The Government and NGOs focused on eliminating societal violence and discrimination against women and minorities, as well as trafficking, but problems continued to exist.

*Women.*—Violence against women, including spousal abuse, was a serious and widespread problem. The law prohibits violence against women, including spousal abuse. The Government did not effectively enforce the law; however, the interior ministry and Prime Ministry issued circulars during the year instructing relevant departments to better enforce these laws. Domestic human rights organizations reported that these measures were partially effective; more women called the police emergency hotline for domestic violence and went to police stations to file abuse reports.

Women's NGOs reported that more than 150,000 women were victims of domestic violence between 2001–2005.

The law prohibits rape, including spousal rape; however, the Government did not effectively enforce the law. Victims often waited days or weeks to report incidents, for fear of embarrassment or reprisals, which hindered the possibility of effective prosecution of assailants. Experts worked during the year to convince the Government to accept psychiatric victim reports as alternative forms of evidence. Cases of rape were underreported.

The Government's Institution for Social Services and Orphanages operated 17 shelters for female victims of domestic violence and rape with a total capacity of 325. Municipalities and NGOs also operated 13 shelters. Under legislation adopted in July 2005, municipalities with populations greater than 50,000 were required to establish shelters for women. Only the Duzce Municipality opened a new women's shelter during the year.

The Government undertook a major campaign during the year to end the practice of honor killings—the killing by immediate family members of women suspected of being unchaste; however, the practice remained a problem. The Government reported that there were 1,806 honor killings between 2001 and 2006. During the same period, 5,375 women committed suicide. After the Government increased penalties for honor killings, family members increasingly pressured girls to kill themselves in order to preserve the family's honor, according to women's rights groups. Broaching the formerly taboo topic, Prime Minister Erdogan condemned the practice of honor killings at the Organization of the Islamic Conference in November. In July the Prime Ministry issued to all ministries and provincial governments a circular that reminded each government institution of its responsibility to prevent domestic violence, including honor killings. In December the interior ministry issued a circular to provincial governors instructing them to form special committees to prevent honor killings. Turkish imams joined pop music stars and soccer celebrities to produce television and billboard ads declaring honor killing a sin and condemning all forms of violence against women. The State Ministry for Women began a prevention of violence against women educational program for all soldiers doing their mandatory military service. Government officials worked with advocacy groups such as KA-MER, the leading women's organization in the southeast, to hold town hall meetings and set up rescue teams and hotlines for endangered women and girls. Under the Penal Code, honor killings require punishment of life imprisonment. Women's rights groups reported that there remained dozens of such killings every year, mainly in conservative Kurdish families in the southeast or among migrants from the southeast living in large cities. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform the killing.

On October 27, Turkish press reported that 15-year-old Naile Erdas from the southeastern city of Van was killed by her family when she gave birth to a child conceived during a rape. The girl, who hid her pregnancy, reportedly begged doctors at a state hospital where she gave birth not to return her to her family, fearing that she would be killed in accordance with the local tradition demanding her family's honor be cleansed. Doctors informed state authorities, but the prosecutor nevertheless handed the young woman over to her family, which, as Naile feared, killed her. At year's end, Naile's uncles and father were under arrest for making the decision to kill her, while her brother, the suspected killer, remained at large.

On November 25, Dumlu Ozcelik was sentenced to life in prison by the Fourth Bursa High Criminal Court, for killing his daughter Huri Ozcelik in July. Huri left her husband and took her two children to Ankara, allegedly with another man. Dumlu tracked down his daughter Huri, brought her back to his home in Bursa, and shot her six times in front of her children. Dumlu's sons Ensar and Karen were acquitted by the same court for involvement in the murder.

In mid-December the Bursa Gunyuzu Women's Solidarity Cooperative brought suit against the Bursa Greater Municipality and the Osmangazi district for failing

to properly implement laws enacted to end the practice of honor killings. The suit was pending at year's end.

In March 2005 a 15-year-old girl in Diyarbakir was allegedly raped by her father-in-law who, she claimed, demanded that she prostitute herself in order to earn money. When she refused, relatives allegedly attacked her and cut off her nose. Police arrested her father-in-law and three brothers-in-law; however, amid family pressure, the victim withdrew her complaint in September, and prosecutors dropped the case.

In March a trial court convicted a 14-year-old of murdering his mother in May 2005, allegedly for disgracing the family when she discussed being beaten by her husband on a television show. The court sentenced him to 10 years in prison and acquitted the father and stepson of involvement in the crime. The verdict was being appealed at year's end.

The appeal of the 2004 conviction by a Sanliurfa court of nine relatives of Emine Kizilkurt continued at year's end. The relatives were sentenced to life imprisonment for their roles in the murder of Kizilkurt, who was 14, after she was raped by a neighbor.

In 2005 Dicle University in Diyarbakir conducted a survey on honor killings during the year. The university polled 430 persons in the southeast; 78 percent of those surveyed were men. The survey revealed that 37.4 percent of the respondents believed honor killings were justified if a wife committed adultery, and 21.6 percent believed infidelity justified punishments such as cutting off a wife's ear or nose.

Prostitution is legal. Trafficking in women was a problem (see section 5, Trafficking).

The law prohibits sexual harassment; however the Penal Code contains inconsistent provisions. Article 94, titled "torture," requires 10–15 years imprisonment for sexual harassment, while Article 105, titled "sexual harassment," requires three months to two years, plus a fine, and requires the victim to initiate the complaint. Women's rights activists maintained that sexual harassment was common, and the law was rarely enforced.

Under the law, women enjoy the same rights as men; however, societal and official discrimination were widespread.

The Directorate General on the Status and Problems of Women, under the State Ministry in Charge of Family Affairs, is responsible for promoting equal rights and raising awareness of discrimination against women.

Women continued to face discrimination in employment to varying degrees and were generally underrepresented in managerial-level positions as well as in government. Women generally received equal pay for equal work in professional, business, and civil service positions, although a large percentage of women employed in agriculture and in the retail, restaurant, and hotel sectors worked as unpaid family labor.

*Children.*—The Government was committed to furthering children's welfare and worked to expand opportunities in education and health.

Government-provided education through age 14 or the eighth grade was free, universal, and compulsory. The World Bank reported that gross enrollment for grades one to eight was 96 percent, while net enrollment for those grades was 90 percent. The maximum age to which public schooling was provided was 18. Only 40 percent of children have a high-school diploma, according to Organization for Economic Cooperation and Development. One in 10 girls does not attend compulsory primary school.

Child abuse was a problem. There were a significant number of honor killings of girls by immediate family members, sometimes by juvenile male relatives (see section 5, Women). In October 2005 police arrested five employees of the Malatya state orphanage in connection with an investigation into the alleged torture and abuse of children at the institution (see section 1.c.).

Child marriage occurred, particularly in rural, poverty-stricken regions; however, women's rights activists claimed that underage marriage has become less common in the country in recent years.

Children as young as 12 were at times married in unofficial religious ceremonies. Families in rare instances engaged in "cradle arrangements," agreeing that their newborn children would marry at a later date, well before reaching the legal age.

Trafficking in children was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports of trafficking in women and children to and within the country for the purpose of sexual exploitation and occasionally labor. There were allegations that police corruption at all levels contributed to the trafficking problem.

The country was a destination and source for trafficked persons. The Government identified 246 trafficking victims during the year. Young women seeking employment, particularly from Moldova, Ukraine, Belarus, and Russia, were at the greatest risk of being trafficked into the country. The most identified foreign victims were trafficked for sexual exploitation and were found in Istanbul, Ankara, and Antalya, although victims were identified in cities all around the country. There were media reports of Turks being trafficked internally and, according to NGOs working in the field, the number of women trafficked internally for sexual exploitation was increasing.

Most trafficking activity within the country occurred in Istanbul, Antalya, Ankara, Mersin, and Trabzon. For example, in December a 13-year-old runaway girl was rescued by police after being held captive by traffickers in Trabzon and being forced into prostitution. Police arrested three suspects. The case was pending at year's end.

The case of a 14-year-old girl who in September 2005 was held captive in Antalya and forced to have sexual relations with numerous men was pending at year's end.

Foreign victims trafficked to the country were typically recruited by small networks of foreign nationals and Turkish citizens, who relied on referrals and recruitment from friends and family members in the source country. Some victims answered newspaper advertisements or enlisted the help of job agencies in the source country. The victims often did not know where they were going or which airlines they were using. Some victims reportedly arrived in the country knowing that they would work illegally in the sex industry; however, most arrived believing they would work as models, waitresses, dancers, domestic servants, or in other regular employment. Traffickers typically confiscated victims' documents, then confined, raped, beat, starved, and intimidated them by threatening their families and ultimately forced them into prostitution.

Some trafficking cases involved children. For example, a 16-year-old girl in Istanbul said she had been forced into prostitution since she was 8 years old, first by her family and then by a series of traffickers. A youth center in Istanbul allegedly neglected to help these girls despite awareness of the activity.

A 20-year-old Moldovan woman recounted a common trafficking scenario. She was promised work as a restaurant waitress by a close friend. Upon arrival in the country, her friend abandoned her at a hotel. An Azerbaijani woman arrived and told her she had been sold for \$3,000 and would have to pay back the money over five months of prostitution. She worked with four other girls at the same hotel. Clients beat her regularly. She was forced to service 15 clients per day, often without protection. She became pregnant. Police rescued the victim and six other women after she called the trafficking hotline from a client's mobile phone. All were identified as victims of trafficking and received shelter and assistance.

The law punishes trafficking with prison terms ranging from eight to 12 years' imprisonment in addition to heavy fines. The 2005 Penal Code specifically addresses trafficking as a crime. However, prosecutors have mostly tended to use other articles that regulate prostitution, rather than the new law on trafficking, which has so far rendered the new law nearly ineffective. In December parliament passed two amendments to the Penal Code that addressed this problem by removing forced prostitution from the article regulating prostitution and adding it explicitly to the antitrafficking article. The amendments were signed into law by the President in December. The Government reported that prosecutors opened 26 new cases against alleged traffickers through June. Courts convicted 22 defendants and acquitted 54 on trafficking charges during that period. Several cases were ongoing at year's end.

An ambassador-level Ministry of Foreign Affairs official serves as national coordinator for the Government's Task Force on Human Trafficking, which is composed of representatives from the ministries of health, interior, justice, finance, and labor, among others. The Government actively participated in international antitrafficking investigations. During the year the Government implemented agreements with neighboring countries and regional groups providing for antitrafficking law enforcement cooperation.

Source country officials reported that central government offices provided information on trafficking matters in a somewhat timely manner, but dealings with offices outside Ankara were slow and difficult.

There were credible reports that the Government continued its practice of processing trafficking cases as voluntary prostitution and illegal migration. The IOM reported that it assisted 191 trafficking victims who departed voluntarily. The national police identified 246 trafficking victims, all of whom departed voluntarily.

Four police and 10 jandarma officials were arrested during the year for either ignoring or facilitating trafficking in persons.

There were two shelters for trafficking victims, both operated by NGOs, in the country.

The health and justice ministries provided free medical and legal services to foreign victims choosing to remain in the country.

The IOM and national police reported that the Ministry of Interior issued 35 humanitarian visas since 2004. The Government did not have a repatriation program for victims.

During the year the Government, in cooperation with the IOM, continued a multi-country trafficking in persons' prevention and public awareness campaign, begun in May 2005, that included operation of a toll-free hotline for victims; television commercials; posters and billboards in major airports and seaports; information at passport control booths for the targeted group of women; and a periodical distributed by consulates advertising the hotline in Turkish, Romanian, Russian, and English. The Jandarma published a guidebook on the fight against trafficking in persons to educate its officers on detecting human trafficking crimes. In June the directorate of Women's Status and Children's Affairs organized a meeting to coordinate regional efforts against trafficking that included government and nongovernmental representatives from Azerbaijan, Moldova, Ukraine, Georgia, Kazakhstan, Kyrgyzstan, and Russia.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services and the Government generally enforced the law effectively. The law does not mandate access to buildings and public transportation for persons with disabilities. The Presidency Administration for Disabled People, under the Prime Ministry, is responsible for protecting the rights of persons with disabilities.

The NGO Mental Disability Rights International (MDRI) announced that use of electroconvulsive or "shock" treatment without anesthesia was abolished but that there remains no legal ban on the practice. In September 2005 MDRI released a report stating that people with mental disabilities in the country were subject to treatment "tantamount to torture." The international NGO, which conducted a two-year study in the country, claimed the country lacked community-based support for mental patients and offered no alternative to state institutions where the mentally disabled were held separately from society in "prison-like incarceration." Specific abuses listed in the report included: mental patients committed to psychiatric hospitals without judicial review; excessive use of electroconvulsive shock treatment without anesthesia; use of shock treatment on young children; malnutrition and dehydration of patients; lack of rehabilitation and physical therapy; and excessive use of physical restraints, including children tied to beds for extended periods.

*National/Racial/Ethnic Minorities.*—The law provides a single nationality designation for all citizens and does not recognize ethnic groups as national, racial, or ethnic minorities. Citizens of Kurdish origin constituted a large ethnic and linguistic group. Millions of the country's citizens identified themselves as Kurds and spoke Kurdish. Kurds who publicly or politically asserted their Kurdish identity or publicly espoused using Kurdish in the public domain risked censure, harassment, or prosecution (see sections 2.a. and 2.b.).

The Government maintained significant restrictions on the use of Kurdish and other ethnic minority languages in radio and television broadcasts and in publications (see section 2.a.).

The Ministry of Education did not respond to the HRA's 2005 letter requesting that it remove the book *On This Path* from of its reading curriculum list. The HRA protested that the book had racist statements about Armenians, including, "Are you human, you Armenian?" At year's end the HRA was not able to confirm whether the ministry removed the book.

A number of private Kurdish language courses closed during the year, citing a lack of students. Kurdish rights advocates said many Kurds could not afford to enroll in private classes. They also maintained that many potential applicants were intimidated because authorities required those enrolling in the courses to provide extensive documents, including police records that were not required for other courses. They maintained that the requirements intimidated prospective applicants, who feared police were keeping records on students taking the courses.

The International Romani Studies Network (IRSN) reported that Roma faced significant discrimination, and the national media consistently portrayed them in ways that supported negative stereotypes. IRSN reported that Roma were more consistently undereducated and underemployed, suffered much higher levels of ill-health, higher incidences of discrimination based on ethnicity, and had poorer housing than any other group in the country. The Roma have organized 18 associations and two

federations in 12 provinces with the purpose of combating these problems, developing Romani culture, and improving the self-image of Romani youth.

According to the European Roma Rights Center (ERRC), a family of Roma in the central eastern city of Afyon faced mob violence on April 29, after a court released two Romani youths who had been arrested for alleged abuse of female students. The ERRC reported that the school director confronted the two Roma in a bazaar, and along with vendors burned the Romanis' car. After the Romani youths fled to their home, a crowd gathered and began to beat the Roma present. When the Roma fled to another house, the crowd followed and burned the house and several other Romani houses. Police again took the two Romani youths into custody. No one had been arrested for the reported attacks at year's end.

Urban development projects in several cities have adversely affected some Turkish citizens, including Roma. For example, according to the ERRC, on July 13 municipal authorities in the Fatih District of Istanbul signed an agreement with the Turkish Public Housing Administration to immediately demolish 529 apartments in a predominantly Romani neighborhood. Roma community members stated that they were never informed of the decision, which they learned of from television news reports. The families reportedly have not been offered compensation or assistance and cannot afford to buy new houses.

The law states that "nomadic Gypsies" are among the four categories of people not admissible as immigrants.

*Other Societal Abuses and Discrimination.*—While the law does not explicitly discriminate against homosexuals, representatives of the gay and lesbian rights organizations Lambda Istanbul and Kaos GL claimed that vague references in the law relating to "the morals of society" and "unnatural sexual behavior" were sometimes used to punish homosexuality. During the summer the Ankara governor ordered the confiscation of Kaos's quarterly magazine that included a one-page article that explored societal conceptions of "intimacy" and "pornography." On December 28, a prosecutor opened a case against Umut Gurel, the magazine's editor, alleging that the issue was "harmful to children." Gurel faces up to three years in prison. Gay and lesbian rights activists maintained that homosexuals risked losing their jobs if they disclosed their sexual orientation and said the law did not protect their rights in such circumstances.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides most but not all workers with the right to associate and form unions subject to diverse restrictions; most workers exercised this right in practice. The Government maintains a few restrictions on the right of association. Unions may be established by a minimum of seven persons without prior permission. There are no restrictions on membership or participation of individuals or unions in regional, national, or international labor organizations, but such participation must be reported to the Government. Labor law prohibits union leaders from becoming members of political parties, from working for or being involved in the operation of any profit-making enterprise, and from displaying any political party logos or symbols on any union or confederation publications. Unions are required to obtain official permission to hold meetings or rallies and to allow government representatives to attend their conventions and record the proceedings; these requirements were usually enforced. Approximately 20 percent of the wage and salary workers in the labor force were unionized.

The appeal of the Government's closure of the teachers' union Egitim-Sen on grounds that the union's bylaw violated the constitution by advocating the right of individuals to receive education in their "mother tongue" remained pending with ECHR at year's end; however, Egitim-Sen removed the controversial article from the bylaws, so the teachers' union was able to remain open.

The law prohibits antiunion discrimination; however, such discrimination occurred occasionally in practice. If a court rules that a worker has been unfairly dismissed and should either be reinstated or be compensated, the employer will generally pay compensation to the employee along with a fine.

*b. The Right To Organize and Bargain Collectively.*—The law and diverse government restrictions and interference limited the ability of unions to conduct their activities, including collective bargaining. Industrial workers and some public sector employees, excluding white-collar civil servants and security personnel, have the right to bargain collectively, and approximately 1.3 million workers, or 5.4 percent of the workforce, were under collective bargaining agreements. The law requires that, in order to become a bargaining agent, a union must represent 50 percent plus one of the employees at a given work site and 10 percent of all the workers in that particular industry. This requirement favored established unions. The International

Trade Union Confederation claimed that the law resulted in workers in many sectors not being covered by collective agreements.

The law provides for the right to strike; however, the law requires a union to take a series of steps, including negotiations and nonbinding mediation, before calling a strike. The law prohibits unions from engaging in secondary (solidarity), political, or general strikes—strikes involving multiple unions over a large geographical area—or in work slowdowns. In sectors in which strikes are prohibited, labor disputes were resolved through binding arbitration.

The law prohibits strikes by civil servants, public workers engaged in the safeguarding of life and property, workers in the coal mining and petroleum industries, sanitation services, national defense, banking, and education; however, many workers in these sectors conducted strikes in violation of these restrictions with general impunity. The majority of strikes during the year were illegal according to law; while some illegal strikers were dismissed, in most cases employers did not retaliate.

There are no special laws or exemptions from regular labor laws in the country's 21 free trade and export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

Some parents forced their children to work on the streets and to beg (see section 6.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace; however, the Government did not effectively implement these laws. The use of child labor was particularly notable in agriculture, carpentry, the shoemaking and leather goods industry, the auto repair industry, small-scale manufacturing, and street sales. The law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than eight hours a day. At age 15 children may engage in light work provided they remain in school. The law provides that no person shall be required to perform work unsuitable for their age, gender, or capabilities, and the Government prohibits children from working at night or in areas such as underground mining. The law prohibits children attending school from working more than two hours per day or 10 hours per week.

The Ministry of Labor and Social Security effectively enforced these restrictions in workplaces that were covered by the labor law, which included medium and large-scale industrial and service sector enterprises. A number of sectors are not covered by the law, including small-scale agricultural enterprises employing 50 or fewer workers, maritime and air transportation, family handicraft businesses, and small shops employing up to three persons.

Nonetheless, child labor was widespread. The State Statistical Institute reported that the number of child laborers between the ages of 12 and 17 dropped from 948,000 in 2003 to 764,000 in 2004; however, the institute stopped collecting specific data on child laborers thereafter and some observers continued to claim that there were no reliable statistics in this field and that the actual number of working children was rising.

An informal system provided work for young boys at low wages, for example, in auto repair shops. Girls rarely were seen working in public, but many were kept out of school to work in handicrafts, particularly in rural areas. According to the labor and social security ministry, more than half of child labor occurred in the agricultural sector. However, observers maintained that the bulk of child labor had shifted to urban areas as rural families migrated to cities. Many children worked in areas not covered by labor laws, such as agricultural workplaces with fewer than 50 workers or the informal economy. To combat this ongoing problem, the Ministry of National Education conducted a program in cooperation with the UN Children's Fund called Let Us Send Girls To School, which was designed to provide primary education for at-risk girls. By year's end the program benefited nearly 250,000 school-age girls.

Small enterprises preferred child labor because it was cheaper and provided practical training for the children, who subsequently had preference for future employment in the enterprise. If children employed in these businesses were registered with a Ministry of National Education training center, they were required to go to the center once a week for training, and the centers were obliged by law to inspect their workplaces. According to data provided by the ministry, there were 300 centers located in 81 cities; these centers provided apprenticeship training in 133 occupations. The Government identified the worst forms of child labor as children working



in the streets, in industrial sectors where their health and safety were at risk, and as agricultural migrant workers.

Children were trafficked for sexual exploitation (see section 5).

There were no reliable statistics for the number of children working on the streets nationwide. The Government's Social Services and Child Protection Institution operated 44 centers to assist such children.

*e. Acceptable Conditions of Work.*—The national minimum wage of approximately \$360 (531 lira) per month did not provide a decent standard of living for a worker and family. All workers covered by the labor law are also covered by the law establishing a national minimum wage. This law was effectively enforced by the Ministry of Labor Inspection Board.

The law establishes a 45-hour workweek with a weekly rest day, and limits overtime to three hours per day for up to 90 days a year. Premium pay for overtime is mandated but the law allows for employers and employees to agree to a flextime schedule. The Labor Inspectorate of the Ministry of Labor effectively enforced wage and hour provisions in the unionized industrial, service, and government sectors, which covered approximately 12 percent of workers. Workers in other sectors had difficulty receiving overtime pay, although by law they were entitled to it.

The law mandates occupational health and safety regulations; however, in practice the Government's Ministry of Labor Inspection Board did not carry out effective inspection and enforcement programs. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, although reports of them doing so were rare. Authorities effectively enforced this right.

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## UKRAINE

Ukraine, which has a population of slightly less than 47 million, is a republic with a mixed Presidential and parliamentary system, governed by a directly elected President and a unicameral Verkhovna Rada (parliament) that selects a prime minister. Verkhovna Rada elections were held on March 26. According to international observers, fundamental civil and political rights were respected during the campaign, enabling voters to freely express their opinions. The opposition Party of Regions won a plurality of the vote, formed a ruling coalition, and established a government. Civilian authorities generally maintained effective control of the security forces.

Problems with the police and the penal system remained some of the most serious human rights concerns. Problems included torture in pretrial detention facilities; wrongful confinement in psychiatric hospitals; harsh conditions in prisons and pretrial detention facilities; and arbitrary and lengthy pretrial detention. There was also continued violent hazing of conscripts and government monitoring of private communications and movements of individuals without judicial oversight. Slow restitution of religious property continued. There was societal violence against Jews and anti-Semitic publications were a problem. There were serious incidents of refoulement—the forcible return of persons to a country where they feared persecution. Refugees were abused at detention facilities. Serious corruption in all branches of government and the military services also continued. Trends of violence and discrimination against children and women, including sexual harassment in the workplace and trafficking in persons remained concerns. Frequent police and societal harassment of minorities, particularly Roma and dark-skinned persons, remained a problem. Violence against dark-skinned persons was a growing problem in the last half of the year. Inadequate labor legislation permitted both government and companies to limit the ability of workers to form and join unions of their choice and to bargain collectively.

During the year the Government made several improvements in its human rights performance. The elections for the Verkhovna Rada in March were the freest in the country's 15 years of independence and the media continued to consolidate post-Orange Revolution gains in freedom of speech and expression.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in previous years, there were no reports that the Government or its agents committed politically motivated killings.

During the year politicians, politically active businessmen, and journalists were the victims of sometimes fatal attacks that may have been politically motivated; however, business, government, and criminal activities were intertwined to such an extent that it was often difficult to determine the motives. For example, on August 20, the body of Roman Yerokhin, the former deputy head of the Ministry of Internal Affairs' organized crime directorate in Donetsk, was found in the Kyiv region almost a month after he disappeared. Minister of Internal Affairs Yuriy Lutsenko stated publicly that Yerokhin had been investigating economic crimes, in particular foreign currency exchange centers involved in money laundering, and that unnamed members of the Verkhovna Rada were involved in his disappearance. Head of the anti-corruption fund and businessman Borys Penchuk alleged that Yerokhin had been engaged in criminal activity himself.

There were no developments in the criminal case opened in July 2005 against police officers in Zhytomyr, who beat to death an unidentified 36-year-old man while he was detained on charges of petty hooliganism. The media reported that the Zhytomyr regional prosecutor called the incident "deliberately inflicting injury on a person" and "exceeding authority." There were no arrests or other developments in a September 2005 incident in which police in Kherson beat to death a suspected thief.

There were no developments in the investigation into the death of 21 year-old Armen Melkonyan, whom police beat to death in a Kharkiv pretrial detention center in December 2005.

In December 2005 court proceedings began against twelve alleged members (seven of whom are in custody) of the "werewolves," a gang of rogue officers of the Ministry of Internal Affairs, who had been involved in previous years in killings and kidnappings connected to organized crime. As reported in the *Segodnia* newspaper, the accused are: Vasyl Haidai, Volodymyr Lysenko, Serhiy Kiselevych, Oleh Sverdlov, Valeriy Melnykov, Pavlo Keppel, Vladyslav Dubovoi, Yuriy Nesterov, Anatoliy Mocharniy, Oleksandr Harkushin, and Ruslan Rozhniatynskiy. In June the Institute for Mass Information reported that one of the defendants in the case was involved in the 2001 killings of Oleksandr Skliar, a driver at the Verkhovna Rada, and Pavlo Poteriaiko, a senior officer at the State Security Agency. No verdict was reached by the end of the year.

On July 7, the Luhansk court of Appeals sentenced five people—Oleksandr Rybak, Dmytro Rybak, Oleksandr Onyshko, Ruslan Tursunov, and Serhiy Korytskiy—to between two and 15 years in prison for their involvement in the 2001 killing of Ihor Aleksandrov, the director of a television station in the Donetsk Region. Aleksandrov's family received financial compensation in the amount of \$80,000 (400,000 hryvnia). The killing of Aleksandrov, who had aired a number of critical reports about Donetsk-based politicians and was a noted critic of corruption within local law enforcement organizations, was attributed to his professional activities.

On January 9, the Kyiv court of Appeals started hearings in the unresolved 2000 killing of prominent journalist Heorhiy Gongadze, whose decapitated body was identified in November 2000 after his disappearance two months earlier. The court was expected to rule in the case of the three defendants, two of whom were senior police officers, in 2007. The Parliamentary Assembly of the Council of Europe (PACE) observer who attended the proceedings stated that PACE was not satisfied with the investigation of the journalist's killing, particularly, in determining who ordered the killing. In 2005 the prosecutor general's office issued an international arrest warrant for a fourth senior police official, former General Oleksiy Pukach, who had fled the country. In January First Deputy Interior Minister Oleksander Bondarenko stated that Pukach was still at large and probably hiding in Russia or Israel.

On August 23, President Yushchenko ordered a new inquiry into the death of the famous nationalist and Ukrainian People's Movement leader Vyacheslav Chornovil, who died in a car crash in the Kyiv region in 1999. A number of politicians claimed at the time that the accident was suspicious. However, the official investigation indicated that the crash was an accident. On September 7, Minister of Internal Affairs Lutsenko stated to the media that documents from the investigation proved that Chornovil's death was not accidental.

Human rights groups asserted that soldiers continued to kill other soldiers during violent hazing events, and military officials acknowledged that there have been hazing deaths but provided conflicting information as to how many occurred in 2006. (see section 1.c.).

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the Constitution and the law prohibit such practices, police frequently employed severe violence against persons in custody.

According to Amnesty International (AI), Human Rights Watch, and the Kharkiv Human Rights Protection Group, law enforcement officials competing to solve criminal cases used force and ill-treatment routinely and with impunity to extract confessions and information from detainees. Police officers were often not adequately trained or equipped to gather evidence and were expected to meet ambitious quotas for solved cases, and therefore depended on confessions to solve crimes. In addition, an ineffective system for investigating allegations of abuse and detainees' lack of access to defense lawyers and doctors did little to check this practice.

There were multiple and credible reports from human rights nongovernmental organizations (NGOs) and diplomats that authorities regularly abused refugees during the year at refugee detention centers in Zakarpattia Region, which borders European Union (EU) member states Poland, Slovakia, and Hungary (see section 2.d.).

During the year authorities continued efforts to prosecute police officers who abused persons in detention. The Ministry of Interior confirmed 385 cases of police officers violating the rights of detainees, including 23 torture cases, 152 cases of bodily injury and other types of violence, and 57 cases of unlawful detention during the first ten months of 2006. According to the Ministry of Interior, 359 police officers were subject to disciplinary measures.

In July a Kyiv court sentenced police sergeant Viktor Sych to four years in prison for wounding a political activist putting up campaign leaflets at night in March. The police officer mistook him for a car thief, which the court termed "negligence while in service."

Also in July the Dnipropetrovsk prosecutor's office detained two police officers for reportedly torturing a 17-year-old detainee charged with theft and burglary.

On August 23, the Poltava Region court of Appeal sentenced Volodymyr Shablii, a former member of the region department on fighting organized crime, to eight years in prison for torturing people accused of crimes to obtain their confession. Four of his colleagues are wanted by the police and are still at large.

At year's end, the investigation was continuing into the September 2004 poisoning of then-opposition Presidential candidate Viktor Yushchenko. President Yushchenko told reporters on December 14 that there was enough information to arrest those involved, though some were not in the country; he also questioned whether the prosecutor general's office would move forward with the case.

In June the Desnianskiy District court in Chernihiv gave police colonel Ivan Kochubei, former first deputy chief of the Chernihiv Region Police, a five-year suspended sentence for sanctioning the use of force against demonstrators who protested against electoral fraud in Chernihiv in November 2004.

The Government did not respond to repeated calls by AI for a thorough independent investigation into an alleged case of torture of Ihor Tymchuk in a pretrial detention center in Ivano-Frankivsk, despite a number of letters sent to then prosecutor general Piskun and President Yushchenko in 2005. High-ranking police officers allegedly tortured and beat the detainee over the course of two months in 2002 to force him to confess to a murder he said he did not commit. He was sentenced to life in prison in 2004.

The law prohibits the abuse of psychiatry for political and other non-medical reasons and provides safeguards against such abuse, but on a few occasions, according to human rights groups, persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and were confined to psychiatric institutions. Persons diagnosed with mental illness risked being confined and treated by force, declared not responsible for their actions, and stripped of their civil rights and property without being present at the hearings or notified of the ruling. During the year, three NGOs supporting people with disabilities monitored the rights of the mentally ill in psychiatric hospitals. The NGOs found widespread violations including failure to inform persons who were voluntarily hospitalized of the overall duration of their stay; failure to inform patients of their diagnosis or what medications they were given; lack of knowledge concerning patients' rights in psychiatric hospitals; humiliation by the hospital staff; and violation of patients' rights to free medical assistance.

According to the Ukrainian Psychiatric Association, the Ministry of Health did not always cooperate with human rights groups attempting to monitor abuse of psychiatry.

Despite extensive laws to protect the rights of service members and the existence of regulations governing relationships among military personnel, reports continued during the year of violence against conscripts in the armed forces. Senior conscripts frequently beat recruits, forced them to give up money and gifts they received from home, and made junior conscripts work in their place, a practice known as "didivshchyna." Senior military and government officials have given conflicting information regarding the number of military hazing cases in 2006. In November

Colonel-General Serhiy Kyrychenko, Chief of Land Forces, stated that there were 148 criminal cases initiated in 2006 for hazing and violence and 18 soldiers were victims of hazing. According to Minister of Defense Anatoliy Hrytsenko, by September 83 “didivshchyna” criminal cases had already been initiated, compared to a total of 98 in 2005. However, he also noted that not all incidents of soldier-on-soldier violence were recorded.

On November 27, Oleksandr Rybka died following a beating by two fellow soldiers the day after he reported to a training base in Chernihiv Oblast. According to his relatives, Rybka called home on November 26 saying that two sergeants had demanded money. Prosecutor General Oleksandr Medvedko stated that military prosecutors had initiated a criminal case. For the first time in recent history, military officials immediately acknowledged the death of a military member as the result of hazing. Defense Minister Hrytsenko, who took the investigation under his personal control, stated that this was a hazing death and added that it was the first to occur in two years.

The Association of Soldiers’ Mothers (ASM) reported that violent hazing continued to be widespread. According to the military watchdog group Mothers of Killed Soldiers, most deaths are labeled suicide or accident without investigation. In 2005 there were nine suicides while in service, 10 suicides outside regular service, and two soldiers were killed by their fellow servicemen. According to the Kharkiv Human Rights Protection Group, seven criminal cases of soldier-on-soldier violence were initiated in the Kharkiv garrison in 2005.

According to the ASM, garrison prosecutors often did not investigate complaints of hazing, accepted bribes not to press charges against the perpetrators of such violence, or delayed the start of trial proceedings until potential witnesses were discharged from the military. Garrison prosecutors wrongfully confined soldiers who complained about hazing to psychiatric hospitals, and punishment administered for committing or condoning hazing was insufficient to deter further abuses.

Police abused Roma and harassed and abused dark-skinned persons. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, vigilante violence against them, especially in Crimea (see section 5).

A number of journalists were subjected to physical reprisals that may have been related to their professional work (see section 2.a.).

*Prison and Detention Center Conditions.*—Although prison conditions remained poor, they continued to improve slowly as a result of reforms in the penal system. Experts on prison medical conditions from the Council of Europe stated in October that overcrowding remained a major problem; however, prison officials reported that, due in part to the decriminalization of many offenses and the increasing use of alternative sentencing practices, there was a reduction in the number of inmates in prison, which eased overcrowding.

In a release on the Kharkiv Human Rights Group website, the editor of TV-Vhuru newspaper in Pivden reported on the experiences of a man in Kherson who was sentenced to 15 days for “minor hooliganism” and who was forced to pay \$30 (150 hryvnia) for his stay in “special prison facilities.” According to the prisoner, there were four people in his cell, a bucket for the only toilet, the lights were dim, filthy mattresses were not replaced for new prisoners, all print materials were banned, and he did not receive food in the first 24 hours in his cell.

There were five group suicide attempts in prisons and detention centers. Human rights NGOs explained that these incidents resulted from harsh treatment of prisoners by facility administrators: prisoners were searched, beaten, and their food destroyed. In two instances, prisoners ended up in solitary confinement or received longer sentences for the suicide attempts.

Tuberculosis in prisons continued to be a concern, but officials stated that mandatory screening of all new inmates for the disease had reduced infection rates. The State Penal Department (SPD) reported that the number of deaths caused by tuberculosis decreased by 27 percent during the year. AI, however, reported in May that tuberculosis remained widespread in the prison population. SPD officials stated that inmates with tuberculosis were isolated from the general population and treated at one main prison hospital complex in Kharkiv Region. Human rights groups noted that only convicted criminals, and not persons in pretrial detention, had access to specialized tuberculosis care. The Dnipropetrovsk Human Rights Society reported that, in the 10 prison and detention facilities they had monitored, TB patients were put in overcrowded prison hospital wards with 54–104 beds per 60 square meters, limited daylight, damp air, poor bathroom facilities, improper and often expired food, and insufficient medicine.

Conditions in pretrial detention facilities were harsher than in low and medium security prisons. On August 10, the Ministry of Internal Affairs announced that over 200 of 500 the country’s pretrial detention centers had been brought into compliance

with international standards. Nevertheless, jails were sometimes overcrowded or lacked adequate sanitation and medical facilities. There were reports that inmates in pretrial facilities were sometimes held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. According to AI, 13 percent of pretrial detention facilities were not equipped with water and sewage installations and only one in four had enough natural light and beds.

During the year the Lviv region prosecutor's office initiated criminal cases against the administrators of two pretrial detention centers for abuse of power. One case was started in May after 27 prisoners cut themselves in protest against harsh prison conditions that included administrators demanding bribes from prisoners, refusing to feed them, and using excessive force.

On June 3, detainees in the Lukianivska pretrial detention center in Kyiv threatened to cut themselves in protest of harsh conditions. According to former detainees in the Lukianivska facility, detainees are kept in inhuman conditions, forced to confess to crimes they had nothing to do with, and often leave with severe illnesses.

The SPD and the Ministry of Internal Affairs, in cooperation with the NGO community and foreign governments, implemented a number of professional development programs for prison and police officials, most notably in Chernihiv Region and at the Lukianivska pretrial detention facility in Kyiv. On August 3, the Cabinet of Ministers adopted a new policy for improving the conditions of detainees and prisoners in the next four years, including the creation of a probation service.

The Government allowed prison visits by human rights observers but observers reported difficulties in getting full access to prisons and pretrial detention facilities in some cases. The Ukrainian Red Cross Society said that it had no problems in all of its prison and pretrial detention center access requests. However, domestic human rights organizations, such as the Ukrainian-American Human Rights Bureau, reported that the penal system had become more closed since the Orange Revolution, lacked effective oversight, and access to prisons by journalists and human rights activists was more limited. Prisoners and detainees were permitted to file complaints with the ombudsman for human rights about the conditions of detention, but human rights groups reported that prisoners were sometimes punished for doing so.

*d. Arbitrary Arrest or Detention.*—The Constitution and the law prohibit arbitrary arrest and detention; however, these remained problems.

*Role of the Police and Security Apparatus.*—The Ministry of Internal Affairs is responsible for law enforcement and maintenance of internal order, by both overseeing the police and maintaining its own armed troops. The Security Service of Ukraine (SBU), the internal intelligence organization, reports directly to the President. The State Tax Administration, which exercises law enforcement powers through the tax police, is accountable both to the President and the cabinet. The office of the prosecutor general prosecutes criminal cases and the prosecutor general is appointed by the President. The law provides for civilian control over the army and law enforcement agencies and authorizes members of the Verkhovna Rada to conduct investigations, including public hearings into national security and defense issues. The legislation also broadened the authority of the human rights ombudsman to initiate investigations into the activities of the armed forces.

Police corruption remained a problem, although it received more publicity during the year. Many citizens continued to encounter corruption in their dealings with the traffic police, although the media reported that there was greater public satisfaction with the traffic police than in past years. A 2005 Presidential decree abolished the traffic police department and turned it into the State Service for Traffic Safety. However, the media reported that the traffic police continued to function as in the past.

Authorities, including the minister of internal affairs, made greater efforts to expose police abuses, for example taking disciplinary action against a far greater number of law enforcement authorities than in previous years. According to the Ministry of Internal Affairs, as of September, 297 police officers had been dismissed for cause, 4,211 were subject to administrative disciplinary actions, and 495 were under investigation. On August 13, a police lieutenant in one of the local Kyiv departments was detained for demanding a bribe of \$1000 (5,000 hryvnia) in exchange for not initiating a criminal investigation against a Kyiv resident accused of stealing. In May the Odesa regional prosecutor opened a criminal case against two investigators from the Odesa Regional Department of the Ministry of Internal Affairs who had been charged with bribery and extortion. However, impunity still remained a serious problem (see section 1.c.).

*Arrest and Detention.*—By law the authorities may detain a suspect for three days without a warrant, after which an arrest order must be issued. The courts may extend detention without an arrest warrant for an additional 10 days. Suspects who believe that further investigation may lead to their immediate exoneration may petition the court for an additional 15-day detention. The law permits citizens to contest an arrest in court or appeal it to the prosecutor. The law requires that officials notify family members immediately concerning an arrest, although human rights NGOs noted that sometimes the police did not do so.

The law stipulates that a defense attorney must be provided without charge to an indigent detainee from the moment of detention or the filing of charges, whichever comes first. However, in practice this often did not occur, which legal observers said provided police with time to coerce confessions. There were insufficient numbers of defense attorneys to protect suspects from unlawful and lengthy detention under extremely poor conditions. Moreover, attorneys often refused to defend indigents for the low payments the Government provided. Access to a defense attorney was essentially dependent on the social status and financial resources of the accused.

The police arbitrarily detained persons, particularly dark-skinned persons, for extensive document checks and vehicle inspections (see sections 2.d. and 5).

Although the law provides for bail, it was rarely used; many defendants could not pay the bail amounts imposed by law. Courts sometimes imposed restrictions on travel outside a given area as an alternative to pretrial confinement. However, they generally opted to place individuals in pretrial detention facilities, a practice that human rights observers criticized as costly and contributing to overcrowding.

Lengthy pretrial detention remained a problem. While the law provides that pretrial detention may not last more than two months, in cases involving exceptionally grave offenses a judge of the Supreme Court may extend detention to eighteen months. While the law requires a trial to begin no later than three weeks after criminal charges have been formally filed with the court, the overburdened court system rarely met this requirement. Individuals remained in detention for months or years before being brought to trial, and the situation did not improve during the year (see section 1.e.). According to domestic human rights organizations, the investigation process took four to five months on average. In 2005, 1,250 of the 9,528 detainees released from pretrial detention facilities following court rulings had spent over a year in detention facilities waiting for trial. For example, authorities kept Oleh Kapshuk and Ihor Zubenko in the Starobelsk pretrial detention center for two years on robbery charges while the court returned their cases four times for additional investigation. After the detainees announced a hunger strike and their mothers sent letters to the President, the Ministry of Justice, and general prosecutor, their case went to trial in September.

*Amnesty.*—As of October President Yushchenko had issued 12 amnesty decrees pardoning 1,018 people, including women, elderly men, persons with disabilities, and persons with several children.

*e. Denial of Fair Public Trial.*—The Constitution and law provide for an independent judiciary, but in practice the judiciary remained subject to various forms of pressure from the executive and legislative branches. Pressure included political interference in the form of phone calls to judges by government officials. In May the President issued a decree for the improvement of the judiciary in order to ensure fair trials in line with European standards. The decree sets out goals over the next ten years to improve the impartiality, transparency, and independence of the judiciary and acknowledges shortcomings including incomplete procedural law, low salaries for judges, and ineffective implementation of court judgments.

The judiciary also suffered from corruption and inefficiency.

There were indications that suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences. In October 2005 President Yushchenko stated that every month, four to seven prosecutors and several judges were arraigned for engaging in such corrupt conduct. For example, the media reported that in April the head of a local court in Lviv region was detained while soliciting a bribe. Another judge from Kherson was sentenced on September 27 to three years in prison for falsifying documents and helping local residents commit tax evasion.

Except for the Supreme Court, the courts were funded through the Ministry of Justice, which controlled the organizational support of the courts. The ministry's responsibilities included staffing courts, training judges, logistics and procurement, and statistical and information support. The judiciary lacked adequate staff and funds, which contributed to inefficiency and corruption, and increased its dependence on the executive branch. The Ukrainian Helsinki Human Rights Union

(UHHRU) estimated that the state budget provided only 48% of the real needs of the judiciary, forcing the courts to either essentially shut down in some cases or seek funds from other authorities, thereby greatly undermining their independence. In September the European Court of Human Rights (ECHR) ruled that the country was failing to provide an effective way to secure defendants' rights to a fair trial in a reasonable length of time. The NGO Freedom House reported that, while improvements to the functioning of the judicial branch had been introduced after the Orange Revolution, there was no significant progress in continuing these reforms during the year.

Failure to enforce court decisions in civil cases also undermined the authority and independence of the judicial system. The UHHRU noted that ECHR ruled in more than 80 cases in 2005 that the country had violated the right to a fair trial by failing to execute court decisions. The State Executive Service is responsible for enforcing most civil decisions, and the number of cases referred to it continued to grow. Existing provisions permitting criminal punishment for noncompliance with court decisions were rarely used. The chairs of the Supreme Court, the regional courts, and the Kyiv municipal court (or their deputies) have the authority to suspend court decisions, which provided additional opportunities for outside interference, manipulation, and corruption.

The country has a civil law system relying on codes and separate acts. The court system has constitutional courts and courts of general jurisdiction. The general courts include courts designated by administrative level (district, region, and supreme) and by specialization. The Supreme Court is the highest court within the general courts system. The Constitutional Court interprets the Constitution and laws. Commercial courts were intended to operate as specialized courts within the single unified system of courts. The Supreme Court may review their judgments, including those rendered by the High Commercial Court. Military courts are specialized courts that hear only cases involving military personnel.

The law provides for five levels of courts—local courts, courts of appeal, courts of cassation (another layer of appeals court), higher specialized courts, and the Supreme Court—as well as an independent judicial department, the State Judicial Administration. The State Judicial Administration manages the logistical, financial, informational and personnel maintenance of the court system—with the exception of the constitutional court, the Supreme Court, the supreme administrative court, and the supreme commercial court. The law does guarantee the independence of the judiciary, but it also in some cases increases the powers of the President over the judiciary. The constitutional court ruled the court of cassation to be unconstitutional since it is not mentioned in the Constitution, and it continues to exist only on paper. The administrative chamber of the court, which deals with cases against the state, was still being formalized, including the process of appointing judges.

By law the President has the authority, with the agreement of the Ministry of Justice and the chair of the Supreme Court, or of a corresponding higher specialized court, to establish and abolish courts of general jurisdiction. The President is empowered to determine the number of judges within the courts, upon the recommendation of the State Judicial Administration and with the agreement of the chair of the Supreme Court. He is authorized to appoint and remove chairs and deputy chairs of courts, who serve five-year terms based on recommendations of the Judicial Council (the executive body of the Congress of Judges), and to establish appellate commercial and appellate administrative courts. The President, upon the recommendation of the Prime Minister and concurrence by the Judicial Council, appoints the head of the State Judicial Administration.

Regional courts, including the Supreme Court of Crimea and the Kyiv and Sevastopol city courts, serve as courts of appeal. They may examine evidence independently in a case, call for additional witnesses or evidence, and overrule the judgment of a lower court.

The constitutional court consists of 18 members appointed for nine-year terms, six each by the President, the Verkhovna Rada, and the Congress of Judges. The constitutional court is the ultimate interpreter of legislation and the Constitution, and it determines the constitutionality of legislation, Presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic. The court did not meet for nearly eight months during the year due to the lack of a full complement of judges, because 14 nominations were held up by the Verkhovna Rada.

The Supreme Court is the country's highest appellate body. Human rights groups, the media, and legal watchdog organizations noted that the court continued to show independence during the year.

*Trial Procedures.*—The Constitution includes procedural provisions intended to ensure a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, these rights were limited by the ab-

sence of implementing legislation, which left a largely Soviet-era criminal justice system in place. The defendant is formally presumed innocent, but the high conviction rates of the Soviet era continued to prevail.

On August 27, President Yushchenko announced he was ready to assign the Presidential Secretariat's Pardon Commission to carry out a new investigation of the highly publicized case of journalist Ruslan Antonyk in 2000. Antonyk's conviction for murdering Petro Tychynskiy, son-in-law of Anatoliy Halchynskiy (adviser to then-President Kuchma), was strongly disputed by human rights organizations. He was serving the sixth year of his 13 year sentence. On September 1, the General Prosecutor's Office submitted a petition to the Supreme Court asking for reconsideration of Antonyk's case.

The law provides for broad use of juries, but a system of juries had not been implemented; as a result juries were not used during the year. Most cases were decided by judges who sit singly, although the law requires that two judges and three public assessors (lay judges or professional jurors with some legal training) must hear cases that involve the possibility of a life prison sentence, the maximum penalty in the country's criminal justice system.

While the law specifies that a suspect or prisoner may speak with a lawyer in private, human rights groups reported that prison or investigative officials occasionally denied this client-attorney privilege. To protect defendants, investigative files must contain signed documents attesting that they have been informed of the charges against them, of their right to an attorney at public expense, and of their right not to give evidence against themselves or their relatives. However, officials sometimes verbally and physically abused defendants to obtain their signatures. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures; however, many remained unaware of these safeguards.

The law provides that the names and addresses of victims and witnesses may be kept confidential if they request protection due to fear for their lives. However, criminal groups routinely used intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives, but the unit had not begun operation by year's end and trial participants were vulnerable to pressure. Due to lack of funding, a witness protection law was also in abeyance.

Citizens have the right to appeal criminal and civil verdicts to their local appellate courts. Appellate court decisions may also be appealed to the criminal chamber of the Supreme Court.

On May 25, the Cabinet of Ministers introduced a single state register of all court rulings. According to the new procedure, all court judgments, except those qualified as state secrets, are to be sent to the register no later than 15 calendar days after the ruling is made. The State Judicial Administration maintains the register. Access to the register is free.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Pursuant to Article 55 of the Constitution, human and civil rights and freedoms are protected; citizens are guaranteed the right to challenge decisions, actions, or omissions of the national and local government and its officials in court.

The Code for Administrative Court Proceedings entered into force in September 2005. The Code protects the rights, freedoms and interests of individuals against violations by the Government and public officials and allows for court hearings in cases involving illegal government activities or failure to enforce legal protections. The code contains a "potential victim" concept allowing for collective lawsuits against legislation that may violate basic rights and freedoms. There is no requirement of being directly affected by a particular legal or normative act. Citizens may appeal to the Human Rights Commissioner of the Verkhovna Rada and, after exhausting all domestic legal remedies, may take their case to the appropriate international bodies of which the country is a member or participant.

Domestic court orders are not consistently enforced, according to the Kharkiv Group for Human Rights Protection and other human rights advocates.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—Although the law prohibits such actions, in practice authorities infringed citizens' privacy rights. By law, the SBU may not conduct intrusive surveillance and searches without a court-issued warrant; however, there were reports that elements within the Government arbitrarily continued to monitor the private communications and movements of individuals.



The office of the prosecutor general has the constitutional responsibility to ensure that law enforcement agencies, including the SBU, observe the law; however, the extent to which the prosecutor general used his authority to monitor SBU activities and to curb excesses by security officials was unknown. The Constitution gives citizens the right to examine any dossier concerning them in the possession of the SBU and to sue for physical and emotional damages incurred by an investigation. Authorities did not respect this right in practice, however, as the necessary implementing legislation had not been enacted.

In February 2005 President Yushchenko ordered the SBU and all government organizations to end illegal surveillance of any kind. Then-SBU Chief Oleksandr Turchynov told the press in July 2005 that the SBU no longer engaged in illegal surveillance operations and had created an office for combating illegal wiretapping. He also instructed other government organizations to turn in their wiretapping equipment. However, politicians, including Human Rights Ombudsman Nina Karpachova; the head of the Verkhovna Rada Committee on Combating Organized Crime and Corruption, Volodymyr Stretovych; former Verkhovna Rada speaker Lytvyn; and former prosecutor general Svyatoslav Piskun complained to the media in 2005 that electronic eavesdropping continued. The Kharkiv Human Rights Protection Group claimed that special units at the Security Service of Ukraine, the Ministry of Internal Affairs, and State Tax Administration obtained over 11,000 permits for telephone tapping in 2005.

In March the newspaper *Segodnya* reported that the SBU kept one of its journalists, Oleksandr Korchinskiy, under surveillance after he published an article in June 2005 about the whereabouts of former Ministry of Internal Affairs General Pukach, who was wanted in connection with the Gongadze murder. The prosecutor general's office opened an investigation into the lawfulness of the SBU's surveillance of Korchinskiy. On October 11, the Pechersk Area Court of Kyiv ruled that the surveillance was unlawful.

In September the prosecutor general's office completed an investigation requested by Verkhovna Rada member Volodymyr Sivkovych, who claimed that the SBU regularly tapped the telephone of parliament members. The office stated that it did not find any proof of such activity.

According to a board member of the Internet Association of Ukraine, the SBU monitors up to 70 percent of Internet traffic. On August 17, the Ministry of Justice abolished the 2002 decree by the State Communications Committee on mandatory monitoring of Internet traffic in the networks of providers that service public institutions. This decree had allowed security services to legally monitor e-mail communications and Web site hits of individual Internet site users.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution and law provide for freedom of speech and of the press; the authorities generally respected these rights in practice. There were no reports that the central authorities attempted to direct media content; however, reports of intimidation of journalists, including by local officials, as well as continued media dependence on government resources, inhibited investigative and critical reporting and sometimes led to self-censorship.

Individuals could, and did, criticize the Government both publicly and privately without reprisal. The Government did not attempt to impede such criticism.

In November the Verkhovna Rada passed a bill declaring the 1932–33 Holodomor (Great Famine) as genocide. The original draft law would have imposed fines for public statements or dissemination of materials denying the Holodomor. However, the law as passed states: "Public denial of 1932–33 Holodomor in Ukraine is recognized as desecration of memory of millions of victims of the Holodomor, humiliation of dignity of the Ukrainian people, and is unlawful" but does not specify penalties.

Media outlets are markedly freer and more diverse since the 2004 Orange Revolution. The NGO Freedom House rates the country's media as fully "free."

According to the Ukrainian Press Academy, at the end of 2005 there were 22,794 registered print publications. Of that number, 9,948 were national and regional and 12,846 were local. These media outlets reflected a wide variety of viewpoints. Many newspapers were financed by wealthy investors and reflected the political and economic interests of their owners. These publications frequently criticized the Government.

Foreign newspapers and periodicals circulated freely.

Broadcast media, the primary sources of news for most citizens, were either state-owned or owned by powerful business interests. There were 13 national television stations and multiple regional radio stations. Only four stations (three state-run and one private) broadcast information; the rest were purely music stations. Of the television stations, state-run television, UT-1, had the widest geographic coverage but

relatively low viewership. Most local television stations were associated with political parties or powerful regional business interests.

The National Council for Television and Radio Broadcasting, comprised of four members appointed by the parliament and four appointed by the President, issued licenses and allocated broadcasting time. Persons associated with the previous government charged that the Yushchenko government used the council to punish its political opponents when it undertook to challenge court orders that had given frequencies to television stations affiliated with the previous government.

Donetsk-based TRK Ukraina television, controlled by Party of Regions Member of Parliament Rinat Akhmetov, alleged that the council's strict enforcement of a licensing provision that requires national stations to broadcast 75 percent of their programs in Ukrainian was discriminatory, forcing the network to choose between having its license revoked and losing a large part of its predominantly Russian-speaking audience to Russian television stations. Complaints from other national broadcasters from across the political spectrum demonstrated that the enforcement of this language requirement was not unique to TRK Ukraina. TRK Ukraina was able to circumvent this regulation by broadcasting Russian movies subtitled in Ukrainian, and claiming that it was broadcasting in Ukrainian. In January 2007 however, a new law will go into effect requiring that films be dubbed into Ukrainian.

According to the national media watchdog NGO Institute for Mass Information (IMI), at least 14 journalists were subjected to physical attacks or intimidation during the year. According to IMI, the highest concentration of such incidents occurred at the time of the parliamentary elections in March. These cases, however, did not appear to be centrally organized or interconnected and were often attributed to local politicians or organized criminal groups.

On March 1 in Simferopol, unknown arsonists set fire to the garage of Liliya Budzhurova, editor in chief of the First Crimean newspaper. The newspaper had recently published a complete listing of the candidates to the Crimean parliament who had previous "conflicts with the law" according to Interior Minister Lutsenko at a February 17 press conference. President Yushchenko took personal interest in the case, and the Government encouraged an investigation.

The Budzhurova case came up again in the first week of October, when Crimean parliament member Oleksandr Melnyk was briefly held on charges of alleged leadership of the "Seilem" organized crime group. *Ukrainska Pravda* reported on October 12 that Melnyk's driver testified during questioning that Melnyk ordered an unknown person to "teach a lesson" to Budzhurova in the spring, following the publication of her article. Melnyk was released after the General Prosecutor's Office declined to prosecute the case.

On April 8, unknown attackers beat Vladimir Katsman, the editor-in-chief of the newspaper *Stolichniye Novosti* outside his apartment building. Katsman attributed the attack to his criticisms of the anti-Semitic publications of the Interregional Academy of Personnel Management (MAUP). At year's end, no one had been arrested or charged in the case.

On June 3, unknown attackers set fire to the home of investigative journalist Serhiy Yanovsky on June 3 after Yanovsky exposed corruption among local politicians and businessmen. On June 26, Serhiy Romanenko, the chief editor of the Reporter Internet site, was found unconsciousness in the center of Uzhhorod after receiving a blow to the back of his head. A few days before the attack, Romanenko had published articles critical of Uzhgorod mayor Serhiy Ratushnyak, the city committee of the Socialist Party, and the Yuliya Tymoshenko Bloc party. No arrests were made in either of these cases.

On August 14, two unknown assailants beat Igor Mosiichuk, the editor-in-chief of the weekly *Vercherny Vasilkov* following a series of articles he published on officials who benefited from local land deals.

There was one report that a journalist disappeared. On February 20, Anatoly Kachurnets of the *Striy Homin Voli* (Sound of Freedom) newspaper left home and never returned. Police have no further information and found no evidence of foul play.

The election law prohibits media commentary on electoral campaigns, prohibits media outlets campaigning for or against political parties without their express approval, and it gives courts authority to close media outlets that violate legal limits on political advertising and news coverage of political parties. Critics warned that the law was imperfectly written and open to potential abuse. In the March parliamentary elections, regional branches of political parties sought court rulings against television stations in two cases. Anatoliy Grytsenko, head of the Party of Regions Crimea branch, filed against Chornomorskaya TV. Chornomorskaya TV won an initial appeal and Grytsenko continued to pursue court action. Inna Bohoslovskaya, head of the Viche Party in Dnipropetrovsk, won her case against

Channel 9 to suspend the local television station's license but did not insist that the court's decision be carried out. The station continued to broadcast.

Both the independent and government-owned media continued to demonstrate a tendency toward self-censorship on matters that the Government deemed sensitive. Although private newspapers were free to function on a purely commercial basis, they often depended on political patrons who could facilitate financial support from the State Press Support Fund and received close scrutiny from government officials, particularly at the local level.

Libel is considered a civil offense and the use or threat of civil libel suits continued to inhibit freedom of the press during the year. Courts may freeze the accounts of a publication pending appeal, a step that could ruin many publications. Government entities and public figures, in particular, continued to use civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press. For example, in Rivne Oblast, the oblast prosecutor, Leonid Orehovskiy, filed a libel case against the Rivne Vecherne newspaper claiming damage to his honor and integrity. The newspaper lost the case and was ordered to print a formal apology.

While the law limits the amount of damages that may be claimed in libel lawsuits and allows the press to publish inoffensive, non-factual judgments, including criticism, without penalty, media watchdog groups continued to express concern over extremely high monetary damages that were demanded, and sometimes awarded, by courts for alleged libel.

The media had broad access to court hearings and governmental meetings. Early in the year, the judiciary opened the criminal trial of the murder of journalist Heorhiy Gongadze. President Yushchenko had promised that the trial would be open to journalists and Kyiv City Appeals Court ruled that journalists should have access. However, when the court convened, the room could not physically accommodate journalists who wished to cover the event. The journalists insisted on access, and together with members of Verkhovna Rada, convinced law enforcement agencies to open a criminal case accusing the court of violating their rights to cover the case. The journalists did get seating, but conditions were crowded.

On July 12, Party of Regions member of parliament Oleh Kalashnykov and his assistants physically assaulted a television crew from private television station STB in front of the Verkhovna Rada, beating the cameraman and removing a tape from his camera, which was never returned. At STB's demand, and supported by an open letter from Ukrainian journalists, the Party of Regions took temporary disciplinary action against Kalashnykov, but did not expel him from the faction or the parliament. The party's leader, Victor Yanukovich, criticized Kalashnykov's behavior and Kalashnykov publicly apologized. STB pursued legal action against Kalashnykov, but stated that it was satisfied with the Party of Regions' response to the incident.

*Internet Freedom.*—The Government did not restrict access to the Internet, but there was monitoring by law enforcement bodies (see section 1.f.). Individuals could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access, although expanding rapidly, was still limited to wealthier members of society and those with access at schools, libraries, and workplaces.

Domestic and international human rights groups sharply criticized an April 2005 directive from the Ministry of Transportation and Communication (MOTC) requiring all Internet publications to register with the Government. The MOTC formally rescinded this order in September 2005. During the time the directive was in effect, however, Internet publications did not comply with it.

*Academic Freedom and Cultural Events.*—The Government did not restrict academic freedom, but academic freedom was an underdeveloped and poorly understood concept. Most major universities were state-owned, but there were a growing number of privately-run institutions. While university rectors had a reasonable amount of autonomy, curriculum and degree standards were tightly controlled by the Ministry of Education. Corruption remained a major problem in both university admissions and academic work, although the Government began implementing a national examination system during the year to combat the phenomenon.

Administrators of universities and academic and research institute directors could silence colleagues by denying them the ability to publish, withholding pay and housing benefits, and directly terminating them. The SBU maintained offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research.

There were no government restrictions on cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The Constitution provides for freedom of assembly, but in a few instances regional gov-

ernments infringed on these rights. Since there is no national law governing freedom of assembly, the Code of Administrative Justice and case law governed assemblies. Moreover, local authorities often looked to a resolution on freedom of assembly questions from the Soviet era that was more restrictive than the current Constitution.

The Constitution requires that demonstrators inform authorities of a planned demonstration in advance. The Soviet-era resolution, which local governments sometimes used to define "advance notice," stipulates that organizations must apply for permission at least 10 days before a planned event or demonstration. Permits were routinely granted to those who requested them, although they sometimes stipulated that demonstrators had, for example, to stay on the sidewalks and not block traffic at key downtown Kyiv intersections. Demonstrators are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice unlicensed demonstrations were common and generally occurred without police interference, fines, or detention, although there were several exceptions.

According to the Department of Civil Defense of the Ministry of Internal Affairs, in 2005 administrative charges were brought against 40 organizers and active participants for infringements in organizing and holding public gatherings.

In November 2005 the Kyiv city authorities decided to allow events only in downtown areas that had been approved either by a decree from the President or Cabinet of Ministers or by a decision of the Kyiv city council or city administration. The Kyiv city administration tried to impose restrictions on demonstrations on several occasions during the year, but the courts overruled the city government.

In May the mayor of Kherson banned a rally by market vendors because they did not inform the city council 25 days in advance and they were not allowed to protest in front of the city council.

On October 13, the Shevchenkivskyi neighborhood court in Kyiv prevented communists, nationalists, and Chernobyl organizations from holding protests in downtown Kyiv on the anniversary of the founding of the Ukrainian Insurgent Army. The court argued that this decision was based on an assumption by the Kyiv city administration, police, and President's secretariat that such rallies would result in violence and bloodshed as had occurred in 2005.

According to the Nasha Pravda NGO in Kryviy Rih, Dnipropetrovsk, local police and the SBU gathered information about participants in anticorruption events as well as about human rights organizations and their activities, allegedly for the sake of security and safety. During the year, police and the SBU also declined to investigate several claims of violence against activists from the Nasha Pravda, Opora, and Zemlia i Volia NGOs during environmental protests.

*Freedom of Association.*—The Constitution and the law provide for freedom of association; while the Government generally respected this right in practice, some restrictions remained. Registration requirements for organizations were extensive, but there were no reports that the Government used them during the year to disband existing legitimate organizations or prevent new ones from being formed.

The law places restrictions on organizations that advocate violence or racial and religious hatred, or that threaten the public order or health. There were no reports during the year that the authorities used these criteria to restrict the activities of legitimate organizations that opposed the Government.

There were a number of requirements for the formation of political parties (see section 3).

Two major opposition political parties associated with the previous government, the Social Democratic Party of Ukraine (United) and Regions of Ukraine, complained that thousands of their supporters were dismissed from government jobs in 2005 because of their association with anti-Yushchenko political parties. However, widely respected human rights organizations rejected the characterization of the dismissals as discrimination, noting that only approximately 5 percent of the country's 450,000 civil servants had been dismissed and replaced by supporters of the Yushchenko administration.

*c. Freedom of Religion.*—The Constitution and the law provide for freedom of religion. The Government generally sought at all levels to protect this right, but some minority and nontraditional religions experienced difficulties in registration and in buying and leasing property.

There is no formal state religion; however, the Ukrainian Orthodox Church-Moscow Patriarchate (UOC-MP) and the Ukrainian Greek Catholic Church (UGCC) tended to dominate in the east and west of the country, respectively. Local authorities frequently sided with the religious majority in a particular region. UOC-MP representatives complained that for 14 years the local government in Lviv ignored

their numerous requests to allocate a land plot for construction of a diocesan cathedral. By contrast, in many areas of the east and south, local leaders tended to side with the UOC-MP. The UOC-Kyiv Patriarchate (KP) claimed that new Kharkiv Mayor Mykhaylo Dobkin warned his staff that he would not even receive a local bishop of the UOC-KP.

In contrast to previous years, the municipal authorities in Odesa improved their relations with Roman Catholics. On September 6, the Roman Catholic Bishop of Odesa met with Mayor Eduard Hurvits and discussed joint projects for homeless children and creation of a commission to address issues of the Roman Catholic community, including property restitution.

On March 22, President Yushchenko called for the creation of a unified Ukrainian Orthodox Church, a move opposed by the UOC-MP and some Protestant denominations. The UOC-MP publicly cautioned the President against “politicizing” and “artificially” speeding up the unification process.

The courts did not always interpret the law in a manner that protected religious freedom, and in some instances sided with the dominant local religious organization. In June in a case that received national and international media and NGO attention, a local court in Cherkasy Oblast exonerated a UOC-MP priest of assault and hate crime charges for beating six members of Jehovah’s Witnesses with his walking stick after they allegedly pushed him while on his property. The priest admitted that he beat the persons and publicly boasted that he would “do it again” but asserted that he did it in self defense.

The law requires religious groups to register their “articles and statutes” either as a local or national organization and to have at least 10 adult members in order to obtain the status of a legal entity. Registration is necessary to conduct many day-to-day business activities including publishing, banking, and property transactions. By law the registration process should take no more than three months. Registration denials may be appealed in court.

According to the law, registered religious organizations maintain a privileged status as the only organizations permitted to seek restitution of communal property confiscated by the Soviet regime. Communities must apply to regional authorities for property restitution. While Article 17 of the Law on Freedom of Conscience and Religious Organizations provides that consideration of a restitution claim should be completed within a month, it frequently took much longer.

Intra-communal competition for particular properties complicated restitution claims for Christian, Jewish, and Muslim communities. The slow pace of restitution was partly because the Government allocated limited funds to relocate occupants of seized religious property. Some groups asserted that there was progress in the restitution of property during the year, while others reported little or no progress. Many properties for which restitution was sought were occupied by state institutions or were historic landmarks. All major religious organizations called on the Government to establish a transparent legal process to address restitution claims.

In February leaders of Odesa’s Presbyterian community stated that the local actors’ guild was ignoring the community’s requests to vacate the first floor of the city’s recently renovated historical Presbyterian church and relocate to other premises provided by the local government in 2000. The Presbyterian community claimed that the local court and city government were pressured by the actors’ guild and local Ukrainian Orthodox Church-Moscow Patriarchate to support the guild’s court case to gain ownership of the church. There have been no new developments in the case.

The All-Ukraine Baptist Union continued its legal struggle to prevent the Prosecutor General’s Office from seizing its headquarters building in Kyiv. The union’s chairman complained that despite multiple appeals to the President and Cabinet of Ministers, office of the prosecutor-general, and the interior ministry’s Main Investigative Directorate, the union’s ownership of its building remains unresolved.

The registration process is administered by the Ministry of Justice’s State Department for Religious Issues (SDRI), the successor organization to the Soviet-legacy State Committee for Religious Affairs, which was abolished in April. According to the Government, the SDRI was intended to bring Ukrainian law into conformity with European norms. However, there has been some criticism that the SDRI, which during the year was establishing its position in relation to regional departments of religious issues, lacked sufficient power over regional and municipal departments of religious issues to protect the interests of religious groups in the regions.

The Autonomous Ukrainian Orthodox Church in America asserted that the SDRI refused to register the organization, a charge the SDRI denied.

The law restricts the activities of foreign-based religious organizations and narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other non-citizen representatives of foreign-based religious organizations;

however, there were no reports that the Government used the law to limit the activity of such religious organizations. Religious worker visas require invitations from registered religious organizations in the country and the approval of the Government. Foreign religious workers may preach, administer religious ordinances, or practice other canonical activities “only in those religious organizations that invited them to Ukraine and with official approval of the Governmental body that registered the statutes and the articles of the pertinent religious organization.”

Under the law, religion cannot be part of the public school curriculum. However, President Yushchenko, with the support of leaders of the UOC-MP, UOC-KP, Ukrainian Autocephalous Orthodox Church, Ukrainian Greek Catholic Church, Roman Catholic Church, All-Ukraine Evangelical Baptist Union, Brotherhood of Independent Churches and Missions of Evangelical Christians, instructed the Ministry of Education to introduce “ethics of faith” training courses into public school curricula beginning in September 2005. According to the SDRI, prominent religious leaders, and the media, implementation so far has been haphazard. On June 29, the Ministry of Science and Education approved the concept of teaching disciplines of spiritual and moral nature in secondary schools. While Jewish and Muslim leaders support the teaching of ethics and civics in school, they have insisted on a non-sectarian approach to the students’ training. Schools run by religious communities may include religious education as an extracurricular activity.

The Government promotes interfaith understanding by frequently consulting with the All-Ukraine Council of Churches and Religious Organizations, whose membership represents the faiths of over 90 percent of the religiously active population. The council, which has a rotating chairmanship, meets once every two or three months, providing members and government representatives the opportunity to discuss interfaith concerns. The council also provided a forum for religious organizations to consult with the Government on draft legislation. Regional administrations and local religious leaders in most regions of the country have formed regional councils of churches and religious organizations.

*Societal Abuses and Discrimination.*—The generally amicable relationship among religions in society contributed to religious freedom; however, conflicts between local representatives of contending religious organizations in some cases adversely affected broader ties among religions in society.

Senior leaders of the UOC-MP alleged that supporters of the UOC-KP attacked UOC-MP clergy and seized a number of UOC-MP churches. The UOC-KP rejected the allegations, noting that many UOC-MP communities exercised their legal right to change jurisdictions from the UOC-MP to the UOC-KP. The UOC-MP cited numerous such incidents, including in Rivne and Chernivtsi regions, claiming that UOC-KP was encouraged by the success of the 2004 Orange Revolution, the Yushchenko presidency, and indications that the Ecumenical Patriarch might recognize their church as the country’s canonical Orthodox Church. On August 31, the high administrative court invalidated the 2005 resolution by the Ternopil Region State Administration that allowed parishioners of the UOC-KP to use the UOC-MP’s Holy Trinity church in Rokhmaniv village, Ternopil Region, on a rotational basis. The court reaffirmed that the UOC-MP, which has been using the church since 1946, was a legitimate user.

Representatives of the Russian Orthodox Church Abroad (ROCA) complained that the UOC-MP demanded the surrender of ROCA church buildings in Malyn, Zhytomyr Region in 2005, and during the year pressured local authorities to prevent the opening of a ROCA monastery in Bolgrad, Odesa Oblast. ROCA representatives also complained that during the year the UOC-KP continued their attempts to seize the Holy Trinity Church in Odesa.

On February 6, the Association of Christian Journalists, Publishers, and Broadcasters criticized the STB television network for airing a program that attacked evangelical churches. According to the association, the program misrepresented the beliefs of traditional Protestant churches (including Lutherans and Baptists), and referred to Evangelical Protestants as “Satanists.”

At an April 17 press conference, the President of the country’s major Protestant Christian media group, Serhiy Belbovets, criticized what he called “a series” of television and newspaper reports that characterized evangelical Christians as “fanatics” and “members of sects.” He called on all churches in the country to stand together to defend Christian values.

On December 19, a foreign Jehovah’s Witnesses missionary was severely beaten near his home in Kremenchuk in Poltavaska Oblast. He was hospitalized with serious brain injuries. There have been previous acts of harassment and vandalism directed against foreign missionaries and Jehovah’s Witnesses in Kremenchuk. The Kremenchuk Police had not begun an investigation by year’s end.

Muslim leaders in Crimea, as well as members of the Crimean Tatar Mejlis, the major but unofficial organization representing Crimean Tatars, accused the UOC-MP of encouraging anti-Muslim and anti-Tatar violence in Crimea. UOC-MP priests in Crimea reportedly assured ethnic Russian vigilantes, who refer to themselves as Cossacks, that violence against Muslim Tatars was justified in order to protect Orthodoxy in Crimea. In September the Simferopol Diocese in Crimea publicly stated its desire to build good relations with all religious communities, in particular, with the Muslim community (see section 5).

According to the State Committee of Statistics, the Jewish population during the 2001 census was estimated at 103,600, although some Jewish community leaders have stated the number may be as high as 300,000. An estimated 20,000 Hasidic Jews from overseas participated in the annual Rosh Hashanah pilgrimage to the town of Uman in September.

There were a number of acts of anti-Semitism; several of them involved physical attacks.

On February 3, a man ran into the Brodsky Synagogue in downtown Kyiv and demanded to see the rabbi. Security guards found a knife on the man, and police arrested him. On March 6, a yeshiva student used an air-pellet gun to fend off four men on a Kyiv subway train who kicked him to the ground while shouting anti-Semitic insults. The student managed to shoot one of the assailants in the face with the pellet gun, which he had purchased after being attacked with a fellow yeshiva student in August 2005. The assailants were arrested at the scene, but were then released on their own recognizance.

On April 20, a group of skinheads beat and stabbed Israeli yeshiva student Haim Gorbov who came from Israel to Dnipropetrovsk to lead Passover seders. On May 5, the Ministry of Internal Affairs announced that a criminal case of hooliganism would be brought against the assailants. The ministry also noted that prosecutors were continuing to examine the motives behind the attack, which could lead to additional "inter-ethnic hostility" charges. There was no progress in the investigation.

The Odessa police investigated the September 18 attack by a group of young men shouting anti-Semitic insults against Haim Weitzman, a Ukrainian citizen, who was injured with a concussion as a result of the incident. According to a spokesman of the Odessa Jewish community, no arrests have been made.

No criminal charges were made against skinheads who assaulted 13 students from a Chabad Jewish day school in Simferopol in January 2005. According to journalist Volodymyr Matveyev of JTA-Global Jewish News, there were no arrests of the unidentified assailants who assaulted him in December 2005.

There were also several instances in which synagogues, cemeteries and Holocaust memorials were vandalized, particularly in Kirovohrad, where the Choral Synagogue was vandalized at least five times during the year. According to representatives of the local Jewish community, law enforcement authorities made no progress in the investigation. Police follow-up to cases of vandalism often appeared to be ineffectual. However, there was an effective official response in other cases. For example, on June 6 the SBU detained a suspect in the March 23 desecration of a Holocaust memorial in Sevastopol. The case against the suspect went to trial, but there was no decision. In June police in Zhytomyr detained two teenagers who pleaded guilty to vandalizing several tombstones at an old Jewish cemetery in the town in May. No criminal charges were made and the investigation was ongoing at year's end.

Despite continued mediation efforts by local Jewish and Greek Catholic leaders, a long-standing dispute between nationalists and the Jewish community over the erection of crosses in an old Jewish cemetery in Sambir, Lviv remained unresolved. On May 3, the supreme administrative court rejected an appeal by the Union of Councils of Soviet Jewry (US) to take ownership of the cemetery. The U.S. appealed to President Yushchenko for help. The President ordered the Lviv administration to address the problem, but no progress was made. On December 31, a Holocaust memorial plaque in Kharkiv was severely damaged. Police started an investigation but no arrests were made.

Anti-Semitism was also evident in public life. In August 2005 the fringe Ukrainian Conservative Party, associated with the anti-Semitic MAUP, published an "open letter" to President Yushchenko calling for the criminal prosecution of Hasidic Rabbis in the country for the dissemination of "Judeo-Nazi teachings." The Ukrainian Conservative Party received less than 1 percent of votes nationwide in the March parliamentary elections.

Anti-Semitic articles appeared frequently in small publications and irregular newsletters, but such articles rarely appeared in the national press.

MAUP, which receives significant funding from several Middle Eastern governments, remained the most persistent anti-Semitic presence in the country. It pub-

lished a monthly journal *Personnel* and a weekly newspaper *Personnel Plus*, which was the subject of an ongoing criminal investigation by the Prosecutor General's Office. According to Jewish organizations, MAUP accounted for nearly 90 percent of all anti-Semitic material published in the country during the year. In December 2005 President Yushchenko issued an executive order barring civil servants from studying or teaching at MAUP branch affiliates. In March seven such affiliates, out of approximately 50 across the country, were closed due to unspecified licensing violations. Thirty more were closed before the September 27 commemoration of the Babyn Yar massacres, at which President Yushchenko criticized ethnic intolerance and religious hostility in the country. In November he announced a Presidential order to the SBU and Ministry of Science and Education to investigate manifestations of xenophobia at MAUP. Following MAUP's appeal to the Kyiv commercial court, the licenses of 26 of the regional branches rescinded by the Ministry of Education were renewed in December.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and the law provide for these rights, and the Government generally respected them in practice.

Although a system of registration exists, citizens have the right to live, work, and receive services anywhere in the country. There was no indication that individuals were denied access to services because they were not registered in the locality where they resided.

Citizens who wished to travel abroad generally were able to do so freely. Exit visas were required for citizens who intended to take up permanent residence in another country, but there were no known cases of exit visas being denied to citizens during the year. The Government could deny passports to individuals in possession of state secrets; such individuals could appeal the denial of a passport.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The Constitution and the law provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government committed serious violations of the principle of non-refoulement, the return of persons to a country where they feared persecution; it granted refugee or asylum status infrequently, providing only limited protection from refoulement.

The Government provided temporary protection for up to one year to persons who may not qualify as refugees under the 1951 Convention and the 1967 Protocol.

According to official statistics from the State Committee on Nationalities and Migration, at year's end there were 2,275 refugees in the country, including 740 women and 1,535 men. According to the Committee, as of December 1, 1,705 persons applied for asylum; 39 persons were granted refugee status, while 450 were refused. The largest number of asylum applicants were from Asian countries. At the end of December, there were 627 refugees from countries of the Commonwealth of Independent States, including 128 Chechen refugees from Russia, down from 144 in April.

In its October 17 report on asylum matters, Human Rights Watch noted that the country "falls substantially short of its international obligations towards migrants and refugees." The report cited inadequate procedures for dealing with asylum seekers, substandard conditions and physical abuse in asylum centers, lack of basic procedural rights, inadequate food and sanitary conditions, and prolonged periods of detention.

According to the Office of the UN High Commissioner for Refugees (UNHCR), the EU, and human rights groups, there have been instances in which border guards unlawfully returned unspecified numbers of Chechens to Russia who had applied for, or wanted to apply for, asylum. In 2005 Chechens detained in Zakarpattya Region were frequently put on a train to Kharkiv and turned over to Russian border guards at the nearby border crossing point. Chechens were reportedly forcibly returned to Russia in keeping with an alleged secret government instruction issued after the September 2004 Beslan school massacre in Russia; it reportedly requires border guards to return all Chechens to Russia and to refuse them entry into the country. Human rights groups expressed concern that officials frequently refused to recognize a UNHCR-issued document attesting that the bearer has applied, or is in the process of applying, for asylum. In June 2005, for example, four Chechen men were returned to Russia, despite being registered with UNHCR Kyiv. The men were unable to register with the Kyiv City migration service, which had been closed for reorganization, leaving them without valid government-issued asylum seeker certifi-



cates. The four were subsequently apprehended, fined for not having appropriate registration stamps, and deported to Russia.

The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers, and operated refugee reception centers in Vinnytsya and Odesa. However, the State Committee for Nationalities and Migration at times showed little interest in refugee protection, poorly implemented agreements with the UNHCR, and often refused to share important information with the UNHCR. According to human rights organizations, corruption also impedes asylum-related issues. On July 13, the deputy head of the State Committee on Nationalities and Migration stated to the press that the prosecutor general's office was investigating allegations of abuse by the Committee's head, Serhiy Rudyk, and some of his colleagues. The deputy head also said that Rudyk fired Committee staff who protested against falsification and delays involved in reviewing refugee cases.

On February 16, UNHCR and the international community strongly condemned the forcible deportation of 10 Uzbek asylum seekers. The SBU detained eleven men in Crimea based on extradition warrants issued by the Uzbekistani authorities on the grounds that they allegedly participated in the Andijan mass protests in Uzbekistan in May 2005. They were transferred to a Ministry of Interior detention facility in Simferopol. The UNHCR asked authorities for assurances that no asylum-seekers would be forcibly returned unless they had been determined not to be refugees and had completed asylum procedures, including any appeal. The Migration Service in Crimea rejected the asylum applications on the basis that they were "manifestly unfounded." On February 14, 10 of the men were forcibly returned to Uzbekistan. (The remaining man was reportedly allowed to stay because he had relatives in the country.) Twenty-one Ukrainian regional human rights organizations issued a statement protesting the incident. On May 3, the Ministry of Justice issued a legal opinion saying that deportation was illegal. The President's chief of staff stated that the deportation was a violation of procedure because the refugees were not granted ten days to appeal the deportation, but added that the extradition was acceptable as they "belonged to a radical Islamic group."

In August 2005 Ukrainian authorities ordered the deportation of 18 Uzbek asylum seekers, including 11 children, to Russia. The Uzbeks traveled to Ukraine after first trying to gain asylum in Russia, where they reported the authorities abused them. The Ukrainian border guard service took them off a train, kept them for 12 hours in cramped quarters, then forcibly put them on a train back to Moscow, despite requests for assistance by Tatar and Uzbek opposition leaders.

The Donetsk-based NGO Memorial reported that there were approximately 2,000 Uzbek refugees in the country, of whom only 10 percent applied for asylum in the UNHCR office in Kyiv. According to official statistics, during the first eight months of the year, 85 Uzbek nationals applied for asylum, compared to 23 in 2005, and four in 2004.

According to human rights NGOs, a 2005 amendment to the law that improved the registration process somewhat was still being applied unevenly. Under the law authorities may quickly reject asylum claims from individuals without formal registration as asylum seekers, allowing the cases of registered asylum seekers to be considered more quickly, and requires the Government to conduct refugee status interviews within 15 days of the application. However, asylum seekers in detention centers were sometimes unable to apply for refugee status and had limited or no access to legal and other assistance. As a result, many asylum seekers remained undocumented and faced arrest, detention, and deportation. In addition, the law allows for the deprivation of refugee status for suspicion of involvement in activities that pose a threat to the national security, public order, or health of the population of the country.

Police harassment of individuals with dark skin, and to a lesser degree, Asians, continued during the year. There were also multiple credible reports from human rights NGOs and diplomats that refugees, particularly those from Africa and Asia, were regularly abused at detention centers in Zakarpattya Region, which borders EU member states Poland, Slovakia, and Hungary. Detainees, in particular Chechen and Afghan nationals interviewed by HRW in March 2005, reported physical and psychological abuse at centers in Kyiv, Lviv, Chernihiv, Chop and Rava Ruska.

The State Border Service announced in June that it had opened a modern refugee center in Chop, which can accommodate 46 people. It is the first mixed gender detention center built to European standards in the country.

According to human rights NGOs, conditions at the old Chop detention center were poor. Refugees were crammed into tiny cells, given polluted drinking water,

and had to use outdoor toilets. The center was unheated in winter and many refugees lacked warm clothing; some had no shoes.

There were reports that the makeshift Pavshyno detention center received no state funds during 2005. Border guards generated income, including their own salaries, by "leasing" migrants to a neighboring factory (see section 6.c.). Border guards also illegally released detained migrants whose families paid bribes, usually in the amount of \$1,200 (6,000 hryvnia), transferred via wire. Border guards also stole food packages and phone cards provided to refugees by the EU. Border guards only accepted asylum applications prepared by lawyers whom the migrants had to pay for their services; the lawyers then split their fees with the guards. Applications prepared by NGO lawyers working pro bono were not accepted.

Conditions at the Mukacheve detention center for migrant women and children were somewhat better than at Chop. According to human rights groups, the temporary accommodation and refugee processing center in Latoritsa, which opened in June, met all international standards.

In October two modernized facilities were opened, one at the Chernihiv Frontier Detachment and the other in Lviv, which can accommodate 24 and 32 undocumented migrants, respectively.

HRW reported that limited access to interpreters for refugees infringed on rights of due process and limited asylum seekers' ability to challenge detention. In April 2005 officials rejected the submission of an asylum seeker from Cote d'Ivoire who tried to send his correspondence with the migration department in French. The migration official reportedly stated that it was the applicant's problem that he did not speak Ukrainian, and that he should find an interpreter himself.

In 2005 human rights organizations reported acts of violence against asylum seekers and refugees. For example, in December 2005 a group of young men dressed in military uniforms beat two Iranian asylum seekers near the Sviatoshin subway station in Kyiv.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The Constitution and the law provide citizens with the right to change their government peacefully through periodic elections, and citizens exercised this right in practice during the March parliamentary elections and in a small number of local elections. All elections were held on the basis of universal suffrage.

*Elections and Political Participation.*—Verkhovna Rada elections held on March 26 were the freest elections in the country's fifteen years of independence. They were the first conducted since the introduction of a number of changes to the electoral process, most significantly that all candidates ran on party lists and the threshold for a party to win seats in the parliamentary was lowered to three percent. There were pre-election concerns about voter lists and staffing polling station commissions, but independent monitors attributed these problems to disorganization rather than a government effort to exclude parties or voters from participation. The elections went smoothly and observers reported that they were free, fair, and transparent. The Organization for Security and Cooperation in Europe (OSCE) assessed that the elections were in compliance with domestic law, met OSCE and Council of Europe commitments, and the overwhelming majority of voters were able to exercise their voting rights. Five of the 42 parties running received enough votes to win seats in the parliament. There were reports of isolated cases of pressure from local enterprise directors and employers to vote for a designated candidate.

In contrast to the parliamentary elections, there were some problems in local elections also held in March for representation to regional and local councils and mayors. There were accusations that authorities manipulated the vote count in some elections. The mayoral election in Cherkasy was particularly controversial, as authorities prohibited a series of popular candidates from running based on corruption charges that observers said were politically motivated, and the election results were cancelled. The regional election commission there was unable to convene a new election. Courts, the prosecutor general's office, and the Verkhovna Rada investigated this election and a new vote was held on November 5, which international and domestic observers determined to be free of major fraud. November 26 mayoral elections in Chernihiv and Poltava, where the elected mayors chose to take Verkhovna Rada seats to which they were elected rather than remain local officials, occurred without evidence of major fraud; a third mayoral contest held on the same day in Kirovohrad was nullified after local election officials removed one candidate from the ballot hours before the polls opened, leaving the candidate no recourse to the courts. The election will be re-run in February 2007.

Individuals and parties could, and did, freely declare their candidacy and stand for election.

To be registered at the national level, political parties must maintain offices in at least half of the regions and may not receive financial support from the state or any foreign patron. The Supreme Court reserves the right to ban any political party upon the recommendation of the Ministry of Justice or the prosecutor general. No parties were banned during the year.

There were 38 women in the 450-seat Verkhovna Rada. The 18-member constitutional court had three female members.

The exact number of minorities in the parliament was not available due to privacy laws. Among the members there were ethnic Russians, Bulgarians, Crimean Tatars, Armenians, Hungarians, Georgians, and Jews. Yuriy Yekhanurov, who served as prime minister until August, is half ethnic Buryat. The current cabinet includes members who are ethnic Greek and ethnic Russian.

Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean Parliament; current law does not allow the creation of political parties on the regional level, so Crimean Tatars must join national political parties.

According to statistics from the Mejlis (the Tatar representative body), the Tatars, who make up 12 percent of the population of Crimea, occupied 8 percent of the seats in the Crimean Parliament. Four of the 25 officials in the Crimean government were Tatars, including one deputy prime minister. Two of the 12 heads of raion (county-level) administrations in Crimea appointed by the President were also Tatars. Tatar representation in other Crimean ministries, including in law enforcement agencies, was 1 percent or less. There are also two Crimean Tatars in the Verkhovna Rada.

*Government Corruption and Transparency.*—Corruption remained a serious problem in the executive and legislative branches of the Government, including the armed services. The SBU reported that it launched 167 criminal investigations of bribery and uncovered 1,795 incidents of corruption, including 35 by high-ranking state officials, during the year. The SBU fired 76 employees and disciplined another 300 persons for corruption-related offenses in the first ten months of the year.

The judiciary suffered from corruption. In April the media reported that the head of a local court in the Lviv region was detained while soliciting a bribe and another judge from Kherson was sentenced on September 27 to three years in prison for falsifying documents. According to a January public opinion survey by the Institute for Regional Development Studies, 80.7 percent of respondents said that national level authorities are the “most corrupt” institution in the country.

The Government reported that investigations did not find sufficient evidence of wrongdoing to pursue charges stemming from September 2005 accusations from then head of the Presidential Secretariat, Oleksandr Zinchenko, that key officials close to President Yushchenko were guilty of corruption.

Although weeding out corruption from government was a theme of the Orange Revolution, the Yushchenko government made little progress in prosecuting former officials suspected of corruption. Parliamentary immunity continued to shield members of parliament suspected of committing crimes. Party of Regions member Boris Kolesnikov avoided prosecution following his 2005 arrest on extortion charges and became a member of the parliament after the March elections. On April 4, parliament abolished immunity for locally elected officials, (which had been enacted in September 2005) resulting in 12 criminal cases against officials in one region alone, although many cases that had begun before the immunity decision were not subsequently pursued.

In Sumy region prosecutors pursued cases against former high-level officials for embezzlement and bribery. Former Sumy mayor Volodymyr Omelchenko and former local council member Olha Krutushkina face prison sentences. Krutushkina was appealing a seven year sentence, while hearings began in the Omelchenko case in August. During the year two precinct committee chairs in Kirovohrad from the 2004 election were also convicted for fraudulent actions and sentenced to two and five year terms, respectively.

In August the office of the prosecutor general initiated a criminal investigation of a senior Ministry of Defense official accused of accepting \$580,000 (roughly three million hrynia) in bribes.

In April the Cabinet of Ministers reviewed state-run oil and gas company NaftoHaz’s financial plan and found that mismanagement of funds contributed to the company’s difficulties. In August the Verkhovna Rada established two investigatory commissions to review NaftoHaz finances and corruption in the energy sector. A preliminary report from the commission found that certain irregular financial and business activities of NaftoHaz appeared to constitute criminal offenses. In one instance cited by the report, the company allegedly paid a gas supplier twice for the same gas, resulting in significant financial damage to the state.

The Constitution and the law provide the right of access to information, with exceptions for national security. Government bodies are required to respond to requests within 10 days and provide the information within 30 days. Denials can be appealed to a higher level at the agency concerned and then to a court.

Many human rights organizations and journalists said that access to official information remained difficult during the year. Government officials did not understand the rules concerning releasable information, and Soviet-style attitudes and traditions of secrecy were prevalent among officials. At a September 28 press conference, human rights organizations announced that the prosecutor general's office had the highest refusal rate for information requests among government agencies. Government information was usually available through web sites, but Internet access was still relatively limited both in terms of technology and overall number of users. Prominent government watchdogs, including former member of parliament Inna Bohoslovskaya, noted that the Government generally posted information on the Internet only after important decisions were made. Information on the process by which the Government made important decisions usually was not available to the public. The 2005 International Helsinki Federation Report for Human Rights noted that the Soviet-era practice of issuing secret Presidential decrees on matters that did not involve national security or personal privacy continued.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials met with domestic and international human rights NGOs and often were cooperative and responsive to their views. However, the NGO community complained that authorities remained generally unwilling to make policy changes in response to their recommendations. According to the Ukrainian Psychiatric Association, the Ministry of Health did not always cooperate with human rights groups attempting to monitor abuse of psychiatry (see section 1.d).

During the year President Yushchenko held a roundtable discussion with key civic and NGO leaders and the Government set up several public advisory councils in order to reinforce public oversight and cooperation between government and civil society organizations. In May the Ministry of Justice set up a council, chaired by a civic leader, to monitor the human rights situation in prison facilities. In July the SBU formed another council consisting of reputable politicians, NGO activists, and independent experts to provide civilian oversight and to increase transparency of its activities. The chairman of the Kharkiv Human Rights Protection Group, Yevhen Zakharov, said that following the establishment of a similar council at the Ministry of Internal Affairs, law enforcement institutions demonstrated greater willingness to cooperate with NGOs.

Major independent, non-partisan, national human rights NGOs included the Committee of Voters of Ukraine, the Kharkiv Human Rights Protection Group, the Ukrainian Helsinki Human Rights Union, the Institute for Mass Information, the Independent Media Union, the Roma Congress of Ukraine, the Ukrainian-American Bureau for the Protection of Human Rights, La Strada, the Congress of National Communities of Ukraine, Donetsk-based Memorial, and the Dnipropetrovsk-based Association of Soldiers' Mothers.

The Government generally cooperated with international governmental organizations, including the UN and the Parliamentary Assembly of the Council of Europe (PACE). Government officials met with the PACE President during his visit to Odesa in August to examine the progress of reform in the fields of human rights and the rule of law. PACE and ECHR observers made multiple visits to the country to discuss human rights issues. However, authorities often refused to share important information regarding refugees with the UNHCR (see section 2.d.).

Persons have the right to appeal to the ECHR about alleged government human rights violations. The ECHR ruled on 120 cases involving Ukraine and found violations of ECHR rights in 119 cases during the year.

On May 31, the Cabinet of Ministers issued a resolution putting the Ministry of Justice in charge of implementing ECHR judgments and representing the country in the ECHR. In August Justice Minister Roman Zvarych introduced a requirement that all draft legislation and legal acts be compliant with the European Convention on Human Rights.

During the year three ECHR cases received national press attention:

On March 28, the ECHR awarded Oleksandr Melnik \$13,350 (10,500 euros) for his detention in an overcrowded prison cell, without adequate medical care and in

unsatisfactory sanitation conditions, and with no recourse to complain about the conditions of his detention.

On April 4, the ECHR awarded Sergey Shevchenko \$25,400 (20,000 euros) for the failure of the authorities to conduct an effective and independent investigation into the death of his son at his army post.

On August 10, the ECHR ruled that authorities violated the right of freedom of expression of journalist Oleh Lyashko, former editor of the independent Kyiv weekly *Polityka*, by sentencing him to two years imprisonment for writing articles criticizing public figures, and awarded Lyashko \$3,800 (3,000 euros.)

The Constitution mandates the position of human rights ombudsman, officially designated as the Parliamentary Commissioner on Human Rights. Nina Karpachova, who had served one and a half terms, was elected to the Verkhovna Rada in March and announced her resignation on November 16 to take her seat in parliament. Her replacement had not yet been nominated at year's end and must be confirmed by the Verkhovna Rada. In December 2005 a group of 18 major human rights organizations called for Karpachova's resignation on the grounds that her decision to run in the elections undermined the "impartiality and independence" of the ombudsman's office. She submitted a resignation letter in May, but continued to act as the ombudsman. Since citizens cannot address the constitutional court directly, all citizens and residents may address their concerns to the ombudsman and the ombudsman serves as intermediary between citizens and the court. The law provides the ombudsman with unrestricted and unannounced access to any public official, including the President, and to any government installation. The law also gives her the authority to oversee the implementation of human rights treaties and agreements to which the country is a party; however, it does not provide penalties for obstruction of the ombudsman's investigations or effective enforcement authority for the ombudsman.

The ombudsman's office consisted of approximately 100 full and part-time workers, but according to the ombudsman, limited funding of the office continued to hamper its effectiveness. The ombudsman continued to make the combating of trafficking in persons and improving pretrial detention facility conditions major priorities during the year. Ombudsman Karpachova last issued an annual human rights report to parliament in July 2005.

The Verkhovna Rada has a Committee on Human Rights, National Minorities, and Interethnic Relations which is chaired by Communist Party member Leonid Hrach, who took office on July 11. In January the Committee increased the number of subcommittees to nine. The subcommittees cover: human rights; interethnic relations; indigenous people; national minorities and ethnic groups; deported peoples and national minorities; victims of political repression; gender policy; refugees and migration; Ukrainians living abroad; international law; and ethical policy and prevention of domestic conflict. Credible human rights NGOs considered the committee's work to be of significant value.

#### *Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The Constitution and the law prohibit discrimination on the basis of race, sex, and other grounds; however, the Government did not enforce these provisions effectively, in part due to the continuing absence of an effective judicial system. Violence against women and children, trafficking in persons, and harassment and discrimination against ethnic minorities and homosexuals were problems.

*Women.*—Violence against women remained a serious problem. Spousal abuse is illegal but was common, and the authorities often pressured women not to press charges against their husbands. One major NGO estimated that at least 50 percent of all women have been subjected to physical violence or psychological abuse at home.

According to the Ministry of Internal Affairs, almost 15,000 women die annually after being beaten by their husbands, and almost 70 percent of women suffer from various forms of humiliation and abuse in their families. According to the ministry, only 18 percent of citizens are aware of the law on preventing domestic violence. The NGO Legiteam, which educates judges on human rights issues, said that most judges were unaware of the law adopted in 2006 stipulating gender equality.

According to the Ministry of Internal Affairs, during the first 11 months of the year, 70,888 domestic violence complaints were made to Ukrainian law enforcement agencies. During that same period, courts issued rulings in 67,639 domestic violence cases. Warnings were issued to 5,412 people, 52,739 people were fined, 277 were sentenced to community service, and 8,973 were jailed.

The Government increased the number of state-run hot lines, shelters, and other forms of practical support for victims of abuse. During 2005–2006, authorities opened six shelters for victims of domestic violence, 18 crisis centers that provided

a wide range of services to women going through crises such as divorce, loss of a son while on military duty, or domestic violence, and 24 centers for psychological and medical assistance. The law requires authorities to operate a shelter in every major city, but in practice they did not do so. According to AI, private shelters were not always accessible. For example, one shelter in Kyiv refused to accommodate three women because they had neither Kyiv registration nor a medical certificate with HIV/AIDS test results. Violence against women did not receive extensive media coverage despite the efforts of human rights groups to highlight the problem.

The law prohibits rape but does not explicitly address spousal rape. A law against "forced sex with a materially dependent person" may allow prosecution for spousal rape. According to statistics from the Ministry of Internal Affairs, during the first 11 months of the year, 868 incidents of rape or attempted rape were reported to the police.

Prostitution is illegal but widespread and largely ignored by the Government. Sex tourism rose as the country attracted greater numbers of foreign tourists. On January 12, the parliament passed tougher criminal penalties for human trafficking and coerced prostitution. However, previous laws criminalizing organized prostitution have had little effect.

Trafficking in women for sexual exploitation was a serious problem (see section 5, Trafficking).

Women's groups reported that there was continuing widespread sexual harassment in the workplace, including coerced sex. While the law prohibits forced sex with a materially dependent person, which includes employees, legal experts regarded the safeguards against harassment as inadequate.

The law mandates equal legal rights for men and women and establishes legal protections against gender discrimination. However, human rights observers and women's groups noted that discrimination against women continued to be a common problem in the workplace. The Government and private businesses regularly specified the gender of employees in their help wanted advertisements, and employers frequently demanded information about a woman's family situation and subsequently used it to deny employment to women who were likely to become pregnant. Physical appearance and age were often taken into account in employment decisions involving women.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally was observed. However, industries that were dominated by female workers were also those with the lowest relative wages and the ones most likely to be affected by wage arrears.

Few women held top managerial positions in the Government or in state-owned or private industry. However, the number of female members of the parliament increased from 25 to 38 after the March elections. Nadiya Deyeva in Dnipropetrovsk, Nina Harkava in Sumy, and Vira Ulyanchenko in the Kyiv region served as the first female governors in the country. The 18-member constitutional court had three female judges.

*Children.*—The Government was publicly committed to the defense of children's rights, but budgetary considerations severely limited its ability to ensure these rights. The International Labor Organization's International Program on the Elimination of Child Labor (ILO/IPEC), together with a number of local NGOs, funded projects dealing with child labor, child trafficking, street children and the commercial exploitation of children that actively promoted children's rights at both national and local levels. Faith-based organizations also continued their work with orphans and street children. First Lady Kateryna Yushchenko, in her capacity as head of the steering committee of the charitable foundation Ukraine 3000, worked with the Ministry of Health and private businesses to raise funds to improve health care for needy and disabled children.

On May 11, the Government approved the State Program to Combat Child Homelessness and Neglect for 2006–2010. The document identifies child labor as a contributing factor for child homelessness. The program aims to identify and provide support to at-risk families, although it is unclear if there is funding for the program. On June 26, the Government approved the plan of action to implement the National Program on Youth Support for 2006–2008. The plan seeks to increase awareness among youth regarding education and vocational training opportunities, develop and support youth centers and recreational institutions, and improve rehabilitation centers for youth in crisis. The parliament ratified the EU Convention on the Exercise of Children's Rights (1996) on August 3.

Education is free, universal, and compulsory until age 15; however, the public education system continued to suffer from chronic inadequate funding. Teachers were usually paid their salaries during the year, but other monetary benefits due them were not paid in some localities. Children from poor families continued to drop

out of school during the year, and illiteracy, previously very rare, remained a problem. The All-Ukraine Committee for the Protection of Children reported that lack of schooling remained a significant problem among the rural population. The problem of growing violence and crime in and outside of schools persisted, particularly in the notoriously violent vocational schools, and discouraged some children from attending school. Roma rights organizations reported numerous incidents of discrimination against Roma children in schools (see section 5, national/racial/ethnic minorities).

Health care was provided equally to girls and boys, but the overall quality of the health care system was poor.

Children continued to be victims of violence and abuse. In 2006 the Ministry of Internal Affairs cited over 80,000 families for violence against children, issued approximately 1.5 million official warnings with regard to domestic violence, and initiated over 1,000 criminal cases concerning child abuse. There were also many complaints of abuse of children related to child prostitution, pornographic video sales, child molestation, and illegal child labor.

According to NGOs, police often ignored legal requirements and did not investigate parents who allegedly abused their children. For example, a police inspector in Kirovohrad region refused to initiate a criminal case against a father who beat his child regularly and did not remove the child from the father. The local prosecutor initiated a criminal case against the police officer.

Human rights organizations reported police violence against minors, including sexual violence. For example, in April the Zaporizhzhya regional prosecutor initiated a criminal case against police officers for the illegal detention and rape of a child. At year's end, the investigation was ongoing.

There also were numerous cases of teachers abusing children. The prosecutor's office in Kherson started a criminal case against a teacher at a boarding school accused of slamming the head of a sixth-grader against a desk and beating two other pupils outside of class hours. Human rights organizations reported similar incidents in Vinnytsya, Khmelnytsky and Chernivtsi.

The legal marriage age is 18 for males and 17 for females, but the law stipulates that a person who has reached the age of 14 may apply to a court for permission to marry if "it is established that marriage is in the person's best interest." Experts stated that under-age marriage was not a significant problem; however, media in Zakarpattya Region have characterized under-age marriage among Roma as a problem.

Trafficking in children was a serious problem (see section 5, Trafficking).

The commercial sexual exploitation of children remained a serious problem. According to domestic and foreign law enforcement officials, a significant portion of the child pornography available on the Internet continued to originate in the country. According to the Ministry of Internal Affairs, by the end of September, 150 criminal cases had been opened related to the manufacture and circulation of child pornography, and police had closed major child pornography studios in Dnipropetrovsk, Donetsk, Luhansk, and Lviv.

Child labor was a problem (see section 6.d.).

The number of homeless children, usually children who left poorly maintained orphanages or poor domestic conditions, remained high. Estimates of the number of homeless children varied widely. The vice premier for humanitarian and social affairs stated in April 2005 that there were approximately 150,000 homeless children in the country, but the State Service for Minors reported in July 2005 that there were only 30,000. In June the national newspaper *Ukraina Moloda* quoted experts as putting the number at 129,000.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were numerous reports that persons were trafficked to, from, and within the country.

The country remained a point of origin for internationally trafficked men, women, and children. The main destinations were Russia, Turkey, Western and Central Europe, particularly Poland and Czech Republic, and the Middle East.

The country also was a transit route for individuals from Central Asia, Russia, and Moldova. The International Organization for Migration (IOM) reported as of June 30 that at least 15 individuals from Moldova, Russia, Kyrgyzstan, and Uzbekistan had been trafficked through Ukraine to Turkey and United Arab Emirates.

The IOM did not identify any cases of Ukraine as a destination country for trafficked individuals, but did identify internal cases of trafficking. As of June 30, the IOM reported five cases of internal trafficking, but believed the actual number to be 100 times greater.

Seventy-six percent of victims identified by IOM during the year were women who were forced into prostitution and used as housekeepers, seamstresses, dishwashers, and at various small and large manufacturing plants. There is still a lack of statistical information regarding male victims of trafficking; however, the number of men identified as victims of trafficking for labor exploitation, mainly as construction workers and miners, increased. One challenge with male victims was their reluctance to acknowledge they had been trafficked and the authorities' tendency to prosecute the cases on the basis of non-trafficking related statutes. Children who were trafficked across the border or within the country were forced to provide sexual services, engage in unpaid work, or beg.

According to an IOM study, the targeted groups for trafficking were women up to 30 years of age for sexual exploitation and older women for labor exploitation, men of all ages, and children under the age of 16. According to local NGOs, children who had to leave orphanages at 18 were also at high risk since they had no family support structures in place, had difficulty finding work, and often had no place to live.

Victims were usually trafficked into conditions of severe exploitation: beatings, limited and low-quality food, no medical assistance, and long hours of work. In one instance, the IOM reported that women trafficked to Turkey were forced to take antibiotics and contraceptive pills without regular medical supervision.

Estimates regarding the number of trafficked citizens varied, but an IOM poll revealed that one out of every 10 persons knew someone in their community who had been trafficked.

Employment, travel, marriage, and modeling agencies as well as individual recruiters were involved in recruitment. Most traffickers were members of organized crime groups, had foreign partners, and bribed corrupt officials to facilitate the movement abroad of victims. The number of men and women among recruiters was almost equal. Sometimes women served as success stories for potential victims, flaunting how much money they ostensibly earned abroad. The majority of recruiters were identified as citizens.

Traffickers used the same methods to recruit victims as they did in previous years, including advertisements in newspapers and on television and radio stations that offered jobs abroad with high salaries or promises of modelling contracts, marriage proposals, and trips through travel agencies. Traffickers often presented themselves as friends of other friends and deceived the relatives of potential victims. The traffickers often paid for the processing of passports and travel documents for the victims, thus placing them into debt bondage. In some cases the traffickers kidnapped their victims.

The law provides for penalties of three to eight years' imprisonment for trafficking in persons for various purposes, including sexual and labor exploitation, both internal and international. Under some circumstances—trafficking of minors aged 14 to 18, or of groups of victims—traffickers may be sentenced to prison terms from five to 12 years, and traffickers of minors under the age of 14 or members of organized trafficking groups may be sentenced to terms from eight to 15 years.

In the first six months of the year, over half of the individuals convicted for trafficking received prison sentences rather than probation. Experts urged authorities to improve their prosecution record by establishing a specialized trafficking trial prosecutors unit and by extending the witness protection program to trafficking victims. In the spring the prosecutor general dismissed the proposal to create a specialized antitrafficking unit in his office. The Ministry of Internal Affairs maintained that the witness protection program, which focuses on providing physical security to witnesses during the period of the trial, had to be limited due to funding constraints, to witnesses who were believed to be in immediate danger. From 2001 to 2006 only two of the 1,741 victims of trafficking who participated in court cases were judged to qualify under those conditions. Authorities conducted a number of closed court hearings in order to protect the identity of victims, but no statistical data is maintained on how many of these hearings were held each year.

In the first half of the year, the number of investigations and prosecutions of suspected traffickers did not increase relative to the same period in 2005. This stagnation was attributed to the adoption of tougher antitrafficking legislation in February and the need for police officers and prosecutors to familiarize themselves with the new code as well as to restructure their cases. As of September, according to statistics supplied by the Ministry of Internal Affairs, 282 cases had been filed involving 296 victims, including 35 minors. The authorities broke up 21 organized criminal rings involved in human trafficking during the same period. In the first six months of the year, 50 court cases were completed, 37 of which resulted in the conviction of 40 defendants. Of the 40 persons convicted, 19 received suspended sentences, five were given to up to three years in prison, eight received three to five year sentences,



six received five to eight year sentences, one received an eight to 10 year sentence, and one was given a 10 to 15 year sentence. As of October, 49 criminal trafficking cases were pending in the courts. The percentage of persons sentenced to prison terms relative to probation increased from 41 percent in 2005 to 51 percent in the first six months of the year. The trend may reflect the impact of a number of antitrafficking seminars and trainings conducted for judges in 2005–2006 by the IOM, OSCE, and foreign governments.

During the year the Ministry of Internal Affairs continued to strengthen the professional capabilities of its department for combating trafficking by introducing specializations. The department has branches in each of the ministry's 27 regional directorates, with approximately 600 officers dedicated exclusively to combating trafficking. During the year the department actively expanded its cooperation with foreign embassies' consular sections in Kyiv.

The Government reported that it regularly reviewed the licenses of domestic employment agencies. In a limited number of cases, the Ministry of Labor and Social Policy withdrew agency licenses because of involvement in trafficking. However, Ministry of Internal Affairs officers claimed that some labor officers involved in this process were either corrupt or would "close their eyes" to violations of the law committed by the employment agencies in sending persons abroad to work.

The Government sought to cooperate with foreign governments to investigate and prosecute trafficking cases; however, efforts were hampered by a number of factors, including insufficient investigative resources, the reluctance of many victims to give evidence against traffickers, and a lack of timely cooperation from law enforcement officials in most destination countries.

Corruption in the judiciary and police continued to impede the Government's ability to combat trafficking. NGOs asserted that local police and border guards received bribes in return for ignoring trafficking, as did judges for lighter sentences for traffickers. Authorities did not disclose official statistics on corruption related to trafficking. The low number of prosecutions of government officials for such activities raised questions about whether the Government was willing to take serious disciplinary action, especially against high-level officials. Antitrafficking experts noted that prosecutors were often the weakest link in the fight against trafficking, as their negative stereotypes of victims, lack of aggressive prosecution, and the difficulties in obtaining evidence from abroad led to the low number of cases brought to court.

Some victims testified against traffickers, but most were reluctant to seek legal redress. This reluctance was due largely to a lack of trust of the law enforcement agencies and the courts, negative public opinion toward trafficking victims, a lack of access to witness protection programs, and a lack of understanding on the part of investigators and judges that there may be real threats against the victims from traffickers or their accomplices. Skepticism that civil courts would award significant compensation deterred most victims from filing civil cases.

The IOM operated a comprehensive medical center and shelter for victims of trafficking in Kyiv that provided medical and psychological services, including vocational counseling, and seven shelters located in major cities and funded by the European Commission with local administrations providing the premises at a nominal fee. In addition 27 local NGOs provided reintegration assistance to trafficking victims. The IOM disbursed funds to more than 50 civil society and faith-based organizations to raise trafficking awareness among vulnerable segments of society. The NGO La Strada-Ukraine operated a national toll free hot line on trafficking prevention.

Government cooperation with NGOs on antitrafficking programs was steady during the year. Local administrations continued to include NGOs as partner organizations in their regional action plans, but most funding of NGOs and shelter continued to be provided by the international donors and not the Government.

During the year several television stations broadcast documentary films and informational programs highlighting the danger of human trafficking. NGOs conducted general awareness campaigns throughout the country, often in cooperation with government entities. International organizations conducted trafficking prevention information campaigns with entertainment celebrities as spokespersons. In September First Lady Kateryna Yushchenko appeared at a nationally televised event where she urged the public to be more supportive of trafficking victims.

The Government worked to improve assistance provided by its diplomatic missions to victims in destination countries. In the first nine months of the year, the country's overseas consulates helped repatriate 271 citizens who were victims of trafficking. The Ministry of Foreign Affairs set up a center in Kyiv and five other major cities to provide free consultations to citizens regarding their rights in foreign countries.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or other state services. However, the Government did little to increase opportunities for persons with disabilities, and advocacy groups maintained that there was societal discrimination against persons with disabilities. The law mandates access to buildings and other public facilities for persons with disabilities, but it was poorly enforced. In June 2005 President Yushchenko issued a decree ordering the Government to ensure that persons with disabilities could physically access government and public buildings. There were some efforts made to comply with the decree, but most public buildings remained inaccessible.

Only 13 percent of the country's 2.5 million persons with disabilities were employed, according to statistics from the Ministry of Labor and Social Policy, although the total number of employed disabled persons increased from 272,000 in 2005 to 344,000 during the year. Labor Minister Ivan Sakhan said that an employment program for 400,000 persons with disabilities was 86 percent filled, although the program was not successful in Crimea, Dnipropetrovsk, Donetsk, Ivano-Frankivsk, Mykolayiv, Rivne, and Kherson regions and in Kyiv city due to too few positions in these regions and there was lax regional budgetary oversight. According to the ministry's data, up to 45,000 of the country's 122,600 disabled children undergo specialized medical treatment in rehabilitation institutions. Altogether, up to 9,100 people with disabilities studied in academic institutions and 1,850 disabled students received a free university education at 26 regional branches of the "Ukraine" Open International University for Human Development with tuition paid for by local governments.

On May 6, disability rights NGOs held demonstrations to protest discrimination against persons with disabilities. According to Ivan Marusevych, head of the Center for Rehabilitation of the Disabled in Wheelchairs, the Government did not pay sufficient attention to the disabled and did not provide "adequate life conditions."

According to the Charitable Society to Support Persons with Disabilities and the Mentally Handicapped, the Government did not comply with the law on psychiatric assistance, which provides for a quota of jobs for mentally handicapped people. According to Semyon Gluzman of the Ukrainian Psychiatric Association and the Ukrainian-American Human Rights Bureau, "psychiatric hospitals remain a risk zone for torture and cruel behavior; many psychiatric hospitals continue using archaic and very painful methods of treatment that were criticized by Western psychiatrists 20–30 years ago; the absence of public watchdog councils at psychiatric hospitals aids abuse by medical personnel; Ukrainian courts refuse to create precedents of prosecuting doctors and other medical personnel who abuse their posts and deprive patients of basic rights."

There were two members of the Verkhovna Rada with disabilities, one of whom served as deputy head of the Verkhovna Rada Committee on Pensioners, Veterans, and Persons with Disabilities.

*National/Racial/Ethnic Minorities.*—Harassment of racial minorities was a continuing problem. The police routinely detained dark-skinned persons for arbitrary document checks, whereas document checks of light-skinned individuals were rare. Although authorities disciplined police who engaged in this harassment when incidents were brought to their attention, such behavior remained common. In December, the Kharkiv Group for Human Rights stated on its website that it received numerous complaints from foreign students about racially motivated harassment and violence. The group added that the biggest hindrance to investigation and prosecution of these cases is the victims' and witnesses' fear of reporting these incidents to the police. AI reported that incidents of racial hatred and xenophobia were increasing, influenced by skinheads and neo-Nazi groups in Russia, as well as locally-based neonationalist organizations National Patriotic Party, Brotherhood, and National Alliance youth NGO. According to the Ministry of Internal Affairs, police launched 175 criminal cases involving foreigners during the year, of which 26 were committed by citizens against foreign nationals. Only in one case, involving a Nigerian killed in Kyiv, did the police consider xenophobia as a possible factor. On October 25, a group of skinheads killed a Nigerian citizen, Godknows Kunou Mievi, who had resided in the country for 25 years. The Darnitsa Neighborhood Prosecutor initiated a criminal investigation and three suspects were detained. There were no criminal charges against the suspects at year's end. There were multiple reports of racially motivated violence against persons of African and Asian heritage by skinheads.

On October 31, a group of unidentified young men beat a female Iranian student from one of Poltava's academic institutions. Several human rights organizations, including the Kharkiv Group for Human Rights Protection and AI, stated that this case was an example of the increase of ethnically motivated violence.

On December 28, Gambian student Lamin Jarjou died of multiple stab wounds in Kyiv in what the media and local Gambian community believe was a racially motivated attack. The police investigation was ongoing and there were no arrests.

Representatives of minority groups claimed that police officials routinely ignored, and sometimes abetted, violence against them. In December 2005 a group of 15–20 young men dressed in military uniforms and white scarves beat two Iranians in Kyiv. The police investigation did not result in any arrests. As reported by the OSCE, the country lacked effective legal means to combat racism and xenophobia since existing laws require a very high level of proof of prior intent to stir up ethnic hostility. As a result, prosecutors preferred to deal with racist crimes as hooliganism or other simpler to prove offenses.

An estimated 400,000 Roma are living throughout the country, mainly concentrated in the Zakarpattia, Odesa, Mykolayiv, and Kyiv regions.

During the year police continued to abuse Roma and use violence against them. On May 19, police in Zakarpattia arrested a Rom without informing him of the charge, used ethnic slurs against him, beat him severely, and robbed him of almost \$3,000 (15,000 hryvnia.)

Roma also faced considerable societal hostility. Opinion polls indicated that social intolerance is greater toward Roma than toward any other ethnic group. On June 19, the European Roma Rights Center (ERRC) submitted a report to the UN Committee on the Elimination of Racial Discrimination about increased discrimination against the Romani community. In particular, the ERRC described instances of refusal to enroll Romani children in schools. For example, one local high school in the Odesa region segregated 19 Romani students from other students by placing all of them, irrespective of age, in a single classroom with one teacher in a building separate from the newer main school building. In many areas of the country, poverty often forced Romani families to withdraw their children from school so that they could work to supplement the family income. There were numerous reports of Roma being evicted from housing, removed from public transportation, denied public assistance, kicked out of stores, and denied proper medical treatment.

In October the ERRC complained to the UN Human Rights Committee about violence against Roma in the country, racial targeting and profiling by police against Roma, discrimination in social programs and employment against Roma, and the widespread lack of necessary documentation for Roma to enjoy access to social services and protections. In addition, the Ukrainian Helsinki Human Rights Union reported that letters of complaint about violence against Roma were often discarded by local authorities.

The Constitution provides for the “free development, use, and protection of the Russian language and other minority languages,” but in the run-up to the March parliamentary elections and immediately afterwards, the status of Russian was an issue. A number of local and regional governments in areas where the population mainly speaks Russian decided to grant official status to the Russian language. Pro-Russian organizations and political parties in the eastern and southern parts of the country and in Crimea complained about the increased use of Ukrainian in schools, the media, and the courts. These groups claimed that Russian-speaking children were disadvantaged when taking academic entrance examinations, since all applicants were required to take a Ukrainian language test. According to Ministry of Education statistics, 1,500 schools taught students in the Russian language while 550 schools taught students in two languages, either Russian and Ukrainian or Russian and Crimean-Tatar. In addition, 27,000 schoolchildren studied in Romanian, around 20,000 were taught in Hungarian, 6,000 in Crimean-Tatar, and 1,400 in Polish.

On December 21, a Party of Regions representative on the Luhansk city council, Arsen Klinchayev, beat Serhiy Melnychuk after an argument during a live television talk show on a local network. According to Melnychuk, Klinchayev told him to leave Luhansk if he did not like to speak Russian. Melnychuk, a student at the Institute of Law and History at the East Ukrainian National University in Luhansk, won a court case in November against the university requiring it to provide instruction in Ukrainian.

Ukrainian and Crimean Tatar minorities credibly complained of discrimination by the ethnic Russian majority in Crimea and called for the Ukrainian and Crimean-Tatar languages to be given a status equal to Russian. Crimean Tatar leaders also continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean legislature (see section 3).

Crimean Tatar leaders complained that their community, whose members have returned over recent decades after having been forcibly exiled from the Crimea during World War II, were not receiving adequate assistance in resettling. Returning Tatars were given land plots on the peninsula, but only inland, and not along Cri-

mea's desirable southern coast from which Tatars claimed they were exiled. The onerous process of acquiring citizenship, eased somewhat with the removal of the five year residency requirement in 2001, prevented many of them from participating in elections and deprived them of a fair opportunity to participate in the privatization of land and state assets in the 1990s. The newly privatized land was subsequently priced beyond their means. There were almost 8,200 protests about the land issue this year, in contrast to 2,500 protests in 2005. Tatars asserted that discrimination by mainly ethnic Russian officials in Crimea deprived them of employment in local administrations and that propaganda campaigns, particularly by Russian Cossacks, promoted hostility against them among other inhabitants of Crimea.

In an October 14 rally in downtown Kyiv, Progressive Socialist leader Natalya Vitrenko incited racial hatred of Crimean Tatars in public comments aimed at pitting ethnic Russians in Crimea against Tatars.

Crimean Tatars reside in 300 settlements, some of which are not fully developed: only 90 percent of them have electricity, 70 percent water, and 25 percent paved roads. In May the Cabinet of Ministers approved a program to spend \$130 million (675 million hrynia) over the next five years to help settle returning Crimean Tatars and members of other ethnic groups and provide assistance for integrating them into society, including building or purchasing housing. The resolution also allows measures for facilitating the return of cultural property of Crimean Tatars taken out of the country after the deportation and for developing media broadcasting in the ethnic languages.

On May 22, President Yushchenko established a 28-member advisory council of government officials and NGO leaders on ethnic national policy.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country, noting that neighboring countries accept them as minorities. As of September, 26 Sunday schools for Rusyns were open in Zakarpattya with the support of the World Council of Rusyns to teach the language, literature, and history of Rusyns.

*Other Societal Abuses and Discrimination.*—International human rights organizations have criticized widespread discrimination against persons with HIV/AIDS and lack of access to treatment. Routine police abuse of drug users and sex workers also contributed to the problem. Although the country's national AIDS law is often held up as a model in the region for incorporating human rights protections for people living with HIV/AIDS, implementation has been weak. Persons with HIV/AIDS continued to face discrimination in the workplace, job loss without legal recourse, harassment by law enforcement, prosecutorial, and judicial authorities, and social isolation and stigmatization within their communities.

On May 17, members of Nash Mir, the country's leading NGO that advocates for gays and lesbians, held an "international day against homophobia" demonstration in front of the Economics and Law College of the Inter-Regional Academy of Personnel Management (MAUP) to protest the expulsion of a gay student from the college in March 2005.

In September approximately 100 people in Kyiv participated in a march against homosexuality. They held signs declaring: "HOMO dictatorship will not be allowed; politicians, protect our families!"

*Incitement to Acts of Discrimination.*—Several government publications portrayed Roma as criminals. On March 24, Selskiy Chas, a Kyiv-based newspaper co-founded and managed by the Ministry of Agriculture, carried an article entitled, "Beware of Drug Trafficking" that explicitly linked Roma to drug dealing. The Romani Congress of Ukraine also noted Osnovy Zdorovya, a fourth grade health textbook recommended by the Ministry of Science and published in 2004, which teaches children what to do when strangers appear outside the door of their home. Pictures accompanying the text showed a white Ukrainian boy peering through the peephole in the door at a darker-skinned young girl and a large, menacing woman dressed in stereotypical 'Gypsy' clothing (headscarf, hoop earrings and flower-print dress) lurking in the shadows.

Mejlis members and Crimea-based human rights groups criticized the Crimean government for permitting schools to use officially-sanctioned textbooks that contained inflammatory and historically inaccurate material about Tatar Muslims. Human rights activists specifically noted that a popular textbook for fifth graders, Viktor Misan's *Stories on the History of Ukraine*, contained more than 20 pejorative references to Muslims, including the assertion that Tatar children had frequently used "elderly and disabled Ukrainian captives for archery and saber practice." Similarly, A.K. Shchvidko's eighth-grade textbook, *History of Ukraine, 16–18th Centuries*, depicted Muslims in a negative light, asserting, that "there wasn't a year when Tatars didn't invade Ukraine, burn its villages and towns, slaughter its citi-

zens, and take prisoners.” One Crimea-based human rights group noted that such misinformation collectively created an impression among young persons that “Tatars are bad for Ukraine and that to kill and rob them is a blessed deed.”

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers to join unions to defend professional, social, and economic interests, and this right was generally respected in practice. Large companies and some local government officials continued to resist the formation of unions.

Under the law, all trade unions have equal status, and the establishment of a trade union does not require government permission. However, unions affiliated with the Federation of Trade Unions (FPU), which maintained strong ties with the Government and inherited assets from the official Soviet-era unions, enjoyed an advantage in organizing workers.

In order to function as an organization for all practical purposes, a union must have proof of registration as a legal entity. Unions reported this registration process was extremely burdensome, entailing visiting up to 10 different offices, submitting extensive documentation, and paying a number of fees.

In order to acquire national status, which allows a union to negotiate and sign agreements directly with government ministries and to communicate officially with the Cabinet of Ministers and President, a union must either have branches in more than half of the country’s administrative regions or have branches in more than half of the administrative regions where the enterprises of this sector are located. The law stipulates noninterference by public authorities in the activities of unions, which have the right to establish and join federations on a voluntary basis. There were both “official” and “independent” trade unions.

All unions affiliated with the FPU, as well as several new, independent labor unions, were registered. Although often coordinating its activities with the Government, the FPU continued to work independently on some labor matters and advocated the right of workers to strike. While the FPU supported the protests of some professions over unpaid wages, most FPU affiliates worked closely with management. Enterprise managers were free to join the FPU. The FPU leadership had a political party, the All-Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. As of September 1, there were 111 trade unions registered with the Ministry of Justice, including 44 national level, industrial sector FPU unions and 67 non-FPU trade unions. The Confederation of Free Trade Unions of Ukraine (CFTU) reported as of September that it had only seven national level unions registered. The CFTU estimated its total membership at 242,000. While exact membership figures were unknown, there were estimated to be 2.3 million non-FPU members (down from 3 million in 2002) and 11.2 million members of FPU-affiliated unions (down from 14.5 million in 2002). These estimates are likely exaggerated, however, and the FPU believed that only 75 percent of formally registered affiliates actually operate in practice.

Independent unions continued to be denied a share of the former Soviet trade unions’ huge property and financial holdings. These included the social insurance benefit funds, a Soviet-era legacy on whose boards FPU-affiliated unions held the majority of seats, giving them a benefit the independent unions could not offer. The FPU made no substantive progress during the year in negotiating an equitable sharing of these property and financial holdings. Leaders of non-FPU trade unions claimed that the FPU improperly sold off some Soviet-era assets in order to thwart their future distribution.

Independent trade union leaders complained that government representatives sought to influence union votes and pressure members to report on union activities. They reported a noticeable increase in pressure applied to members of independent trade unions, who were often identified as political allies of the political opposition, following the formation of Yanukovich’s government in the summer. As of September the CFTU reported 14 separate cases in which employers refused to recognize newly formed, independent trade unions or allow them to participate in collective bargaining. The CFTU complained that employers, in conjunction with leaders of local FPU affiliates, pressured independent unions in most of these cases to disband.

Workers sometimes claimed that management forced them to carry out additional assignments without compensation because they were members of independent unions or threatened them with dismissal if they refused to leave their union. In two cases leaders of independent unions complained they were physically assaulted by representatives of management as part of a campaign of intimidation. In another case involving an independent union at Mariupol and Kherson ports, the Mariupol

city district court declined to rule on the union's complaints, citing improper jurisdiction.

Leaders of an independent union at the Linnik oil refinery in Luhansk complained of harassment by the SBU following a May 14 training seminar with a local representative of the American Center for International Labor Solidarity (affiliated with the AFL-CIO). The union leaders said that SBU officers interrogated them regarding their cooperation with the solidarity center and the CFTU, urged them to cease such activities, and subsequently broke into their offices. Leaders of independent unions at three coalmines in the city of Chervonohrad complained that on August 28, Ministry of Interior officials searched their offices and seized documents, including membership applications. They claimed that the Office of the Prosecutor General had issued search warrants in violation of the Constitution.

*b. The Right To Organize and Bargain Collectively.*—The law permits trade unions to organize and participate in collective bargaining, but these rights were not always respected in practice. There are no export processing zones since they were abolished by the Government in March 2005.

According to the law joint worker-management commissions should resolve problems concerning wages, working conditions, and the rights and duties of management at the enterprise level. Although the law provides the right to collective bargaining, overlapping spheres of responsibility frequently impeded the collective bargaining process; the manner in which the collective bargaining law was applied prejudiced the bargaining process against independent unions and favored official unions (affiliates of the FPU). Collective bargaining agreements covered 90 percent of unionized employees in the formal sector according to a November 2005 World Bank study. Most workers were not informed that they were not obligated to join an official union. Renouncing membership in an official union and joining an independent union was bureaucratically onerous and typically discouraged by management. The law allows an independent union to be removed easily from the collective bargaining process at the enterprise level. Under the law if several unions at an enterprise fail to agree on joint representation, the largest union—that is the FPU—represents labor in the bargaining process.

The law provides for the National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, the service addressed 214 labor disputes during first eight months of the year, resolving 71 of them.

The law provides for the right to strike to defend one's economic and social interests, provided strikes do not jeopardize national security, public health, or the rights and liberties of others; the Government generally respected this right. It does not extend the right to strike to personnel of the Office of the Prosecutor General, the judiciary, armed forces, security services, law enforcement agencies, the transportation sector, or public servants. Workers who strike in prohibited sectors may receive prison terms of up to three years.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see section 5 and section 6.d.).

There were continued media reports of alternative service military conscripts being used as compulsory labor in the construction and refurbishing of private houses for military and government officials.

At an August 24 protest at Polytsk correction facility number 76, the prisoners included among their complaints being forced to work at private companies without fair compensation.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, but the Government did not always effectively enforce the law. The legal minimum age for employment in most areas of the economy is 16, but in certain non-hazardous industries, enterprises may negotiate with the Government to hire employees as young as 15 with the consent of one parent. Children aged 14 can legally work on a short-term basis for social services such as orphanages, hospitals, and elderly care and in the agricultural sector with the consent of one parent.

The State Department for Monitoring Enforcement of Labor Legislation with the Ministry of Labor and Social Policy is responsible for enforcing child labor laws and was generally effective; however, some children under the minimum employment age worked in the informal sector. An amendment to the Law on Child Protection, adopted in February, prohibits trafficking in children and children working in hazardous conditions.

Children worked in the agricultural sector, and trafficking of children for the purpose of forced labor and sexual exploitation was a problem (see section 5). Begging by children existed, although it was limited. According to the International Labor

Organization and Federation of Employers of Ukraine, over 456,000 Ukrainian children aged 9–14 are employed in the illegal economy. This includes street begging, the sex industry, and use of child labor in illegal coalmines. In the formal sector the State Department of Surveillance Over Labor Legislation Observance and the State Labor Inspectorate are responsible for enforcing child labor laws and policies. The Department of Juvenile Affairs and the police are responsible for identifying children in the informal sector that are involved in worst forms of child labor.

Enforcement measures were often inadequate to deter violations. The ILO/IPEC had a regional anti-trafficking project aimed at eradicating the worst forms of child labor and child trafficking, including street children and other children at risk.

*e. Acceptable Conditions of Work.*—The Government increased the monthly minimum wage at year's end to \$80 (400 hryvnia). The minimum wage did not provide a decent standard of living for a worker and family. The State Labor Inspectorate is responsible for enforcing the minimum wage but was unable to thoroughly monitor all employers. Many workers, especially in the informal sector, received far below the minimum wage.

Since the beginning of the year, wage arrears increased approximately 14 percent and, as of August 1, stood at \$218 million (1.1 billion hryvnia), equal to about 8.4 percent of total wages. Most arrearages accumulated in state-run industry and agriculture. The biggest wage arrearages accumulated in Donetsk oblast \$55 million (277 million hryvnia), Luhansk oblast \$23 million (113.2 million hryvnia), Dnipropetrovsk oblast \$12 million (61.5 million hryvnia) and Crimea \$10 million (50.0 million hryvnia). The FPU estimated that 430,000 employees, about half of whom worked in state-owned enterprises, did not receive wages on time. The FPU filed a formal complaint with the ILO in an effort to oblige the Government to pay outstanding wages.

The law provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries significantly reduced the workweek for some categories of workers. The law provides for double pay for overtime work and regulates the amount of overtime hours allowed. However, regulations covering rest periods, maximum hours, and overtime were not always effectively enforced.

Although the law contains occupational safety and health standards, these frequently were ignored in practice. In particular, illegal coalmines connected to organized crime and corrupt leaders operated in unsafe conditions. Lax safety standards and aging equipment caused many injuries on the job. During the first six months of the year, there were 9050 injuries, including 437 job-related fatalities. The number of miners injured in the coal sector during the first half of the year was 3,383, including 78 fatalities.

In the coal mining sector experts estimated that there were approximately two deaths for every million tons of raw coal extracted in 2005, down from 2.57 in 2004. Increased enforcement of safety regulations was a major factor in this reduction, although the numbers remained quite high. In May 2005 the Government established a coal industry development program, as well as working groups to analyze the situation in the mining and metallurgical sector, but these efforts did not result in any substantial improvements in health and safety in the mines.

On August 15, the Yanukovich government restored the State Committee of Industrial Safety, Occupational Health, and Mining Supervision, which had been abolished in April 2005, and its functions incorporated into the Ministry of Emergencies. The committee will resume duties as the primary watchdog for coalmine safety.

The law gives workers the right to remove themselves from dangerous work situations without jeopardizing continued employment; however, independent trade unions reported that in practice, asserting this right would result in retaliation or perhaps dismissal by management.

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## UNITED KINGDOM

The United Kingdom of Great Britain and Northern Ireland, with a population of 60.6 million, is a constitutional monarchy with a democratic, parliamentary government. Citizens periodically choose their representatives in free and fair multiparty elections; a national parliamentary election took place in May 2005. The Government is currently led by the Labour Party. Civilian authorities generally maintained effective control of the security forces.

The Government generally respected the human rights of its citizens; the law and judiciary provide effective means of addressing individual instances of abuse. The

following human rights problems were reported: increased police misconduct; occasional abuse of detainees and other persons by individual members of the police and military; overcrowded prison conditions and some inadequate prison infrastructure; increased limitations on freedom of religious expression; violence and discrimination against ethnic and religious minorities, including increased anti-Semitism, women, and children; and trafficking of persons into the country.

In Northern Ireland improved communications between loyalist and republican political leaders, the October St. Andrews Agreement establishing timetables for the reestablishment of devolved government, and continuing ceasefires by paramilitary organizations created a more stable political environment, fewer deaths from political violence, and an improved human rights environment. A decreasing number of "punishment attacks" continued in some areas under the influence of both republican and loyalist paramilitary groups.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, according to the Independent Police Complaints Commission (IPCC), police shot and killed five persons during the year in the performance of their duty. On June 2, the Metropolitan Police conducted a counterterrorism operation in east London, shooting and wounding suspect Muhammad Abdulkahar during the raid. An IPCC investigation determined that the shooting was an accident resulting from close contact between the officer and Abdulkahar in a very narrow space. The officer involved was not charged with a criminal or disciplinary offense.

In July 2005 members of the Metropolitan Police Service (MPS) fatally shot Jean Charles de Menezes; the shooting occurred the day after failed bombing attempts in London and two weeks after terrorist attacks that killed 56 persons. The police subsequently stated that de Menezes was not a suspect in the terrorist attacks. On July 17, the Crown Prosecution Service (CPS) determined that there was insufficient evidence to bring charges against any individual officer. However, the Metropolitan Police was expected to face charges for failing to provide for the health, safety, and welfare of the victim. Lawyers for the de Menezes family have appealed to the High Court to overturn CPS's decision not to prosecute the officers involved; a decision was pending at year's end.

Hearings began in several cases involving allegations of government involvement, collusion, or culpability in three controversial killings that took place in Northern Ireland in the 1980s and 1990s. A special judicial tribunal held hearings during the year in the case of Billy Wright; however, a challenge remained pending to the decision in 2005 to hold this inquiry under the Inquiries Act of 2005. The Robert Hamill inquiry slowed due to a dispute over the request for anonymity by retired police officers who provided evidence. In November a court ruled against the special tribunal's denial of anonymity to the officers, which the special tribunal appealed. A separate inquiry into the 1989 killing of prominent human rights attorney Pat Finucane remained pending. Due to concerns that the British Inquiries Act would lead to a biased investigation, the Finucane family and human rights groups favored an independent public judicial inquiry into Finucane's murder.

During the year there was one high-profile killing by unknown persons. On November 23, former Russian intelligence officer Aleksandr Litvinenko died in London as a result of radioactive poisoning by polonium-210 (a highly restricted substance) by unknown actors. At year's end, investigations into the death continued in both the country and Russia. There were no allegations that the Government was implicated or complicit in the killing.

During the year there were some developments in killings for which paramilitary forces appeared to be responsible. On December 19, an inquest took place into the 2001 murder of journalist Martin O'Hagan who was investigating criminal activities by a loyalist paramilitary group. At the inquest, a police inspector stated that O'Hagan's murder was still under investigation but that he believed the police knew who was responsible.

The Independent Monitoring Commission (IMC) reported that loyalist paramilitary groups were thought to be responsible for two killings in Northern Ireland between September 2005 and August during the year. The IMC was unable to place blame in three other killings, including the April murder of Sinn Fein member Denis Donaldson, who admitted publicly in December 2005 to having been a British spy. The IMC, however, continued to monitor developments in the Donaldson and other cases.



In October the IMC reported that the Provisional Irish Republican Army had committed itself to following "a peaceful path."

In September authorities opened court-martial proceedings against seven soldiers, including a high ranking officer, on charges of mistreating Iraqi detainees and for the death of an Iraqi civilian, Baha Musa, in 2003. The hearings continued at year's end. In 2005 four soldiers were convicted and dismissed from the army in relation to abuse of Iraqis in their custody.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, there were complaints that individual members of the police occasionally abused detainees.

In December 2005 the House of Lords Judicial Committee reversed an appeals court decision and ruled that even in terrorism cases no court could consider evidence obtained through torture.

In November Human Rights Watch published a briefing paper, *Dangerous Ambivalence: UK Policy on Torture since 9/11*, accusing the Government of actively undermining the global ban on torture. The report was critical of the Government's efforts to deport terrorism suspects to countries where the suspects might be at risk of torture or death. The Government has memoranda of understanding with Jordan and Libya to return terrorism suspects on the condition that returnees will not be tortured, verified by post transfer, independent monitoring conducted by local NGOs. The report also criticized the Government's appeal to the European Court of Human Rights to set aside judgments affirming the absolute ban on torture.

During the year the Special Immigration Appeals Commission, an immigration court, denied the appeal of an Algerian man against deportation to Algeria; the man alleged that he would face torture if returned because he had been tortured there previously. Although there were reports of Algerian security forces using torture, the Government concluded, based on commitments in an exchange of letters with the Algerian government, that the Algerian authorities would not abuse Algerian citizens that the British government deported or who voluntarily returned to Algeria. The Government offered individuals returning to Algeria regular contact with its embassy to ensure they had means to communicate to the Government on their condition and treatment upon return to Algeria.

During the year six Algerian terrorism suspects voluntarily left the country and returned to Algeria in accordance with the exchange of letters. The individuals who voluntarily left the country to return to Algeria were offered the assistance of the British government, including through regularly scheduled contact with embassy officials, either at the instigation of the individual or of the embassy, whichever the returnee preferred. None were reported to have experienced abuse by Algerian authorities at year's end.

The IMC reported that there was a marked reduction in "punishment attacks" and intimidation in areas under the influence of both loyalist and republican paramilitary groups in Northern Ireland, although the practice continued. The IMC recorded a 44 percent reduction in shootings and assaults with casualties attributed to paramilitary groups. For the period September 2005 to August, 109 shootings and assaults attributed to paramilitary groups took place. Twenty-one of these were carried out by Republican groups and 88 by Loyalists. This compared to a total of 193 such incidents between September 2004 and August 2005, of which 52 were attributed to Republican groups and 41 to Loyalists.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. However, overcrowding and poor facilities were problems, and suicides occurred. In October the Prison Service reported there were 79,843 prisoners in England and Wales, an increase of 2,069 over a one-year period. Prison governors warned that jails were at a "bursting point" and that only 125 more spaces were available. Widespread press coverage prompted Home Secretary John Reid to announce corrective measures, including freeing up hundreds of local police cells for use, using women's prisons to house male inmates, and a controversial plan to pay prisoners from outside Europe a package of up to \$5,000 (2,500 pounds) to leave the country. The lord chief justice, Lord Phillips, also called for courts to make more use of community service sentences; his proposal was subsequently endorsed by the Home Office.

During the year the daily average of prisoners in Scotland was 6,857, slightly less than in 2005. In previous years hundreds of prisoners in Scottish prisons sued the Scottish Executive over conditions that did not meet European Union standards, particularly the lack of plumbing in individual cells. In 2005 "slopping out," which is used in lieu of toilets, was ended at Her Majesty's Prisons (HMP) Perth and Edin-

burgh; however, the practice continued at HMP Young Offenders Institute in Polmont and HMP Peterhead.

According to its annual report covering April 2005 through March, the Prison and Parole Ombudsman for England and Wales investigated 368 prisoner complaints, approximately half of which were upheld. According to the report, there were also 197 fatalities of individuals in police custody in England and Wales, of which 94 were due to natural causes and 83 self-inflicted. An additional 131 prisoners were resuscitated after serious self-harm incidents. A 2005 Prison Reform Trust report stated that the institutions with the highest number of suicides were generally the most overcrowded and that nearly two-thirds of those who committed suicide in prison had a history of drug abuse.

In Scotland eight prisoners committed suicide between April 2005 and March. There were a total of 24 deaths of persons in custody during this time frame due to a variety of causes, including poor health, accidents in the course of employment, and drug overdose.

The Government permitted independent human rights observers and the media to visit prisons and immigration detention centers. During the year the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published reports on its two visits to the country in 2005, along with the Government's responses. The reports contained a number of recommendations, including that the Government remind police to avoid unnecessary force during arrests, always bring a detainee physically before the judge responsible for deciding whether to extend that individual's detention, and amend the law to ensure that all persons arrested have the right of access to a lawyer from the beginning of their arrest. The CPT also made recommendations on the use of diplomatic assurances in memoranda of understanding prior to deportations to countries where there is a risk of torture.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—In Great Britain regional police forces (43 in England and Wales and 8 in Scotland) are responsible for maintaining law and order. In Northern Ireland the PSNI has that responsibility. On April 1, the Government created the Serious Organized Crime Agency (SOCA) by amalgamating several previous agencies. SOCA is tasked with fighting organized crime throughout England and Wales. The Independent Police Complaints Commission (IPCC) is responsible for effectively dealing with complaints against the police, setting standards for how the police handle complaints, and assisting police forces with making improvements. The police Ombudsman for Northern Ireland has the same role. There currently is no independent police ombudsman in Scotland to investigate complaints against police forces. Complaints in Scotland are investigated by the police station where an incident occurs.

According to the IPCC, from April 2005 until March there were a total of 26,268 public complaints lodged against police in England and Wales. This was an increase of 15 percent from the previous reporting period. Complaints ranged from improper behavior, inappropriate language, or lack of action by someone serving with the police. During the same period in Northern Ireland, the police ombudsman received 3,192 complaints that involved 5,381 allegations of police misconduct, an increase of 23 percent from the previous year. A total of 169 of these complaints were ultimately referred to the public prosecution service, of which only five contained recommendations for prosecution. The police ombudsman and the police service of Northern Ireland credited this increase to enhanced expectations by the public in the police and increased police engagement in areas historically unreceptive to police service.

*Arrest and Detention.*—Police officers generally may arrest persons only if they have reasonable grounds for suspecting that someone has committed or is about to commit one or more listed "arrestable offenses." Even if the crime in question is not an arrestable offense, a police officer may arrest a person without a warrant, provided the officer believes the arrest is necessary to prevent damage to property or physical injury. The law provides for certain exceptions related to terrorism, particularly in Northern Ireland.

The law limits the amount of time that a suspect can be detained without a formal charge for a criminal offense, generally to less than 24 hours, but up to four days in cases of rape, murder, and complex fraud. The law also requires that an inspector review the detention at set intervals to ensure that it is necessary and lawful. The law provides for the Government to promptly inform suspects of the criminal offenses for which they are being investigated.

On March 30, the Terrorism Act of 2006 was enacted, allowing the police to detain terrorism suspects for up to 28 days before formally charging them. The Government used this law to detain 17 suspects following the August terror plot to hijack commercial aircraft and blow them up over foreign cities.

Defendants awaiting trial have a statutory right to bail except when there is a risk that they would flee, commit another offense, or in other limited circumstances. Detainees are allowed to make telephone calls and have legal representation, including state-provided counsel if indigent.

The law permits extended detention of foreigners suspected of being terrorists, but who cannot be removed from the country immediately due to concerns that they will be subjected to torture or the death penalty in their country of origin. Such detainees have the right to appeal their certification by the Government as terror suspects. The Government concluded memoranda of understanding with some countries to permit the return of suspected terrorists to their countries of origin and was seeking similar agreements with others, despite NGO concerns with the human rights records of those countries (see section 1.c.).

The Prevention of Terrorism Act of 2005 permits a judge (or the home secretary with a judge's permission) to impose "control orders" on individuals suspected of involvement in terrorism-related activities, regardless of nationality or perceived terrorist cause. The control orders include a range of restrictions up to house arrest. In April a high court judge declared that Section 3 of the act was incompatible with the right to a fair trial according to the European Convention on Human Rights.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

There are several levels of courts. In England and Wales, most criminal cases are heard by magistrates' courts, which were managed by locally-based committees. Their decisions may be appealed to one of 90 crown courts, which also hear criminal cases requiring a jury trial, or to the high courts. Crown court convictions may be appealed to the Court of Appeal, which may in turn refer cases involving points of law to the Lords of Appeal in Ordinary (the Law Lords), who constitute the country's final court of appeal. The Criminal Cases Review Commission is an additional appellate body in England, Wales, and Northern Ireland and considers cases after the judicial appeals process is exhausted, but where significant new evidence casts doubt on the conviction.

In Scotland the High Court of Justiciary acts as a court of first instance for serious crimes, such as rape and murder, and also serves as an appellate body. There are 49 sheriff courts, which handle lesser crimes. District courts in each local authority handle crimes such as breach of peace, minor assaults, and petty theft. Civil matters can be handled in the first instance by either the Court of Session, which is the supreme civil court in Scotland, or by sheriff courts. Decisions by the Court of Session can be appealed to the Law Lords.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The law allows for jury trials, except in England and Wales when the jury has been intimidated, when "compelling new evidence" arises after a previous acquittal, or when evidence of a defendant's previous misconduct is to be introduced. In Northern Ireland trials for certain terrorism-related crimes also do not allow juries in what are known as "Diplock courts." In December Parliament passed legislation that would abolish these courts in July 2007, however judge-only trials would continue in exceptional cases where juries could be intimidated.

Criminal proceedings must be held in public except those in juvenile court and those involving public decency or security. In a trial under the Official Secrets Act, the judge may order the court closed, but sentencing must be public.

Defendants have the right to be present and consult with an attorney in a timely manner and to question witnesses against them. Defendants have access to government-held evidence relevant to their cases through a process of Common Law disclosure except in certain circumstances including the damaging of defense witness credibility, claims of public interest immunity, and material which falls under statutory exceptions such as national security.

Defendants have the right to appeal to successively higher courts; they also enjoy a presumption of innocence until proven guilty. Indigent defendants have the right to free counsel of their choice, with some exceptions.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The law permits communications data surveillance, to include Internet usage, in the interests of national security, to prevent or detect a crime, and in the interests of public safety. The use of surveillance requires the approval of the secretary of state. Interception warrants are overseen by an independent interception of communications commissioner and public complaints of surveillance abuses are investigated by the Investigatory Powers Tribunal.

The Internet was widely available throughout the country and was available at no cost in public libraries. Approximately 62 percent of the population used the Internet according to European Union statistics.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

Referring to boycotts of academics working in Israel called by two teachers' associations, a parliamentary report on anti-Semitism concluded that such efforts were "an assault on academic freedom and intellectual exchange" (see section 2.c.).

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly and the Government generally respected this right in practice.

In Northern Ireland residents in some Catholic communities perceived certain parades by protestant loyalist groups to be threatening or provocative. The law grants responsibility for ruling on "contentious" marches to a parades commission, which may not ban marches but may impose conditions such as route restrictions. Due to efforts within the communities and coordination with the police service, the July loyalist parade marching season was considered the most peaceful and trouble free in many years.

*Freedom of Association.*—The law provides for freedom of association and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

On February 16, the Government enacted the Racial and Religious Hatred Act and the Equality Act applicable throughout Great Britain. The Racial and Religious Hatred Act amended a previous law by creating new offenses for stirring up hatred against persons on religious grounds. The Equality Act made it illegal to discriminate on the grounds of "religion or belief" or the "lack of religion or belief" in the provision of goods, facilities and services, education, the use and disposal of property, and the exercise of public functions.

In February Muslim cleric Abu Hamza al-Masri was sentenced to seven years on six charges of soliciting others to murder Jews and non-Muslims, 21 months on three charges of incitement to racial hatred, three years for possessing "threatening, abusive or insulting recordings," and three and one-half years for having a document useful to terrorists. The sentences were to run concurrently.

There are two established (or state) churches, the Church of England (Anglican) and the Church of Scotland (Presbyterian). The monarch is the "supreme governor" of the Church of England and always must be a member of the church and promise to uphold it. Two Anglican archbishops and 24 bishops receive automatic membership in the House of Lords but clergy from other faiths are not automatically granted this privilege. The archbishops of Canterbury and York on retirement are also offered life peerages. Clergy of other faiths are not automatically granted these privileges.

The Government does not require religious groups to be recognized officially, registered, or licensed. However, the Government does not consider the Church of Scientology and the Unification Church as religions for the purpose of visas for ministers of religion or missionaries. In 2005 the Home Office lifted a long-standing ban on Unification Church leader Reverend Sun Myung Moon from entering the country. Reverend Moon was granted a visa limited to attendance at a one-day conference in November 2005. According to the department of communities and local government, the Government asserts the right to exclude individuals from the country on the grounds that their presence is not conducive to the public good, even where the public expression of religious or other beliefs by that individual is part of the reason

for exclusion. The term “public good” is not defined in this context by the Government.

The law requires religious education in publicly maintained schools throughout the country. The content of religious instruction is decided on a local basis and must be nondenominational and refrain from attempting to convert pupils. All parents have the right to withdraw a child from religious education, but the school must approve this request.

Schools in England and Wales also must provide a daily act of collective worship, which may be waived if a school’s administration deems it inappropriate for some or all of the students. Under some circumstances, non-Christian worship may be allowed.

While most state-supported schools were Protestant or Roman Catholic, there were 36 Jewish, four Muslim, two Sikh, one Greek Orthodox, and one Seventh-day Adventist state-supported schools. Other Christian denominations accounted for 115 of the schools.

*Societal Abuses and Discrimination.*—According to the Home Office, the police recorded 50,000 racially or religiously motivated hate crimes during 2005. The British Crime Survey (BCS), which is based on interviews with a wide sample of persons and includes crimes that are not reported to police, indicated that there were 260,000 such offences in 2005. The metropolitan police alone reported 11,799 incidents of racist and religious hate crime.

In March the Law Lords, the court of last resort, ruled in favor of a high school in Luton that expelled a Muslim teenager, Shabina Begum, for contravening its dress code. In 2002 the school had expelled her for wearing a jilbab, a traditional dress that leaves only the face and hands exposed, which violated the school’s dress code. The school, which was 79 percent Muslim and had a Muslim headmaster, created the policy after consultation with local Muslim organizations. Ms. Begum was considering appealing the case to the ECHR.

A Muslim teaching assistant was fired in October for insisting on wearing a veil in a language class when adult males were present in the classroom. The incident was widely covered in the press, stimulating much public discussion in the wider community about Muslim integration and statements from government officials. Then Foreign Minister Jack Straw reported that he asked veiled women to remove their veils in his office when talking to him and Prime Minister Tony Blair indicated that although he considered the veiling of Muslim women in British society to be inappropriate (anti social), he would not support compelling veil removal by law.

In October British Airways banned an employee for openly wearing a small Christian cross necklace. When she refused to remove or cover up the cross the airline sent her home on unpaid leave. The airline allowed Muslims and Sikhs to wear the veil and turbans but did not allow employees to wear any jewelry. Christians claimed the airline’s policy was discriminatory on religious grounds and set a double standard.

The Muslim community continued to criticize police use of “stop and search” powers, as well as the 28-day detention powers for terrorism suspects. On May 18, the Islamic Human Rights Commission published a survey of Muslims in the country. Respondents generally perceived the country’s antiterror laws as unfair towards Muslims and society as lacking respect for Muslims. The report indicated, however, that the majority of respondents supported British laws.

The Muslim community was subject to an increased number of anti-Muslim incidents following the July 2005 bombings of London’s transport system. The bombings, carried out by Muslims, created a backlash against Muslims in the form of verbal and physical assaults, vandalism, arson, anti-Muslim literature, and Internet postings. Hindus and Sikhs, misidentified as Muslims, were also targets. The Government publicly encouraged citizens to show restraint and established intercommunal forums to foster dialogue between communities.

During the year government and NGO reports indicated that anti-Semitism had been on the rise since 2000 and was not restricted to the margins of society. There were approximately 300,000 Jews living in the country, with two-thirds of the Jewish community living in London and 10 percent living in Manchester.

The Community Security Trust’s (CST) Anti-Semitic Incidents Report 2006 reported 594 anti-Semitic hate incidents throughout the country during the year. This was a 31 percent increase from the 455 incidents recorded in 2005, and was the highest total since records began in 1984. The total included 112 violent assaults (up 37 percent from 2005); 365 incidents of abusive behavior (up 34 percent from 2005); 27 threats (up 8 percent from 2005); and 70 incidents of damage and desecration of Jewish communal property (up 46 percent from 2005). According to the CST, July and August had the highest number of incidents which were most likely triggered by the conflict involving Israel and Lebanon during those months.

In August a 12-year-old Jewish school girl boarding a bus was assaulted by a group of her fellow male and female students; before being beaten into unconsciousness and robbed by them, she was asked whether she was "English or Jewish."

In September the All-Party Parliamentary Inquiry into Anti-Semitism released a comprehensive report on the status of anti-Semitism in the country, identified deficiencies in the Government's approach to dealing with the problem, and offered recommendations to government. The report concluded that anti-Semitism was on the rise, with one leader of the community saying that "there is probably a greater feeling of discomfort, greater concerns, greater fears now about anti-Semitism than there have been for many decades." The report also noted that the Jewish community "has had to provide security guards for synagogues, Jewish schools, buildings and events costing the community millions of pounds annually." The report also noted that an extremely small number of police forces recorded anti-Semitic incidents as such and that the Government's annual Racist Incident Monitoring Report did not break down racist crime into smaller subcategories. The report also expressed concern that only one in ten incidents reported to the police resulted in any proceedings against the perpetrator.

The All-Party Parliamentary Inquiry also noted concern over anti-Semitism on university campuses. The Union of Jewish Students, in its testimony, noted that Jewish students "have become increasingly alarmed by virulent and unbalanced attacks on the state of Israel and the failure of student bodies and organizations to clearly and forcefully condemn anti-Semitism when it occurs." A lecturer at a public London university told a Jewish student who sought to explain his absence on religious festivals that he should choose between his religion or his degree. Another Jewish student was told that since her university is a secular institution it does not need to take any account of a student's religion and that since she refused to take exams on the Jewish Sabbath, the university would think twice about enrolling anyone with a Jewish name in the future.

In May the National Association of Teachers in Further and Higher Education (NATFHE), the largest higher education union, passed a motion at its annual conference for all members to boycott all Israeli academics. In 2005 the Association of University Teachers passed a motion boycotting Israel's Haifa and Bar Ilan universities at its annual conference. These academic boycotts have not been suggested against other countries. A report by the All-Party Parliamentary Inquiry into Anti-Semitism released on September 7 concluded that such actions were "an assault on academic freedom and intellectual exchange." Witnesses for the report also noted that the debate moved beyond criticism into anti-Semitic demonizing of Israel; contained Nazi analogies and suggestions that Israel was "a fascist state," described a Jewish group as a Zionist operation, and asserted that "campus Jews" who turned out to block the boycott were not "proper trade unionists."

In October the High Court upheld an appeal by the mayor of London, Ken Livingstone, to overturn a month-long suspension he received for bringing his office into disrepute when he likened a Jewish reporter to a Nazi concentration camp guard. The court's Justice Collins noted that the mayor should have apologized and realized his comments not only offended the journalist but was "likely to be regarded as an entirely inappropriate observation by Jews in general." The Anti-Defamation League and other NGOs noted that the mayor had a history of making anti-Semitic remarks.

In 2004 a public secondary school in Horsham banned a group of teenage Christians from wearing "purity rings." The rings were inscribed with a biblical verse and worn as a symbol of their belief in chastity until marriage. Several students were punished with detentions and taught in isolation from other students for wearing the rings. The school claimed the rings violated its strict uniform code. Muslims and Sikh students, however, were allowed to wear headscarves or kara bracelets as a means of religious expression. Christians continued to complain that the policy is discriminatory and permitted a double standard, and they argued that the punishment of teaching in isolation had a detrimental effect on students' education. At year's end some parents and students were considering legal action.

For a more detailed discussion, see the 2006 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

Although there is no law prohibiting exile, the Government did not employ it.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for pro-

viding protection to refugees. In practice the Government provided protection against refoulement, the return of persons to a country where they feared persecution; however, the Government limited this right for persons from "safe countries of origin." The Government granted refugee status or asylum.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and its 1967 Protocol. In 2005 approximately 3,085 persons were not recognized as refugees but were granted permission to remain in the country.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The law authorizes the home secretary to institute a list of safe countries of origin (or safe regions of certain countries) for all residents or for particular classes of persons. The Government considered asylum claims from such individuals as unfounded.

The law also casts doubt on the credibility of applicants who claim asylum in the country after having passed through a safe country of transit. Furthermore, the law permits asylum seekers to be removed to a third country deemed responsible for adjudicating an applicant's claim.

### *Section 3. Respect for Political Rights: The Right of Citizens To Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The Government is formed on the basis of a majority of seats in the House of Commons, which are contested in elections held at least every five years; elections for members of Parliament took place in May 2005. The Government appoints the other chamber of Parliament, the House of Lords. Participation in the political process is open to all persons and parties. Other elected bodies, such as the Scottish Parliament and the Welsh Assembly, control matters of regional importance, such as education, health, and some economic matters.

The overseas territories, with an aggregate population of approximately 212,000, have varying degrees of self-government based on the United Kingdom model, with appointed governors.

There were 126 women in the 646-seat House of Commons and 142 in the 736-seat House of Lords. There were eight women in the 23-member cabinet, and 30 women held ministerial posts (23 from the House of Commons and seven from the House of Lords). There was one woman among the 12 Law Lords. There were 15 members of ethnic minorities in the House of Commons, 24 in the House of Lords, and one in the cabinet.

*Government Corruption and Transparency.*—During the year allegations surfaced that "life peerages" and other honors were offered to individuals in return for large donations or loans to some political parties in what the press termed the "loans for peerage" scandal. Life peerages grant all the privileges of hereditary peerage, including a seat in the House of Lords, except that it cannot be passed to the recipient's children. The existence of the loans emerged after the Lords Appointments Commission, an independent watchdog that reviews party nominations for new peers, raised concerns about some of the individuals nominated during their vetting process. Some nominees later withdrew their nominations following a public outcry. Police were conducting an ever-widening investigation at year's end, although detectives had not charged anyone with a crime.

The law allows for public access to information held by public authorities. Anyone can request information, regardless of age, nationality, or location. There was a mechanism to appeal denials. However, in October the lord chancellor, Lord Falconer, proposed limiting the number of freedom of information requests that opposition politicians, campaign groups, and journalists could submit to the Government. Under the proposals, requests for sensitive and controversial information would also be likely to be refused. Lord Falconer claimed that the proposals might lower the costs of researching each request and free up a government minister's time.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

In December the Government arrested Vincent Bajinya, Charles Munyaneza, Celestin Ugirashebuja, and Emmanuel Nteziryayo after they were accused by the Government of Rwanda in an extradition warrant of murdering, and aiding and abetting the killing of Tutsis in 1994. The Government also cancelled the refugee status of Ugirashebuja and Munyaneza.

*Section 5. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, nationality, gender, sexual orientation, or disability; however, some groups continued to experience societal discrimination.

*Women.*—The law prohibits domestic violence, including spousal abuse, and the Government strictly enforced the law with penalties ranging up to life imprisonment. Nonetheless, violence against women continued to be a problem. According to the British Crime Survey (BCS), there were 1,210 indecent assaults on females and 21,816 sexual assaults on females between 2005 and 2006. The law provides for injunctive relief, personal protection orders, and protective exclusion orders (similar to restraining orders) for women who are victims of violence.

Between 2005 and 2006, police in Scotland recorded 45,796 incidents of domestic abuse. Incidents with a female victim and male perpetrator represented 87 percent of the cases. Of the incidents, 52 percent led to the filing of charges for at least one crime or offence.

The law, which was enforced strictly, criminalizes rape, including spousal rape, and provides substantial penalties ranging up to life imprisonment. From April 2005 through March, BCS recorded 13,331 rapes of women. The Government provided shelters, counseling, and other assistance for victims of battery or rape and offered free legal aid to battered women who were economically reliant on their abusers.

Female genital mutilation (FGM) is illegal in England, Wales, Northern Ireland, and Scotland. The maximum penalty for aiding, abetting, counseling, procuring, or carrying out this practice is 14 years' imprisonment. FGM was most often practiced by immigrant or refugee groups on girls ages seven to nine from Eritrea, Ethiopia, Somalia, and Yemen. The Department of Health estimated approximately 74,000 women in the country had undergone FGM. In July the Metropolitan Police Service and a number of NGOs launched an awareness and prevention campaign focused on this issue.

Police and NGOs estimated that approximately 12 "honor killings" occurred each year, although no formal statistics are kept. The International Campaign Against Honor Killings estimated that the number of women in the country seeking help from their organization quadrupled since 2005. NGOs raised concerns that police needed more training to identify and respond to potential cases when women seek police protection. In August a court sentenced Azhar Nazir and his cousin Imran Mohammed to life imprisonment for strangling Nazir's sister, Samaira Nazir, stabbing her 18 times, and cutting her throat in front of her two nieces. The "honor killing" occurred because the victim rejected a marriage her Pakistani family arranged and was in a relationship with an Afghan asylum seeker.

While prostitution involving consenting adults is legal, the law prohibits offenses such as loitering for the purpose of prostitution and maintaining a brothel. Government and NGOs estimated that there were 100,000 prostitutes in the country. Organized international gangs continued to traffic women into the country for exploitation in the sex industry (see section 5, Trafficking). The law also prohibits child sex tourism and allows authorities to prosecute citizens or residents for offenses committed abroad.

The law prohibits sexual harassment and provides penalties of up to five years' imprisonment for sexual harassment in public or in the workplace.

Although women enjoy the same rights as men, including rights under family and property law and in the judicial system, in practice women experienced some discrimination. According to a December 2005 Equal Opportunities Commission report, women's average hourly earnings for full-time, private sector employment were 22.5 percent lower than those of men; in full-time public sector jobs, women earned 13.3 percent less than men.

There is a cabinet-level minister for women, a deputy minister for women and equality, and two independent bodies for women's issues: the Equal Opportunities Commission (EOC) and Women's National Commission (WNC). The EOC supported women in discrimination cases before industrial tribunals and courts and produced guidelines for employers. The WNC is an umbrella organization representing women and women's organizations which seeks to ensure that the Government takes women's views into account and that women participate in public debate.

*Children.*—The Government was strongly committed to children's rights and welfare. The Government provided free, universal, and compulsory education until age



16 and further free education until age 18. The most recent UN Educational, Scientific, and Cultural Organization statistics from 2004 recorded 100 percent enrollment of children of primary school age and over 90 percent for those of secondary school age.

The Government amply funded medical care for children.

Child abuse remained a problem. Several NGOs and charities, the most prominent of which was the National Society for the Prevention of Cruelty to Children, campaigned against child abuse and neglect. According to the organization, 6 percent of children experience frequent and severe emotional maltreatment during childhood, 18 percent of children experience some absence of care, more than 25 percent of all rapes recorded by the police are committed against children under age 16, and 31 percent of children experience bullying during childhood.

The minister for children coordinated government policy concerning children and young persons in England and Wales. In Scotland the ministries for education, young people, and communities supervised similar programs designed to protect and provide assistance to minors. In 2005 the Government appointed a commissioner for children in Northern Ireland.

During the year children were subjected to forced labor or trafficked in the country for sexual exploitation (see section 5, Trafficking). In October Parliament's Joint Committee on Human Rights issued a report on human trafficking calling child trafficking "one of the most serious human rights issues in the modern world." The report also made recommendations for government to increase the level of protection to children being trafficked.

The armed forces accept recruits from age 16, although they are not deployed on operations until age 18.

*Trafficking in Persons.*—Although prohibited by law, trafficking in persons, particularly for sexual exploitation, remained a problem.

The country was primarily a destination for trafficked persons and occasionally a transit point. There was no comprehensive official estimate of the number of victims of trafficking or the annual number of persons trafficked into the country.

Women were trafficked for sexual exploitation from Central and Eastern Europe (primarily the Balkans and the former Soviet Union) and Asia, including China. While many or most trafficked women worked in the sex industry, women, men, and children were also trafficked for labor exploitation in domestic service, agricultural and rural labor, construction, and catering.

Trafficking victims were most often subject to debt bondage, the withholding of travel documents, false information about law enforcement and immigration penalties, or threats of violence against them or their families. Traffickers less frequently employed physical and sexual violence.

Organized international gangs allegedly were responsible for most trafficking for commercial sexual exploitation.

The law prohibits trafficking in persons for the purposes of prostitution, sexual exploitation, or forced labor. The law criminalizes trafficking offenses by citizens and residents, whether committed domestically or abroad, and carries a maximum sentence of 14 years' imprisonment. The law also prohibits such related acts as keeping a brothel and causing, inciting, or controlling prostitution for gain. There were severe penalties for such offenses as causing, inciting, controlling, arranging, or facilitating the prostitution of a child. The law also criminalizes paying for sexual services of a child, as well as travel abroad for the purpose of obtaining sexual services from children.

The "Reflex" task force, which brought together agencies that combat trafficking in persons, funded an MPS program targeting organized immigration crime in London. Operation Pentameter, which ran from February to May in every police jurisdiction in the country, initiated an effort to determine the scope of the off-street prostitution market. Despite the limited scope of the operation—it did not address street-level prostitution or trafficking for labor—it succeeded in raising awareness within both the general public and specific ethnic communities of the extent and effect of trafficking in persons for the sex industry. In the course of the operation, law enforcement officials recovered 84 victims, including 12 children. As a result of the operation, 134 persons were charged in relation to management of brothels, trafficking, and related offences.

The Home Office, which includes the Immigration and Nationality Directorate, had the lead in efforts to combat trafficking. Other cabinet-level departments involved in antitrafficking efforts include the Foreign and Commonwealth Office, the Department of Trade and Industry, the Department for Education and Skills, the Crown Prosecution Service, and the Department for International Finance and Development. In April the Government created the Serious and Organized Crime

Agency, which handles investigations of organized immigration crime nationally, including trafficking.

The Government assisted with international investigations of trafficking.

Several NGOs criticized the Government for not “opting in” on the European Council directive on providing “reflection periods” by issuing short-term residence permits for victims of trafficking who cooperate with the authorities. However, the Government considered each instance on a case-by-case basis. Victims were able to make claims for asylum or humanitarian protection. In many cases the Government also granted “exceptional leave to remain,” thereby permitting victims to obtain government benefits, including housing, education, and health care. The Government did not prosecute victims of trafficking who were violating prostitution or immigration laws; however, they could face repatriation to their country of origin.

Local social services authorities and various charities provided services to trafficking victims. A program run by the Poppy Project received government funding to initiate a national 24-hour outreach service. In addition to operating a shelter with capacity to support 25 trafficking victims in the immediate stages after they have left prostitution, the program created 10 new step-down places, enabling women to gradually gain their independence; provided information and advice for victims and law enforcement personnel; and funded a specialist team of four outreach workers to work alongside law enforcement agencies and immigration to identify and assist trafficked women to escape prostitution. Children who may be victims of trafficking are the responsibility of local social service agencies and were generally placed in the foster care system. The Government and the NGO community maintained an active dialogue on victim protection services.

The Foreign and Commonwealth Office and the Department for International Development distributed antitrafficking material in countries of origin. Immigration intelligence assets were deployed across Europe on the main routes for illegal migration and trafficking under the Immigration Liaison Officer program. The National Criminal Intelligence Service engaged in exchange programs in which its officers aided in preventive antitrafficking efforts in Central and Eastern Europe. On October 3, the country launched the UK Human Trafficking Centre, which has a mandate to coordinate national activity against traffickers for sexual and nonsexual exploitation, both prevention and prosecution; train and inform police officers on trafficking and victim-related matters; act as a point of contact for NGOs and foreign law enforcement; and develop “best practices” in antitrafficking areas.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law also mandates access to buildings for persons with disabilities, and the Government effectively enforced these provisions in practice.

The law mandates that all public service providers (except in the transportation sector) make “reasonable adjustments” to make their services available to persons with disabilities. The law also forbids employers to harass or discriminate against job applicants or employees with disabilities.

The Disability Rights Commission, an independent organization funded by the Government, worked on behalf of persons with disabilities to stop discrimination and promote equality of opportunity. The commission provided a hot line for persons with disabilities and employers, legal advice and support for individuals, and policy advice to the Government. The commission may also conduct formal investigations, arrange conciliation, require persons to adopt action plans to ensure compliance with the law, and apply for injunctions to prevent acts of unlawful discrimination.

*National/Racial/Ethnic Minorities.*—Despite legal prohibitions against racial discrimination, persons of African and Afro-Caribbean, South Asian, or Middle Eastern origin and Travelers— itinerant populations consisting of Roma, Irish, and other ethnic groups estimated to number 300,000 persons—were occasionally the victims of societal violence and some discrimination. Of the country’s estimated 4.6 million persons belonging to a minority group, 2.3 million described themselves as Asian, 1.1 million as black Caribbean or black African, and 700,000 as mixed.

Victim Support, a charity assisting persons affected by crime, received 29,995 referrals for assistance in cases of racially motivated crime between April 2005 and March, which was a 42 percent increase from 2004–05. However, they asserted that this increase was primarily due to a corresponding improvement in police referrals. The crown prosecution service, which covers England and Wales, prosecuted 7,430 defendants for racially aggravated crimes between April 2005 and March, up from 4,660 during the previous year. The police service of Northern Ireland reported 936 racially motivated incidents during the same period, up by 15 percent from the preceding 12-month period and more than three times the number of incidents that were reported in 2003. The police service reported 746 racially motivated crimes, in-

cluding 341 violent crimes, during the same period. In Scotland between 2005 and 2006, there were 3,791 racial complaints, a decrease of 160 complaints from the previous year. Demographics from the most recently conducted census in 2001 showed that minorities made up approximately 2 percent of the population or just over 100,000 persons in Scotland, with Pakistanis as the largest ethnic minority, followed by Chinese, Indians, and those of mixed ethnic backgrounds.

During the year the Commission for Racial Equality and the Equal Opportunities Commission led an investigation of the Gloucestershire police force for rejecting 108 white male job applicants on the grounds of unlawful race and sex discrimination. The Police Federation admitted that the force was trying to recruit more female officers and ethnic minorities to meet a government target. A tribunal awarded one of the unsuccessful applicants, Matt Powell, an award of \$4,915 (2,500 pounds) for the police breach of the Race Relations Act.

According to the Independent Police Complaints Commission's (IPCC) annual report, the IPCC worked closely with British Muslim groups to address concerns about the way Muslims were treated by police. National and regional forums were a key element of this effort. The IPCC publicized its services among Asian communities via advertisements, community meetings, and media articles.

*Other Societal Abuses and Discrimination.*—The law prohibits discrimination and harassment based on sexual orientation; however, sporadic incidents of homophobic violence were reported. The law encourages judges to impose a greater sentence in assault cases where the victim's sexual orientation is a motive for the hostility, and many local police forces demonstrated an increasing awareness of the problem and trained officers to identify and moderate these attacks.

On October 1, the Employment Equality (Age) Regulations went into effect in England, Wales, and Scotland. These regulations provide protection against age discrimination in employment, training, and adult education for persons of all ages.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers, except those in the armed forces, public sector security services, and police forces, to form and join unions, and workers exercised this right in practice. Approximately 26 percent of the workforce was unionized. Coverage was most widespread in the public sector, where almost 60 percent of workers were unionized. In contrast, 17 percent of private sector workers were unionized.

*b. The Right To Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Unions and management typically negotiate so-called collective agreements, less formal than collective bargaining contracts. Collective agreements are considered as "implied" into individual work contracts and legally enforceable as such. Approximately 35 percent of the workforce was covered by collective agreements. Under the law a strike must be confined to workers and their own employers; the dispute must be wholly or mainly about employment-related matters (for example, pay and conditions); workers must be properly and secretly balloted before striking (with notice to the employer); and mass picketing is prohibited. Workers freely exercised the right to strike.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—While the Government prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 5).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively implemented laws and policies to protect children from exploitation in the workplace.

The law prohibits employment in any capacity of children under age 13. Those under age 16 are not permitted to work in an industrial enterprise, including transportation or street trading; their total work hours are strictly limited and may not interfere with school attendance. They may work as part of an educational course. Independent NGOs claimed that up to two million school-age children were involved in part-time employment. A child age 13 to 16 must apply for a work permit from a local authority, and the local authority's education and welfare services have primary responsibility for oversight and enforcement. Authorities effectively enforced these laws. The following central government ministries have additional regulatory responsibilities: the departments of health, trade and industry, and education and skills.

There were reports that children were trafficked into the country and forced to work as domestic servants, beggars, pickpockets, drug couriers, or in sweatshops and restaurants (see section 5).

*e. Acceptable Conditions of Work.*—The national minimum wage, which ranged from \$6.47 to \$10.49 (3.30 to 5.35 pounds) depending on the age of the employee, did not provide a decent standard of living for a worker and family; however, other government benefits filled the gap, including free universal access to the National Health Service. Tax authorities may issue compliance orders against employers not paying the minimum wage, but employment tribunals handle disputes. The Government aggressively monitored employer efforts to bring pay practices into compliance with minimum wage law. Unions and NGOs were also actively involved in ensuring employees' awareness of their rights.

The law limits the workweek to 48 hours averaged over a 17- to 26-week period; however, the regulations do not apply to senior managers and others who can exercise control over their own hours of work. The law provides for one day's rest per week, 11 hours' daily rest, and a 20-minute rest break where the working day exceeds six hours. The law also mandates a minimum of four weeks' paid annual leave, including eight national bank holidays. However, the average worker nationwide receives five weeks of paid annual leave plus eight bank holidays as part of collective agreements. An individual employee may agree through a contract to work overtime for premium pay. The law does not prohibit compulsory overtime, but overtime is limited by the 48-hour week restriction.

The law stipulates that the health and safety of employees not be placed at risk, and it was effectively enforced by the Health and Safety Executive (an arm of the Department of Work and Pensions), which could initiate criminal proceedings in appropriate cases. Workers' representatives also actively monitored enforcement of the law. Workers may legally remove themselves from dangerous work conditions without jeopardy to their continued employment.

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